

2023 SENATE JUDICIARY

SB 2360

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2360
2/14/2023

A bill relating to required safety policies and technology protection measures; relating to obscenity control.

4:11 PM Chairman Larson opened the meeting.

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

Discussion Topics:

- Children
- Libraries
- Books
- Pornography
- Safety

4:13 PM Senator Boehm introduced the bill. There is an amendment to the bill LC 23.0672.04003. He also provided written testimony #20837, 20836, 20835.

4:23 PM Senator Beard spoke orally in favor of the bill.

4:32 PM DeAnn Reed testified in favor of the bill and provided written testimony #20701.

4:41 PM Dan Wakefield spoke in favor of the bill.

4:51 PM Karen Krenz testified in favor of the bill and provided written testimony #20721, 20841.

4:55 PM Maggie Blaylock, Known Counseling Services, Owner, testified in favor of the bill and provided written testimony #20645.

5:05 PM Donna Hughes Rice, CEO and President, Enough is Enough, testified in favor of the bill and provided written testimony #20808.

5:15 PM Kristin Sharbono, Licensed Professional Clinical Counselor, testified in favor of the bill and provided written testimony #20843.

5:20 PM Tom Tracy, testified in favor of the bill and provided written testimony #20844.

5:25 PM Susan Draper testified in favor of the bill and provided written testimony #20711.

5:32 PM Linda Thorson, Concerned Women for America of North Dakota, testified in favor of the bill and provided written testimony #20651.

5:36 PM Mariah Bates testified in favor of the bill and provided written testimony #20742.

5:39 PM Kimberly Hurst, testified in favor of the bill and provided written testimony #20731.

5:42 PM Sharlet Mohr, testified in favor of the bill and provided written testimony #20765.

5:44 PM Mariah Deragon Ralston testified opposed to the bill and provided written testimony #20708.

5:47 PM Mary Soucie, State Librarian, testified neutral on the bill and provided written testimony #20717.

6:05 PM Chairman Larson closed the public hearing.

6:05 PM Senator Estenson moves to adopt amendment LC 23.0672.04003. Seconded by Senator Luick.

6:07 PM Senator Estenson withdraws her motion and Senator Luick withdraws his second of the motion.

6:05 PM Senator Estenson moved to adopt amendment LC 23.0672.04003 and additional language "harmful to minors". Motion seconded by Senator Luick.

6:10 PM Roll call vote is taken.

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

Motion passes 6-1-0.

6:11 PM Senator Luick moves to Do Pass the bill as amended. Motion is seconded by Senator Estenson.

6:11 PM Roll call vote is taken.

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

Motion passes 6-1-0.

Senator Myrdal will carry the bill.

This bill does not affect workforce development.

Additional Written Testimony:

Amy De Kok provided written testimony #20825.

Rozell Unruh provided written testimony #20824.

Mark Jorritsma provided written testimony #20822.

Anita Tulp provided written testimony #20821.

Melissa Lloyd provided written testimony #20820.

William Martin provided written testimony #20819.

Maddie Cummings provided written testimony #20813.

Devin Joubert provided written testimony #20812.

Sherri Collings provided written testimony #20798.

Traci Lund provided written testimony #20797.

Kari Roller provided written testimony #20795.

Brittany Boehm provided written testimony #20791.

Joshua Gow provided written testimony #20790.

Christine Kujawa provided written testimony #20782.

Sara Westall provided written testimony #20762.

Laura Egan provided written testimony #20756.

Daniel Wakefield provided written testimony #20743.

Jayce Branden provided written testimony #20733.

Grace Boehm provided written testimony #20732.

Marjorie Scotten provided written testimony #20729.

Nicholas Scotten provided written testimony #20728.

Ruth Heley provided written testimony #20724.

Karen Krenz provided written testimony #20721.

Vicki Grafing provided written testimony #20720.

Phillip Kleymann provided written testimony #20715.

Tammy Kleymann provided written testimony #20713.

Marissa Manning provided written testimony #20710.

Rebekah Oliver provided written testimony #20709.

Sandi Bates provided written testimony #20854.

Autumn Richard provided written testimony #20700.

Charles Reed provided written testimony #20685.

Joseph Rector provided written testimony #20682.

Timothy Dirks provided written testimony #20678.

Kerrienne Boetcher provided written testimony #20662, 20663.

Tonya Palmer provided written testimony #20660.

Janet Anderson provided written testimony #20640.

Randi Monley provided written testimony #20639.

Jennifer Jenness provided written testimony #20583.

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Robert Sandness provided written testimony #20575.

Mike Thompson provided written testimony #20563.

6:11 PM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

February 14, 2023

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2-14-23
(1-2)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2360

Page 1, line 1, after "new" insert "subsection to section 12.1-27.1-01 and a new"

Page 1, line 2, after the first "to" insert "the definition of a public library and"

Page 1, line 3, remove "12.1-27.1-02,"

Page 1, line 11, remove the overstrike over "contemporary"

Page 1, line 16, remove the overstrike over ", political"

Page 1, after line 21, insert:

"SECTION 2. A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is created and enacted as follows:

As used in this chapter, the term "public library" means a library containing collections of books or periodicals for the general population to read, borrow, or refer to which is supported with funds derived from taxation."

Page 1, remove lines 22 and 23

Page 2, remove lines 1 through 14

Page 2, line 19, overstrike "he" and insert immediately thereafter "the person"

Page 2, line 22, after "which" insert "either contains explicit sexual material that is harmful to minors or"

Page 2, line 23, overstrike "is principally made up of" and insert immediately thereafter "contains"

Page 2, line 23, after "depictions" insert "or written descriptions"

Page 2, line 24, overstrike "for"

Page 2, line 25, overstrike "commercial gain"

Page 2, line 27, after "a." insert "Explicit sexual material" means any written, pictorial, three-dimensional, or visual depiction that is patently offensive, including any photography, picture, or computer-generated image, showing or describing:

- (1) Human masturbation;
- (2) Deviant sexual intercourse;
- (3) Sexual intercourse;
- (4) Direct physical stimulation of genitals;
- (5) Sadomasochistic abuse;
- (6) Postpubertal human genitals;

- (7) Sexual activity;
- (8) Sexual perversion; or
- (9) Sex-based classifications.

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b."

Page 3, line 1, overstrike "b." and insert immediately thereafter "c."

Page 3, line 3, overstrike "c." and insert immediately thereafter "d."

Page 3, line 18, after the second underscored comma insert "or"

Page 3, line 18, remove ", or university"

Page 3, line 21, after the second underscored comma insert "or"

Page 3, line 22, remove ", or university"

Page 3, line 29, after the third underscored comma insert "or"

Page 3, line 30, remove ", or university"

Page 4, line 3, after the second underscored comma insert "or"

Page 4, line 3, remove ", or university"

Page 4, line 9, after the second underscored comma insert "or"

Page 4, line 9, remove ", or university"

Page 4, line 10, replace "to" with "of"

Page 4, line 11, after "pornography" insert "to a minor"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2360: Judiciary Committee (Sen. Larson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2360 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 1, after "new" insert "subsection to section 12.1-27.1-01 and a new"

Page 1, line 2, after the first "to" insert "the definition of a public library and"

Page 1, line 3, remove "12.1-27.1-02,"

Page 1, line 11, remove the overstrike over "~~contemporary~~"

Page 1, line 16, remove the overstrike over "~~political~~"

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As used in this chapter, the term "public library" means a library containing collections of books or periodicals for the general population to read, borrow, or refer to which is supported with funds derived from taxation.

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Page 2, line 24, overstrike "for"

Page 2, line 25, overstrike "commercial gain"

Page 2, line 27, after "a." insert """Explicit sexual material" means any written, pictorial, three-dimensional, or visual depiction that is patently offensive, including any photography, picture, or computer-generated image, showing or describing:

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- (2) Deviant sexual intercourse;
- (3) Sexual intercourse;
- (4) Direct physical stimulation of genitals;
- (5) Sadomasochistic abuse;
- (6) Postpubertal human genitals;
- (7) Sexual activity;

(8) Sexual perversion; or

(9) Sex-based classifications.

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Page 4, line 11, after "pornography" insert "to a minor"

Renumber accordingly

2023 HOUSE JUDICIARY

SB 2360

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2360
3/14/2023

Relating to the definition of a public library and required safety policies and technology protection measures; relating to obscenity control; to provide a penalty; and to provide an effective date.

3:30 PM Chairman Klemin opened the hearing. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter.

Discussion Topics:

- Explicit sexual material and distribution.
- Proposed amendments.
- Schools and education protections
- Pornography.
- CEPA laws.

Senator Boehm: Introduced the bill. Testimony #24936

Senator Beard, Williston, ND: Testimony #24909

Dr. Jill Manning, Colorado. Testimony #24658

Donna Hughes, CEO and President; Enough is Enough: Testimony #24831, #24540

Maggie Blaylock: SD licensed addiction counselor. Testimony #24737

DeAnn Reed, Fargo, ND. No written testimony.

Dan Wakefield, Retired teacher, Devils Lake, ND. Testimony #24854

Janet Anderson: Director, Minot Library. No written testimony.

Kerrienne Boetcher, President, ND Library Association. Testimony #24780, #25017

Thomas and Laurie Starks, Lisbon Bookstore owner: Testimony #24848

Misty Frink, Bismarck Public Schools. Testimony #24697

Andrew Alexis Varvel, Bismarck, ND Testimony #24866, #24867

Kadin Marx, Outreach coordinator. No written testimony.

Amy DeKok, ND Supreme Court. No written testimony.

Lindsey Bertsch, Minot Bookstore: Testimony #24886

Additional written testimony:

#24971, #23525, #23526, #23527, #23528, #23570, #23571, #23572,
#23604, #23633, #23656, #23700, #23711, #23719, #23735, #23740, #23746,
#23758, #23759, #23760, #23803, #23806, #23814, #23836, #23843, #23875,
#23883, #23931, #23961, #23978, #24017, #24043, #24066, #24074, #24085,
#24092, #24223, #24232, #24246, #24274, #24318, #24351, #24363, #24380,
#24392, #24408, #24440, #24448, #24449, #24532, #24572, #24596, #24616,
#24618, #24632, #24639, #24640, #24647, #24649, #24652, #24655, #24662,
#24668, #24677, #24690, #24696, #24698, #24704, #24724, #24727, #24762,
#24771, #24778, #24779, #24811, #24823, #24826, #24833, #24839, #24842,
#24843, #24855, #24862, #24863, #24864, #24865, #24875, #24888, #24903,
#24915, #24921, #24922, #24929, #24930, #24931

The hearing closed at 5:42 PM

Delores Shimek, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2360
3/29/2023

Relating to the definition of a public library and required safety policies and technology protection measures; relating to obscenity control; to provide a penalty; and to provide an effective date.

9:00 AM Chairman Klemin opened the meeting. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter.

Discussion Topics:

- Amendments
- Fiscal Note
- Penalty
- Miller Test Clarification

Chairman Klemin introduced the amendment. Testimony #26971

Senator Keith Boehm: Additional information. No written testimony.

Rep. Henderson moved to amend 23.0672.05009;
Seconded by Rep. Olson

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

Roll call vote: 12 Yes 1 No 0 Absent Motion carried.

Rep.S. Olson moved a Do Pass as Amended; Rerefer to Appropriations.
Seconded by Rep. Christensen

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

Roll call vote: 10 Yes 3 No 0 Absent; Motion carried.

Carrier: Rep. Satrom

The meeting closed at 9:33 AM.

Delores Shimek, Committee Clerk

3-29-23
2/2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2360

- Page 1, line 5, after the first semicolon insert "and"
- Page 1, line 5, remove "; and to provide"
- Page 1, line 6, remove "an effective date"
- Page 2, line 13, remove the overstrike over "~~is principally made up of~~"
- Page 2, line 13, remove "contains"
- Page 2, line 13, remove "or written descriptions"
- Page 2, line 15, remove the overstrike over "~~for commercial gain~~"
- Page 2, line 17, remove "written, pictorial, three-dimensional, or visual"
- Page 2, remove line 18
- Page 2, line 19, replace "computer-generated image, showing or describing" with "material which"
- Page 2, line 20, replace "Human masturbation" with "Taken as a whole, appeals to the prurient interest of minors"
- Page 2, line 21, replace "Deviant sexual intercourse" with "Is patently offensive under prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors"
- Page 2, line 21, after the underscored semicolon insert "and"
- Page 2, line 22, remove "Sexual intercourse:"
- Page 2, remove lines 23 through 27
- Page 2, line 28, replace "(9) Sex-based classifications" with "Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors"
- Page 3, line 4, overstrike "or" and insert immediately thereafter an underscored comma
- Page 3, line 4, after "walkway" insert ", public library, or public school library"
- Page 3, line 12, remove "or"
- Page 3, line 12, remove the overstrike over "~~, or public library for limited~~"
- Page 3, line 13, remove the overstrike over "~~access for educational research purposes carried on at such an institution by adults only~~"
- Page 3, line 19, after "**Report**" insert "**- Penalty**"
- Page 3, line 27, remove "child sexual abuse material,"
- Page 3, line 28, remove the underscored comma
- Page 3, line 28, replace "pornography" with "explicit sexual material"

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Page 3, line 29, replace "pornography and child" with "explicit"

Page 3, line 29, remove "abuse"

Page 4, line 8, replace "attorney general" with "legislative management"

Page 4, line 11, remove "is not exempt from"

Page 4, line 12, replace "prosecution for willful indecent exposure of child sexual abuse material or pornography" with "who willfully exposes explicit sexual material"

Page 4, line 13, after "minor" insert "in violation of this section is guilty of a class B misdemeanor"

Page 4, remove line 14

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2360, as engrossed: Judiciary Committee (Rep. Klemin, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2360 was placed on the Sixth order on the calendar.

Page 1, line 5, after the first semicolon insert "and"

Page 1, line 5, remove "; and to provide"

Page 1, line 6, remove "an effective date"

Page 2, line 13, remove the overstrike over "~~is principally made up of~~"

Page 2, line 13, remove "contains"

Page 2, line 13, remove "or written descriptions"

Page 2, line 15, remove the overstrike over "~~for commercial gain~~"

Page 2, line 17, remove "written, pictorial, three-dimensional, or visual"

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Page 2, line 21, after the underscored semicolon insert "and"

Page 2, line 22, remove "Sexual intercourse;"

Page 2, remove lines 23 through 27

Page 2, line 28, replace "(9) Sex-based classifications" with "Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors"

Page 3, line 4, overstrike "or" and insert immediately thereafter an underscored comma

Page 3, line 4, after "walkway" insert ", public library, or public school library"

Page 3, line 12, remove "or"

Page 3, line 12, remove the overstrike over "~~or public library for limited~~"

Page 3, line 13, remove the overstrike over "~~access for educational research purposes carried on at such an institution by adults only~~"

Page 3, line 19, after "**Report**" insert "**- Penalty**"

Page 3, line 27, remove "child sexual abuse material."

Page 3, line 28, remove the underscored comma

Page 3, line 28, replace "pornography" with "explicit sexual material"

Page 3, line 29, replace "pornography and child" with "explicit"

Page 3, line 29, remove "abuse"

Page 4, line 8, replace "attorney general" with "legislative management"

Page 4, line 11, remove "is not exempt from"

Page 4, line 12, replace "prosecution for willful indecent exposure of child sexual abuse material or pornography" with "who willfully exposes explicit sexual material"

Page 4, line 13, after "minor" insert "in violation of this section is guilty of a class B misdemeanor"

Page 4, remove line 14

Renumber accordingly

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2360
4/10/2023

Relating to the definition of a public library and required safety policies and technology protection measures; relating to obscenity control; to provide a penalty; and to provide an effective date.

10:00 AM Chairman Klemin opened the meeting. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter. Absent: Rep. Henderson

Discussion Topics:

- Amendments
- Miller test
- Fiscal note
- Committee Action

Chris Joseph, Legislative Counsel: Testimony #27393, #27389

Rep. Christensen moved amendment 23.0672.05016 (#27393).
Seconded by Vice Chairman Karls

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

Roll call vote: 9 Yes 3 No 1 Absent; motion carried.

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

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y

Representative Landon Bahl	N
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	AB
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	N
Representative Bernie Satrom	Y
Representative Mary Schneider	N
Representative Lori VanWinkle	Y
Representative Steve Vetter	y

Roll call vote: 9 Yes 3 No 1 Absent; Motion carried.

Carrier: Rep. Satrom

The meeting closed at 10:30 AM.

Delores Shimek, Committee Clerk

April 7, 2023

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182
4-10-23

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2360

In lieu of the amendments printed on pages 1414-1416 of the House Journal, Engrossed Senate Bill No. 2360 is amended as follows:

Page 1, line 6, replace "an effective date" with "for application"

Page 2, line 13, remove the overstrike over "~~is principally made up of~~"

Page 2, line 13, remove "contains"

Page 2, line 13, remove "or written descriptions"

Page 2, line 15, remove the overstrike over "~~for commercial gain~~"

Page 2, line 17, remove "written, pictorial, three-dimensional, or visual"

Page 2, remove line 18

Page 2, line 19, replace "computer-generated image, showing or describing" with "material which"

Page 2, line 20, replace "Human masturbation" with "Taken as a whole, appeals to the prurient interest of minors"

Page 2, line 21, replace "Deviant sexual intercourse" with "Is patently offensive under prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors"

Page 2, line 21, after the underscored semicolon insert "and"

Page 2, line 22, remove "Sexual intercourse:"

Page 2, remove lines 23 through 27

Page 2, line 28, replace "(9) Sex-based classifications" with "Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors"

Page 3, line 4, overstrike "or" and insert immediately thereafter an underscored comma

Page 3, line 4, after "walkway" insert ", public library, or public school library"

Page 3, line 12, remove "or"

Page 3, line 12, remove the overstrike over "~~, or public library for limited~~"

Page 3, line 13, remove the overstrike over "~~access for educational research purposes carried on at such an institution by adults only~~"

Page 3, line 19, after "**Report**" insert "**- Penalty**"

Page 3, line 27, remove "child sexual abuse material,"

Page 3, line 28, remove the underscored comma

Page 3, line 28, replace "pornography" with "explicit sexual material"

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4-10-23

Page 3, line 29, replace "pornography and child" with "explicit"

Page 3, line 29, remove "abuse"

Page 4, line 8, replace "attorney general" with "legislative management"

Page 4, line 11, remove "is not exempt from"

Page 4, line 12, replace "prosecution for willful indecent exposure of child sexual abuse material or pornography" with "who willfully exposes explicit sexual material"

Page 4, line 13, after "minor" insert "in violation of this section is guilty of a class B misdemeanor."

7. As used in this section, the term "public library" or "state agency" does not include the state library"

Page 4, replace line 14 with:

"SECTION 6. APPLICATION. Sections 1, 3, and 4 of this Act do not apply to the state library."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2360, as engrossed: Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2360 was placed on the Sixth order on the calendar.

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Page 1, line 6, replace "an effective date" with "for application"

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Page 3, line 29, replace "pornography and child" with "explicit"

Page 3, line 29, remove "abuse"

Page 4, line 8, replace "attorney general" with "legislative management"

Page 4, line 11, remove "is not exempt from"

Page 4, line 12, replace "prosecution for willful indecent exposure of child sexual abuse material or pornography" with "who willfully exposes explicit sexual material"

Page 4, line 13, after "minor" insert "in violation of this section is guilty of a class B misdemeanor."

7. As used in this section, the term "public library" or "state agency" does not include the state library"

Page 4, replace line 14 with:

"SECTION 6. APPLICATION. Sections 1, 3, and 4 of this Act do not apply to the state library."

Renumber accordingly

2023 HOUSE APPROPRIATIONS

SB 2360

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Brynhild Haugland Room, State Capitol

SB 2360
4/18/2023

Relating to the definition of a public library and required safety policies and technology protection measures, relating to obscenity control

2:47 PM Chairman Vigesaa Called the meeting to order and roll call was taken-

Members present; Chairman Vigesaa, Representative B. Anderson, Representative Brandenburg, Representative Hanson, Representative Kreidt, Representative Martinson, Representative Mitskog, Representative Meier, Representative Mock, Representative Monson, Representative Nathe, Representative J. Nelson, Representative O'Brien, Representative Pyle, Representative Richter, Representative Sanford, Representative Schatz, Representative Schobinger, Representative Strinden, Representative G. Stemen and Representative Swiontek.

Members not Present- Representative Bellew and Representative Kempenich

Discussion Topics:

- Changing Fiscal Note
- Expecting the State Library

Representative Klemin- Introduces the bill and its fiscal note. (Testimony #27672, #27673 and #27674)

Mary Soucie- State Librarian- Answers questions for the committee (Testimony #27677)

3:20 PM Chairman Vigesaa Closed the meeting for SB 2360

Risa Berube, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Brynhild Haugland Room, State Capitol

SB 2360
4/19/2023

Relating to the definition of a public library and required safety policies and technology protection measures, relating to obscenity control

11:02 AM Chairman Vigesaa Called the meeting to order and roll call was taken-

Members Present; Chairman Vigesaa, Representatives B. Anderson, Brandenburg, Hanson, Kreidt, Martinson, Mitskog, Meier, Mock, Monson, Nathe, J. Nelson, O'Brien, Pyle, Richter, Sanford, Schatz, Schobinger, Strinden, G. Stemen and Swiontek.

Members not Present- Representative Kempenich and Representative Bellew

Discussion Topics:

- Fiscal Note

Chairman Vigesaa Opened discussion about the money involved.

Committee Discussion

Representative O'Brien Move for a Do Not Pass

Representative Mitskog- Seconds the Motion

Roll call vote;

Representatives	Vote
Representative Don Vigesaa	N
Representative Keith Kempenich	A
Representative Bert Anderson	Y
Representative Larry Bellew	A
Representative Mike Brandenburg	Y
Representative Karla Rose Hanson	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative Corey Mock	Y
Representative David Monson	A
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy Pyle	Y

Representative David Richter	Y
Representative Mark Sanford	Y
Representative Mike Schatz	N
Representative Randy A. Schobinger	N
Representative Greg Stemen	Y
Representative Michelle Strinden	A
Representative Steve Swiontek	Y

Motion Carries 16-3-4 Representative Mock will carry the bill

11:16 AM Chairman Vigesaa Closed the meeting for SB 2360

Risa Berube, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2360, as engrossed and amended: Appropriations Committee (Rep. Vigesaa, Chairman) recommends **DO NOT PASS** (16 YEAS, 3 NAYS, 4 ABSENT AND NOT VOTING). Engrossed SB 2360, as amended, was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2360

Madam Chairman and the members of the Senate Judiciary Committee,

My name is Miki Thompson from Dickinson. As a parent I support SB 2360. I come to you saying what should not have to be said, but our state is getting relentlessly hit by an onslaught of out of state ideologies and ways of life. The media does not speak for the taxpayers of North Dakota and neither do these activists, doctors, and out of state lobbyists. We are determined to do whatever it takes to protect the innocence of our children and the community standard we have come to enjoy in this state.

We work hard, we invest into our children's lives. We trusted unspoken social contracts. We never believed that a public librarian or school librarian would bring pornography and grooming books into our libraries. Let alone advocate for them under the guise of Freedom of Speech. As I have stated on testimony for a previous bill, these materials promote the breaking of several North Dakota state laws as well as promoting harmful sex practices, that can injure severely anyone who tries them. These books/materials urge children to use addictive substances and behaviors. The book Let's Talk About It calls porn a "sugary treat." Not only is porn extremely addicting, but it is also illegal in North Dakota for minors. It also encourages kids to sext, which is also illegal for minors in this state. It talks about "fisting", which can have dire medical consequences. The book also refers to sex without a condom as a "no biggie." Guess what state comes in first place in regard to the biggest rates and spread of STD's per 100,000 individuals? North Dakota. If our state already has the largest per capita of STD infections, why would we allow a librarian or teacher to give access to children, books/materials that promote unprotected sex? Under our current law, it gives businesses and other private entities real consequences for displaying and giving children access to this material. Yet it excludes libraries and schools? It does not define the contents of the material being suddenly ok for children. It just excuses its placement. It is time to define that.

We have been through the requests for reconsideration forms at our libraries. We have voiced our displeasure with the material at library board meetings and city commissions. We have had parents apply to be on the library boards. All met with silence. Our State Library has instructed the local libraries how to "Weed out" any complaints that do not fit their personal narratives. This has now become a state issue because of that. Our local libraries get their policies from the state library and the federally ran American Library Association. These policies do not reflect our local community standards. 20 US Code 3401 states: parents have the primary responsibility for the education of their children, and [States](#), localities, and private institutions have the primary responsibility for supporting that parental role. So these materials need to be put with the other pornography at the library. Back behind the checkout desk with the Playboy/Penthouse magazines that can only be checked out by adults 18 and over.

Please look to other like states on this as well. The Montana House just passed a similar bill on Wednesday. South Dakota, Oklahoma, Indiana, and Florida are already taking a stand and saying enough is enough. North Dakota taxpayers are saying enough is enough. Protect our children.

Thank you for your time, Miki Thompson

To whom it may concern,

SB 2630 is unnecessary. There are already filters in place at schools and libraries as required by the Children's Internet Protection Act and E-Rate. It is also up to parents, not government or school officials, to add further filters to their child's devices. This bill would also be a disservice to students in their learning how to navigate the internet effectively with a teacher's instructions, helping prepare them to be college and career ready.

I strongly urge a DO NOT PASS on SB 2360. This bill is unnecessary and harmful to the functions of a free society.

The bill is unnecessary, as the federal Children's Internet Protection Act (CIPA) already requires all schools which receive federal funding to have filters in place on school devices.

The bill also further limits local control, intruding the government further into the rights of school boards, teachers, and parents to adopt and implement policies that work in their communities.

In addition, this bill sets up North Dakota for expensive and lengthy federal litigation by attempting to change the legal definition of obscenity. Spending millions of state dollars to attempt to defend a law that runs contrary to settled federal law would be an egregious misuse of our state's monies and would almost certainly fail.

Thank you for your consideration,

Jennifer A. G. Jenness, Valley City, ND

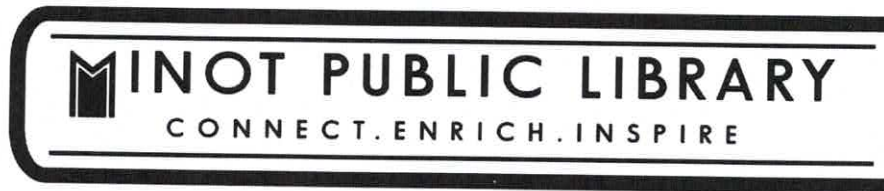
To Whom It May Concern,

I urge a DO NOT PASS on SB 2360. Not only is this bill unnecessary as the federal Children's Internet Protection Act (CIPA) established in 2000, which requires Internet safety policies and technology which blocks or filters certain material from being accessed through the Internet in libraries and schools.

In addition, this bill seeks to change the legal definition of obscenity in North Dakota. This law would run contrary to settled federal law, which if passed will result in a waste of time, money, and effort due to litigation that we could be using to help North Dakotans.

Please vote DO NOT PASS on SB 2360.

Randi Monley, Minot, ND



www.minotlibrary.org ♦ (701) 852-1045
516 2nd Ave SW Minot, ND 58701

February 13, 2023

Chairperson Larson
and Members of the Senate Judiciary Committee,

I am reaching out to urge you to oppose SB 2360 for a variety of reasons.

First, much of this bill is redundant and unnecessary. The guidance regarding filtering doesn't reflect safeguards libraries already have in place. Public schools and most public libraries must have filters under CIPA (Children's Internet Protection Act). Even libraries that are not required to do this choose to do so as an extra precaution when parents are not observing their children's computer use in the library.

Regarding the portion of SB 2360 related to digital and online databases (section 5): similar allegations stating that users have access to pornography through databases have been made in several other states. However, public libraries and school districts have been unable to reproduce the search results alleged by the bill's proponents. In addition, the idea that students use educational databases to access pornography is false; these databases gather educational and mainstream media resources for academic use. Further, this is not a North Dakota issue; it is an issue brought on by national organizations trying to restrict our citizens' access to information. I have included research and statements from Colorado and Indiana with my testimony to demonstrate this.

Additionally, children must learn to safely and effectively navigate the internet and databases to ensure success in school, college, and careers. Libraries help do this by providing educational resources as well as assistance using them. However, with the prevalence of technology available to people of all ages *outside* of a library setting, I don't understand why such effort is being placed on securing places that are already secure.

Again, this is a parent issue, not a school or library issue. Both of my teenage children have smartphones, and as a parent, I have taken precautions to block mature content and limit what they can access. However, I understand that their friends may not have the same restrictions, so I am honest with them about our family's expectations and values; they know there will be consequences if they do not meet these. I would not blame (or file criminal charges against) the

parents of these other kids if my son or daughter chose to make bad decisions. Unfortunately, SB 2360 is looking to do precisely that – it is looking for a scapegoat.

SB 2360 also appears to be proposing a change to the NDCC’s definition of “obscenity.” Though minor, these changes are concerning and bewildering. Below I have included the current definition, the proposed definition, and the definition most commonly used throughout the country and upheld by the US Supreme Court.

CURRENT:

12.1-27.1

12.1.27.1-01

5. As used in this chapter, the terms "obscene material" and "obscene performance" mean material or a performance which:

- a. Taken as a whole, the average person, applying contemporary North Dakota standards, would find predominantly appeals to a prurient interest;
- b. Depicts or describes in a patently offensive manner sexual conduct, whether normal or perverted; and
- c. Taken as a whole, the reasonable person would find lacking in serious literary, artistic, political, or scientific value.

Whether material or a performance is obscene must be judged with reference to ordinary adults, unless it appears from the character of the material or the circumstances of its dissemination that the material or performance is designed for minors or other specially susceptible audience, in which case the material or performance must be judged with reference to that type of audience.

PROPOSED:

12.1-27.1

12.1.27.1-01

5. As used in this chapter, the terms "obscene material" and "obscene performance" mean material or a performance which:

- a. Taken as a whole, the average person, applying ~~contemporary~~ North Dakota standards, would find predominantly appeals to a prurient interest;
- b. Depicts or describes in a patently offensive manner sexual conduct, whether normal or perverted; and
- c. Taken as a whole, the reasonable person would find lacking in serious literary, artistic, ~~political~~, or scientific value.

Whether material or a performance is obscene must be judged with reference to ~~ordinary~~ **reasonable** adults, unless it appears from the character of the material or the circumstances of its dissemination that the material or performance is designed for minors or other specially susceptible audience, in which case the material or performance must be judged with reference to that type of audience.

MILLER TEST:

These guidelines are the three prongs of the Miller test. They are:

- (1) whether the average person applying contemporary community standards would find the work, taken as a whole, appeals to the prurient interest;
- (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- (3) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

These 3 versions raise some questions I hope you will consider:

- 1.) 1.) Why remove “contemporary” from 5a? This seems unnecessary unless the intent is to purposefully **NOT** seek contemporary standards and instead fall back on pre-2023 standards. Does this mean materials will be judged based on the standards of 1973 or perhaps 1923?
- 2.) 2.) Why remove “political” from 5c? Are issues related to homosexuality and gender identity considered to be “political” by some, and that’s why this proposed change? If so, how will the courts determine if such issues are political?
- 3.) 3.) In general, the US Supreme Court has already laid the groundwork for defining obscenity in Miller v. California (1973), which would be suitable for North Dakota. Why not simply use this definition?
- 4.) 4.) Finally, the replacement of “ordinary” with “reasonable” in the last paragraph is concerning. Who will define reasonable? The Miller Test is already lenient in its use of “contemporary community standards,” so why change this further?

Finally, I am again concerned about the removal of exceptions to criminal liability for public libraries. It is beginning to feel like ND legislators are attacking our profession, and it’s difficult not to take this personally. Rather than commending and praising public libraries for all they do for your communities (story times, meal programs, access to needed resources, connection to social services, and much more), certain legislators are overshadowing and demeaning this good work because they don't personally agree with how some of their constituents use the library.

I apologize for the length of this letter. As a librarian, I am passionate about ensuring all North Dakotans have access to information. As a parent, I am equally passionate about not allowing others to decide what my children can access. I hope you will agree that SB 2360 is unnecessary and will recommend a “Do Not Pass” vote.

Respectfully,



Janet Anderson

Library Director

Minot Public Library

janet.anderson@minotnd.org

701-852-1045

The Colorado Library Consortium Executive Director Jim Duncan wrote the following when Colorado faced similar accusations:

Since late 2016, schools and public libraries across Colorado have been under attack for licensing electronic products and for delivering those resources to their communities. This has been well documented and consistently reported through the media, through open board meeting minutes, in professional publications and verbatim testimonials to legislative bodies.

Accusers claim that databases and e-book collections are full of pornography and that vendors, schools and libraries are all complicit in harming children. This tiny but vocal network of individuals consistently demands a ban of databases and e-book products from library vendors like EBSCO, Gale/Cengage, Proquest and Overdrive. These individuals promote their unsubstantiated opinions and conspiracy theories to the media—and to boards, administrators & legislators—all in an effort to stir up controversy and spark outrage. In 2019, they garnered more media attention while wasting taxpayer-funded resources through a frivolous, failed lawsuit brought against the Colorado Library Consortium (CLiC).

Our nation's schools and libraries possess the expertise and responsibility to choose, license or buy content useful to their local communities—utilizing professional library collection management policies and procedures. Rightfully so, libraries and schools across the country are trusted by their communities and reflect the best qualities and values of our society. These institutions promote the American ideal: celebrating the spirit of exploration, lifelong learning, the joy of reading, and the pursuit of information and knowledge for all ages and cultures.

(Duncan, Jim. (2021) Demanding a Ban on Digital Content: A Guide for Understanding Challenges to the Electronic Resources in Your Library or School, *Colorado Library Consortium*, p.2.)

<p>WHAT ARE THESE ONLINE RESOURCES?</p>	<p>Databases are simply collections of published material made available online. They can contain content from mainstream magazines, newspapers, books, guides, car repair manuals, educational videos, photos and imagery, genealogy and more.</p> <p>These products offer sophisticated searching and other features -- designed to help individuals and students find what they're looking for.</p>
<p>WHERE CAN YOU FIND THEM?</p>	<p>In public libraries you'll find these kinds of online resources under web site sections like "Research" or "Digital Media" or "Online Databases."</p> <p>In schools, it varies. Sometimes the school has a web site with links to licensed online resources; other times, the school may only provide access while inside the building—from within a computer lab or classroom.</p> <p>In all cases, a patron or student can only access these resources with a library card or other form of login identification. These digital resources are not freely available on the open Internet.</p>
<p>HOW ARE ONLINE RESOURCES SELECTED?</p>	<p>Available from a variety of vendors and publishers, databases and other digital resources are voluntarily licensed by a small number of schools and many public libraries across Colorado.</p> <p>Nationwide, school educators and librarians make purchasing decisions based on collection development guidelines or curriculum needs, much the same way these organizations decide what books to buy.</p>

*From the Colorado Library Consortium, 2021
(emphasis added)*

<p>WHAT IS THIS CONTENT THAT IS CAUSING SO MUCH CONTROVERSY?</p>	<p>Concerns have been expressed about words and images published in newsstand magazines like <i>Cosmopolitan</i>, <i>Ebony</i>, <i>Esquire</i>, <i>Glamour</i>, <i>GQ</i>, <i>Men's Health</i>, <i>Redbook</i>, <i>Rolling Stone</i>, <i>Vanity Fair</i>, and <i>Time Magazine</i> – publications that can be found within certain databases. In addition, these same individuals say that e-books available through Overdrive also contain graphic sexual language accessible by children.</p>
<p>WHAT ARE THE SOLUTIONS BEING DEMANDED BY SELECTED INDIVIDUALS CONCERNED ABOUT DATABASES?</p>	<p>1 Ban ALL digital content from the State of Colorado provided by companies like EBSCO, Gale/Cengage, Proquest, Overdrive and others.</p> <p>To be clear: their objections to content in publications like <i>Cosmopolitan</i> or <i>Time Magazine</i> justifies their demand that ALL electronic content be removed from all schools and public libraries.</p> <p>THAT WOULD INCLUDE BANNING:</p> <ul style="list-style-type: none"> • <i>Better Homes & Gardens</i> • <i>Bow Hunter</i> • <i>Boys' Life (Boy Scouts of America)</i> • <i>Car & Driver</i> • <i>Christian Science Monitor</i> • <i>Consumer Reports</i> • <i>Economist</i> • <i>Highlights</i> • <i>Horse & Rider</i> • <i>Ranger Rick</i> • PLUS 96,954 ADDITIONAL MAGAZINE OR JOURNAL TITLES ACROSS A VARIETY OF DATABASES <i>(this number would be slightly less in ND)</i> <p>2 Take away the local authority of schools, districts and public libraries to purchase or license databases and electronic content. Eliminate taxpayer funding that could be used by schools or libraries to license digital materials.</p> <p>3 Through legislative action, create laws that enable individuals to sue and/or receive monetary damages from schools, libraries and other institutions that license or deliver electronic content deemed offensive and harmful by those individuals.</p>

<p>NO SERIOUSLY, HOW BIG A PROBLEM IS THIS?</p>	<p>These individuals claimed that databases from EBSCO and other providers contain at least 200 obscene articles, stories and images of a graphic nature. The claim: “There’s just <u>so much</u> pornography that we’ve lost count...”</p> <p>Even if it were true, that amount represents .0005% of content available through the EBSCO databases licensed by many libraries in Colorado... which contain more than 175 MILLION articles (of which 127 million are full text)</p> <p>Similarly, products from Gale/Cengage and Proquest contain many millions of articles from thousands of publications. A collection of e-books available through Overdrive could hold several hundred to several thousand publication titles. Even a single “objectionable” chapter in a book would represent a tiny portion of the library’s e-book collection.</p> <p>The ongoing problem: <i>such claims are made without specific citations to publications or articles within a given database or library collection.</i></p> <p>Hundreds of librarians across the U.S. have attempted to substantiate these claims about filthy content being streamed to children through school portals, and about licensed magazines that promote pornography and prostitution, or even the claims of live hyperlinks leading to escort service websites recruiting children.</p> <p>To date, librarians have failed to replicate or confirm the validity of such claims that databases are full of pornography.</p>
<p>WHAT ARE SCHOOLS DOING AS RESPONSIBLE INSTITUTIONS?</p>	<p>Schools (and public libraries, by the way) already have full local control of their digital collections and the power to suppress availability of entire magazine titles, specific issues and even individual articles. The technical steps involved depend on the technology infrastructure provided by each specific vendor.</p> <p>Some schools choose not to provide access to selected magazines and specific digital content for lower-grade students, while choosing to expand access for high school students.</p>

	<p>Many schools choose simply not to subscribe to any vendor resources, so that students just use the Internet. These are all local financial, collection management and curriculum-influenced decisions. Concerned parents are always encouraged to engage with their local school administrators to discuss these issues and resources.</p>
<p>HOW CREDIBLE ARE THE CLAIMS?</p>	<p>One claim being made: companies licensing content from publishers – and any public libraries or school districts subscribing to digital content & online resources – are ALL “profiting from the promotion of obscene content” and receive monetary benefits from the porn and sex toys industry.</p> <p>One claim being made: public libraries and schools are unsafe for children because hardcore pornography is being streamed directly to kids, along with other forms of obscene content, and that the individuals responsible for such atrocities who work within libraries, schools, governmental agencies, and non-profit organizations are all “purveyors” of pornography and should be investigated by law enforcement.</p> <p>One claim being made: teacher/student sexual assaults are on the rise and that these teacher predators use school collections and pornography found within library online resources as a grooming tool.</p> <p>Read about these concerns for yourself: <i>“Colorado Leads the Fight to Get “EBSCO Porn” Out of Schools Across America”</i> http://www.ccsdconversations.org/2017/10/22/205/</p> <p>Then: search for yourself through your school or library’s electronic collections. Look for pornography and live links to adult escort sites. Make your own determination about credibility of these claims.</p>
<p>WHAT IS THIS “DIRTY DOZEN” LIST I’VE HEARD ABOUT?</p>	<p>According to the National Center on Sexual Exploitation, this is an annual list designed to “name and shame the mainstream players in America” that facilitate distribution of pornography. Read for yourself. https://endsexualexploitation.org/dirtydozen-2020/</p>

	<p>Established in 1962 as Morality in Media, this organization changed its name in 2015 to the National Center on Sexual Exploitation (NCOSE).</p> <p>In addition to naming the American Library Association, EBSCO, the Department of Defense, and many corporations to its Dirty Dozen list during the past several years, a renewed effort spearheaded by NCOSE is underway to protect children.</p> <p><i>"Our Schools Aren't Safe for Children. But You Can Help"</i> https://endsexualexploitation.org/articles/our-schools-arent-safe-for-children-but-you-can-help/</p> <p><i>"Promoting Pornography-free Schools: The Role of the US Dept. of Education"</i> https://endsexualexploitation.org/articles/promoting-pornography-free-schools-the-role-of-the-us-dept-of-education/</p>
<p>I HEARD THERE WAS A BIG LAWSUIT IN COLORADO. WHAT WAS THAT ALL ABOUT?</p>	<p>In October 2018 a lawsuit was filed against EBSCO for licensing databases to libraries and schools in Colorado. Also named in that lawsuit: the Colorado Library Consortium (CLiC), an established and well-regarded nonprofit providing a variety of infrastructure services to libraries and schools statewide.</p> <p>The suit was brought by the Thomas More Society on behalf of PINE (Pornography Is Not Education), a non-profit founded earlier in the year by two Colorado parents.</p> <p>In their civil complaint against CLiC, the plaintiffs claimed that "The Colorado Library Consortium purchases from EBSCO and knowingly brokers sexually explicit, obscene and harmful materials to Colorado school children."</p> <p>The plaintiff's demands were for \$100,000 and a trial by jury.</p> <p>Four short months later, in February 2019, CLiC was abruptly dropped from the lawsuit after spending more than \$35,000 in legal defense fees. https://www.clicweb.org/clic-dropped-from-lawsuit/ PINE dropped its lawsuit against EBSCO a week later.</p>

	<p>Coverage of the situation appeared in many media publications nationally, including this longer article in the <i>Colorado Sun</i>, an independent newspaper: https://coloradosun.com/2019/04/02/colorado-library-porn-database/</p>
<p>I HEARD THERE WAS SOME LEGISLATION IN COLORADO. WHAT WAS THAT ALL ABOUT?</p>	<p>During Colorado’s 2019 legislative session, a senate bill was introduced: SB19-048 “Protect Students From Harmful Material: Concerning protecting public school students from electronically accessing harmful material.”</p> <p>The bill stipulated, “A parent or legal guardian <i>may bring a civil action against an entity that provides electronically accessible educational materials</i> and... if the parent’s child viewed material that is harmful to a child or obscene through the material provided by the entity. The parent or legal guardian is entitled to injunctive relief, the greater of a fine in the range of \$1,000 to \$5,000 for each violation...”</p> <p>In short: a parent could sue a school, library, or ANY entity involved in providing electronic access to educational content that the parent considers harmful or obscene.</p> <p>Members of the Senate Judiciary Committee heard testimony from individuals in support of and against the bill on 1/23/2019. This proposed legislation died in committee.</p>



Response to Questions from Senate Education and Career Development Committee Hearing on SB288, Material Harmful to Minors

Thank you for the opportunity to respond to questions raised during the Feb. 10 committee meeting. We have highlighted the information below and can provide additional detail and supporting documentation for each of the questions. – Lucinda Nord, ILF Executive Director

Internet Filtering

- Schools and public libraries must remain in compliance with the federal Children’s Internet Protection Act (CIPA), including use of utilize filtering technology to control internet access, for continued eligibility for certain federal e-rate funding. Here are the [FCC rules](#).
- Both schools and libraries must review their Internet Use Policy annually at a public board meeting.
- It is important to remember that internet search engines (i.e. Google, Bing, Edge, etc.) track searches, and the algorithms they use will serve up pop-up ads and other ad content related to prior searches. Therefore, if a person has searched “porn” on their device, they will likely see images for sites related to porn in future searches. These types of ads and sites are regularly stopped by library and school filters, but may be available on a home computer or mobile device lacking filtering software. See [analysis from Elkhart Public Library about searches](#) referenced in bill supporters’ testimony.
- School-provided devices will utilize internet filtering software and practices that the school district has approved. It is a local school district decision whether and how internet traffic on school-provided devices is sent through filters.
- Filtering is not perfect. Content filters are updated daily as new sites are available.
- Schools and libraries routinely instruct students on internet safety and coach parents how to use filters and teach internet safety on personal devices.

Questions about INSPIRE, Indiana’s Virtual Library

Libraries have tested the searches referenced in the packet provided to senators and referenced in the committee meeting.

- Libraries and schools were *NOT* able to replicate searches that resulted in pornographic sites. The school and library filters prevented such images and links to sites.
- In the reported examples, the pornographic material in question was not provided through INSPIRE or any library resource; rather, the user followed a series of links, from one site to the next, with a clear intent to find pornographic materials. The referenced sites (deeper.com, pornhub.com, lesboerotica.com, and playboy.com) are blocked by library filters and cannot be accessed on the library or school websites or their Wi-Fi.

INSPIRE, inspire.in.gov, is a robust database that regularly receives new content as scholarly research, books, periodicals, and materials are published. INSPIRE database content is constantly monitored and reviewed. If indexing is inappropriate to the age category, the Indiana State Library works with the content providers to address it.

Indiana Library Federation leads, educates, and advocates to advance library services for the benefit of Indiana residents.

Intro- Maggie Blaylock, LPC-MH in the state of South Dakota. I am also a CSAT (Certified Sexual Addictions Therapist) and a CMAAT (Certified Multiple Addictions Therapist). I work daily with the devastation of the aftermath on individual lives and marriages because of Sexual Addiction. In almost every case I work with pornography use was an originating factor in their addiction. Sadly I became a licensed and trained professional because 11 years ago my own marriage was devastated by sexual addiction. My husband was the child of a pastor and his parents tried very hard to monitor the content that he consumed. Unfortunately, he had access to porn he found at his grandparents home and at a friends. When high speed internet hit while he was in college this behavior turned into a major addiction in his life until he eventually could no longer hide it. I became a trained professional because there were no local therapists in my state dealing with such a complex issue. We had to travel to Colorado to find someone skilled enough to know how to help us get into recovery and eventually repair our broken relationship. Sadly, today, I am only 1 of 2 CSATs in my state and last I checked there are none in the North Dakota. I have had clients who drive down into the state of SD to a location that they can find wifi to work with me.

In 2017 the state of South Dakota declared pornography a public health crisis.

Here are three reasons (they stated) why pornography should be recognized as harmful to public health:

1) Exposure to pornography is unmanageable at the individual level: individuals and families are unable to “opt-out” of pornography, and [27% of children](#) are being exposed to it before they’ve even reached puberty.

- Most recently Google even accepted the reality of this truth when they changed their safe search settings to default for people in an attempt to make the internet a safer place for young people.
- More and more younger children are accessing internet pornography. The average age of first exposure is 11 (Randel and Sanchez, "Huffington Post" - 2016). However, "children under 10 now account for 22% of online porn consumption under 18" (British Journal of School Nursing.)

2) Pornography use shrinks the brain: a [2014 study](#) found that increased pornography use is linked to decreased brain matter in the areas of motivation and decision-making, impaired impulse control, and desensitization to sexual reward.

- See image- When one looks at pornography they are using the reward system part of their brain. This would be the limbic system of fight, flight or freeze. This area of the brain is also called the reptilian brain. Pornography or sexual content creates a supernatural stimuli that artificially enhances the release of chemicals in the reward system. The chemicals have a molecular structure very similar to cocaine. We have found that habitual porn use create grey matter in the brain (brain shrinkage) in the prefrontal cortex.

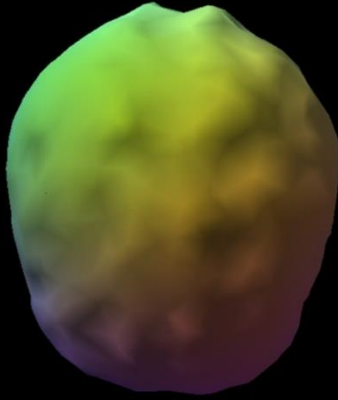
3) Pornography is linked to increased sexual violence: a [2015 meta-analysis](#) of 22 studies from seven countries found that internationally the consumption of pornography was significantly associated with increases in verbal and physical aggression, among males and females alike.

Unfortunately since 2017 the state of South Dakota has done little to no work to make more legislative actions of change or protection for children in this arena.

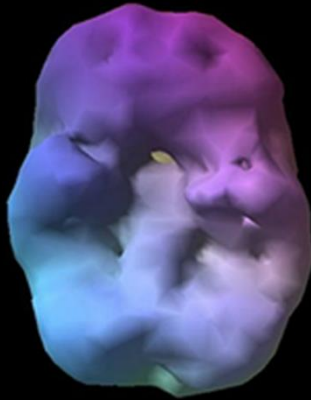
I am honored to be here today to talk about a topic that I passionately believe is an issue that we need to take steps toward correcting. I can not stress enough how big of a problem we are yet to see. I work daily with clients whose lives became unmanageable due to addiction and they barley had access to porn or sexual content compared to what our youth in society has today. I truly believe that we are just beginning to see the impact on those who have had widespread access to porn or sexual content at an early age due to its availability. I don't know how many of you saw the interview on CNN a few weeks ago with the Surgeon General talking about social media but one of the things he said that impacted me the most was that when we saw that cars were becoming more dangerous we passed laws to keep the public safe. We created speed limits and seat belt laws to protect the public. The same fits here with the arena of pornography and sexual content, we need laws in place to protect our young minds until their brains are fully grown and they have been educated and can make their own decisions about what is healthy for them.

Thank you for considering a step toward protection for the children of your state.

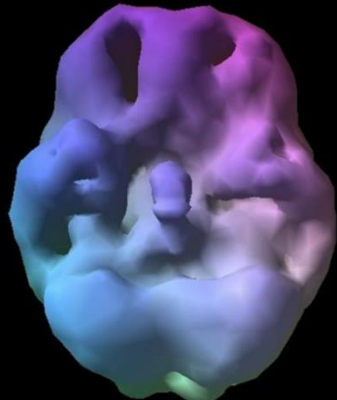
HERE'S YOUR BRAIN



HERE'S YOUR BRAIN
ON HEROIN



HERE'S YOUR BRAIN
ON PORN



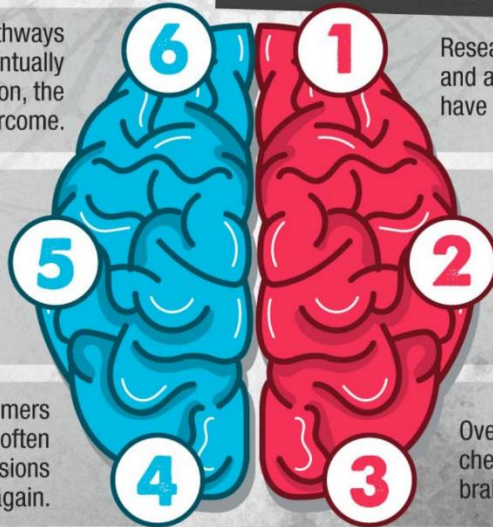
www.ConquerSeries.com

THE EFFECTS OF PORNOGRAPHY IN THE BRAIN

The good news is that if porn pathways aren't reinforced, they'll eventually disappear. As any addiction, the addiction to porn can be overcome.

The images are burned so deeply into the mind that the person will remember them for a long time to come, maybe the entirety of their life.

Just like an addict, regular consumers will end up turning to porn more often or seeking out more extreme versions to feel excited again.



Researchers have found that internet porn and addictive substances like tobacco have very similar effects on the brain.

Like other addictions, porn activates the part of the brain called the "reward center", triggering the release of a cocktail of chemicals that give you a temporary buzz.

Over time, excessive levels of these chemicals cause the porn consumer's brain to develop tolerance.

CONCERNED
WOMEN *for* AMERICA
LEGISLATIVE ACTION COMMITTEE

February 14, 2023
Senate Judiciary Committee
Testimony in Support of SB 2360

Chairwoman Diane Larson and members of the Senate Judiciary Committee, I am Linda Thorson, State Director for Concerned Women for America (CWA) of North Dakota. Today, I am testifying for Concerned Women for America Legislative Action Committee in support of SB 2360.

As the largest public policy women’s organization in the nation and our state, Concerned Women for America (CWA) of North Dakota urges you to protect minors by prohibiting the promotion of obscenity, objectionable materials, and obscene performance which appeals to a prurient interest.

I appreciate the opportunity to address the merits and necessity of passing SB 2360, relating to obscenity control. There are numerous harms for children which make pornography a public health risk.

In 2011, at the National Strategy Conference on Combating Child Exploitation, [Attorney General Eric Holder](#) expressed alarm at the rapid growth of pornography associated with children and sex abuse saying,

“As everyone here knows, the work isn’t easy. In fact – in this time of growing demands and limited resources – your efforts – to protect children in need and at risk, to support juvenile victims, and to safeguard our young people from exploitation, abuse, trafficking, sexual violence, and online threats – have never been more urgent.”

Since the launch of Project Safe Childhood five years ago, investigations and prosecutions of child exploitation crimes have increased dramatically. Unfortunately, we’ve also seen a historic rise in the distribution of child pornography, in the number of images being shared online, and in the level of violence associated with child exploitation and sexual abuse crimes. **Tragically, the only place we’ve seen a decrease is in the age of victims.”**

[The facts](#) are:

- Today’s pornography includes hardcore, explicit material that is warping reality and increasing the prevalence of divorce, rape, sexual violence, and sex trafficking.
- The ever-increasing prevalence of pornography, prostitution, and sex slavery, and the ways that those forms of commercial sexual exploitation feed off of each other [form a](#)

[multi-billion dollar industry](#) that exploits thousands of girls and women in this country and millions around the world.

- Pornography has been known for being used for training sex slaves on how they are to perform during sex acts. Many of these sex slaves are children who will often become desensitized to the material.
- [The violent, sexual subjugation of women](#) is not an unfortunate byproduct of pornography but one of its main selling points. It is an industry that rewards risky sexual behavior and preys on the minds of both young men and women by appealing to the prurient instincts and feeding the most debased desires.
- Numerous pieces of [literature](#) are available in the National Library of Medicine on the topic of compulsive sexual behavior, [sexual addiction, sexual compulsivity, and sexual impulsivity](#) showing pornography is addictive.
- A [study](#) was done by the Max Planck Institute for Human Development on 64 male adults regarding the impact that pornography had on each of their brains. What they found was that the more hours of pornography that a subject consumed, the less gray matter they would find in the right caudate and the less functional connectivity there would be between the right striatum and the left dorsolateral prefrontal cortex. In plain terms, the disconnectedness and intense stimulation that pornography causes in the brain's reward system can be similar to that of drug and alcohol addictions.
- Pornography that is easy to access has led to widespread use leading to illegal activity, like child abuse, prostitution, and sex trafficking. In a [study](#) done on 854 women in prostitution, researchers found that 49 percent stated that pornography was made of them.

Safety policies and technology protection measures as outlined on SB 2360 are urgently needed and can be done. As [Ross Douthat of The New York Times](#) argued in an op-ed:

“The belief that [porn] should not be restricted is a mistake; the belief that it cannot be censored is a superstition. Law and jurisprudence [changed once](#) and can change again, and while you can find anything *somewhere* on the internet, making hard-core porn something to be quested after in dark corners would dramatically reduce its pedagogical role, its cultural normalcy, its power over libidos everywhere.”

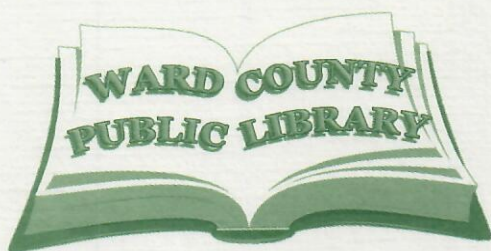
I ask you to speak up for our fellow men, women, and children and work to end pornography's destruction. Unless we respond as a society, courageously and with a sense of urgency, we can expect the problem to grow.

Please give SB 2360 a Do Pass recommendation.

As a citizen of North Dakota, a mother, and a library staff member, I strongly oppose SB2360. There are already policies, blocks, and filters in place for internet use in libraries and schools, as required by federal law.

The wording of this bill is broad enough to restrict access to educational materials. I also take issue with the phrase "North Dakota standards" for obscenity. Who sets this standard? I have witnessed the average North Dakotan call anything that reminds them of the LGBTQ+ community as obscene – this is NOT the standard I want to used when decisions of this magnitude are made.

Tonya Palmer
Information Services Supervisor
Grand Forks Public Library
Grand Forks, ND



Phone 701-852-5388
Toll Free 1-800-932-8932
PO Box 5005
Minot, ND 58702
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Minot, ND 58701

February 13, 2023

Chairman Larson and the Members of the Judiciary Committee,

I am writing to voice my opposition to the proposed changes presented in SB 2360.

Public Schools and Public Libraries that receive federal funding are already required to under the Children Internet Protection Act (CIPA) to have the filters in place on their school and/or library devices. This act was enacted in 2000 to address concerns with rules issued in 2001 and updates in 2011. The protection measures must block or filter Internet access to pictures that are: (a) obscene; (b) child pornography; or (c) harmful to minors (for computers that are accessed by minors). Schools and libraries subject to CIPA are required to adopt and implement an Internet safety policy addressing:

- Access by minors to inappropriate matter on the Internet;
- The safety and security of minors when using electronic mail, chat rooms and other forms of direct electronic communications;
- Unauthorized access, including so-called "hacking," and other unlawful activities by minors online;
- Unauthorized disclosure, use, and dissemination of personal information regarding minors; and
- Measures restricting minors' access to materials harmful to them.

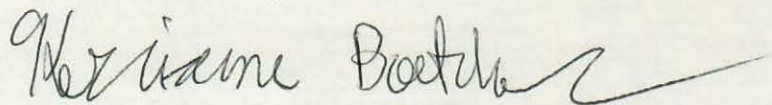
Schools and libraries must certify they are in compliance with CIPA before they can receive E-rate funding.

- CIPA does not apply to schools and libraries receiving discounts only for telecommunications service only;
- An authorized person may disable the blocking or filtering measure during use by an adult to enable access for bona fide research or other lawful purposes.
- CIPA does not require the tracking of Internet use by minors or adults.
(<https://www.fcc.gov/consumers/guides/childrens-internet-protection-act>)

With this Act, many schools and libraries have internet policies already in place including acceptable use policies. I firmly believe that children need to learn to navigate online databases and evaluate resources to prepare for success later in life.

Likewise, many of the other changes have been addressed at the federal level multiple times. I urge you to consider voting against the proposed changes and I thank you for your time and consideration.

Respectfully,

A handwritten signature in cursive script that reads "Kerriane Boetcher". The signature is written in dark ink and includes a long, sweeping horizontal line at the end.

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



February 13, 2023

Chairman Larson and the Members of the Senate Judiciary Committee,

My name is Kerrienne Boetcher and I am writing as the President of the North Dakota Library Association (NDLA) to voice opposition to the proposed changes presented in SB 2360.

We do not believe that this bill accurately reflects safeguards that are already in place. Public schools and libraries in North Dakota that receive federal funding are required under the Children Internet Protection Act (CIPA) to have filters in place in the school or library. These filters may be lifted for an adult who needs access for bona fide research or other lawful purposes.

With this Act, many schools and libraries have internet policies already in place including acceptable use policies. I firmly believe that children need to learn to navigate online databases and evaluate resources to prepare for success later in life. Options are available for home devices and phones for parents to decide if they would like to filter for their child.

There have been claims from out-of-state organizations such as MassResistance.org, The Heritage Defenders, The Freedom Press Group, and Moms for Liberty, that individuals have found unsuitable materials in databases. However, database staff and librarians have been unable to recreate these searches or find the materials within the database itself.

This bill allows for the prosecution of school district, state agency, public library, or public school employees and changes the definition of obscenity. This definition has been address on the federal level multiple times before now.

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

Sincerely,

A handwritten signature in black ink that reads "Kerrienne Boetcher". The signature is fluid and cursive, with a long horizontal stroke at the end.

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



Senator Diane Larson, Chair
Senate House Judiciary Committee

Dear Senator Larson:

The Fargo Public Library Board and Administration oppose Senate Bill No. 2360 due to the broad language making up the legislation that is in direct conflict with the first amendment and is punitive towards libraries.

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

It is essential that Senate Bill No. 2360 be prevented from being made law in order for libraries in North Dakota to continue to do their first amendment duties for the communities they serve. We urge Senate members to do their constitutional duty and prevent North Dakota from becoming a state that censors its public libraries.

Sincerely,

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

February 10, 2023

Dear Members of the ND Senate Judiciary Committee,

I serve as director of James River Valley Library System in Jamestown, and I'm contacting you in respectful opposition to SB 2360.

As father of a teenage young man, I share your concerns with the materials that he and other young people may encounter in schools or libraries. I want age-appropriate materials for everyone's children, although I realize views of age-appropriateness are subjective, varying from parent to parent. As a library director, I attempt to stay middle-of-the-road with respect to materials offered, recognizing that not everyone will be pleased, but hoping most people in Stutsman County will feel their basic values are respected.

Despite the fact that I share some of your concerns, I still urge the Senate to reject SB 2360. First, this bill changes the definition of obscenity from wording established by the Supreme Court; second, it envisions criminal penalties based on materials over which reasonable people may disagree; and third, it could result in loss of online databases and eBooks in ND—not just for school-aged children, but also for adults.

The legal definition of obscenity (which covers pornography) was established by the Supreme Court in *Miller v. California* (1973). Current ND law follows the wording from *Miller*. By changing the wording of our current law (Section 1), this bill challenges the three-pronged Miller test. Based on *Miller*, I firmly believe ND libraries do not have any pornographic or obscene materials as some people contend. Libraries may have materials that you or I might find offensive, but there is no actual obscenity as defined by the Supreme Court.

SB 2360 also envisions criminal penalties to people for providing “objectionable materials” (Section 3). Objectionable is something upon which reasonable people could disagree. There are processes already in place for people to challenge library materials. These processes are locally administered by duly elected school boards or appointed library boards. The path forward should be to allow those boards to do their jobs, with accountability to their local communities.

Finally, Section 5 could jeopardize access to online databases and eBooks in ND. I believe there is no pornography in online databases (as defined by *Miller*), but it seems this bill and similar bills seek to redefine obscenity in a manner to prohibit materials currently not defined as obscene or pornographic. With that in mind, there is no filter that will block all the materials some might wish to remove. If a book is written for children and carried by an eBook vendor, that book wouldn't be blocked by a child filter, even if many North Dakotans find it offensive. Thus, ND libraries could be forced to drop eBook contracts under this legislation, to the great disservice of our patrons.

A free society requires toleration for the needs and rights of others, particularly as related to information in a public library. Librarians are stuck in the middle between people who want to redefine certain things as “obscenity,” and others who may wish to redefine certain political, religious, or scientific views as “hate speech” or “misinformation.” Librarians defend everyone's right to free speech and thought, keeping in mind that the First Amendment was especially

designed to protect unpopular views. Popular speech does not need protection. As a society, I hope we can exercise our freedoms respectfully and judiciously for the benefit of all.

Sincerely,

A handwritten signature in blue ink that reads "Joseph Rector". The signature is fluid and cursive, with the first name being the most prominent.

Joseph Rector

Director

James River Valley Library System

February 13, 2023

Re: Senate Bill 2360--A BILL for an Act to amend and reenact section 12.1-27.1-03.1 of the North Dakota Century Code, relating to displaying objectionable materials or performance to minors; and to provide a penalty.

To The Committee Chair:

I am writing in support of SB 2360 as a concerned citizen of North Dakota. I also have 25 years of experience working in a national non-profit agency dedicated to the support and care of children, adolescents, and their families.

During my career, I either made or assisted with thousands of mandated child abuse and neglect reports to state authorities. I have witnessed first-hand the lifetime of damage that occurs when a child is abused or neglected.

Allowing children to be exposed to sexually explicit material is clearly child abuse and neglect. From the North Dakota Century Code:

14-09-22.1. Neglect of child - Penalty. A parent, adult family or household member, guardian, or other custodian of any child, who willfully commits any of the following offenses is guilty of a class C felony: 1. Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals.

If anyone is unsure of the emotional damage caused when children are exposed to sexually explicit material in our libraries or squeamish about considering this issue on moral grounds, then consider the science. With the ongoing research in the functioning of the human brain and learning, we have mountains of evidence debunking Alfred Kinsey's research that has driven and continues to drive so much of our educational and societal thinking and practice in the area of sexual behavior.

We are not talking about banning books. There are a multitude of opportunities to partake in sexually explicit information. We are talking about trying to protect our children and the next generation.

I think the question we must ask is do we want our libraries to be safe places for growth and development or do we want them to continue to be places we send our children to be abused?

Sincerely,

David Reed
1048 Parkway Lane
West Fargo, ND

Members of the Senate Judiciary, thank you for allowing me to speak and taking the time to listen. For the record, my name is Autumn Richard, from Lefor North Dakota, and I am writing in favor of Senate Bill 2360.

This bill is a necessity, along with several other bills that have been presented recently, in order to preserve the integrity of North Dakota values. I can personally attest to the necessity of this bill. The ODIN cataloging system that is used by my library, Dickinson Public Library, along with every other library in the state, allows for children to electronically access any book within the system. This means that a book, such as 365 Sexual Positions (which is in my library) in the adult section, can be checked out by a child of any age; there is nothing limiting this child. Also, if a child goes to the search engine and types in a key word, such as sex, they will be met with a plethora of books, ranging from the children's section to adult reading, from their library to all other libraries within the state, at their fingertips.

In a library board meeting, the Dickinson library director, stated to me that if a twelve year old child wants to check out an adult book, there is nothing within the system, either physically or electronically, that will stop them.

I do not understand how the libraries acknowledge the necessity of censoring internet browsing, but will not provide the same security in literature. If a child can read a book that speaks about masturbation, rimming or golden showers and the library protects that right, why can't that child see it visually on the computer system? If one source is considered inappropriate, why not the other? Clearly, a minor learning about such terms is inappropriate on both sources, and this is why this topic has reached nationwide concern.

I do believe that our state needs to clearly define what is considered 'obscene' for minors; there should be no gray area in this so that when a complaint is voiced, there is no room for discussion. Sexually explicit vocabulary as well as sexually graphic pictures should not be available for minors under the age of 18. Gender identity/sexual identity or sex classification is not material for minors, particularly for children 12 and under; there is a multitude of scientific data stating the damage of this information to a developing mind.

North Dakota is not the only state attempting to protect their youth's mental health and well being; Texas HB1655 was filed in January of this year, other bills such as Oklahoma HB2002, SB95 and SB1017, as well as Virginia SB1463, Louisiana SB7 and West Virginia SB1017 have all been introduced and all have the same common goal, to protect children from harmful information.

This concludes my testimony and I respectfully request a do pass recommendation from this committee. Thank you for your time.

Outline

- How It Happens—how our kids are being exposed to pornography and sexual behavior
- The Brain and Porn—what we now know
- Traumatized Kids
- A Traumatizing Educational System

1. How It Happens

Dr Jay Stringer in his book, “Unwanted”, surveyed 3817 individuals with unwanted sexual behavior (Stringer, Colorado Spring).

1. 50% Had a peer introduce them to pornography.
2. 33% Had a peer touch them in a way that made them feel uncomfortable.
3. 32% Had someone older introduce them to pornography.
4. 35% Touched another peer or child inappropriately.
5. 21% Had an adult touch them in a way that made them feel uncomfortable.

Jay writes “Pornography is introduced in the context of relationships - 50% had a peer introduce them to pornography and 32% had someone older introduce them to pornography.” Now the school libraries are introducing pornography. These adults have authority in kids’ lives. They send a confusing message to kids. Kids are entitled to their innocence.

2. The Brain and Porn

Our brains are hardwired to learn. Dopamine drives learning and curiosity (Weinschenk, 2009). Learning changes our brain (Mengia-S. Rioult-Pedotti, 2000). Human sexuality is an important form of learning (Hilton, 2014). Our brains are highly visual, and we respond to sexual stimuli faster than anything else. This is one reason addicts’ eyes later become their own worst enemy.

FMRI scans now can show the differences between a healthy brain and an addictive brain. If you compare a cocaine brain with a sexually addicted brain, they look the same (Voon V, 2014) (see graphic 1-2). Why? Because our brains respond exactly the same way to all forms of pleasure regardless of their source. Sexual addicts’ brains are basically creating the drug they are addicted too. They have no impulse control. Neuroscientists showed a 8-12% reduction in brain matter due to trauma (Meng, 2016). They become brain damaged over time. Researchers Kuhn and Gallinat study showed a reduction in gray matter with long-term exposure to porn (Kuhn, 2014) (see graphic 3). Addicts do not have the capacity to calm themselves down and rely on porn to do it. Over time they must increase the kind, type of porn and amounts due to the way the brain process dopamine to get the desired high. (Negash S, 2016). Each time they

come off it they will hit lower and lower on the normal baseline and fall into more of a depressive state (See Progressive Drug Tolerance graphic 4).

3. Traumatized Kids

Sit in any sexual addiction recovery group, adults will recall the first time they saw porn as a child, I felt disgust, horror, shameful, shocked, excited and confused, aroused and didn't know what to do. It is also called like/want spilt (Anselme, 2016).

In Dr. Bessel van der Kolk book, *The Body Keeps the Score: Brain, Mind, and Body in the Healing of Trauma*. He writes, "Trauma results in a fundamental reorganization of the way mind and brain manage perceptions. It changes not only how we think and what we think about, but also our very capacity to think." And "Being traumatized means continuing to organize your life as if the trauma were still going on—unchanged and immutable—as every new encounter or event is contaminated by the past." This sets us up for shame and bondage. If you have ever been bitten by a dog, years later all the events surrounding that moment will come flooding up like it happened yesterday.

Ninety percent of critical brain development happens before the age of 5 (First, 2023). Exposure to porn traumatizes kids' brains. A very simple definition of trauma is the brain's inability to metabolize an event. Children have no way to process porn. The development of the prefrontal cortex, the front part of our brain behind our forehead that helps with decision making, planning and impulse control isn't complete until the age of 25. The brain cannot differentiate between explicit material whether it is in the form of a cartoon, drawings, pictures or video (Hilton, 2014). Our brain sees all sexual material in the same way.

4. A Traumatizing Educational System

Dr. Caroline Giroux a psychiatrist who specializes in trauma, says "Exposing children to pornography should be forbidden and better regulated, as it is violating their spiritual boundaries and evolving beliefs around body, sexual development and intimate relationships, in a similar way that direct sexual abuse on their body does. If this trauma is not identified and processed promptly, the survivor runs the risk of reenacting as an attempt to resolve what once left him or her powerless, or of even engaging in similar criminal behaviors (Giroux, 2021)."

Children who become adults become less empathetic and unable to affect regulate over time with exposure to porn (ARIEL KOR, 2021). They become more vulnerable to seek sexual behaviors out including watching more porn and acting this behavior out with other kids (Ed.D., 2011).

A child who is traumatized by sexually explicit material or sexual abuse will grow up and become people are unable to have healthy relationships (Impact of Internet Pornography on Marriage and the Family: A Review of the Research, 2006).

When a child sees porn they develop a bond through oxytocin and vasopressin hormones (Hilton, 2014). Exposure porn begins the creation of what is called a “sexual arousal template” a term developed by Dr. Patrick Carnes (Carnes, 2008).

Is this the kind of kids we want to develop in our educational system.

Kids who are driven by the dopamine porn gives. Kids are naturally curious, and they will seek it out.

Kids whose eyes become their own worst enemy.

Kids who are traumatized by porn.

Kids who use porn as a coping mechanism for their future emotional wounds..

Kids who will have unhealthy relationships because they are bonding to porn and not the important people in their life.

Kids who are unempathetic and unable to control emotions.

Kids who have high divorce rates.

Kids who are depressed and lonely.

Kids whose learning is impacted by porn.

Kids who have low motivation.

Kids who become potential predators.

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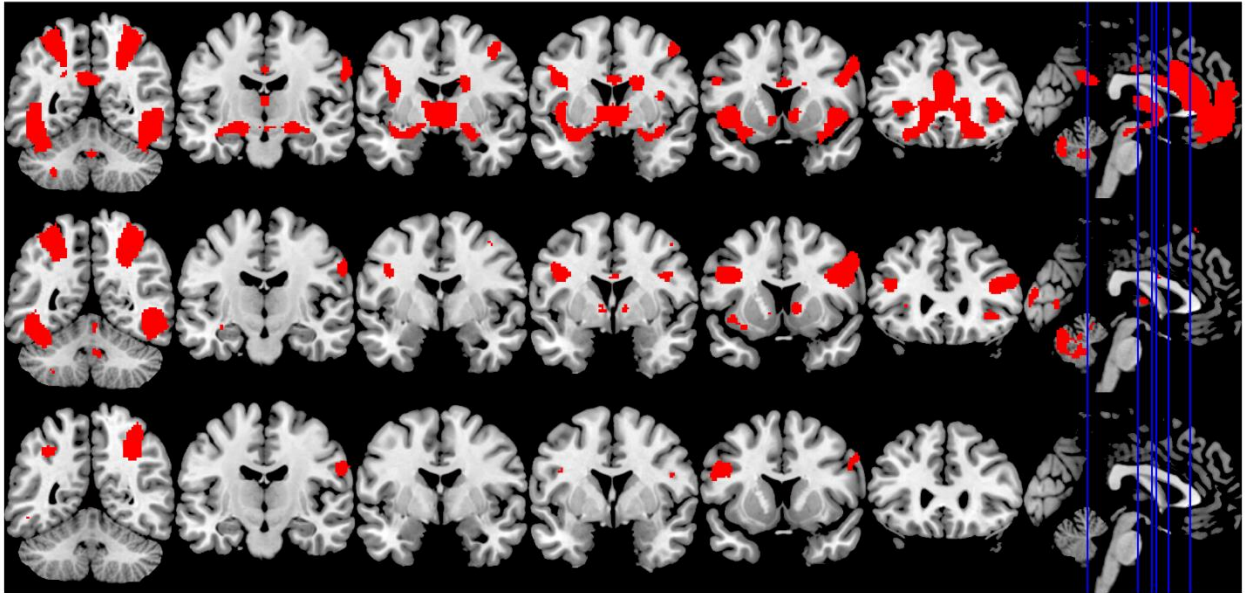
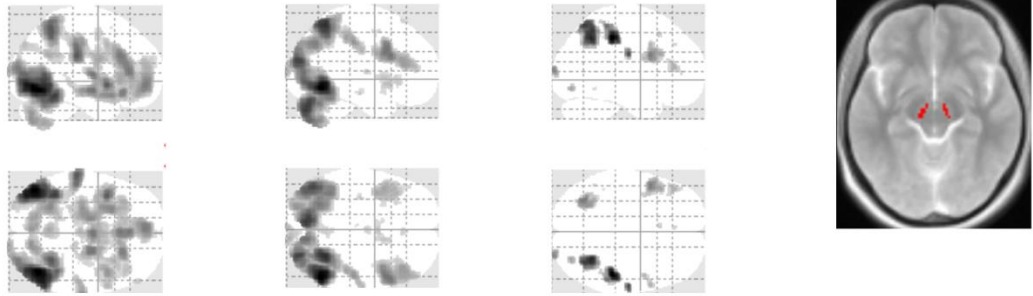


Image 1

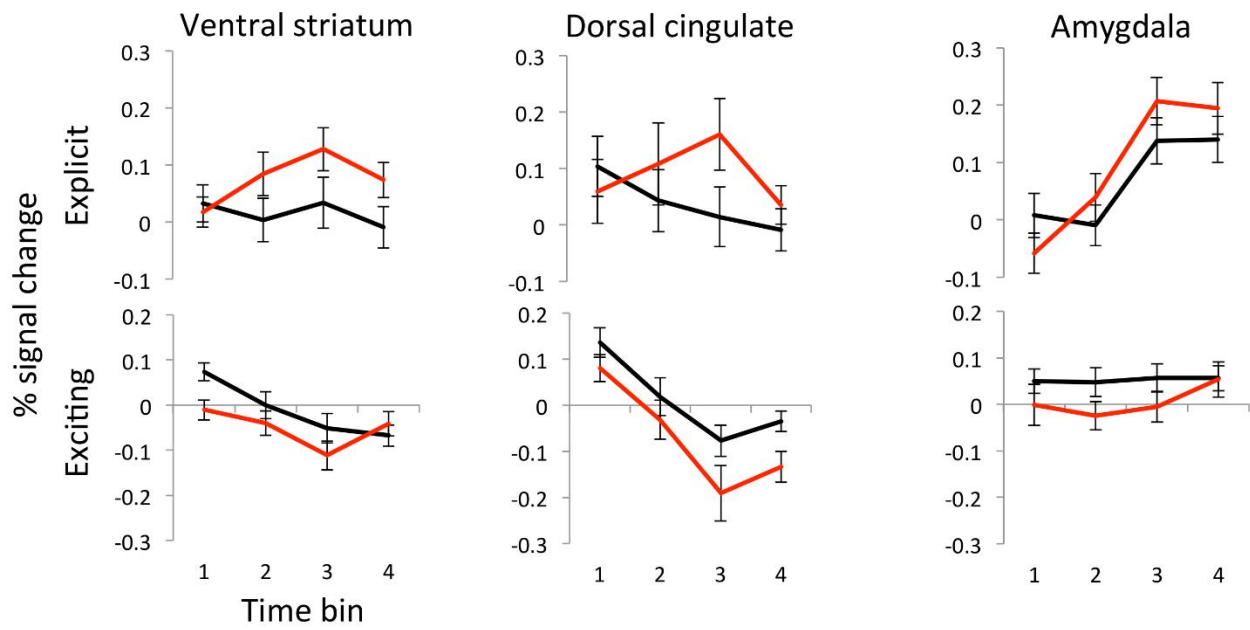
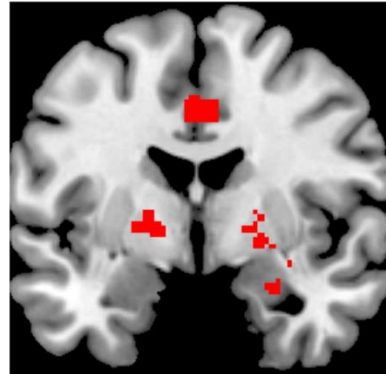
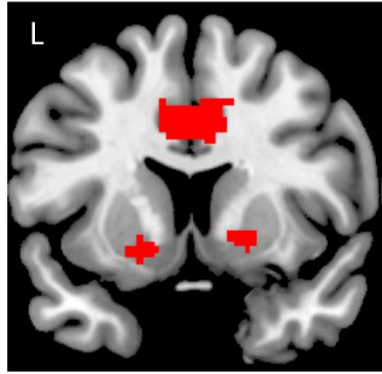


Image 2

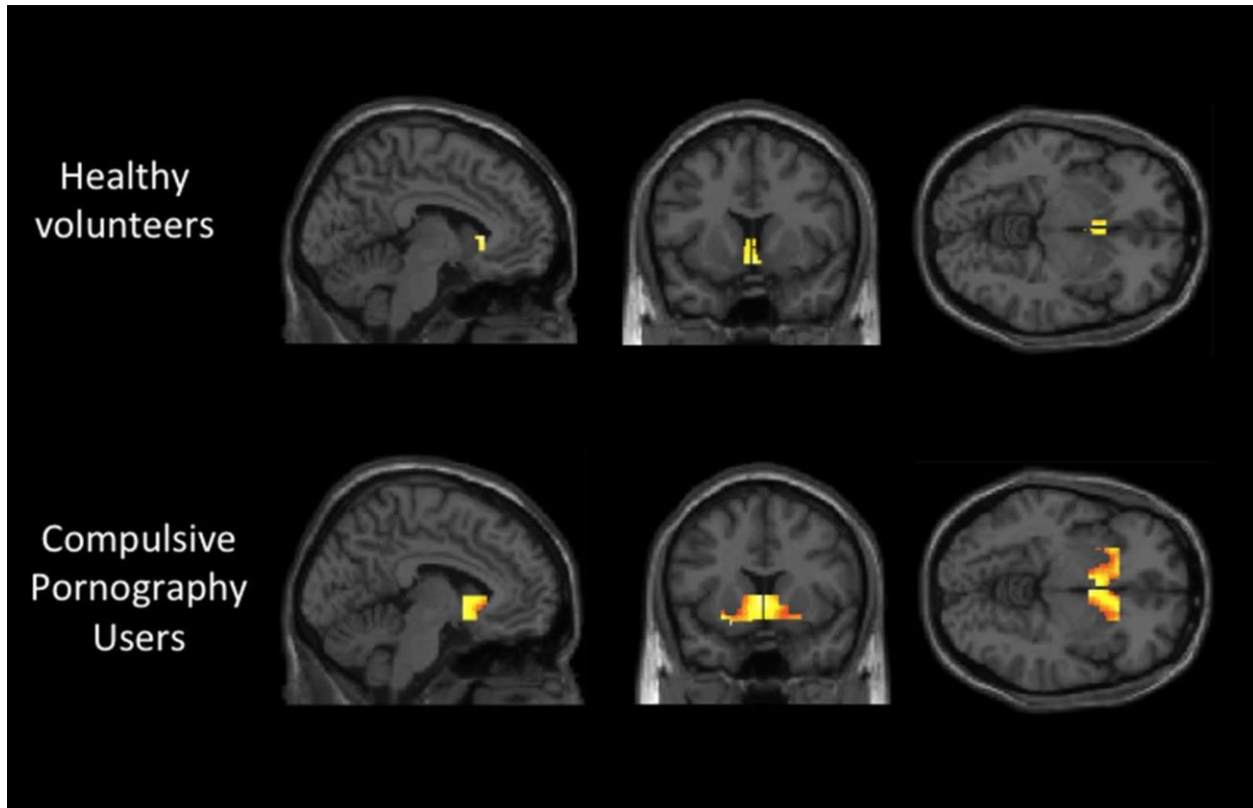
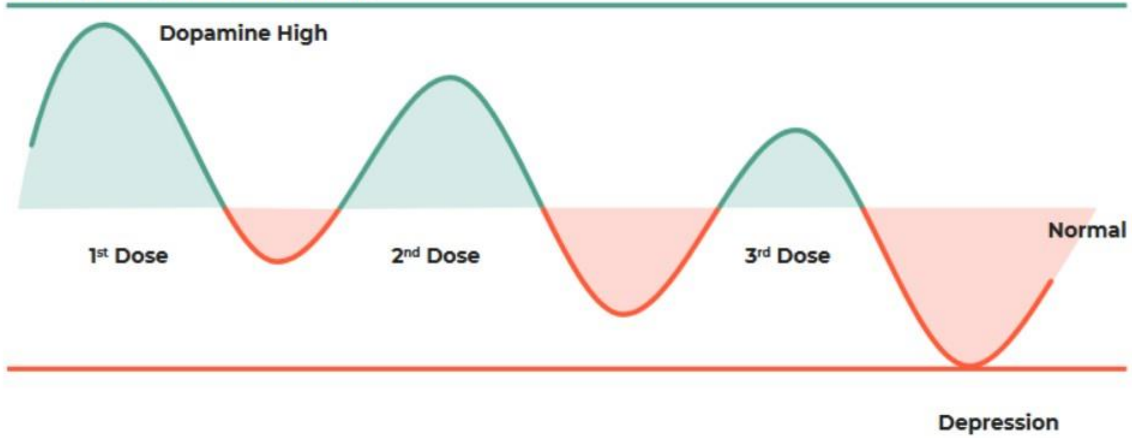


Image 3

TOLERANCE

PROGRESSIVE DRUG TOLERANCE



Progressive Drug Tolerance

Links to Podcasts and Videos on porn's impact on the Brain.

Valerie Voon Interview at Stanford

<https://neuroscience.stanford.edu/videos/valerie-voon-addictions-brain-network-disorder>

Effects Of Porn On Your Brain

https://www.youtube.com/watch?v=lzduEttIC_g

Pornography and the Brain: Understanding the Science of Addiction and Recovery -- Dr. Donald Hilton

<https://www.youtube.com/watch?v=P2yKslvPfV4>

What does porn do to a kid's brain?

<https://www.youtube.com/watch?v=UK-kJWc6abl>

How Porn Corrupts the Brain's Reward System: Neurosurgeon Explains

<https://www.defendyoungminds.com/post/how-porn-corrupts-brains-reward-system-neurosurgeon-explains>

John D. Foubert, Ph.D., Simone Kühn, Ph.D., Donald Hilton, M.D.

<https://truthaboutporn.org/media/>

Chapter 3 - Effects of premature sexualization on child development

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Completed_inquiries/2008-10/sexualisationofchildren/report/c03

Chairperson Larson
and Members of the Senate Judiciary Committee,

I am writing to urge you to vote DO NOT PASS on SB 2360.

Libraries and schools already apply content filters on the Internet access they provide to patrons in accordance with the Children's Internet Protection Act (CIPA.) This bill is therefore unnecessary.

Reading through the written testimony of those in favor of this bill, it is apparent the way CIPA interacts with libraries in North Dakota is not understood. It simply is not true that children are accessing pornography through library internet.

Additionally, this bill, like SB 2123 and HB 1205, is overly broad. It would ultimately cost North Dakota a great deal of money and resources in litigation.

I've read testimony after testimony on ndlegis.gov written by my fellow librarians, in opposition to these bills. Does their expertise in library science matter at all? It seems that the Legislature is putting the interests and opinions of one group over an entire professional class of citizens in North Dakota, citizens who could face jail time if these bills pass. It is unconscionable.

Please vote DO NOT PASS on SB 2360.

Sincerely,
Mariah Ralston Deragon
Masters in Library Science, Emporia State University, KS

Do Pass – SB 2360

Dear Chair Larson and Members of the Senate Judiciary Committee,

My name is Rebekah Oliver and I write as a private resident of North Dakota. Please recommend a Do Pass on Senate Bill 2360. This bill is critical to protect young children from obscenity – graphic images which cause social, academic, and physical harm. Current laws are not robust; the obscenity problem is a serious present-day reality and must be addressed in order to protect the children of North Dakota.

Research indicates that sexually explicit images affect the structure and the function of the brain^{1,2}. The adolescent brain is thought to be especially sensitive.³ A review paper which summarized research on “the effects of sexually explicit material on adolescents' attitudes, beliefs and behaviors” found that “sexually explicit material is associated with sexual behavior, sexual norms and attitudes, gender attitudes, self-esteem, sexual satisfaction, uncertainty and preoccupation. In addition, the studies reported developmental effects on adolescents' behavioral, cognitive and emotional well-being.”⁴

Please recommend a Do Pass on the bill, and make libraries a safe place for North Dakota’s children.

Sincerely,

Rebekah Oliver

¹ Kühn S and Jürgen Gallinat J. 2014. Brain structure and functional connectivity associated with pornography consumption. *JAMA Psychiatry* 71:827-834.

² Sinke C, Engela J, Veita M, Harmanna U, Hillemacherb T, Kneera J, and Krugera THC. 2020. Sexual cues alter working memory performance and brain processing in men with compulsive sexual behavior. *NeuroImage: Clinical* 102308.

³ Brown JA and Wisco JJ. 2019. The components of the adolescent brain and its unique sensitivity to sexually explicit material. *J Adolescence*. 72:10-13.

⁴ Koletić G. 2017. Longitudinal associations between the use of sexually explicit material and adolescents' attitudes and behaviors: A narrative review of studies. *J Adolescence*. 57:119-133.

I am writing in favor of the amendments and new section that SB 2360 is creating. We need to continue to protect our children from harm. A form of harm can be exposure to obscene materials. The amendments to this bill offer more clarity or update verbiage to fit the current times. The addition of the safety policy is in the best interest of our children. This limits the risk of exposure to inappropriate materials to our children through technology. We all have technology at our fingertips in today's world. This can be a great resource, but with this resource can come concerns about access to things children of certain ages should not be exposed to or have access to. As a mother myself I want to have safety protocols in place to protect my child in public, schools, and libraries, from access to inappropriate materials. There are very few, if any, times that come to mind where I feel a student or child would have the need to be accessing such materials. Having filters and protections in place is very important. It is not removing the right to access entirely; it is just putting guidelines in place for safety to protect our children. I would like to see the amendments and additions pass to continue to protect our children from adult content.

Members of the Senate Judiciary Committee,

My Name is Susan Draper and I reside in District 1 in Williston ND. I have two children that attend Williston High School. I am asking that you please render a DO Pass on Senate Bill SB 2360

Number 7 on the American Library Association's Library Bill of rights states that: "All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information". ALL ages, meaning that preschooler or kindergartener can have access to a book that contains pictures, or written verbiage about sexual content, material regarding cutting, drug use, violence toward women, children, and authoritative figures.

Can you imagine if the movie industry had the same philosophy and said "No matter the age, all kids should be able to see any movie they want. And parents, need to monitor your kids but you don't have the right to protect other kids from porn, violence, drug use and profanity only be concerned about your kids." The most vulnerable children would be exposed to this material more than they already are.

The motion picture industry is not required to rate their movies, they choose to, because they chose to inform parents and have been doing so since 1968. To quote their website, “the film rating system provides parents with the information needed to determine if a film is appropriate for their children.” Their board comprised of an independent group of parents. Seems like rating books would also be a good idea, so parents could be informed as to what kind of books their kids are reading. But the ALA doesn’t support a rating system. They do not think it is appropriate to add rating.

“Because these rating systems are devised by private groups using subjective and changing criteria to advise people of suitability or content of the materials. It is the library’s responsibility to prevent the imposition or endorsement of private rating systems. Including such ratings in the bibliographic record, library records, and other library-authored finding aids would predispose people’s attitudes toward the material and thus violated the Library Bill of Rights” (again not a legal document but a statement of principles)

There is currently not an authoritative rating system regarding books that are allowed in schools and certain parts of the public libraries that minors have access too. A parent rating system, called booklooks.org has been created for parents to use to help monitor material in books that they come across or hear about. This is not a well-known source in our country as this organization is still in the start up phase of their business. Nor does it have any teeth in the rating it provides parents.

Here is a statement from Booklooks.org

"We are concerned parents who have been frustrated by the lack of resource material for content-based information regarding books accessible to children and young adults.

We make no money and seek no recognition in our efforts. We believe sunlight is the best disinfectant and parents should have the information at their disposal to make informed decisions about the content their children consume.

We are not affiliated with any other groups, but we do support several groups by letting them use our materials and by taking suggestions for what we should review. If you would like to use or distribute our materials, or have books you'd like for us to take a look at, please don't hesitate to reach out.

Just like the movie industry, where the rating system is NOT determines by the motion picture association, directors, actors, or anyone else that is working in that industry, so as to be unbiased and fair, they have chosen parents, just parents to make up that board. Booklooks have guidelines to follow. I have included the rating system in your packet. They have set guidelines for each rating system so the people rating the books have specific content to look for not just deciding on their own. Just like movie ratings have guidelines to follow.

With sex trafficking at an all-time high, and demand for children being sexually exploited at an all-time high, I wonder if by normalizing sex the children brought into these situations are forgetting what is right and wrong. When children read about situations sometimes, they relate, but other times they don't and begin to think this behavior is normal. Why do you think porn is

so negative, its because people don't normally do what is seen on television, read in books or viewed in magazines.

While researching the content in some of the Williston Libraries one of us had a student conduct an experiment and type the title To Kill a Mockingbird in the chrome book browser. The student was unable to do the search because of the boundaries that are place in the web internet at the school.

Children are bombarded with the internet, televisions, programs and digital devises that access even the simplest of sexual material. Shouldn't there be one place that they can be protected from this material?

To the men and women of the 68th Legislature.

Thank you so much for all the hard work you have been doing this year to represent the people of North Dakota.

I understand you will be voting on SB2360 on February 14, 2023. Please vote yes on this bill to protect the young citizens of our state from the evil of pornography and those that promote it. We need to be the gatekeepers for the most important thing in our society...yours and my children. A yes would ammend the current ND Century code with these proposed changes.

Thank you so much for hearing my voice.

Dear Legislatures,

I'm asking you to vote yes for SB2360. Do what we all know is right. Please help protect our children from the forces that want to expose our children to this destructive material.

Thank you,

Phil Kleymann

District 24

Valley City, ND



**TESTIMONY ON SB 2360
SENATE JUDICIAL COMMITTEE
February 14, 2023
By: Mary J. Soucie, State Librarian
North Dakota State Library**

Chairman Larson and members of the Senate Judicial committee,

For the record, I am State Library Mary Soucie, and I am providing information on SB2360. The State Library coordinates purchases of Online Library Resources (OLRs) or databases for libraries across the state through two methods. We purchase OLRs in a partnership with Minnesota and South Dakota to realize economies of scale. Libraries that participate in this purchase pay a small fee. The formula is based as follows: public libraries pay based on the per capita of their service area; school libraries pay based on the number of students in grades 9-12, elementary and middle schools that feed into a participating high school get access at no additional charge; and academic libraries pay based on the number of FTE's. There are also some OLR's that NDSL purchases that can be accessed by anyone with an NDSL card or a North Dakota public library card with no cost to the local libraries.

The Children's Internet Protection Act (CIPA) was enacted by Congress in 2000 to address concerns about children's access to obscene or harmful content over the Internet. CIPA imposes certain requirements on schools or libraries that receive discounts for Internet access or internal connections through the E-rate program – a program that makes certain communications services and products more affordable for eligible schools and libraries. There are 48 of 83 public libraries that are on Stagenet and those libraries are filtered by NDIT. A total of 64 public libraries utilize filtering software on their public computers and 2 public libraries do not provide internet access at all. Any library that applies for e-rate are mandated to be compliant with the Children's Internet Protection Act (CIPA) which requires libraries to block or filter any internet access certain depicted images for minors and adults. Minors are defined as anyone under the age of 17. CIPA requires the ability to disable filters for adults when requested for bona fide research or other lawful purposes.

Online library resources meet the informational and lifelong learning needs of library users. Our OLRs include general research, self-paced learning courses, foreign language, health, genealogy and books, magazines and newspapers. It is important for libraries to provide access to these resources for people that cannot afford to pay for access to commercial products; for students to complete homework and to support workforce development for job seekers. Access to these resources helps to eliminate the digital divide.

The Miller Test is the primary legal test for determining whether expression constitutes obscenity. It is named after the U.S. Supreme Court's decision in Miller v. California (1973). The Miller test is a three-prong test.

- (1) whether the average person applying contemporary community standards would find the work, taken as a whole, appeals to the prurient interest;
- (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- (3) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Chairman Larson and members of the committee this concludes my testimony, and I am happy to answer any questions.

February 14, 2023

Senate Judiciary Committee Testimony

in Support of SB2360

Chairwoman Diane Larson and members of the Senate Judiciary Committee, I am Vicki Grafing. Today, I am testifying in support of SB2360.

Children in North Dakota have a right to innocence. And we, as reasonable adults, have a duty to protect that right. Currently, the libraries in North Dakota are not safe for our children. That is not hyperbole, it is fact. I have purchased books and studied those books, reading them cover to cover so I had the first hand knowledge of that which I speak. Have any of you on this committee sat with just one of these books; books that so many communities across North Dakota are fighting to restrict from our children's hands? If you haven't, I would encourage you to look through one. Thoroughly. Look at the pictures, read the content. You need to know why you're voting. You need to feel the disgust that I and so many other mothers and fathers feel when they read the books in the libraries that are available to our kids and grandkids. Since you're possibly at a disadvantage and haven't had the opportunity or maybe just haven't taken the time to really look at a book, I'll add a few bullet points of content from a couple of the books in North Dakota Libraries. They're cartoon books called Graphic Novels. They target YA, which in many cases are 12-18. Some libraries have stated 14-18. But honestly, pornography and obscenity aren't acceptable for any minor.

- *“Virginity is a silly label...Virginity just doesn't work anymore in today's world.” Pg. 18*
- *“Friends with benefits, Hookups, Fling...focusing on the more sexual side of things.” Pg. 34*
- *“Chat it out before you pound it out!” pg. 36*
- *Advising Anal Sex—“The opening is chock-full of sensitive nerves, making it a primo erogenous zone for touching and penetrating.” The page shows a male anus since we can see the scrotum and penis in the picture. Pg. 82*
- *Digital Insertion pictures and instruction with “Things to Try” on the page. Pg. 117*
- *Full Frontal Male Porn—Things to try for teen boys. Complete with obscene pictures. Pg. 118*
- *Instructions for Anal Insertion—“And don't forget—everybody's got a butt! After the train has left the station [so to speak] and you've had a chance to wash up or douche back there, you can have an assload of fun with a healthy heaping of lube...Dive deeper with your finger or butt plug!” Of course, complete with pictures of anus, fingers, and butt plug! Pg. 119*
- *HPV and Herpes NO BIGGIE! Those are the exact words on page 133. I guess now we understand why North Dakota is the state where STI and STD growth is most egregious and takes first place in regard to the biggest rates and spread per 100,000 individuals. Does that make us “Legendary”? Pretty disgusting if you ask me. And nothing to be legendary about. If you don't think that the sexualization of our children that has become out of control, isn't driving those numbers and that new status we have for ND—then you're either complicit or ignorant.*
- *Teaches sexting dialog and promotes it's practice as well as sending photos on pages 149-150. This puts every child at risk. Human trafficking is real! Sextortion is real! And this book promoting these activities puts our children in harms way.*
- ***KINKS, FANTASIES, and PORN**—That's literally the name of the chapter! Do you AGREE with out children being taught ANY OF THIS FILTH?! Pg 155*

- *Safe Words for Teens?!!! What? They actually are teaching SAFE WORDS. Which means they're advocating for having violent enough sex to NEED a safe word?! In what world is THIS OK?? Pg. 161*
- *The INTERNET IS SAFE! The exact words on page 164. Do you agree? Is the internet safe? Because this book, Let's Talk About It, says it's a great place to research fantasies and kinks safely!! Ya, I guess until some predator decides to come and grab you! You're safe until then I suppose. I'll bet none of you knew this was in books in our libraries? And this is just a teenie, TINY, tip of the iceberg. I'd be glad to share a lot more with you.*
- *ORAL SEX PORN! This is the page that states, "There's nothing wrong with enjoying some porn, it's a fun sugary treat!" I guess all of those pesky statistics about porn and addiction or porn and criminals, or maybe even porn and human trafficking, are just a drag huh? Don't listen to the rehab centers that talk about porn having a co addiction with drugs. Don't take into account the men in prison that all have said a deep spiral into porn spun them out of control on the "outs". It's just a fun sugary treat. No consequences! Or at least that's what this book is peddling to our kids. Pg. 165*

Do you still believe we don't need your help in this matter? You will hear in other submitted testimony there is no need for this legislation because of CIPA. They tout there is already "filtering" ordered from this Act from 2000. Either they're ignorant or purposefully misleading you all. CIPA is the Children's INTERNET Protection Act of 2000. In this Act, **CIPA imposes certain requirements on schools or libraries that receive discounts for Internet access or internal connections through the E-rate program.**

[The Children's Internet Protection Act \(CIPA\)](#) and the [Neighborhood Internet Protection Act \(NCIPA\)](#) went into effect on April 20, 2001. These laws place restrictions on the use of funding that is available through the Library Services and Technology Act, Title III of the Elementary and Secondary Education Act, and on the Universal Service discount program known as the E-rate (Public Law 106-554). **These restrictions take the form of requirements for Internet safety policies and technology which blocks or filters certain material from being accessed through the Internet.** The deadline for complying with NCIPA was July 1, 2002 for those libraries receiving 2002 E-rate discounts for Internet access or internal connections. The deadline for compliance with CIPA was July 1, 2004, following the Supreme Court ruling in 2003.

[The Children's Internet Protection Act \(CIPA\) | Advocacy, Legislation & Issues \(ala.org\)](#)

As highlighted above and taken from the ALA website, this act was specifically to FILTER the internet in libraries. This does NOT deal with digital downloads or PRINT. Please don't let these submissions mislead you into thinking it's taken care of, because it's not.

Notice the deadlines changed from July 2002 to July 2004. Do you wonder why? Let me enlighten you so you understand what we all are dealing with. The American Library Association decided to litigate and fight this Act. Can you believe that? Why? It was an act put in place to protect children. Not adults. CHILDREN. But that wasn't ok for them. They needed children to be able to access pornography and obscenity online. And that's not an inflammatory remark. Explain why they would fight such an act otherwise? So, in 2003 the SCOTUS did hand down a decision in US vs ALA.

In *United States v. American Library Association*, 539 U.S. 194 (2003), the Supreme Court upheld the constitutionality of the federal Children's Internet Protection Act (CIPA), finding that the act does not violate a library patron's First Amendment rights.

CIPA requires libraries to install filtering technology on computers.

That's from [United States v. American Library Association | The First Amendment Encyclopedia \(mtsu.edu\)](#)

Please understand that CIPA has nothing to do with obscenity and pornography in PRINT. Don't be fooled by their statement that it does. However, I can say I'm thankful they brought it up in their testimonies so we can all clearly see their agenda has been around for at least 23 years. They desired to sexualize our children then, and they continue to sexualize them today. The ALA hands down their "request for reconsideration" policy to continue to peddle and promote pornography. Why? Why is it allowed? I agree with AG Jeff Landry in his "Protecting Innocence" Report he released on February 7th, 2023. He stated, "This is not a political issue, this is about giving parents and officials the tools they requested to protect Louisiana's [I'll agree for North Dakota's] children from sexually explicit material that is inappropriate for their age." He continued, "I think that when you talk to parents, irrespective of their lifestyles, they certainly expect that there is an innocence to being a child. And that we just don't want children to be able to walk into a library and stumble across things that are not age-appropriate for them."

The American Library Association has shown in their actions for over 20 years that they do not care about the innocence of our children. Let's stop saying they do. Let's stop believing they do. All of the beautiful memories I have from my public library or my school library, did not come from the ALA. Those beautiful memories are being erased because of the ALA. This radical organization with an agenda to sexualize our children, has taken our libraries hostage. We wouldn't have to be dealing with this at the state level if the massive defunding of the ALA at the federal level would have happened in 2019 as was proposed. It is the poison in our libraries and it is my hope that one day we may be free from this organization. It's very possible. Look up Campbell County and Gillette Wyoming. They severed ties with the ALA and took their library back. They are the Flagship Library for America. We can do the same. One day! Until then, I ask that you support this extremely important bill for the sake of all of the innocent children of North Dakota.

Respectfully submitted,

Thank you, Madam Chair and Members of the Senate Judiciary committee for the opportunity to give my testimony. My name is Karen Krenz, I am from District 1, in Williston and a mother of 3 boys. I was a teacher and counselor for 23 years in many districts in ND. I am asking that you please RENDER a DO PASS SB2360.

There is a movement across our country. Many of the same books are popping up all over the US and ND. All these “recommendations” are coming from the same organization. They are coming from an organization call America Library Association, the ALA. The ALA has a list of “The Top 10 Most Challenged Books of 2021”. ALL these books are scattered across ND. For example, “The Hate U Give” by Angie Thomas, which is a book that contains inflammatory racial commentary; frequent profanity; and inexplicit sexual activities, is in 40 school and public libraries across ND, including ND Youth Correctional Library. Interestingly enough, majority of the books on this list have a publishing date of 2015-2020. The ALA does not have the protection of innocence for minors anywhere on their radar. They believe that all INDIVIDUALS regardless of AGE should have access to any and ALL BOOKS. The following is from their website:

Access to Library Resources and Services for Minors: An Interpretation of the Library Bill of Rights

The ALA supports equal and equitable access to all library resources and services by users of all ages. Library policies and procedures that effectively deny minors equal and equitable access to all library resources and services available to other

users is in violation of the ALA Library Bill of Rights (which is not a legal document but a statement of principles. WBSD #7 is using the Library Bill of Rights verbatim in our school policy as the schools “Library Bill of Rights”.) The ALA **opposes** all attempts to restrict access to library services, materials and facilities based on the age of the library users.

The ALA is not a friend of the parents either. As stated in an article from Daily Citizen, which I have included in my testimony, instead of taking parents’ concerns seriously, the organization’s Office for Intellectual Freedom has advice for librarians about how to fight back against parents who believe certain books might be inappropriate for children. It dramatically labels parents involvement “censorship” and “book banning.” ALA believes children should be able to check out whatever books they want and that they deserve “privacy and confidentiality”- including from parents- in those decisions.

As I read the next paragraphs, keep in mind that this organization and person, is the third party that is having the influence on what type of books we choose for our kids in many if not all school and public libraries’ in our state of ND.

The ALA recently announced that Emily Drabinski is the 2022-2023 president elect. She will serve as president of the organization beginning in July 2023.

Drabinski tweeted “I just cannot believe a Marxist lesbian who believes that collective power is possible to build and can be wielded for better world is president-elect of the ALA.”

In her campaign, she stated:

So many of us find ourselves at the ends of our worlds, The consequences for decades of unchecked climate change, class war, white supremacy, and imperialism have led us here. If we want a world that includes public goods like the library, we must organize our collective power and wield it. The ALA offers us a set of tools that can harness our energies and build those capacities.

Social and economic justice and racial equity requires that we make a material difference in the lives of library workers and patrons who have for too long been denied power and opportunity on the basis of race, gender, sexuality, national origin, spoken language and disability.

Dranbinski said she would “advance a public agenda that puts organization for justice at the center of the library.”

Thank you for your consideration on this important issue and for your service to the state of North Dakota.

Thank you, Madame Chair and members of the committee for the opportunity to provide testimony for SB 2360. I am writing in favor of SB 2360 today. I am Ruth Heley, a resident of Dickinson, ND since 1995. I was a private and college instructor of vocal music for 22 years. I home school one teenaged son. I tell you this because I have spent much of my life having the privilege of teaching and mentoring young people. Their needs are close to my heart. Educator of politics and author, Richard J. Maybury, tells us that Natural Law means to “do all that you have agreed to do and do not encroach on other persons or their property”. Groups of people have chosen to encroach upon the minors of our state by placing sexually explicit books or books with gender ideologies in our public and school libraries. These materials are directly harmful to the developing brains and healthy maturation of our children.

Why do we need this bill? Our minor children depend on adults to provide an environment in which they may learn how to reason and acquire an education in core subjects. Sometimes our schools have become a place of social experimentation. We need to tighten the focus of our schools, emphasizing again such academic subjects as have served humanity for thousands of years. Parents have the right to introduce sexual information, which is vital to a child’s development, at a time that is best for that child’s age and maturity. They can also best communicate family beliefs and morals around such important information. Some may argue that not all parents choose to educate their child in this area. We need to enable parents to do this, not replace them. The materials the public libraries are currently providing are often recommended by the American Library Association which has a clear agenda for how it wants to educate our children. ALA (2010) policy...states that, “The American Library Association stringently and unequivocally maintains that libraries and librarians have an obligation to resist efforts that systematically exclude materials dealing with any subject matter, including sex, gender identity, gender expression, or sexual orientation.” Why are we allowing agenda-driven out-of-state entities to determine our children’s sexual development?

What are the positives of this bill? This bill takes a multipronged approach to ensuring the safety of a number of mediums our children use for enrichment and education. It addresses digital safety from sexually explicit materials. This harmonizes with the Federal Children's Internet Protection Act (CIPA). It sets standards for public performances as well as written materials. It has allowed exclusions for fine art found in museums or galleries, while also allowing exclusions for universities and colleges. It defines the visual criteria for explicit material thoroughly.

What this bill is not: Some fear that removing or limiting use of these sexually explicit books in question will eliminate valuable educational materials. These materials have an agenda to encourage sexual promiscuity, experimentation and questioning of gender identity. The book, *Let's Talk About It*, has upwards of ten or more images of sexual copulation or masturbation, for example. In addition, the text, directed at tweens and teens, contains extensive chapters which encourage sexting and pornography use as well as affirmation of all gender identities with disregard to biological sex of the individual. The figures drawn are very androgenous or conflicting in sexual parts.

Some claim that limiting use of these materials in this way is “book banning” or “censorship”. This bill does not prevent the sale of such items from certain stores or the internet. It does not prevent the writing or publishing of such materials. Perhaps we have forgotten what government censorship has looked like in the past. From the Holocaust Museum they write, “Examples of censorship under the Nazis included: closing down or taking over anti-Nazi newspapers; controlling what news appeared in newspapers, on the radio, and in newsreels; banning and burning books that the Nazis categorized as un-German; controlling what soldiers wrote home during World War II.” In another example, British historian David King wrote, “The physical eradication of Stalin's political opponents was followed by their obliteration from all forms of pictorial existence.” This bill is focused on protecting our minor children with similar commonsense measures which have already been used for a number of years with radio, broadcast television, movie ratings and sales of wrapped pornographic materials in convenience stores and similar locations. I ask this committee to make a “Do Pass” determination.

February 13, 2023

To the Senate of North Dakota,

I write to you IN SUPPORT of SB 2360.

As a school teacher and principal for 30 years, and now as a pastor, I am very concerned. Forces of harm for children have been working through libraries to undercut minors' morality, and they must be stopped. At the website dragstoryhour.org, an organization that uses libraries and other venues to pervert children, they make clear what their mission is: "DSH captures the imagination and play of the gender fluidity of childhood and gives kids glamorous, positive, and unabashedly queer role models." There are many examples around the country of rogue teachers, and sometimes whole schools or districts that promote indecency, and we cannot let librarians or teachers who have an agenda that subverts common moral standards in ND, especially the ones of parents whose children must be protected in libraries and schools. Our children should not be subject to any kind of electronic media, either, that ruins their innocence, including being able to check out books in an e-edition which promote indecency, which is an end around that some librarians may use if they can't put immoral paper books in children's hands.

Public libraries and K-12 libraries will often say that they follow guidelines from the American Library Association (and public school educators often follow the aggressively leftist indoctrination encouraged by the NEA, etc. that includes sexualizing students and exposing them to indecency). But this is sadly a very aggressively leftist organization that recently voted as president a woman who describes herself as a Marxist lesbian. In an americanfaith.com April 26, 2022, article, the following quotes from her, along with other information, are culled: Emily Drabinski, president-elect of the ALA, has written: "In spaces like this, kids are able to see people who defy rigid gender restrictions and imagine a world where everyone can be their authentic selves!" Drabinski's 2013 article "Queering the Catalog" is the work that has gotten the most citations of anything she has written. In it, she remarks that "the first program of ALA's Task Force on Gay Liberation was called Sex and the Single Cataloger, a session about the trouble with headings for gay and lesbian materials." One of her main professional "accomplishments" includes "queering the landscape of library publishing and scholarship." She elsewhere declared: "We can equip our students with the capacity to wring what they need out of library structures, and wringing what you need out of systems that exclude you is a necessary life skill for survival and revolution." "And we can also help build a way of shaping students as agents of change both inside the library and out." She writes: "Queerness includes the subversion of those kinds of normal family types."

The article sums up the danger of Drabinski and other irresponsible shapers of our children: "Marxists are committed to overthrowing the West, including all of its organizing ideas and accomplishments. In addition to lies and deception, Marxists use sexual chaos as a deliberate strategy of cultural destruction. The 'queer theory' in which Drabinski specializes openly aims to

destroy the West by destroying the natural family, natural sex, natural relationships between the sexes and the children those sexes produce only heterosexually, natural distinctions, natural hierarchies, and order itself.”

SB2360 has mechanisms for keeping educators and librarians accountable to moral standards and ways to penalize those who break the law, and even worse, hurt children. For too long, some educators and librarians have flouted community standards and have promoted a dangerous agenda. A law with teeth will help to dissuade any teacher or librarian from flouting community standards, helping keep our children safe from that minority of teachers and librarians who might otherwise be emboldened to push a morally bankrupt agenda for kids.

Recently, the Valley City library board had by slim margins been upholding the appropriateness of the book *Let's Talk About It* to be in a youth section of the library, basically where junior high students and older went, though sometimes better and more precocious readers among elementary students. They claimed it was very appropriate, with one board member saying it would have been a good book for her to have had at that age. However, just a couple weeks ago, after going through the extra hoops they require to get the book discussed in a public hearing, citizens both for and against the book testified. As for my four minutes allowed, I focused on the objectionable parts of the book, which were many, as regards minors being influenced. I said (and I will quote the majority of what I said, while adding a little extra I didn't have time to say): I ask that you take the book *Let's Talk About It* out of its current location for the following reasons: *This book is inappropriately focused on minors... *Kids with backpacks and lockers. *Teen mentioned on the front cover. *Comic book style *But it should only be available for adults in the library. *Inappropriate for minors to be introduced to: *P. 16 Being tied up with ropes and dangled from the ceiling (for sexual gratification). *p. 17 Rimming—Do we really want junior and senior high students to be encouraged to lick and penetrate someone's anus with their tongue and risk getting bacterial and parasitic infections or STI's that way? *p. 18 Virginity is called a silly label, basically impossible to be because supposedly everyone has had sex in some way—forget about being a virgin—just do what feels right—bad advice. Aleister Crowley, the famous Satanist said, “Do what thou wilt.” The author of the Book of Judges explained what the spiritual problem was in that time in Israel's history—“Everyone did what was right in his own eyes” (Judges 21:25). *(34, 91) Polyamory, swinging, and hookups are presented as normal things to do and worth trying if kids wanted to. *(112) You can't have sex in any satisfying way unless you are already masturbating, so if you aren't masturbating, then start. *(115, 118) And get a sex toy and a butt plug to aid in masturbating. *(114) Experimenting with others sexually is super normal. *(133-134) STI's really aren't a big deal, so don't fret-just go to the doctor (but, know that your parents might find out through their insurance—found elsewhere in the book). *And by the way, where are parents in this whole presentation? I saw “Mom” mentioned once in this book in an off-handed way. But the internet and teachers and doctors and counselors are mentioned as trusted sources to consult—but not parents. Why are parents left out of this book? This is a very common tactic with those who want to subvert the morals of our children. *(151) You are lucky if someone sends you a sext.

Sexting is exciting. It does thankfully warn minors not to, but are minors' brains fully developed to understand the repercussions, or are they just going to focus on the so-called "exciting" and "lucky" aspects of sexting? So many children's bodies are disseminated electronically against their will, no matter what the laws are. *(164) Children are counseled to look at the internet to study kinky sexual behaviors. Find communities and reach out to them for advice on how to engage in kink and fetish. *But who is going to protect these minors from adults in these communities, who take advantage of their naivete and might end up raping them, kidnapping them into sex slavery, or even killing them? Find a community? *(164-165) Children are told that porn is a fun, sugary treat? It's a way to learn about kink and fetish? Many psychologists and researchers have sounded the alarm for decades now that pornography has a terrible effect on kids. Dr. Victor Cline wrote: "As a clinical psychologist, I have treated, over many years, approximately 300 sex addicts, sex offenders, or other individuals (96% male) with sexual illnesses. This includes many types of unwanted compulsive sexual acting out plus such things as child molestation, voyeurism, sadomasochism, fetishism, and rape. With only several exceptions, pornography has been a major or minor contributor or facilitator in the acquisition of their deviation or sexual addiction..." And the American Bar Association says via a webpage: "Pornography promotes negative attitudes and aggression toward women, normalizes sexual harm, and negatively affects the ability to have healthy intimate relationships." There are many aggressive indoctrinators who are undermining the morals of children and grooming them to adopt their own unnatural lifestyles.

Please pass SB 2360 to protect minors from obscenity in public libraries, school libraries, and school classrooms, including in electronic forms.

Respectfully submitted,

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

Feb. 14, 2023

Dear ND Senate:

Please register my support for senate bill 2360.

I am glad my daughters are grown already, but I am concerned about the society that my granddaughters will be growing up in. There are too many people whom I used to trust, like librarians and teachers, whom I don't trust as implicitly anymore.

Many librarians and teachers are still trustworthy, but there are too many who are woke and expose children to sexually explicit and inappropriate materials, whether in book form or electronically. They have an agenda, and our grandchildren must be protected from it.

Please, again, pass 2360, so that pornography in every form is kept away from our precious next generation. Keep enforcement in this bill, or some rogue educators and librarians will keep pushing their dangerous agenda, giving the trustworthy teachers and librarians a bad name.

Sincerely, Marjorie Scotten

Members of the Senate Judiciary Committee,

My name is Kimberly Hurst and I reside in District 1. I am asking that you please render a do pass on Senate Bill 2360. As a parent of four children in the public school system I would expect the state of North Dakota to administer century code to protect the innocent minds of children. The type of books I have found on the shelves within the libraries of Williston Basin School District 7 are extremely inappropriate for young minds, and that's putting it mildly. For example, one book the school district has displayed to minors is about a father molesting his daughter in extreme and graphic detail. Under what circumstances would this be considered 'educational'? This is just one of many other inappropriate books that were found. The line between obscene material being displayed in a school library and what I would consider grooming the minds of children, are becoming blurred. In this event, the school district enforces a *policy* for book review that can take up to an entire year to complete, instead of *immediately* reading the contents in concern and making a decision to remove pornographic books from the shelves. With this, I question the school district's integrity to protect our children. Currently, there are 27 books under review in WBSD7, by the time the book review will conclude it will be over a year since the process started. Not to mention, any further books that may be of concern that parents find inappropriate, cannot be reviewed *per policy* until the previous book review is complete, leaving them within arms reach of children to read. The *policy* that is currently in place is not sufficient. The school district's inadequate book review policy and the lack of state law protecting minors from obscene books is the reason we need the proper legislation to safeguard the innocent minds of children in North Dakota. This isn't a matter of preventative measures, it is a matter of *reality* that our children *are* being exposed to sexually explicit material.

As any concerned parent would, you might ask, *where did these books come from and how did they end up on the shelves?* This is where the lack of due diligence of using third parties also

fails to protect the children from obscene material in public schools. A well used third party, the American Library Association, has recently voted in their president, Emily Darbinski. Emily campaigned on the slogan, *“Equity as action, Social and economic justice and racial equity requires that we make a material difference in the lives of library workers and patrons who have for far too long been denied power and opportunity on the basis of race, gender, sexuality, national origin, spoken language, and disability.”* Darbinski said that she would *“advance a public agenda that puts organization for justice at the center of library work.”* -Daily Citizen

Ms Darbinski, a self-proclaimed marxist, made it clear in her campaign that she has an agenda to infect the libraries that use ALA with her ideologies. If I am not mistaken, North Dakota's century code prohibits *critical race theory*, however it lacks the proper detailed legislation needed to protect our children from the infiltration of third party agendas that do not align with our standards and Article VIII of the North Dakota constitution. So I urge you to support the passing of Senate Bill 2360. Thank you for your consideration of this important matter and for your service to the state of North Dakota.

Kimberly Hurst

Chairwoman Larson and members of the Senate Judiciary Committee:

Children are the most innocent among us and they need our help to maintain that status. As a mother, I urge a Do Pass on SB 2360. Our young ones are being exposed to pornography earlier and more blatantly than ever before, and it can affect them for a lifetime. It is concerning to think that our taxpayer dollars are being spent in part to expose our children to things that can change their brain chemistry and ruin relationships and lives.

While systems may be in place in schools to protect children from things they should not see, this bill would be another layer of protection for them, and as a mother, there can never be too much protection against the dangers of pornography for my child. While it is ultimately the job of parents to protect their children, this bill will help ensure that minors will not have easy access to visuals and language normalizing (among other things) STIs and sexting*, and encouraging sexual behavior in eight-year-olds**.

I urge a Do Pass on SB 2360.

Thank you,
Grace Boehm

* "Let's Talk About It, A Teen's Guide to Sex, Relationships, and Being a Human," By Erika Moen and Matthew Nolan P. 133, 149-53

** "Sex is a Funny Word" By Cory Silverberg P. 108

Dear Senators, I am writing in opposition of SB 2360. I believe this bill to be redundant and its edits to the definition of obscenity lacking reasonable merit.

In 2000, the federal Children's Internet Protection Act (CIPA) was established, which requires Internet safety policies and technology if schools and libraries wish to receive federal E-rate funding. The CIPA requirements already block and filter certain material from being accessed through the Internet in libraries and schools.

In addition to the proposed protections that libraries and schools already meet, SB 2360 seeks to change the definition of obscenity and I do not agree with the proposed changes of the bill.

In my reading of the bill, I firmly believe that SB 2360 does nothing additional to protect North Dakotan youths, but it would rather be a waste of taxpayer dollars towards required reporting ,etc. when libraries and schools are already meeting safety policies of the CIPA.

As a lifelong resident of North Dakota, I urge the committee to listen to the experts in the field and vote DO NOT PASS on SB 2360.

Mariah Bates

02/14/2023

Senate Bill 2360

Members of the Senate Judiciary Committee,

My Name is Mariah Bates and I reside in District #1. I am asking that you please render a DO PASS recommendation on Senate Bill 2360.

There is so much that can be said relating to the need of this bill. Data that supports the need for this bill. Personal experiences that prove the need for this bill. I know there will be testimonies shared today that will speak from those standpoints and I know that I myself have the research to do so as well. But, today, I want to offer a viewpoint, my viewpoint, from my initial encounter with the obscene books offered in my community and in many communities across our nation by Public school districts.

I am often a very black and white person. Although some may dislike a viewpoint such as this it has served me well in my life and continues to help me build a strong foundation of my moral and ethical beliefs. When I found out that there were sexually explicit books being provided by our Public School District to the children in our community, I couldn't not truly comprehend the idea. Not only does this not sit well with my mind but it does not sit well with my soul. When you scrape away the extra words surrounding this topic, and look at the statement for what it truly is "Adults providing access to sexually explicit books to minors" you can not tell me that it sits right with you either.

I had never truly been so infuriated and dumbfounded than the day I was met with opposition to this statement. When meeting with the Superintendent and School Board president about the available obscene books in my district we were met with the statements that children have freedom of choice and parents have parental choice. I find this statement so foolish. Children do not have freedom of choice as children. We do not allow them to purchase or consume alcohol, to purchase and consume tobacco, to attend rated R movies, or even to purchase pornography. But yet a public school district should be allowed to provide children access to unrated, unregulated books that glorify sexually explicit interactions, alcohol, drug use, and suicide. Again, this is a black and white situation for me, I can not possibly see the good in it. In regards to parental choice, I believe that if a parent truly wants their child exposed to such harmful material at a young age than they can do so with their own money and purchase these books for their home. Parents lose their parental choice when a book is already freely available to their child in a public school library where a parent may never know if their child is reading it or not.

North Dakotas tagline is to be Legendary. The “Be Legendary brand” celebrates the land, the legends, the adventurous spirit, the vibrant communities, the scenic places and the genuine people of North Dakota. Let us remember that when we are reviewing this Bill. Let us continue to be Legendary in the United States by not standing by, let us take a stand against the books that are being fought across our country. Let us honor our North Dakota communities filled with people who want to protect their children. I ask you again to please render a Do Pass for Senate Bill 2360 to help parents protect their children.

Testimony to ND Legislators on SB 2360 – February 14, 2023

Mr. Chairman ~~Senator Larsen~~, Members of the Committee, ~~Senators~~ thank you for the opportunity to address ~~you on~~ Senate Bill 2360

I am Dan Wakefield from Devils Lake, a recently retired high school history teacher.

In previous testimony before this committee ~~On January 24th I submitted an extensive written testimony to this committee related to Senate Bill 2260 and Senate Bill 2231. One part of that written testimony directly relates to a major objective of Senate Bill 2230 — required~~ I addressed the need for safety policies and technology protection measures for students in public schools. ~~At the end of my oral testimony on January 24th, I ran out of time and only made a cursory remark regarding~~ Today I would like to address inappropriate books in schools, a principal concern of this legislation, one of which I tendered as an exhibit in Senate Bill _____ ~~—and left a book with you as an exhibit.~~

~~With your approval, I would like to briefly address why~~ The bill you are considering here is critically needed. ~~I would expand on that one comment using recent experience that is applicable to schools across our state.~~

~~In~~ In the Fall of 2021, I discussed with a teaching support specialist in our district the serious roadblock low reading comprehension of many students presents to their academic success and negative consequences for them on leaving school. That staff member applied for, and our school was awarded Federal Striving Readers Grant money to purchase books. In late Fall of 2021, and again in January 2022, DLHS received several boxes containing an assortment of paperback books that were placed in all Social Studies classrooms. ~~I briefly overviewed the first shipment into my classroom. They were a cross-section including fantasy, science-fiction, sports, history, and books about teenage relationships. When the second set of books came~~ In their January shipment, some appeared suspect and possibly inappropriate for public high school students ~~based on their blurbs and book covers. I decided to put them in a large, locked cabinet.~~ In early June, the box of books came to my attention again as I was completing checking out of school, so I spent time reviewing them.

Though I did not take time to review all the books that dealt with relationships, some fit Merriam-Webster's Collegiate dictionary definition of prurient - "marked by or arousing an immoderate or unwholesome interest or desire; esp.: marked by, arousing, or appealing to sexual desire."

These were books I reviewed from the Federal Striving Readers Grant ~~with important themes that I found inappropriate:~~

A Very Large Expanse of Sea by Mafi – sporadic language that didn't seem to do anything for the story – Fuck – Asshole – Shit

I Hope You Get This Message by Farah Naz Rishi – begins with homosexual encounter in the first chapter

White Fragility: Why It's So Hard For White People To Talk About Racism by Robin Diangelo – prominent Critical Race Theory book - no other book in the collection providing a counter view

Unpregnant by Hendricks and Caplan – boy gets girlfriend intentionally pregnant – girl goes on a 900 mile road trip with friends for abortion

The Music of What Happens by Konigsburg - teen boys working together becomes gay sexual relationship

We Are Totally Normal by Kanakia – protagonist has gay and straight sex experiences against a backdrop of high school socializing and partying

Odd One Out by Stone – graphic raw sex – a three way

At the conclusion of the June school checkout, I advised administration that the books that had come into the high school from federal grant money needed to be reviewed for appropriateness of content before they were put into circulation for the coming school year. I was thanked for the heads up. I also informed a colleague who was still in the building about the books. The response was, well that's not so bad; it would be different if staff were assigning or teaching from those questionable books. When I shared that response with a leading North Dakota early childhood educator, her response was – what? That would be like knowing drugs are in the school, but staff are not pushing them so it's not a problem and we don't need to do anything about it.

What follows next is my response as a parent and long-time educator. They are the reasons I'm testifying.

But first I need to preface my comments: I believe what happened in my school and what is likely happening all across ND is more lackadaisical or indifferent than willful. When I asked our teaching support specialist in June how we ended up with trash books, she told me when she ordered, she asked the out of state company filling the order for a cross-section of books appealing to a variety of subject areas and interests. She was surprised to learn when I told her what showed up in the boxes in our school from being awarded the Federal Striving Readers Grant.

Overall, this is a worrisome eye-opener for families and their students that attend our schools.

1. The proposed law's average, reasonable person standard: The books I mentioned above fit the proposed law's average, reasonable person standard in SB 2360 – quoting from Section 1. Amendment. 5. a., b., c. provisions – the books that ended up in my school appeal to a prurient interest, describe patently offensive sexual conduct, and/or lack serious literary, artistic, or scientific value
2. Standards absent for filtering objectionable materials could be a growing trend in my school. The Federal Striving Readers Grant money books were not a one-off experience last Spring for inappropriate books coming into our school. Personally, while waiting to consult counselors on school matters, I paged through a brand-new hardcover in the sitting area outside the counselors' offices. While subbing for another teacher, I found another brand-new book prominently displayed. A very quick look revealed both books teenage main characters engaged in the same graphic sexual language and themes. In the past several years, on many occasions I paged through new books in our school library. Prior to this past school year, I have never found sexually explicit books directed at young people in our school building.
3. These books, when accessible in the classrooms, along with other locations in schools across ND, made me and by extension all staff complicit, intentionally, or not, and without our consent for the sexualizing of minor children and youth.
4. In our schools, I believe staff is mostly not willful in participating in the placement of inappropriate sexual materials. But because they are busy, they are somewhat oblivious or

distracted to an apparent disturbing trend. Infrequently, I have heard this unfortunate, dismissive comment: Well, they (students) have heard / seen all of that before – the implication being, so what difference does it make in the schools? Sadly, it is true that studies show large percentages of children as young as nine have been exposed to hard-core pornography. Most teachers and staff do not want to contribute to that ongoing tragedy.

5. SB 2360 correctly recognizes the widespread transmission and reception of digital and online media in ND schools. Recently, both LRSC and DLHS have eliminated most of their book stacks in their school libraries. Our high school in recent years has been promoting online reading and research in all subject areas as well as our library high school the promoting and reading digital books and novels. Student cell phones and computer tablets are ever-present and in use in school buildings. Much of the school day students are given the freedom to access their phones on web sites other than those promoted by the school to increase learning. Obviously, the intent of this law cannot be realized without robust web filters in schools and school compliance to prevent inappropriate online content to circulate in schools.
6. Objection to this proposed law will be made that students should be able to read and access whatever they want in schools as part of learning and in the name of free speech. Along that line, the argument goes that not allowing students to read about homosexual, bisexual, or any other variation of sex is discriminatory and hateful. Most average, reasonable, persons as the proposed law states would reject that assertion for reasons from time immemorial related to natural law: that students as minor children are dependents and do not have the same rights, or maturity to engage in outcomes related to sex as adults; and that the intent of parents, guardians, and the local community in supporting education through schools is academic learning. Promoting any manner of heterosexual, homosexual, bisexual, or any other sex has never been supported or recognized as the role of schools in North Dakota.
7. Another objection will be made that North Dakota will lose money, or talent, or business, or people because ND is not inclusive or fair or doesn't guarantee equal outcomes is getting tired and more and more worn out and can't be substantiated. In fact, it is just the opposite. Look at population trends around the country. Forcing LGBTQ... curriculum into schools is just one more of many, many reasons, more and more people are voting with their feet and moving to states like Florida, Idaho, Texas, and yes, now the Dakotas. The in migration, including younger families, is on to our towns and cities, even despite our winters, because more and more people are attracted to a people and a place like North Dakota that still values the innate dignity of everyone instead of dividing people and valuing people based on categories instead of their natural humanity.
8. Parents and Guardians: The most important reason to support SB 2360 is because it helps preserve the primary relationship between minor children and their parents / guardians' role as the first and primary teachers of personhood and identity in guiding their minor children; and to not cause that role to be undermined by state power through the schools. This concern of parents and guardians about their natural rights to guide their children in the values of personhood and identity is also the reason for the upsurge in home schooling, private, and parochial education. The concern is now so great, but for the financial sacrifice, we would see a large increase away from public education, even in North Dakota.

Attached photos of the Federal Striving Readers Grant books to the Social Studies department at DLHS

I urge you to vote in favor of Senate Bill 2360. Thank you for your attention. I stand for questions.

Dan Wakefield

Devils Lake

Senate Bill 2360

I am speaking as an individual citizen. My job is Head of Collection Strategies at the Chester Fritz Library at the University of North Dakota. I have a number of concerns with this bill and wanted to highlight two in particular:

1. **Most database vendors do not offer the type of filtering described in this bill.** I work with over 70 vendors to help obtain access to resources used by UND students, faculty, and staff as part of the education and research mission of the university. Only the largest vendors, such as EBSCO, are working on a filter similar to the one described in this bill. One example of many other databases that do not have the capability to provide such filtering is IHS Markit, the only vendor that provides subscription access to the ICAO annexes and publications, which includes aviation safety standards and was specifically called out in the recent reaccreditation of UND's aviation program. Not only do they not offer such filtering capability, they primarily serve industry and would have no incentive to employ the resources to develop such a filter. Thus if this bill were to pass, we would have to either not subscribe to important databases supporting the educational mission of the university, or restrict K-12 students taking classes at the university from logging into the databases. Since our login system is configured at the NDUS level, we would not have the ability to allow K-12 students to login to some databases, so we would have to restrict them from being able to login to any UND subscriptions (which would also require a lot of extra time and effort on the part of staff).
2. **Filters are imperfect tools.** Filters generally work by a computer programmer creating a set of rules of when to filter content that meets certain criteria, which often looks for specific words or phrases. Thus, if a filter focuses on a word such as "sex," it would exclude resources using the phrase "the fairer sex" as one example. Specifically, when EBSCO was testing the filter its developing, a UND student and faculty member ran into issues accessing the following articles:
 - a. Chester, D.S., DeWall, C.N. (2017) Combating the sting of rejection with the pleasure of revenge: A new look at how emotion shapes aggression. *Journal of Personality and Social Psychology*. 112(3): 413-430.
<https://doi.org/10.1037/pspi0000080>.
 - b. Butler, J. (2008) Sexual politics, torture, and secular time. *The British Journal of Sociology*. 59(1): 1-23.

The first article has to do with aggression and the second with politics. Yet both were filtered by a test of EBSCO's tool they are developing in response to bills such as this one. As you can see from these examples, such tools frequently filter out resources unrelated to the intent of the filter. Databases already filter content by selecting the publications they make resources available from and thus are a much safer tool for students than the internet when researching a topic.

Dear Senate Judiciary Committee,

As a citizen of North Dakota, I am writing this testimony to communicate my opposition to SB2360. This bill is unnecessary because under the federal Children's Internet Protection Act (CIPA), public schools that receive federal funding are required to have filters in place on school/library devices. There are many public libraries in North Dakota that also have filters in place because of requirements under CIPA and E-Rate. Furthermore, schools and many public libraries already have internet policies in place, which include acceptable use policies. Because the wording of this bill is so broad, it could restrict access to educational resources such as healthcare training materials.

This bill also seeks to change the legal definition of obscenity. *Miller v. California*, which is the standard for defining and measuring obscenity has been in place for 50 years and is upheld by the Supreme Court. If this bill which changes the legal definition of obscenity passes, the litigation that would follow would result in waste of state monies (as well as time), that could be better spent helping the citizens of North Dakota.

I urge you to please vote DO NOT PASS on SB 2360.

Sincerely,

Sara Westall, North Dakota Citizen

Members of the Senate judiciary committee.

My name is Sharlet Mohr and I reside in District 23. I am asking that you please render a do pass on SB 2360.

I've never been a fan of Banned Book of the Week Club. I've personally never been a fan of banning anything for that matter. But I am however thankful that they started banning books like Dr. Suez and Winnie the Poo.

Let me tell you why.

It brought light to darkness.

Because banning innocent children's books brought attention to a subject, I honestly never paid much attention too.

To be honest I was never much of a book reader, but this new fad of banning and burning books made me want to know why this was happening in this country I love.

The same country so many people have fought and died for, to defend.

But one day I had a conversation with my granddaughter. I asked her how her day was at school. I asked what she learned. She said "Grandma, I just wish I could read second grader books." I said, "why sweetie.?" Because it's all happy books.

It broke my heart.

So, I started to look into the books thinking, she's 10 it's just her point of view. Maybe she just didn't like this book. Nope!

How did we become a country so many people flee?

To be honest, I still don't enjoy reading, but I owed it to her to look deeper. I purchased several books off the list of books on a book looks app. Which frankly I wouldn't have known even existed if it wasn't for a few amazing women that cared enough about our youth to investigate their kid's curriculum.

I purchased books to listen to. I work a full-time job, so I don't have the time to sit down and read a book. What I heard on those books were eye opening to state it mildly. I felt sick. I started talking to the community about these books. They didn't believe me. They couldn't believe what was on the shelves in these school libraries.

So, I regrouped, and brought evidence. Started going to school board meetings. Thinking if there is a problem or concern, with school material, that was where I needed to be. I wanted to question why these books were in the schools. At no avail, here I am. Writing and standing in front of my elected officials hoping it has more of an impact than it did at my local school board meeting, which for the record refused to add this subject to the agenda. It's good enough for our kids to read, but you can go to jail in this country for reading this material out loud.

There is no educational value in these books. All they taught me was how to declare I'm gay, how to commit suicide, how to swear, give a blow job, and how important it was to lose my virginity.

There all just words, right? Nah, words are one of the most valuable tools to destroy a society. Just ask Hitler. Or just ask one of the talking heads on Capitol Hill.

Freedom, it's such an illusion, we as Americans take for granted. We think because we have the freedom of speech and the other constitutional rights given to us by God, we can say anything, and demand others believe what we do.

The facts are simple, I didn't get much sleep in the last two days writing this. I took a day off work to come here, hoping my words could make a positive change for my granddaughter.

Please pass SB 2360, I can't go back and change what my children had access to at school, but I can try to make a positive change for my granddaughter.

Thank you.

February 14, 2023

Re: SB 2360 – OPPOSED

Chairman Larson and Members of the Senate Judiciary Committee:

For the record my name is Christine Kujawa, Library Director at Bismarck Veterans Memorial Public Library and I oppose Senate Bill 2360.

Much like SB 2123 and HB 1205, SB 2360 is vague, broad, disregards many considerations, and would prohibit people of all ages from accessing information. The definition of "obscene" is completely subjective. Even in current obscenity law, it is defined by being "judged by a reasonable adult." If the deciding factor is based on a judgement, then is it not subjective? How can you consider a criminal penalty for something that is so subjective and based on personal judgment, especially when you're dealing with the livelihoods and integrity of our state's public librarians who strive to create an informed and connected citizenry that our communities expect and deserve?

Furthermore, SB 2360 will result in the removal of millions of articles and other digital information for our citizens. I'm sure our database providers will not take on the task of deciding what may or may not be obscene, and as a result, we will have to remove these resources altogether. It doesn't matter that our library filters the Internet because digital resources are available anywhere with one's library card and an Internet connection. We subscribe to two databases, Libby and hoopla, which provide access to a mixture of over 1.3 million eBooks, audiobooks, and videos, with 150,000 downloads

annually. The cost for these resources is partially funded through the Friends of the Bismarck Public Library. In the case of the hoopla database, we get a suite of titles and don't have the authority to add or remove titles. If this bill becomes law we'd have no choice but to end this subscription and would be out the taxpayer and donated funds we put into it. If a minor checks out a title at home and their parent finds it inappropriate, and I can't remove it, according to this bill, I could be fined and jailed for this, too, is that correct?

As a lifelong citizen of North Dakota, this bill, along with the other two, are an embarrassment to our state, our citizens, and anyone considering making North Dakota their home. Censoring intellectual and academic freedom raises significant constitutional questions and issues. Forcing public librarians to censor information by tacking on a criminal penalty is offensive and abhorrent. Each of us gets to decide for ourselves the information we want to access but we don't get to choose for other people. If you find a book, an article, or other information objectionable, you have the right to not look at it. And, of course, in the case of minors, it should be the parent who decides what their children access, no different from everything they see on the Internet and television.

Respectfully,

Christine Kujawa
Bismarck, ND

Greetings,

We are Joshua and Jackie Gow from Valley City, ND. We are writing to express our support for SB 2360 which would provide appropriate restrictions to accessing pornographic and sexual content in places frequented by minors.

As the parents of young children, this bill allows us to raise our children without easy accidental exposure to non-age appropriate materials. It allows us to choose what materials our children view and at what ages. Arguments have been made that parents may simply not allow younger children to view such materials when they go to a public place like a library, but when pornography or sexually explicit materials are located in and near children's books, as has been the case, it exposes children to materials they may not be developmentally ready to encounter.

Please pass this bill and support us in our role as parents. Thank you for your consideration.

Joshua and Jackie Gow

February 14, 2023

Chair Larson and Members of the Senate Judiciary Committee,

I am writing as a mother and a North Dakota citizen who is concerned about the trend towards normalizing childhood exposure to sexual materials at a younger and younger age.

The argument has been made by some of the opposition that the Supreme Court has already defined obscenity, and that SB2360 is at best unnecessary and at worst more restrictive. Federal guidelines are designed to be suitable for the entire country, but what is wrong with our state further defining terms so that our century code suits the people who live here and match our standards for safety? I have no problem with North Dakota setting a higher standard when it comes to the safety of our children's hearts and minds.

Some claim that there is nothing obscene available in North Dakota libraries, and that this bill is unnecessary. As with many things, culture changes at a different rate in different areas, but it eventually affects them all. We would never take such a laidback "wait and see" approach with our families if we knew that a threat was headed our direction. We would address the threat and prepare in advance to protect our families from harm. That is what this bill does. Those of us who are paying attention to what is occurring on a global scale understand that it is just a matter of time before the pressure will be applied here to expose children to inappropriate content. Multiple parents I have spoken to have already had these situations arise in ND communities.

We know that books are being written for children to introduce them to mature concepts that are far beyond their ability to comprehend. While I agree that it is a parent's primary responsibility to protect their children from exposure to such content, libraries and schools have insisted that they are safe spaces for children, and therefore bear the responsibility of protecting them as well.

Please support SB2360.

Brittany Boehm

Madam Chair Larson & members of the committee,

I write to you today in support of SB 2360, and urge you to recommend a DO PASS on this bill. I've always thought of North Dakota as the last best state. We have conservative values that have been instilled in us by our parents, grandparents, and those generations before us. We have morals that are deeply rooted in our Christian upbringing. And these morals and ethics are under attack! As a parent, I am the primary stakeholder in my children's best interest. I am the one who gets to decide who and what my children will be exposed to. This is not happening in our library these days. The library is supposed to be a safe place for ALL people, but that is not the case today. Several moms showed up at our local library and found over 107 different books that are pushing the LGBTQIA+ agenda. Several of them with pornographic images, and inappropriate activities that are illegal, like sexting. Books calling pornography a "sugary treat", visuals on how to use butt plugs, and statements claiming that STD's are really no big deal, should not be in the hands of our children. These books can easily be accessed by children who are not ready for this kind of content. These types of books are damaging to our children. We have addressed these issues with the library board, and the city commission, without any reasonable solution. I am not about book burning, but there is no reason they couldn't have this book in a separate area where it can only be accessed by adults 18 years old and up.

I would also like to see this bill not only limited to libraries and schools but also any publicly funded universities. I have a son who was enrolled in college at the age of 14, and these books are definitely not what I would want him to have access to.

In closing, I hope that you will do the right thing to help protect the innocence of our children in North Dakota and vote DO PASS on SB2360.

Respectfully,

Kari Roller

Dear Chairman Larson and Members of the Senate Judiciary Committee,

I am writing to urge you to vote DO NOT PASS on SB 2360.

I have read through many of those urging you to pass this bill and it is apparent to me that these patrons are out for their own beliefs and acts. Which is wonderful! That is why we live in America and are free to express those thoughts. BUT that doesn't give them the right to take away from what I think is right as a parent and how I raise my kids, and what I allow them to watch on the internet. Do I want to keep my kids safe, of course, however that is my job, not yours.

Libraries and school already apply content filters in accordance with the Children's Internet Protection Act. This is working well in our Public Library setting and has worked for the 14 years I have been the director here. As for the school, our IT department works diligently on making sure our kids are as safe as possible. This isn't a free for all nor has it ever been.

I urge you to vote DO NOT PASS on SB 2360. I also invite you to our library so you can see for yourself how things are ran and have an understanding of the true impact your decisions make.

Thank you,

Traci Lund,

Director, Divide County Library

Media Specialist, Divide County Elementary

Parent

I strongly oppose the SB 2123 and HB 1205.

These bills infringe on an individual's freedom to read and criminalize the work of Library employees. The First Amendment mandates the right of all people to free expression and the right to receive the constitutionally protected expression of others. Accordingly, the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.

Parents---and only parents---have the right and responsibility to restrict the access of their children --and only their children---to library resources. In addition, censorship by librarians of constitutionally protected speech, whether for protection or for any other reason, violates the First Amendment.

Intellectual freedom is the right of every person to seek and receive information about any topic from multiple points of view. It includes the right to hold, receive, and share ideas and information. All people, of all ages have this right. If parents want to restrict certain materials from their children it is their responsibility to monitor them and the materials they check out.

A certain group of people want to impose censorship-the suppression of ideas or information because of a particular person or group of people do not like the "idea" in question. Censors believe that because they find a particular idea objectionable, no one should have access to information about that idea. They use political power to enforce censorship.

The Supreme Court ruled in the 1982 case "Island Tree School District" v. "Pico" that public school library books cannot be removed or restricted based on their current content, because such a removal would be a violation of the First Amendment rights of students. This can also be applied to libraries and children.

Please note, because libraries do not have infinite money or space, librarians have to make decisions about what materials to buy. Collection development is the process librarians use to make these decisions when they purchase materials for the library. Libraries have policies that provide guidelines for collection development and librarians who have a master's degree study collection development in graduate school. Librarians responsible for collection development consider how their choices affect the intellectual freedom of their communities when they select materials.

Please do not pass the Senate Bill 2123 or House Bill 1205!

Written Statement of

**Donna Rice Hughes
CEO & President
Enough Is Enough**

Before the

**Senate Judiciary Committee
North Dakota State Legislature**

February 14, 2023

**Solving a Public Health Crisis:
The Online Sexual Exploitation and Abuse of Children**

Some of the facts and information contained herein are derived from training and research, but all information and observations are supported by personal and professional experiences as a subject matter expert related to internet safety.

Problem

Over the past ten years, our world has gravitated more and more toward the use of a variety of digital devices including cell phones, tablets, and gaming devices. By age 11, a majority (53%) of kids have their own smartphone, and by age 12 more than two-thirds (69%) do as well (Common Sense Media, 2019). This explosion in the use of such devices, evolving social media and app platforms, and the expansion of the availability of public Wi-Fi has left adults, including law enforcement officials, ill-equipped and often overwhelmed as to how to best protect children and families from new and emerging online threats and hold offenders accountable. Additionally, internet technology giants often exacerbate the dangers to children by failing to enforce corporate acceptable use policies to comply with current law, and by the very real possibility of shifting their technology to “warrant-proof” end-to-end encryption on social media platforms or other forms of online communication. Other technologies such as TOR and Peer-to-Peer networks, and bad actors moving to the deep and dark web further complicate law enforcement’s efforts to interdict these heinous crimes and hold offenders accountable.

Existing federal laws to prevent the internet-enabled exploitation of children have not been adequately enforced due to a lack of resources and access to new tools, methods, and technologies. Additionally, new public policies at both the federal and state levels are not being enacted and implemented to keep ahead of both existing and emerging threats. This has led to increased harm to minors from obscenity, child pornography, predation, sex trafficking,

sextortion, and cyberbullying. To complicate matters, Section 230 of the Communications Decency Act often provides immunity for website platforms and can serve as a roadblock to successful investigations and prosecutions. As a result, the burden to protect children from online sexual exploitation is falling on adults, who are not always adequately educated and equipped to protect children from all forms of exploitation in today's rapidly evolving digital world.

The sexual exploitation of children has been further escalated with the COVID-19 pandemic and is at an all-time high:

- Children under the age of 10 now account for 22% of online porn consumption among those under the age of 18, while 10- to 14-year-olds make up 36% of minor consumers (Bitdefender, 2016).
- A 2022 report by Common Sense Media revealed that 75% of teenagers have viewed pornography by age 17, and the average age of first exposure to pornography is age 12.
- Reports of online enticement, including sextortion, increased by 265% from 2018 to 2021. Sextortion occurs when a child is being groomed to take sexually explicit images and/or ultimately meet face-to-face with someone for sexual purposes, or to engage in a sexual conversation online or, in some instances, to sell/trade the child's sexual images ([National Center for Missing and Exploited Children, February 2022](#))
- In 2021, NCMEC received more than 29.3 million (up 35% over 2020) CyberTipline reports containing over 84.9 million images, videos, and other content related to suspected child sexual exploitation (up 29.8% over 2020). (National Center for Missing and Exploited Children, January 31, 2022)
- New research has found the U.S. hosts more child sexual abuse content online than any other country in the world. The US accounted for 30% of the global total of child sexual abuse material (CSAM) URLs at the end of March 2022 (Internet Watch Foundation, April 26, 2022).
- Forty percent of kids in grades 4-8 reported they **connected with a stranger online**. ([Center for Cyber Safety and Education, March 2019](#))
- There has been a 40% increase in **reports of sex trafficking crisis cases** by the Trafficking Hotline (compared to the month prior to lockdown) ([Polaris, June 2020](#)).
- 1 in 5 girls and 1 in 10 boys (aged 13-17) say that they have **shared their own nudes**. 40% agreed that "it's normal for people my age to share nudes with each other". ([Thorn](#),

["Self-Generated Child Sexual Abuse Material: Attitudes and Experiences" August 2020](#)).

- **Self-generated imagery** now accounts for nearly a third of web pages featuring sexual images of children actioned by the Internet Watch Foundation (IWF). More than three quarters of the self-generated material - be it images or videos –feature 11 to 13-year-old children, of which the majority are girls. (Internet Watch Foundation, Jan. 15, 2020)
- A meta-analysis of 46 studies reported that the **effects of exposure to pornographic material** are “clear and consistent:” pornography use puts people at increased risk for committing sexual offenses (A meta-analysis of the published research on the effects of pornography, 2000). Further support for an association between pornography use and sexual offending is found in a national longitudinal study of sexual offenses (e.g., sexual harassment, sexual assault, coercive sex, and rape) among youth aged 10–21 years. (Prevention Science, 2018). The study found that the average age of first perpetration was between 15 and 16 years old, and more importantly current exposure to violent pornography (after considering control factors for potentially influential characteristics).
- Internet sex predators are manipulating **children to record their own sexual abuse** and that of their friends and siblings ([Internet Watch Foundation Annual Report, 2020](#)).

These crimes have irreparable consequences for the most vulnerable in our communities – namely our children. As in the example of the expansion of unrestricted public Wi-Fi in government, educational, commercial, and other facilities, and spaces, this emerging threat has created unsafe public environments with the unintended consequences of freely available access by anyone to online obscenity, child pornography, predation, and sex trafficking. The public nature of these connection 'hotspots' makes it overly challenging for law enforcement to accurately track and interdict the offenders, opening the door for predators to fly under the radar of law enforcement on public Wi-Fi. As a result, youth are victimized as predators can view, download, or distribute the child sex abuse images, groom children, and communicate with other predators and traffickers on the premises without recourse.

In 2018, technology companies reported over 45 million online photos and videos of children being sexually abused, double the amount from the year before. A New York Times article revealed the internet's largest technology platforms “are failing to effectively shut down the giant portions of online child sexual abuse material.”

On June 7, 1995, at the advent of the internet age, I addressed members of Congress and community leaders on Capitol Hill which included the following [remarks](#):

Unfortunately, the worst and most deviant forms of illegal pornography have invaded our homes, offices and schools via the internet. [The internet] has emerged as the leading-edge technology for the distribution of hard-core pornography and child pornography. Children today are increasingly computer literate, in most cases, much more so than their parents. Any child with a computer and a modem can access pornographic material in seconds, and once they've seen it, it can't be erased from their minds. Just as disturbing, is the fact that we cannot protect ourselves or our children from those who derive sexual pleasure from viewing this toxic material.

Since then, multi-billion-dollar pornography, child pornography and trafficking criminal enterprises have thrived, at the expense of the most vulnerable – our children. Be it in the home, school, shopping mall, or anywhere else children have unfiltered internet access, they can be lured, seduced, and groomed by pornographers, predators, and traffickers. No child is immune from online victimization.

The continuous invasion of graphic, hard-core online pornography, prosecutable under U.S. federal obscenity law, has been called the “largest unregulated social experiment in human history”¹. Any child with unrestricted Internet access is just a click away from viewing prosecutable obscenity (hard-core extreme content depicting graphic sex acts, rape, strangulation and violence) and even material depicting the sexual abuse or rape of a child (child sexual abuse material), found only on the black-market pre-internet.

It's not a matter of if, but when a child will be exposed to this content. As the digital world has gravitated toward the use of mobile digital devices including cell phones, tablets, and gaming devices, kids are vulnerable to sexual exploitation and 24/7 via exposure to illicit content as well as online predators and traffickers who anonymously groom vulnerable children. By age 11, a majority (53%) of kids have their own smartphone, and by age 12 that percentage rises to more than two-thirds (69%) ([Common Sense Media, 2019](#)).

While there are many reasons that children are being sexualized, exploited and abused at alarming rates in the digital age, a key reason is due to the disappointing reality that existing federal obscenity, CSAM, predation and trafficking federal laws have not been adequately funded and prosecuted. In fact, the obscenity laws have not even been enforced since President George W. Bush's administration. Peer-reviewed research demonstrates that extreme pornography fuels child sex abuse, violence against women, sex trafficking and other crimes against humanity. which is why we must aggressively enforce and strengthen obscenity laws at both the federal and state level.

¹Seto.

The free, easy and unprecedented access to online pornography continues to fuel generations of kids to consume—and often become addicted to—this toxic content. Internet pornography, as one researcher said, is "the largest unregulated social experiment in human history." Once exposed, the content can never be fully erased from their minds.

The corroding influence of internet pornography as a public health crisis is backed by peer-reviewed social and medical science. Its harmful impact upon the emotional, mental and sexual health of young children, tweens and teens continue to worsen. As such, nearly 17 states have either passed or adopted public health crisis resolutions, recognizing the many levels of harmful effects upon individuals and society, as well as the need for education, research, prevention, and policy change.

Pornographers understand that the sexually exploitative pornography they produce and distribute is highly addictive. They're keenly aware that if they can get children hooked and desensitized at a young age, they will likely have a consumer for life unless the cycle of addiction is broken.

This peer-reviewed research also supports unequivocal harm to youth from exposure to Internet pornography. Research conducted on the brain revealed that as hours of pornography use increased, the gray matter in the brain decreased, and neurochemically alters the underdeveloped brain of a child or adolescent.

Further, the content offers unrealistic and unhealthy attitudes to sex, teaching sex without love, intimacy and commitment is desirable, and that women are to be viewed as sexual objects. It can also have an impact on the development of harmful sexual behaviors. The average age of first perpetration of sexual violence is 15 -16 and is associated with exposure to pornography. Viewing this content may also lead to sexually aggressive behaviors. (Prevention Science, 2017).

Sexual predators use this content to groom and sexualize a child into developing child sexual abuse material, or "CSAM", fueling a vicious cycle of abuse including child sex abuse, sex crimes, sexual exploitation, violence against women, sex trafficking, and sexual predation. In cases of sex trafficking, pornography fuels the demand for women and children to be sold commercially, which can lead to further abuse as sex crimes are turned into pictures and videos that are distributed, sold and shared.

The harm of exposing kids to such content is best understood from their own stories. I interviewed a dozen young teens about their internet experiences for EIE's [Internet Safety 101](#) video series.

Zach, age 15, told me, *“Even if you’re not looking for it, it will find you.”* He added, “Pornography shaped my want for sex and what I wanted to do whenever I started having sex, big time! It wasn’t just like I just wanted to have a relationship and have sex with her. I just want to have sex with as many as I can. Sex was pretty meaningless. I just wanted them to do what they did on the porn.”

Courtney, a beautiful 16-year old, told me that she and her friends participated in parties where they smoked weed and watched pornography together, resulting in orgies. She said that pornography *“destroyed our lives, because we depended on it, and it just broke our friendships, it broke like, respect for ourselves and our respect for others.”*

Rene shared the story of her son, Joe, who was addicted to pornography at age 11. After checking the search history on a family computer kept in the “office” in their home, Rene and her husband were shocked to discover their son had visited more than 900 pornographic sites during the middle of the previous several nights. Even when strict passwords and filters were put into place to prevent access, Joe still found ways to access the content to “feed” his addiction, going so far as to place video cameras on a bookshelf above the computer keyboard to “decode” the password.

The Internet industry has exacerbated dangers to children by failing to implement adequate responsibility policies and best practices for the protection of children. These willful acts fail to comply with federal laws and turn a blind eye to child exploitation occurring on their platforms.

Preventing sexual exploitation and abuse is a bi-partisan issue in which we can all agree. As a result of EIE’s advocacy efforts, the following language was included in the US Congress’ Consolidated Appropriations bill report. in both FY21 and FY22, directing DOJ to: *“...investigate and prosecute major producers and distributors of hardcore adult pornography that meets the Supreme Court test for obscenity. Such enforcement is necessary to protect the welfare of families and children...”*. This language is a huge step forward in combating child sexual exploitation, child pornography, and trafficking. Currently, we are calling on Congress to conduct DOJ oversight hearings to address the department’s failure to enforce the federal obscenity laws. (For nearly two decades, illegal pornography enterprises have operated without impunity, flooding the Internet with toxic content depicting themes of teen rape, incest, torture, and strangulation.)

Additionally, the [Children’s Internet Protection Act](#), which EIE was involved in getting passed in 1998, requires schools and libraries using government eRate funds for internet access to filter both obscenity and child sex abuse images. That said, many public libraries nationwide are not in compliance with CIPA. This year, we are seeking Congress to conduct FCC oversight hearings to enforce this critical law.

The State of North Dakota has the opportunity to enact similar protections through Senate bill 2360 which would effectively ensure safety policies and technology protection measures are included in current statutes relating to obscenity control. These provisions must be immediately adopted and aggressively enforced to ensure the protection of children. Safeguarding the innocence of vulnerable children deserves our top priority. Thank you.

Donna Rice Hughes, President and CEO of Enough is Enough, is an internationally known Internet safety expert, author, speaker, and producer. Her vision, expertise and advocacy helped to birth the Internet safety movement in America at the advent of the digital age. Since 1994, she has been a pioneering leader on the frontlines of U.S. efforts to make the Internet safer for children and families by implementing a three-pronged strategy of the public, the technology industry and legal community sharing the responsibility to protect children online. This strategy has been adopted by industry and governments worldwide. Under her leadership, EIE has created various curricula including the creation of the Internet Safety 101 Program with U.S. Department Of Justice, Office of Juvenile Justice and Delinquency Prevention. She developed and spearheaded the "National Safe Wi-Fi" Campaign" calling on Corporate America to filter pornography and child sex abuse images on public Wi-Fi. As a result, both McDonald's and Starbucks are now filtering Wi-Fi in all of their company owned stores in America. Hughes also spearheaded EIE's bi-partisan Children's Internet Safety Presidential Pledge (2016); The Governor's Pledge and the State Attorneys General Pledge. She has given thousands of media interviews on all the major news outlets on topics related to online dangers (porn, CSAM, sexual predation, bullying, trafficking, online gaming, social media, etc.), safety solutions, testified numerous times before Congress, and is the winner of numerous awards including the 2013 Women In Technology Award for Social Impact and the 2014 Professional Women in Advocacy Excellence In Advocacy Award for "Veteran Practitioner". She also received a Senate appointment to serve on the Child Online Protection Act Commission.

I'm in favor of the bill to save our children from nasty books and porn. Children shouldn't be sexualized and I am for protecting our kids.



LAKE REGION PUBLIC LIBRARY
423 7TH STREET NE
DEVILS LAKE, ND 58301-2529

February 13, 2023

Chairman Larson and Members of the Judiciary Committee,

I am writing to voice my opposition to the proposed changes presented in SB 2360.

Public schools and public libraries that receive federal funding are already required to have filters in place on their school/library devices to block or filter internet access under the Children Internet Protection Act (CIPA). This blocks or filters internet access to images that are “obscene,” child pornography, or harmful to minors. In addition, there are policies in place in these libraries that address the following:

- Access by minors to inappropriate content on the internet;
- The safety and security of minors when using email, chat rooms, and other forms of direct electronic communications;
- Unauthorized access, including “hacking,” and other unlawful activities by minors online;
- Unauthorized disclosure, use, and dissemination of personal information regarding minors; and
- Measures restricting minors’ access to materials harmful to them.

Under CIPA, many schools and libraries have internet policies in place, including acceptable use policies. Libraries also have policies in place stating that library employees and board members do not act in loco parentis; it is a parent and/or guardian’s responsibility to monitor or take action on a child’s use of the internet.

Many of the changes in this bill have been addressed at the federal level multiple times for multiple years. This bill proves to be redundant and harmful to school and public libraries, which are institutions for learning, freedom, and access to information for all.

I strongly urge you to vote DO NOT PASS on SB 2360.

Thank you for your time and consideration.

Respectfully,

A handwritten signature in cursive script that reads "Maddie Cummings".

Maddie Cummings
Library Director
Lake Region Public Library
lakeregionpl@gmail.com
701-662-2220

To the honorable members of the Senate Judiciary Committee,

First, please note that although I am a librarian in the employ of the University of North Dakota, the following testimony does not necessarily reflect the opinion of UND or the North Dakota University System. I submit it as a private individual, on my own time.

Senate Bill 2360 seeks to impose "safety policy and technology protection measures" against sexual material in library databases. These "protection measures" are to be implemented by the vendors who license the databases to the library, and the library is required to withhold payment from any vendor that does not comply.

I have worked with library database vendors professionally for nearly thirteen years now. If this measure goes into effect, I believe it will have a variety of unintended consequences.

First, the costs to the vendors of implementing such a system would significantly exceed the income that they could expect derive from licenses to North Dakota libraries. As such, I imagine many of them will simply terminate their contracts and walk away, leaving the libraries bereft of the resources those vendors formerly supplied.

Second, if I understand the bill correctly, public universities are likewise subject to these requirements, as long as they offer digital or online resources to "students in kindergarten through twelfth grade." Thus, just like public libraries, academic libraries stand to lose access to any vendor that doesn't wish to comply with the requirements of this bill.

The most obvious response by an academic library would be to ensure that they do not offer digital or online library resources to children. Doing so, however, would be complicated. They would need to terminate any partnerships with K-12 schools, thus losing the benefits of those programs for North Dakota students. Since members of the public can walk into the library and access its resources on in-house computers, children would need to be banned from academic libraries. A fair number of university students are themselves parents; banning children would mean they could not come to the library with their children.

In addition, most library databases perform authentication based on the user's IP address. That is, the library sends the vendor a list of all the IP addresses within their range, and those addresses are whitelisted for access. This is convenient for students, faculty and staff at the institution, as they do not need to log in to each database they visit. But it also means that anyone who connects to a university-administered wifi access point effectively has full access to the library's digital holdings. At UND, obtaining a guest pass to use the wifi is trivially easy. They can be self-issued. Anyone with a phone or laptop who walks on campus can get on the campus network in a matter of minutes. No age verification takes place. And so, if this bill takes effect, we would likely have to implement required authentication of all users, both on and off campus, to ensure that we are providing access only to enrolled students, faculty and staff of the institution.

Although none of these measures would be technically difficult, together they would be a significant barrier to access for any member of the public who is not affiliated with the institution -- including adults who would otherwise be welcome to use our licensed resources.

Which is, it appears to me, the point. The ostensible purpose of this bill is to protect children from exposure to disturbing sexual material. But the actual effect is to reduce access for library patrons of all ages by imposing additional burdens on libraries and the database vendors who work with them, with the implicit threat of criminal charges for librarians who fail to comply. I am gravely disappointed to find my legislature so willing to consider censoring libraries in this way.

Honorable members of the Senate Judiciary committee, this bill stands to do significant harm to the libraries and schools of North Dakota. Please vote against it.

Will Martin
Grand Forks, ND

Melissa Lloyd

Assistant Director

Valley City Barnes County Public Library

assitantdirector@vcblibrary.org

410 Central AVE N

Valley City, ND 58072

www.vcblibrary.org

February 14th, 2023

Chairperson Larson and Members of the Senate Judiciary Committee,

I am reaching out to urge you to oppose SB 2360. For these reasons:

Reason#1: The bill is redundant and unnecessary. Public schools and libraries already have filtering under the CIPA (Children's Internet Protection Act). As a librarian we have filtering on all computers, including our Wi-Fi. If a child/teen has a device provided by the parent, it is up to the parent to set up and monitor what they are accessing especially outside of school or library grounds. As a parent, I set the expectations with my teens, and set up internet filtering on our home Wi-Fi. That is my responsibility as a parent. If my child goes over to a friend's house who doesn't know how to put restrictions on, then as a parent I've already communicated to them what is acceptable and the consequences of their actions. I trust my children to make smart choices, and be responsible. I don't hold the other child's parents accountable if MY children make poor choices.

Reason #2: The bill is trying to re-define the Supreme Court's ruling on obscenity. It crosses out words like ordinary and replaces it with reasonable and crosses out contemporary, leaving North Dakota standards. How would you define reasonable North Dakotan standards? I'm a reasonable adult, and I've lived in North Dakota my whole life. By what reasonable North Dakotan standard is this bill supposed to go by? Libraries have a policies/procedure in place if a person dislikes or doesn't agree with any book/material. As a librarian, I respect and understand a person's right to read what they choose, and if someone doesn't agree with a book any book they have the right to Request a Reconsideration of that book/material. If the issues of books of a "sexually explicit" nature. Then do we remove everything that is deemed "sexually explicit"? I've had patrons come in and complain an Inspirational Romance was too "sexually explicit" because the main characters "kissed and embraced". Plenty of teens in my community read Inspirational Romance, do I deny them the opportunity to read books their parents have approved because another person believed it to be sexually explicit? The Miller Test already defines obscenity and pornography, and the books/materials this bill is targeting do not fit in the guidelines set forth by the Supreme Court. If this bill were to pass, it would create many restrictions for books already on the shelf, including books like the Holy Bible, Classic Pieces of Literature, and even Inspirational Romance.

Reason #3: This bill is attacking Educators and Librarians. It is my understanding that this bill was introduced to response to a book that has been challenged both at Dickinson and Valley City Barnes County Public Library. The book *Let's Talk About it: The Teen's Guide to Sex, Relationships and Being*

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

In the course of this book challenge. The library and staff were painted as the bad guys, when all we did was make information available to those who choose to read it. I and other staff members have been threatened, bullied, and treated with contempt. I feared for the safety of my children, the staff, and myself. Now this bill would do further damage by persecuting librarians and educators who work hard to provide educational materials for everyone in the community who wish to seek it out.

Librarians and educators work hard to provide services to the community, and we are constantly seeking out educational opportunities to better serve our communities. We attend conferences, webinars, continuing education classes, further our education by earning Masters in Education and Masters in Library Science so we are qualified and experienced to provide services for our communities. This bill mocks and dismisses the extensive knowledge of educators and librarians. Treating them as a criminal by charging them with a Class B Misdemeanor. My question is why? Why would you criminalize the educated and knowledgeable people who are doing a phenomenal job of helping build up the communities they serve?

Please excuse the length of my testimony, but I'm finding these bills to be troubling and feel they infringe on the rights and freedoms guaranteed to me and my community by the constitution. I have been a North Dakotan my whole life, and have always taken pride in being North Dakotan, we work hard, we take care of each other, and protect our freedoms. Now, I'm ashamed to be North Dakotan.

As a Librarian, I've always considered libraries a sanctuary. I've always had the interests and safety of the children/teens/adults who come to the library seeking a safe place for knowledge free of judgement and persecution at heart. Now, with these bills, you have created fear.

Thank you for the opportunity to share my story.

Sincerely,

Melissa Lloyd

Assistant Director

Valley City Barnes County Public Library

assitantdirector@vcbclibrary.org

410 Central AVE N

Valley City, ND 58072

www.vcbclibrary.org

To Whom It May Concern,

I strongly urge you to vote Do Not Pass on SB 2360. This bill will only lead to more and more governmental control over our basic rights. Our libraries and schools already have filtering systems in place for our Wi-Fi and internet services.

This and the few other bills that have been introduced pertaining to censoring our ability to read and view what is our given right to do will virtually eliminate any form of sexual education for those youth that might need it the most. As a mother, grandmother, former educator, Christian, and librarian, I firmly believe that knowledge is power.

As a Christian, created and wonderfully made in God's image, I believe that love and sex is a God given gift to share in joy and relationship with another person. If we were only meant to use sex for procreation, why would God have given us the emotional ability to enjoy it?

This bill and others not only accuse librarians and school teachers of being immoral and of sexualizing our children, but it makes the act of sex into a negative experience.

It is the job of a librarian to provide a comprehensive collection of materials for the diverse community the library serves. Not everyone will like every book that is in the library. Some will even wonder why we don't have a certain book in the library. We do the best we can to follow the policies we have in place for collection development. We have a deep concern for all of our patrons that use the library and through policies in place, we encourage all patrons to use the library responsibly. So, in other words, parents are to be supervising their children while in the library.

If you really think about it, the library is protecting children better than you can imagine. We have systems, filters, and policies in place. Children can find things that their parents might not want them to see by just sitting in front of someone's house where they know they can get Wi-Fi that is unprotected in any way. If they are visiting a friend, they may see something in that family's private library that might not be something that their parents want them to see. They may even see someone walking down the street or on a public sidewalk that has tattoos of naked women showing. They could be exposed to a nursing mother's bare breast in a park or even restaurant.

It is a parent's job to educate their children. They do not have to bring their children to the library if they don't want to. They don't even have to send their children to a public school if they want to choose to home school. Yet, they can't wrap them in bubble wrap and expect them to never see something they might not be ready to see.

I remember my father forcing me to look at my grandmother dead in her coffin. That was one of the most traumatic experiences of my life! I was sixteen and to this day cannot handle seeing someone in a coffin.

I am not a stranger to the darker side of humanity either. I have been abused and sexually assaulted and am certain that none of the men that chose to assault me in some way got those ideas from a library or even from the internet.

Please vote no for SB 2360.

Sincerely,

Anita Tulp



Testimony in Support of Senate Bill 2360

Mark Jorritsma, Executive Director
North Dakota Family Alliance Legislative Action
February 14, 2023

Madam Chair Larson and honorable members of the Senate Judiciary Committee:

North Dakota Family Alliance Legislative Action is submitting this testimony in support of Senate Bill 2360, and respectfully requests that you render a “DO PASS” on this bill.

Our organization and its constituents feel strongly about protecting minors from explicit sexual material. Many of our constituents have told us, particularly in recent months, that they feel unsafe allowing their children and grandchildren to visit the public library when they are not present, because of the content found in books that are available and sometimes even promoted by the libraries. Both public and school libraries currently allow highly inappropriate books to be read by children, frequently under the guise of educational purposes. Appendix A shows examples of current books from multiple public libraries around our state, the intended audience for each (children and young adults), and descriptions of why each is often banned, per the American Library Association.

We obtained a number of the books found in North Dakota libraries which have been identified as potentially obscene and showed them to willing constituents, both more liberal and conservative. Most responded with disbelief and shock, and even the most “progressive” among them still expressed significant concern. While this was certainly not a formal study, the informal polling of these individuals and families strongly indicates an undeniable desire to keep these books out of children’s hands.

Until now, libraries have been permitted to push the boundaries further and further regarding what is shown to our children, and not surprisingly, the situation has continued to deteriorate. However, this bill would make them accountable to ensure no books in our North Dakota libraries violate our obscenity laws.

Counter to what some may claim, SB 2360 is not out to stifle creativity, artistic expression, or academic research. It specifically exempts organizations such as colleges, universities, museums, and art galleries from the requirements found in the bill. This bill is not about stifling expression or thought, but instead, has everything to do with protecting children from having their innocence stolen from them by age-inappropriate materials.

1515 Burnt Boat Dr., Suite C-148, Bismarck, ND 58503
mark@Ndfamilyalliance.org
701-355-6425
www.ndfamilyalliance.org

We understand that our world today is a complex and sometimes confusing place for children as they try to understand social constructs such as gender identity, or scientific facts about subjects such as biological reproduction, puberty, and STIs/STDs. They need to learn about these things to function in our society – shielding them is not an option. However, Senate Bill 2360 would ensure that they are introduced to these concepts honestly and appropriately when their parents decide it is time.

We like that the bill focuses on public libraries, allows for legal action to be taken against individuals (not just organizations) violating the law, contains an extensive definition of “explicit sexual material”, and other features. That said, we would nevertheless propose that a bill with potential significant implications such as this one perhaps receive additional examination to ensure it can fully stand up to judicial review.

North Dakota Family Alliance Legislative Action wholeheartedly agrees with what this bill seeks to do – protect our children. As a result, we ask that you render a “DO PASS” on Senate Bill 2360. Thank you for taking the time to read our testimony and please do not hesitate to contact us if you have any questions.

Mark Jorritsma
Executive Director

Appendix A

Find: Search All Fields

Log in to your account:

Help More Search Options

List View

Keyword: me and earl
Results: 23 matches

Search Refinements

Current Refinements
23 rows in main search.

- No refinements specified.

Add Refinement
Require

Keyword Add

Availability

Medium

Downloadable

Location

Material type

Language

Copyright Year - Add

Cover	Match	Location	Label	Title	Author	Available			Total	Date
						VC	LV	MU		
	100	Adult Audio Books	YA CD AND	audio book: Me and Earl and the dying girl	Andrews, Jesse	1	0	0	1	2015
	97	YA Fiction	YA AND	Me and Earl and the Dying Girl	Andrews, Jesse	1	0	0	1	2015
	97	Adult DVDs	DVD MEA	DVD: Me and Earl and the dying girl		1	0	0	1	2015
	78	Research branch	SHEET MUSIC SHELF 12 ITEM LE 2	Leave me with a smile / by Earl Burtnett and Chas. Koehler	Burtnett, Earl	0	0	1	1	1921
			SHEET MUSIC	I wish you were jealous of me						

Online chat is not available

Visit Us Contact Us Language Kids' Catalog

Source: Valley City Barnes County Public Library, Valley City, North Dakota.

BANNED BOOKS BY YEAR

Top 10 Most Challenged Books of 2021

Find more shareable statistics on the Free Downloads webpage.

The ALA Office for Intellectual Freedom tracked 729 challenges to library, school, and university materials and services in 2021. Of the 1597 books that were targeted, here are the most challenged, along with the reasons cited for censoring the books:

- Gender Queer by Maia Kobabe**
Reasons: Banned, challenged, and restricted for LGBTQIA+ content, and because it was considered to have sexually explicit images
- Lawn Boy by Jonathan Evison**
Reasons: Banned and challenged for LGBTQIA+ content and because it was considered to be sexually explicit
- All Boys Aren't Blue by George M. Johnson**
Reasons: Banned and challenged for LGBTQIA+ content, profanity, and because it was considered to be sexually explicit
- Out of Darkness by Ashley Hope Perez**
Reasons: Banned, challenged, and restricted for depictions of abuse and because it was considered to be sexually explicit
- The Hate U Give by Angie Thomas**
Reasons: Banned and challenged for profanity, violence, and because it was thought to promote an anti-police message and indoctrination of a social agenda
- The Absolutely True Diary of a Part-Time Indian by Sherman Alexie**
Reasons: Banned and challenged for profanity, sexual reference and use of a derogatory term
- Me and Earl and the Dying Girl by Jesse Andrews**
Reasons: Banned and challenged because it was considered sexually explicit and degrading to women
- The Sweet Hereby by Toni Morrison**

Source: American Library Association

Find: Search All Fields

Log in to your account:

Help More Search Options

Log in to your account: To manage reserves, renewals, etc.

Search Refinements

Current Refinements
119 rows in main search.
• No refinements specified.

Add Refinement
Require
Keyword Add
Availability
Medium
Downloadable
Location
Material type
Language
Copyright Year — Add

Previous Searches
Keyword: the absolutely true Results: 116 matches
Keyword: me and earl — 23 results

Cover	Match	Location	Label	Title	Author	Available	Total	©Date
						VC LV MU		
	100	YA Fiction	YA ALE	The absolutely true diary of a part-time Indian	Alexie Sherman	1 0 0	1	2007
	50	~Internet	~OverDrive	OverDrive eBook: The Absolutely True Diary of a Part-Time Indian	Alexie Sherman	1 1 1	3	2012
	50	~Internet	~OverDrive	OverDrive Audiobook: The Absolutely True Diary of a Part-Time Indian	Alexie Sherman	1 1 1	2	2008
	46	~Internet	~OverDrive	OverDrive eBook: Witches: The Absolutely True Tale of Disaster in Salem	Schanzer	0 0 0	0	2011

Online chat is not available

Visit Us Contact Us Language Kids' Catalog

Source: Valley City Barnes County Public Library, Valley City, North Dakota.

Top 10 for 2017

View the Censorship by the Numbers infographic for 2017

The ALA Office for Intellectual Freedom tracked 354 challenges to library, school and university materials and services in 2017. Of the 416 books challenged or banned in 2017, the Top 10 Most Challenged Books are:

- Thirteen Reasons Why** written by Jay Asher
Originally published in 2007, this New York Times bestseller has resurfaced as a controversial book after Netflix aired a TV series by the same name. This YA novel was challenged and banned in multiple school districts because it discusses suicide.
- The Absolutely True Diary of a Part-Time Indian** written by Sherman Alexie
Consistently challenged since its publication in 2007 for acknowledging issues such as poverty, alcoholism, and sexuality, this National Book Award winner was challenged in school curriculums because of profanity and situations that were deemed sexually explicit.
- Drama** written and illustrated by Raina Telgemeier
This Stonewall Honor Award-winning, 2012 graphic novel from an acclaimed cartoonist was challenged and banned in school libraries because it includes LGBT characters and was considered "confusing."
- The Kite Runner** written by Khaled Hosseini
This critically acclaimed, multigenerational novel was challenged and banned because it includes sexual violence and was thought to "lead to terrorism" and "promote Islam."
- George** written by Alex Gino
Written for elementary-age children, this Lambda Literary Award winner was challenged and banned because it includes a transgender child.
- Sex is a Funny Word** written by Cory Silverberg and illustrated by Fiona Smyth
This 2015 informational children's book written by a certified sex educator was challenged because it addresses sex education and is believed to lead children to "want to have sex or ask questions about sex."
- To Kill a Mockingbird** written by Harper Lee
This Pulitzer Prize-winning novel, considered an American classic, was challenged and banned because of violence and its use of the N-word.
- The Hate U Give** written by Angie Thomas
Despite winning multiple awards and being the most searched-for book on Goodreads during its debut year, this YA novel was challenged and banned in school libraries and curriculums because it was considered "pervasively vulgar"

Source: American Library Association

Refine your search

Availability

Limit to currently available items

Authors

Beach Boys
Beck
Block, Adam
Brickell, Edie
Christie, Chris
Show more

Collections


Biography
CD
DVD
NonFiction






Home libraries


Dr. James Carlson
Library




Your search returned 7 results. 

Found 1 results in the library's OverDrive collection

Relevance 

 Unhighlight |  Select all |  Clear all | Select titles to: Add to...   Place hold

All boys aren't blue : a memoir-manifesto / George M. Johnson.
by Johnson, George M. (George Matthew), 1985-. 

Edition: First edition.
Material type:  Text; Format: print; Nature of contents:  ; Literary form: Not fiction; Audience: Adolescent;
Publisher: New York : Farrar Straus Giroux, 2020
Other title: All boys are not blue.
Availability: **Items available for loan:** Main Library (1) [Collection, call number: **Biography** JOHNSON, G. J67].
Lists: LGBTQ+ History Month, LGBTQIA+ Reads for Adults, LGBTQIA+ Reads for Adults 2022.
 Place hold

- The very best of the Beach Boys : sounds of summer / the Beach Boys.**
by Beach Boys [composer,, audio producer,, performer]. 

Source: Fargo Public Library

The ALA Office for Intellectual Freedom tracked 729 challenges to library, school, and university materials and services in 2021. Of the 1597 books that were targeted, here are the most challenged, along with the reasons cited for censoring the books:

1. **Gender Queer** by **Maia Kobabe**
Reasons: Banned, challenged, and restricted for LGBTQIA+ content, and because it was considered to have sexually explicit images
2. **Lawn Boy** by **Jonathan Evison**
Reasons: Banned and challenged for LGBTQIA+ content and because it was considered to be sexually explicit
3. **All Boys Aren't Blue** by **George M. Johnson**
Reasons: Banned and challenged for LGBTQIA+ content, profanity, and because it was considered to be sexually explicit
4. **Out of Darkness** by **Ashley Hope Perez**
Reasons: Banned, challenged, and restricted for depictions of abuse and because it was considered to be sexually explicit
5. **The Hate U Give** by **Angie Thomas**
Reasons: Banned and challenged for profanity, violence, and because it was thought to promote an anti-police message and indoctrination of a social agenda
6. **The Absolutely True Diary of a Part-Time Indian** by **Sherman Alexie**
Reasons: Banned and challenged for profanity, sexual references and use of a derogatory term
7. **Me and Earl and the Dying Girl** by **Jesse Andrews**
Reasons: Banned and challenged because it was considered sexually explicit and degrading to women
8. **The Bluest Eye** by **Toni Morrison**
Reasons: Banned and challenged because it depicts child sexual abuse and was considered sexually explicit
9. **This Book is Gay** by **Juno Dawson**
Reasons: Banned, challenged, relocated, and restricted for providing sexual education and LGBTQIA+ content.
10. **Beyond Magenta** by **Susan Kuklin**
Reasons: Banned and challenged for LGBTQIA+ content and because it was considered to be sexually explicit.

Source: American Library Association

MELISSA

ALIX BEND



2015

2. **George** by *Gino, Alex*, author

Call Number: PZ7.1.G576 Geo 2015

Summary: "When people look at George, they think they see a boy. But she knows she's not a boy. She knows she's a girl. George thinks she'll have to keep this a secret forever. Then her teacher announces that their class play is going to be Charlotte's Web. George really, really, REALLY wants to play Charlotte. But the teacher says she can't even try out for the part ... because she's a boy. With the help of her best friend, Kelly, George comes up with a plan. Not just so she can be Charlotte-- but so everyone can know who she is, once and for all"-- Provided by publisher.

Web Site: [Alex Gino blog](#)

Target Audience Note: Grades 3-7.

Source: OCLC WorldCat

FULL DISPLAY
PLACE REQUEST

Add to My List

Source: Grand Forks Public Library

Top 11 Most Challenged Books of 2018

View the Censorship by the Numbers infographic for 2018

The ALA Office for Intellectual Freedom tracked **347 challenges** to library, school and university materials and services in 2018. Of the **483 books** challenged or banned in 2018, the Top 11 Most Challenged Books are:

1. **George by Alex Gino**

Reasons: banned, challenged, and relocated because it was believed to encourage children to clear browser history and change their bodies using hormones, and for mentioning "dirty magazines," describing male anatomy, "creating confusion," and including a transgender character

2. **A Day in the Life of Merlon Bundo by Jill Twiss, illustrated by EG Keller**

Reasons: banned and challenged for including LGBTQIA+ content, and for political and religious viewpoints

3. **Captain Underpants series written and illustrated by Dav Pilkey**

Reasons: series was challenged because it was perceived as encouraging disruptive behavior, while *Captain Underpants and the Sensational Saga of Sir Stinks-A-Lot* was challenged for including a same-sex couple

4. **The Hate U Give by Angie Thomas**

Reasons: banned and challenged because it was deemed "anti-cop," and for profanity, drug use, and sexual references

5. **Drama written and illustrated by Raina Telgemeier**

Reasons: banned and challenged for including LGBTQIA+ characters and themes

6. **Thirteen Reasons Why by Jay Asher**

Reasons: banned, challenged, and restricted for addressing teen suicide

7. **This One Summer by Mariko Tamaki, illustrated by Jillian Tamaki**

Source: American Library Association

Madam Chairman Larson, and members of the committee,

My name is Rozell Unruh from Dickinson. I am in favor of SB2360. There are some that are saying limiting or removing the use of these sexually explicit books are going to eliminate educational materials. It will not, it will help protect our children from the grooming (which leads to sex trafficking and pedophilia) that these books are promoting. These books have an actual agenda that is geared towards our children especially tween and teens to encourage pornography, sexting, gender identity questioning, sexual experimentation and sexual promiscuity. This bill is not about censorship or book banning it is about protecting our children from inappropriate material that their minds can not process, comprehend or understand.

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

According to Cornell Law School:

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

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

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

One of over 107 of these books in the Dickinson Public Library, "Let's Talk About It" has such obscenity. During the Dickinson Public Library Board meeting in November that was televised, blown up pictures from this book were held up in front of the camera and the station would not air the pictures due to the obscenity and pornographic nature of these pictures. So these books can't be shown over the airwaves but they can be readily available in our public and school libraries?

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

Thank you,
Rozell Unruh



SB 2360
Testimony of Amy De Kok
Senate Judiciary Committee
February 14, 2023

Chair Larson and members of the committee, my name is Amy De Kok. I am General Counsel for the North Dakota School Boards Association. NDSBA represents all North Dakota public school districts and their boards. NDSBA stands in opposition to SB 2360.

NDSBA's opposition centers on Sections 3, 4, and 5 of the bill. Section 3 seeks to amend existing section 12.1-27.1-03.1 of the North Dakota Century Code which addresses criminal penalties for willful display of materials which depict nude or partially denuded human figures posed or presented in a manner to exploit sex, lust, or perversion for commercial gain. Currently, the definitions in that section are expressly not to be construed to include a bona fide school, college, university, museum, public library, or art gallery. Section 3 of the bill removes "bona fide school" from this list. Likewise, Section 4 of the bill removes "a bona fide school" from the list of entities that are exempt from the criminal penalties set forth in sections 12.1-27.1-01 and 12.1-27-03. NDSBA opposes these proposed amendments as it may prevent schools from using age-appropriate materials in conjunction with teaching human anatomy or human reproduction.

Section 5 of the bill adds a new section to chapter 12.1-27.1 of the Century Code permitting a school district, among others, to offer a digital or online library database resource to students in kindergarten through twelfth grade if the database provider verifies that all the database resources:

- Prohibit and prevent the user from sending, receiving, viewing, or downloading materials constituting child sexual abuse material, an obscene performance, or pornography; and,
- Filter or block access to pornography and child sexual abuse material.

The bill further requires a public school library to submit an aggregate written report to the attorney general no later than December 1 of each year regarding any issues related to provider compliance with the requirements of subsection 2 of the proposed section. NDSBA believes that this proposed new section is unnecessary as federal law, specifically the Children's Internet Protection Act (CIPA), already more than adequately addresses these concerns. All public school districts in North Dakota are already required to adopt an acceptable use policy that complies with the requirements of CIPA.

The CIPA was enacted by Congress in 2000 to address concerns about children's access to obscene or harmful content over the Internet. CIPA imposes certain requirements on schools or libraries that receive discounts for Internet access or internal connections through the E-rate program – a program that makes certain communications services and products more affordable for eligible schools and libraries. In early 2001, the FCC issued rules implementing CIPA and provided updates to those rules in 2011. Schools and libraries subject to CIPA may not receive the discounts offered by the E-rate program unless they certify that they have an Internet safety policy that includes technology protection measures. The protection measures must block or filter Internet access to pictures that are: (a) obscene; (b) child pornography; or (c) harmful to minors (for computers that are accessed by minors). Before adopting this Internet safety policy, schools and libraries must provide reasonable notice and hold at least one public hearing or meeting to address the proposal.

Schools subject to CIPA have two additional certification requirements: 1) their Internet safety policies must include monitoring the online activities of minors; and 2) as required by the Protecting Children in the 21st Century Act, they must provide for educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms, and cyberbullying awareness and response.

Schools and libraries subject to CIPA are required to adopt and implement an Internet safety policy addressing:

- Access by minors to inappropriate matter on the Internet;
- The safety and security of minors when using electronic mail, chat rooms and other forms of direct electronic communications;
- Unauthorized access, including so-called “hacking,” and other unlawful activities by minors online;
- Unauthorized disclosure, use, and dissemination of personal information regarding minors; and
- Measures restricting minors' access to materials harmful to them.

Schools and libraries must certify they are in compliance with CIPA before they can receive E-rate funding.

For these reasons, NDSBA urges a Do Not Pass recommendation on SB 2360. Thank you for your time.

SB 2360 - Testimony from Senator Boehm

Senate Bill 2360 is designed to protect minors from the harmful and lasting influences of obscenity and pornography, whether it be in written, pictorial or digital form. Legislative Council has produced an amended version - merging SB 2123 with SB 2360 - and that is the bill currently under consideration.

This bill is based on extensive research which is available for review and offered in support of this legislation. The legislation focuses on schools and libraries - places where minors frequent, often without parental or adult supervision and protection. Our culture has frayed to the point where there are very few limitations on pornographic material. The proverbial frog, which entered the pot of water at room temperature, is slowly being boiled to its demise. The same thing is happening to our society with respect to pornography and our minors. It's time to turn off the heat and protect our most vulnerable citizens - our children.

This legislation removes the exemption clause for bona fide school and public libraries from this portion of century code in order to protect minors from obscenity and pornography. Libraries and schools used to be safe places for minors in our towns and communities. This is no longer the case. Our schools and libraries are now safe zones for activists, groomers, and pedophiles as the current language protects their ability to disseminate obscene materials to minors. For example, in a city council hearing in western North Dakota, concerned citizens could not show or read the material from a book in their local library because the content was obscene. Yet this same book was designed for minors and available at the local library for any child to access. Further examples of pornography/obscenity have been found in libraries in every major city in North Dakota. A catalog search revealed that small-town libraries offer this material as well. A list of these objectionable resources is available for review in support of this legislation.

Some have opposed this proposed legislation on the grounds of free speech, yet the Supreme Court ruled in *United States vs Reidel* (1971) that obscenity laws were constitutional. Opponents of this legislation have also cited the "book banning" argument as justification for these materials. However, our schools and libraries do not contain blatant adult pornography. If these materials can be kept out of our minor-accessible institutions, pornographic and obscene materials targeting our youth should be as well.

In this amended legislation, page 2 defines a public library and offers a clearer definition of pornography. Obscenity and pornography have zero redeeming value in these arenas as an educational research purpose unless one is trying to push an unnatural, perverted, and harmful ideological doctrine. This legislation does not affect biology and science courses which are addressed on page 2/line 24 and page 4/line 29 of this legislation. In this section, Legislative Council affirmed that the word "willful" protects our teachers, librarians and staff from prosecution for providing traditional instruction in science, biology, and health education.

Section 4 clearly defines a level of pornography. Section 6 will add a new section to code. As proposed, it would legislate protection for minors by adding safety policies and technological protection measures. It also calls for a report to the ND Attorney General for any incidents that occur. Why are these actions necessary?

The United States Constitution speaks to this as follows:

Article I Section 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

Pornography and obscene materials are being used to damage our children. In the interest of the public good, and for the safety and benefit of our children, we need to act.

Dr. James Dobson, a former member of the US Attorney General's Commission on Pornography, shared these thoughts regarding those who are trapped by pornography at a young age:

"More than 91 percent said they had unintentionally stumbled onto this terrible stuff while a single exposure to it by some thirteen to fifteen-year-olds is all that is required to create an addiction that will hold them in bondage for a lifetime. It is more addictive than cocaine or heroin. That was one of the conclusions drawn during the Attorney General's Commission on Pornography, on which I served. Studying for school or just surfing the Web."

"That is what happened to Ted Bundy, whom I interviewed just seventeen hours before he was executed for killing three girls, one of them little twelve-year-old Kimberly Leach. Bundy confessed two days before his death to murdering at least twenty-eight women and girls; authorities say there may have been as many as one hundred. Bundy asked to talk to me because he wanted the world to know how pornography had led to (not caused) his murderous rampage. He was thirteen years of age when he discovered pornographic materials at a dump. Among them were detective magazines that showed scantily clad women who were being assaulted. Bundy found those images extremely exciting, and so began a tragic life that ended in a Florida electric chair."

"I'm not suggesting that every adolescent who reads pornographic magazines or watches obscene videos will grow up to kill people. I am saying that a few of them will, and that many more—perhaps the majority—will develop full-blown addictions to smut. It is a huge cultural problem."

This destructive material has no place in our schools and libraries, and free speech should not be used as an excuse to allow this harmful material into the hands and minds of our children. There are many ways our children are gaining access to this material but our publicly-funded institutions should not be among them.

This legislation is a protective measure that can be used to shield our greatest resource, the children who will determine our society's future. We must protect them. Several individuals testifying to this legislation will reveal the dangerous and harmful effects of pornography. It is not subjective nor is it free speech.

I humbly ask for a do pass on this legislation in its amended form.

Additional Definitions & Resources:

"Prurient interest" means a voyeuristic, lascivious, degrading, shameful, or morbid interest in nudity, sex, or excretion that goes substantially beyond customary limits of candor in description or representation of those matters

20 U.S. Code § 9134 - State plans

47 U.S. Code § 254 - Universal service

Packet resources:

- Testimonies
- SB 2360 bill language
- US Law on Pornography
- Should Obscenity be Regulated - excerpt from the Attorney General Commission on Pornography
- Books in North Dakota Libraries
- Grooming: The Research-backed Links Between Pornography and Child Sexual

23.0672.04003

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2360

Introduced by

Senators Boehm, Beard, Hogue, Paulson, Wobbema

Representative Kasper

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and a new
2 section to chapter 12.1-27.1 of the North Dakota Century Code, relating to the definition of a
3 public library and required safety policies and technology protection measures; to amend and
4 reenact subsection 5 of section 12.1-27.1-01, sections 12.1-27.1-02, 12.1-27.1-03.1, and
5 12.1-27.1-11 of the North Dakota Century Code, relating to obscenity control; to provide a
6 penalty; and to provide an effective date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-27.1-01 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 5. As used in this chapter, the terms "obscene material" and "obscene performance"
11 mean material or a performance which:

12 a. Taken as a whole, the average person, applying contemporary North Dakota
13 standards, would find predominantly appeals to a prurient interest;

14 b. Depicts or describes in a patently offensive manner sexual conduct, whether
15 normal or perverted; and

16 c. Taken as a whole, the reasonable person would find lacking in serious literary,
17 artistic, political, or scientific value.

18 Whether material or a performance is obscene must be judged with reference to
19 ordinaryreasonable adults, unless it appears from the character of the material or the
20 circumstances of its dissemination that the material or performance is designed for
21 minors or other specially susceptible audience, in which case the material or
22 performance must be judged with reference to that type of audience.

23 **SECTION 2.** A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is
24 created and enacted as follows:

1 As used in this chapter, the term "public library" means a library containing collections
2 of books or periodicals for the general population to read, borrow, or refer to which is
3 supported with funds derived from taxation.

4 **SECTION 3. AMENDMENT.** Section 12.1-27.1-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-27.1-02. Promoting obscenity to minors - Definitions.**

7 As used in this section and in section 12.1-27.1-03:

- 8 1. "Promote" means to produce, direct, manufacture, issue, sell, lend, mail, publish,
9 distribute, exhibit, or advertise.
- 10 2. "Harmful to minors" means that quality of any description or representation, in
11 whatever form of sexual conduct or sexual excitement, when such description or
12 representation:
 - 13 a. Considered as a whole, appeals to the prurient sexual interest of minors;
 - 14 b. Is patently offensive to prevailing standards in the adult community in North
15 Dakota as a whole with respect to what is suitable material for minors; and
 - 16 c. Considered as a whole, lacks serious literary, artistic, political, or scientific value
17 for minors.
- 18 3. "Sexual excitement" means the condition of human male or female genitals when in a
19 state of sexual stimulation or arousal.

20 **SECTION 4. AMENDMENT.** Section 12.1-27.1-03.1 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **12.1-27.1-03.1. Objectionable materials or performance - Display to minors -**
23 **Definitions - Penalty.**

- 24 1. A person is guilty of a class B misdemeanor if ~~he~~the person willfully displays at
25 newsstands or any other business establishment frequented by minors, or where
26 minors are or may be invited as a part of the general public, any photograph, book,
27 paperback book, pamphlet, or magazine, the exposed cover or available content of
28 which either contains explicit sexual material or exploits, is devoted to, or ~~is principally~~
29 ~~made up of~~contains depictions or written descriptions of nude or partially denuded
30 human figures posed or presented in a manner to exploit sex, lust, or perversion ~~for~~
31 ~~commercial gain~~.

1 2. As used in this section:

2 a. "Explicit sexual material" means any written, pictorial, three-dimensional, or visual
3 depiction, including any photography, picture, or computer-generated image,
4 showing or describing:

5 (1) Human masturbation;

6 (2) Deviant sexual intercourse;

7 (3) Sexual intercourse;

8 (4) Direct physical stimulation of genitals;

9 (5) Sadomasochistic abuse;

10 (6) Postpubertal human genitals;

11 (7) Sexual activity;

12 (8) Sexual perversion; or

13 (9) Sex-based classifications.

14 b. "Nude or partially denuded human figures" means less than completely and
15 opaquely covered human genitals, pubic regions, female breasts or a female
16 breast, if the breast or breasts are exposed below a point immediately above the
17 top of the areola, or human buttocks; and includes human male genitals in a
18 discernibly turgid state even if completely and opaquely covered.

19 ~~b-c.~~ "Where minors are or may be invited as a part of the general public" includes any
20 public roadway or public walkway.

21 ~~e-d.~~ The above ~~shall~~may not be construed to include a ~~bona fide school~~, college,
22 university, museum, ~~public library~~, or art gallery.

23 **SECTION 5. AMENDMENT.** Section 12.1-27.1-11 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **12.1-27.1-11. Exceptions to criminal liability.**

26 Sections 12.1-27.1-01 and 12.1-27.1-03 shall not apply to the possession or distribution of
27 material in the course of law enforcement, judicial, or legislative activities; or to the possession
28 of material by a ~~bona fide school~~, college, university, or museum, ~~or public library for limited~~
29 ~~access for educational research purposes carried on at such an institution by adults only.~~

30 Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a person who is returning

1 material, found to be obscene, to the distributor or publisher initially delivering it to the person
2 returning it.

3 **SECTION 6.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
4 created and enacted as follows:

5 **Safety policies and technology protection measures required - Report.**

- 6 1. A school district, state agency, or public library, or university may offer digital or online
7 library database resources to students in kindergarten through twelfth grade if the
8 person providing the resources verifies all the resources comply with subsection 2.
9 2. Digital or online library database resources offered by a school district, state agency,
10 or public library, or university to students in kindergarten through twelfth grade must
11 have safety policies and technology protection measures that:
12 a. Prohibit and prevent a user of the resource from sending, receiving, viewing, or
13 downloading materials constituting child sexual abuse material, an obscene
14 performance, or pornography; and
15 b. Filter or block access to pornography and child sexual abuse material.
16 3. Notwithstanding any contract provision, if a provider of digital or online library
17 resources fails to comply with subsection 2, the school district, state agency, or public
18 library, or university shall withhold any further payments to the provider pending
19 verification of compliance.
20 4. If a provider of digital or online library database resources fails to timely verify the
21 provider is in compliance with the safety policies and requirements of subsection 2, the
22 school district, state agency, or public library, or university shall consider the provider's
23 act of noncompliance a breach of contract.
24 5. A public school library and a public library shall submit an aggregate written report to
25 the attorney general no later than December first of each year regarding any issues
26 related to provider compliance with technology protection measures required by
27 subsection 2.
28 6. An employee of a school district, state agency, or public library, or university is not
29 exempt from prosecution for willful indecent exposure ~~to~~of child sexual abuse material
30 or pornography to a minor.

31 **SECTION 7. EFFECTIVE DATE.** This Act is effective August 20, 2023.

23.0672.04003
Title.

Prepared by the Legislative Council staff for
Senator Boehm
February 14, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2360

Page 1, line 1, after "new" insert "subsection to section 12.1-27.1-01 and a new"

Page 1, line 2, after the first "to" insert "the definition of a public library and"

Page 1, line 11, remove the overstrike over "~~contemporary~~"

Page 1, line 16, remove the overstrike over "~~, political~~"

Page 1, after line 21, insert:

"SECTION 2. A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is created and enacted as follows:

As used in this chapter, the term "public library" means a library containing collections of books or periodicals for the general population to read, borrow, or refer to which is supported with funds derived from taxation."

Page 2, line 9, remove the overstrike over "~~prevailing~~"

Page 2, line 11, remove the overstrike over "~~, political~~"

Page 2, line 19, overstrike "he" and insert immediately thereafter "the person"

Page 2, line 22, after "which" insert "either contains explicit sexual material or"

Page 2, line 23, overstrike "is principally made up of" and insert immediately thereafter "contains"

Page 2, line 23, after "depictions" insert "or written descriptions"

Page 2, line 24, overstrike "for"

Page 2, line 25, overstrike "commercial gain"

Page 2, line 27, after "a." insert """Explicit sexual material" means any written, pictorial, three-dimensional, or visual depiction, including any photography, picture, or computer-generated image, showing or describing:

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

b."

Page 3, line 1, overstrike "b." and insert immediately thereafter "c."

Page 3, line 3, overstrike "c." and insert immediately thereafter "d."

Page 3, line 18, after the second underscored comma insert "or"

Page 3, line 18, remove ", or university"

Page 3, line 21, after the second underscored comma insert "or"

Page 3, line 22, remove ", or university"

Page 3, line 29, after the third underscored comma insert "or"

Page 3, line 30, remove ", or university"

Page 4, line 3, after the second underscored comma insert "or"

Page 4, line 3, remove ", or university"

Page 4, line 9, after the second underscored comma insert "or"

Page 4, line 9, remove ", or university"

Page 4, line 10, replace "to" with "of"

Page 4, line 11, after "pornography" insert "to a minor"

Renumber accordingly

Library Bill of Rights

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

- I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
- II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
- III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.
- IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.
- V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.
- VI. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.
- VII. All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.

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

Inclusion of "age" reaffirmed January 23, 1996.

Although the Articles of the *Library Bill of Rights* are unambiguous statements of basic principles that should govern the service of all libraries, questions do arise concerning application of these principles to specific library practices. See the documents designated by the Intellectual Freedom Committee as Interpretations of the Library Bill of Rights (<http://www.ala.org/advocacy/intfreedom/librarybill/interpretations>).

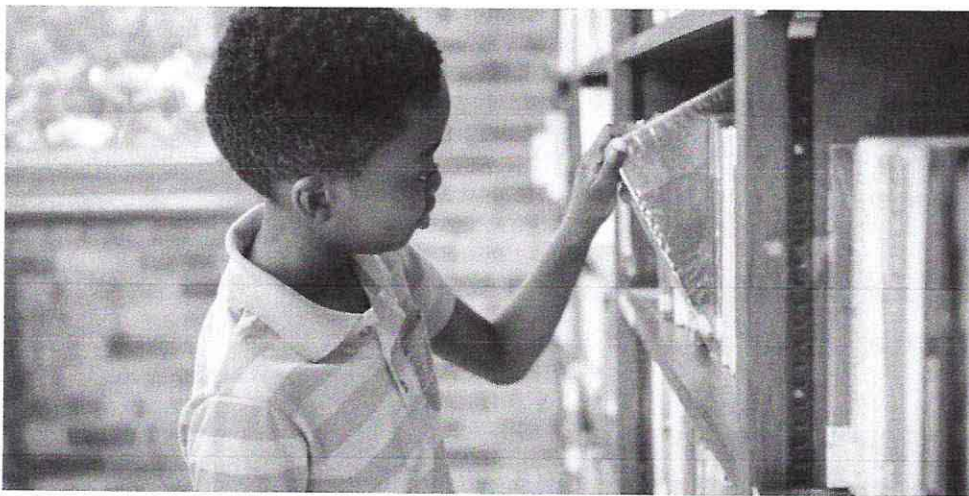


SEARCH ...

American Library Association Chooses Marxist Lesbian as President-Elect

Posted by Jeff Johnston | Apr 22, 2022 | Culture

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The American Library Association (ALA) recently announced that Emily Drabinski was voted in as their 2022-2023 president-elect. She will serve as president of the organization beginning in July 2023.

Drabinski tweeted, "I just cannot believe that a Marxist lesbian who believes that collective power is possible to build and can be wielded for a better world is the president-elect of @ALALibrary."

I just cannot believe that a Marxist lesbian who believes that collective power is possible to build and can be wielded for a better world is the president-elect of @ALALibrary. I am so excited for what we will do together. Solidarity!

And my mom is SO PROUD I love you mom.

— Emily Drabinski (@edrabinski) April 13, 2022

Drabinski works as the interim chief librarian and the critical pedagogy librarian at the City University of New York’s Graduate Center. “Critical pedagogy” is an educational philosophy that is a kissing cousin of “critical race theory.”

Both ideologies grew out of “critical theory,” which was developed at The Frankfurt School, in Germany, by Marxists who were trying to understand why Germans had rejected Communism. Many members of the Frankfurt School migrated to the U.S., taking up key positions at leading universities.

In her campaign, Drabinski was clear that she wants to move the ALA even further to the left, stating:

So many of us find ourselves at the ends of our worlds. The consequences of decades of unchecked climate change, class war, white supremacy, and imperialism have led us here. If we want a world that includes public goods like the library, we must organize our collective power and wield it. The American Library Association offers us a set of tools that can harness our energies and build those capacities.

Her campaign platform touted the slogan “Equity as action,” where she explained:

Abortion
Business

The Most Foolish
Super Bowl Bets

CATEGORIES

Classic Citizen

Culture

Daily Headlines

Education

Election 2022

Family

Focus
Foundations
Series

Free Resources

Free Speech

Government
Updates

How to Get
Involved

Life

Marriage

Opinion

Religious
Freedom

Social and economic justice and racial equity requires that we make a material difference in the lives of library workers and patrons who have for too long been denied power and opportunity on the basis of race, gender, sexuality, national origin, spoken language, and disability.

Sexuality

Drabinski said she would “advance a public agenda that puts organization for justice at the center of library work.”

You might be confused if you thought that a librarian’s main agenda was to help people find good books.

You might be even more confused if you believed librarians should be somewhat neutral and refrain from pushing a leftist political agenda on readers.

In her work with the publisher Litwin Books and Library Juice Press, she is editor of a “Series on Gender and Sexuality in Information Studies.” Books in the series include titles such as *Queers Online: LGBT Digital Practices in Libraries, Archives, and Museums*, *Out Behind the Desk: Workplace Issues for LGBTQ Librarians*, and *Feminists Among Us: Resistance and Advocacy in Library Leadership*.

The ALA is not a friend to parents.

Instead of taking parents’ concerns seriously, the organization’s Office for Intellectual Freedom has advice for school librarians about how to fight back against parents who believe certain books might be inappropriate for children.

It dramatically labels concerned parental involvement “censorship” and “book banning.”

The association's "Library Bill of Rights" demonstrates what the group thinks about parents' challenging inappropriate materials and parental involvement in their children's book choices. Here are three articles from that document:

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

V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views. (The ALA re-affirmed the inclusion of "age" in this article back in 1996.)

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

Basically, the ALA believes children should be able to check out whatever books they want and that they deserve "privacy and confidentiality" – including from parents – in those decisions.

Over at *The Federalist*, Joy Pullman reported on Drabinski's election, pointing out that her article "Queering the Catalog" is the most cited work on her Google Scholar page. Other article titles include "Gendered S(h)elves: Body and Identity in the Library" and "Queering library space: Notes toward a new geography of the library."

The Federalist also quoted from a lecture she gave in 2021, "Teaching the Radical Catalog." Drabinski spoke about pointing students toward books that would lead them to their brand of "queerness."

At Sarah Lawrence, absolutely everybody was queer. ... There were so many ways to be gay. ... And it was my job to teach those students how to find themselves in our library catalog.

In that same talk, Drabinski explained that “queerness includes the subversion of those kinds of normal family types.” Pullman explained, “She’s referring to the family types that naturally produce children – i.e. a married man and woman.”

As we’ve reported at *The Daily Citizen*, the ALA already seems bent on pushing leftist and sexualized books on children, adolescents and teens. We can expect even more of that with Drabinski at the helm.



Related articles and resources:

Fairfax County Puts Obscene Books Back in School Libraries

LGBT Activists, NEA and Librarians Promote Annual ‘Transgender’ Reading Day in Schools

National Education and Library Groups Co-Sponsor Transgender Reading Day for Elementary School Children

Photo from Shutterstock.

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Tennessee Protects Women and
Preborn Babies by Passing Ban
on Mail-Order Abortions

ABOUT THE AUTHOR



Jeff Johnston

Jeff Johnston works as a culture & policy analyst, researching and writing about a variety of subjects including marriage, homosexuality, and healthy sexuality. Though raised in a Christian home and actively involved in his church growing up, Johnston struggled for years to reconcile his Christian faith with his same-sex attractions and sexual addiction. While working as a youth intern at a church in San Diego, he attended a conference, "Hope and Healing for the Homosexual," which began his journey of healing and change. Since then, he has shared the story of God's transforming power with churches, youth groups, schools and the news media. Before joining Focus, Johnston served as a director on the boards of Exodus International and Parents and Friends of Ex-Gays and Gays (PFOX), ministries dedicated to providing resources and support for men and women with unwanted same-sex attractions, and for their churches and families. In addition, he served as executive director of ministries in Baltimore and San Diego, helping men and women move toward God's design for healthy sexuality. Johnston has been interviewed by top media outlets including CBS Sunday Morning, The New York

Times, U.S. News and World Report, Associated Press, Deseret News, The Christian Post, Rolling Stone, Mashable and Vice, and he's been a guest for numerous radio interviews throughout the country. Johnston also regularly contributes articles to The Daily Citizen. He graduated from San Diego State University and lives in Colorado Springs with his wife and three sons.

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Baseball, Racism and Healing

February 19, 2019

Testimony in Support of SB2360

February 14, 2023

Thank you Chairwoman Larson and committee members for allowing me this opportunity to testify in support of SB2360. My name is Kristin Sharbono. I am a ND resident, mother of 5 children, and Licensed Professional Clinical Counselor. I specialize in working with children and their families that have experienced trauma. SB2360 is taking a proactive approach to reducing trauma for our youth. What is trauma? It is someone experiencing an event beyond their ability to cope. Sexually graphic materials meets the definition for exceeding the ability to cope for most if not all children. As a mental health provider I follow the rule when it comes to talking to children about mature topics, sex being one of them to answer questions directly but not to provide more information than what is being asked. This minimizes the risk of exceeding the ability to cope. Having sexually graphic materials has the strong possibility of providing them with information that they are not mature enough to cope with. The question where babies come from is a common example. An appropriate response to this question differs greatly depending on age, maturity, cultural beliefs, and circumstances around the question being asked etc. A book in a library or classroom does not provide the opportunity for these factors to be considered.

As a licensed mental health professional, I am a mandated reporter when I become aware of any type of abuse. Abuse is defined by the ND Department of Human Services on their website: [Mandated Reporters - Home Page \(pcand.org\)](https://pcand.org). I have included the full information about criteria for reporting sexual abuse in my written statement. As a part of my verbal testimony, I would like to highlight one of the criteria for mandate reporting that is directly related to this bill. A child being shown pornographic material is considered sexual abuse and is one criterion that mandates reporting. SB 2360 would provide consistency and clarity to ensure that our youth are not being exposed to pornographic material in public institutions. This is a commonsense bill why would it be appropriate to have materials in public locations that fits the definition of childhood sexual abuse?

It is crucial that standards are set to teach our children appropriate boundaries. Our children have been receiving mixed messages. My children over the last 3 years have had 3 teachers and 1 paraprofessional that have left their positions at school due to inappropriate sexual behaviors. It is important that parameters are made clear to our youth about what is and is not appropriate. Having pornographic materials available blurs the lines. As a mental health professional and a mother, I have the responsibility to teach me clients and children who and

when it is appropriate to talk about personal matters. Sexuality is a private matter. School is not the appropriate setting to be exploring sexuality.

Beyond school being an inappropriate setting there are many students that have already been harmed by sexual abuse and access to these materials will increase the harm. The statistics for the number of children that have been sexually abused varies. The CDC estimates that about 1 in 4 girls and 1 in 13 boys in the United States experience child sexual abuse. This is an important statistic to keep in mind. This means that in a classroom of 25 students (12 girls and 13 boys) approximately 4 students have been sexually abused. Why is this relevant to SB2360? Most children who have been sexually abused have PTSD (Post Traumatic Stress Disorder). Children with PTSD often respond to triggers or reminders of abuse in ways that the educational environment would be challenging for them and their peers. Examples include irritability, angry outbursts, withdrawal, dissociation, and avoidance. Finding sexually explicit materials in the classroom or library would likely trigger students that have been sexually abused. These materials have the potential to increase disruptive behaviors in the classroom in addition to providing harm.

This is a commonsense bill. As a mental health professional, I have training to provide a therapeutic environment for children to process situations that make them uncomfortable and/ or are traumatic. I would lose my license if I showed pornographic materials to my minor clients. Why would it be considered appropriate to have these materials available in the classroom or library? This bill is necessary in providing standards that keep the mental health of our youth a priority.

In summary there are 3 main points that I want to highlight

- 1) Allowing children to view sexually graphic materials in considered child abuse according to definitions provided for mandated reporters.
- 2) There is a significant number of children that have been sexually abused and viewing these materials greatly impacts there ability to learn and the learning environment of their peers.
- 3) Mental health professions have training in addressing sexual abuse and related circumstances, but it is considered unethical for mental health professionals to provide these materials why would it be appropriate for them to be available in a library?

Respectfully submitted,

Kristin Sharbono, M. Ed., LPCC

Mandated Reporters

[North Dakota Department of Human Services](#)

Know the signs

The first step in helping an abused or neglected child is learning to recognize the signs. A single sign does not prove that child abuse or neglect is occurring, and there is no one sign of child abuse or neglect.

Please click each button and read the text under each.

When you're finished with this page, click on the blue "Reporting" tab near the top of the page.

Abuse

Neglect

Physical abuse

Children who are physically abused may:

- Be self-destructive, aggressive, or withdrawn
- Run away frequently
- Explain their injuries in strange or inconsistent ways
- Seem afraid of adults, including parents or guardians
- Intentionally hurt animals
- Report that an adult is hurting them

Physically abusive parents may:

- Offer no explanation, or a conflicting or unconvincing explanation, for the child's injury
- Consistently talk about the child negatively
- Use harsh physical punishment with the child, or ask teachers or other caregivers to use harsh physical punishment

Sexual abuse

All sexual activity between an adult and a child is sexual abuse, even if it doesn't involve penetration, force, pain, or touching.

Sexual touching between children can also be sexual abuse if there is a significant age difference between the children (usually 3 or more years) or the children are very different developmentally or in size.

Sexually abused children may:

- Act seductive or engage in inappropriate sex play
- Show great worry for their siblings

- Gain or lose a large amount of weight
- Attempt suicide
- Feel threatened by physical contact
- Have difficulty walking or sitting
- Have nightmares or wet the bed
- Become pregnant or contract a venereal disease
- Run away from home

Adults who sexually abuse children may:

- Be very protective of the child or limit the child's contact with other children, especially of the opposite sex
- Tend to keep to themselves
- Be jealous or controlling with family members

There are three types of adult sexual abuse of children:

- Touching sexual abuse
- Non-touching sexual abuse
- Sexual exploitation

Whenever you learn that an adult is doing any of the following things, you must report it:

Touching sexual abuse

- Fondling a child's genitals, breasts, or buttocks
- Making a child touch another person's sexual organs
- Any penetration of a child's vagina, anus, or mouth by a penis or any other object for no valid medical reason

Non-touching sexual abuse

- Indecent exposure or being naked in public
- Showing children pornographic material
- Masturbating in the presence of a child
- Making sexual comments to a child
- Harassing, encouraging, pressuring, or bargaining with a child to perform sexually
- Achieving sexual arousal by watching an unsuspecting, non-consenting child who is undressing or unclothed

Sexual exploitation

- Using a child for prostitution
- Taking pictures of a child for pornographic use
- Denying age-appropriate privacy to a child who is dressing, undressing, or using the bathroom

Workplace computers

Child pornography found on a workplace computer must, under the law, be reported.

Physical neglect

There are three main types of physical neglect.

Tom J. Tracy**818 17th St. NE
Jamestown, ND 58401****Cell: 701.320.9817
Email: tjtracy@daktel.com**

To: Members of the Senate Judiciary Committee**Date: FEB 14th 2023****RE: TESTIMONY CONCERNING SENATE BILL 2360 at 2;
45 pm on Feb 14, 2023**

Thank you for the opportunity to provide testimony on this very important bill.

The bill before you today was written because of the contents of a book entitled "Let's Talk About It". This book was discovered in the Barns County Library this past fall. The book was make available to 12 year old children.

I have made available to the Senate Judiciary Committee 3 copies of this book. House Majority Leader Mike Lefor and Senate Majority leader Dave Hogue also have copies of the book.

This book, according to the ND Century Code laws concerning obscenity and pornography is obscene.

OF ALL THE TESTIMONY I HAVE HEARD INCLUDING AT A MEETING IN VALLEY CITY WHERE 10 PEOPLE CAME FORWARD IN FAVOR OF PROVIDING 12 YEAR OLDS THE ABILITY TO CHECK OUT THIS BOOK...AND TESIMONEY DURING THE HOUSE JUDICIALRY COMMITTEE ON JANUARY 17:

No one who testified attempted any argument that the book was not obscene.

The current law allows for a North Dakota public library to have obscene materials in its library. This is one of several exceptions in the current law. Senate bill 2360 would eliminate those exceptions that allow for tax payer funded libraries in North Dakota to have obscene materials and would provide a penalty if libraries did not comply with the law.

It may be interesting to note that during the last interim session of the ND Legislature a bill was passed overwhelming that would limit the teaching of Critical Race Theory. There was no penalty attached to the bill. In many school districts the bill was ignored and CRT was taught in defiance of the law.

Before deciding on whether or not the Senate Judiciary Committee should pass this bill I would urge the Committee members to do two things.

Take a look at the contents of the book especially the very explicit cartoons and drawings of young people engaged in a variety of sex acts and other situations that are clearly in violation of the ND Century Code Obscenity laws.

Read the ND Century Code Laws on Obscenity.

The people who will show up for the hearing on Feb 14 who are in favor of making this obscene book available to children as young as 12 years old may try to convince you that restricting this book will be a form of censorship and, if the bill is passed, it would cause great harm to society by restricting the freedom of expression and academic freedom. When hearing these and other arguments I would appeal to the

Judiciary Committee to simply apply common sense to this situation and consider these questions:

Why does a ND Public library or a ND public school, funded with tax payers dollars, need to purchase and promote obscene and pornographic material?

What is the social redeeming value in doing so? And most important: is it in the best interest of children who might gain access to those materials let alone some local pervert who might use the book in an attempt to harm young children?

I would strongly urge the committee to vote in favor of not only this bill but also for any bills that help preserve the emotional health and innocence of children living in North Dakota.

I recently spoke with a detective who has over 20 years' experience dealing with child porn and has arrested and helped prosecute many individuals who had had hard core child pornography in their possession and went to prison for it.

He told me the images in the book "Let's Talk About It" are similar to actual pictures and videos he has found in possession of child pornographers...certainly something to think about as this process unfolds.

Thanks

Sandi L. Bates MLIS
Private citizen – Bismarck, ND

OPPOSED SB2360

SB2360 is a thinly veiled attempt to again change the obscenity statute and remove public libraries from the exemption list; thereby opening the door for censorship at every level to commence. If this bill was really about strengthening digital / internet security filters and requiring compliance from database vendors as described in the title, there would be no need to change the rules by which obscenity is defined.

Miller v. California 1973 has been the standard for coming on 50 years when trying to define and measure obscenity. SB2360 tries to skirt the high court's ruling by eliminating the words contemporary and prevailing for community standards and removing political for the work taken as a whole. You can expect immediate court challenges, thus wasting valuable tax dollars that could have been spent educating people how to evaluate information, a skill many young people perform very poorly because they are only allowed to investigate information in agreement with standards set by a very small, conservative group. A lack of analytical skills when evaluating information puts them at a disadvantage as they compete on the global stage for employment.

On the university sponsored website, First Amendment Encyclopedia, David L. Hudson Jr. explained, "Writing for the majority, Chief Justice Warren E. Burger established a three-part test for juries in obscenity cases: 'Whether the average person, applying contemporary community standards, would find that the work taken as a whole, appeals to the prurient interest; whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.' The three parts of the test soon became known, in short, as the prurient interest, patently offensive, and SLAPS prongs." (<https://www.mtsu.edu/first-amendment/article/401/miller-v-california>)

My questions for the writers of this bill and this judiciary committee are the following. I have noted the page and line numbers to facilitate the exact sections.

In Section 5 a. Why does it only apply to what is "used in this chapter?" Previously Sen. Beard when introducing SB2123 claimed he was removing language as obscenity was defined in another place within the North Dakota Century Code. If that is the case, why again is this bill trying to change the definition? Second, why would it be necessary to remove 'contemporary' when applying the standards? Who then will determine what are the current standards by which we should be judging material? Additionally, why change ordinary to reasonable adults? This again is an attempt to change the Supreme Court's ruling with language by which there is no way to measure who could be deemed "reasonable."

Page 1. Lines 7-21

5. As used in this chapter, the terms "obscene material" and "obscene performance" mean material or a performance which:

- a. Taken as a whole, the average person, applying ~~contemporary~~ North Dakota standards, would find predominantly appeals to a prurient interest;
- b. Depicts or describes in a patently offensive manner sexual conduct, whether normal or perverted; and
- c. Taken as a whole, the reasonable person would find lacking in serious literary, artistic, ~~political~~, or scientific value.

Whether material or a performance is obscene must be judged with reference to ~~ordinary~~ **reasonable** adults, unless it appears from the character of the material or the circumstances of its dissemination that the material or performance is designed for minors or other specially susceptible audience, in which case the material or performance must be judged with reference to that type of audience.

Again, under the following section, why remove “prevailing” as the modifier for how standards are measured? Will some archaic language be resurrected to define which standards we have to abide by? This wording change makes no sense.

Finally, I cannot fathom any reason to remove political from the list of what should be considered as having value in the whole. Is this another way to block all others of a differing opinion from being able to challenge anything in the statute? Please explain what is gained by removing political.

Page 2. 12.1-27.1-02. Promoting obscenity to minors - Definitions.

Lines 9-12

- b. Is patently offensive to **prevailing** standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors; and
- c. Considered as a whole, lacks serious literary, artistic, **political**, or scientific value for minors.

Lastly, what I feel is the real objective of this bill – to remove the exemption for public libraries in connection with the display of obscenities to minors. Why in the recently introduced SB2123 remove exemptions for every institution listed but in this bill, from the very same section of statute, ONLY remove bona fide school and public library? I can only surmise the target is public libraries for censorship purposes.

Line 18 Definitions - Penalty

Line 26

2. As used in this section:

- c. The above **shall may** not be construed to include a **bona fide school**, college, university, museum, **public library**, or art gallery.

Finally, Page 3. Lines 5-14

SECTION 4. AMENDMENT. Section 12.1-27.1-11 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.1-11. Exceptions to criminal liability.

Sections 12.1-27.1-01 and 12.1-27.1-03 shall not apply to the possession or distribution of material in the course of law enforcement, judicial, or legislative activities; or to the possession of material by a bona fide school, college, university, or museum, ~~or public library for limited access for educational research purposes carried on at such an institution by adults only.~~ Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a person who is returning material, found to be obscene, to the distributor or publisher initially delivering it to the person returning it.

Not every adult has access to a college or university’s research materials contained in online databases. By disallowing public libraries from having such content, you are depriving individuals from the opportunity to complete personal or educational research. Not all learning takes place in a school. Many self-directed learners exist and access to subscription-based materials is only affordably available through a source like a public or state library.

Ironically, Linda M. Thorson in her testimony in favor of this bill, SB2360, references the National Library of Medicine. She said, “Numerous pieces of literature are available in the National Library of Medicine on the topic of compulsive sexual behavior, sexual addiction, sexual compulsivity, and sexual impulsivity showing pornography is addictive.” Should SB2360 pass, access to the all-important National Library of Medicine’s information would likely be restricted because it contains many references to subjects deemed pornographic by many who have testified in other hearings.

For all the above reasons and several more, I adamantly OPPOSE SB2360. Please DO NOT PASS.

My name is Montana Ackman, I have been a proud citizen of North Dakota for all of my adult life, and I am writing to you today to urge you to **VOTE 'DO NOT PASS' on Senate Bill No. 2360**. This bill, if enacted, would be incredibly harmful to the God-given and US Constitutionally protected rights of the citizens of North Dakota to raise and parent their children and opens the Senate up to a variety of negative legal actions for its violation of the 1st Amendment as it relates to intellectual freedom and Freedom to View.

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

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

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

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

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

I was raised by parents who adhere to a strict moral code, my parents took the time to educate me on the morals and values that they wanted me to internalize within myself and apply to my life. To this day, I use the good judgement that they taught me to have whenever I am evaluating media and information.

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

In light of this information, I would again urge you to **VOTE 'DO NOT PASS' on Senate Bill No. 2360** as this bill goes against the freedoms protected in the 1st Amendment and places the responsibility for the protection of minors in the hands of strangers and legislators rather than in the hands that can properly protect them – those of parents and guardians.

I appreciate your time and consideration of this!

Respectfully,

Montana Ackman

The Freedom to Read Statement

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

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

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

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

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

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

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

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

We therefore affirm these propositions:

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

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

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

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

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

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

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

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

group without limiting the freedom of others.

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

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

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

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

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

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

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

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

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

A Joint Statement by:

American Library Association (/)

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

Subsequently endorsed by:

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

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

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

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

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

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

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

The Thomas Jefferson Center for the Protection of Free Expression

Freedom to View Statement


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

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

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

Endorsed January 10, 1990, by the ALA Council

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intellectual freedom

idiom

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



Dictionary Entries Near *intellectual freedom*

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intellectual freedom


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MLA 

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North Dakota Senators,

I urge a DO NOT PASS on senate bill 2360. There are already protocols in place in our local libraries and bookstores across the state to prohibit young people from seeing reading materials beyond their age appropriateness. I have frequented the libraries and bookstores in my local community, and have never once had any issues with inappropriate materials for myself as a young woman or for my two young children. This is the direct result of certain subgroups being paranoid and feeling out of control in their parenting due to the immense amount of technologies available to our young people. We have a subgroup in my area called "Moms for Liberty" that started a book review process at our local school district. We should acknowledge that local government already exists to deal with these very small issues. The 22+ books on their list were checked out an average of 4-5 times over the entire duration of these particular books shelf life, which for some was over 5 years. Our libraries and bookstores are not the issue. Our young people have devices readily available to them that they can search whatever they want on. This bill is an overreach of government and is a poor use of legislative time and resources. We have bigger issues in the state of ND to overcome.

Respectfully,

Abbie Axtman
Williston, ND

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Respectfully,

Abbie Axtman
Williston, ND

My name is Patty Steele. I am a 20-year teaching veteran of middle schoolers, the first 17 of which were as an English teacher, and the last few years as a library media specialist. I love my career — reaching students and connecting with them through books and stories has been simply amazing. I am writing in opposition to SB 2360, the text of which requires reasonable people to make a judgement call about people's reading material. I do not promote obscenity in my classrooms or library, but I cannot support a bill that is vague and unclear. Who are these "reasonable" people who will read, for example, Captain Underpants by Dav Pilkey, and decide the character is being obscene because he is dressed in his underwear (and a cape). This series has been challenged again and again. This graphic novel is by no means obscene; it is ridiculous, silly and fun, yet some "reasonable" people might feel otherwise. This bill ridicules the professionalism of teachers and librarians in every level of service, as it assumes everyone will have reasonable thoughts about reading material. Part of reading good books involves different interpretations and perceptions, and appeals to wide varieties of readers. How can teachers and librarians know exactly what reasonable people believe? And if we cannot accomplish that, we will be charged with a crime. Please re-consider SB 2360, and vote against its passage.

Thank you, Madam Chair and Members of the Senate Judiciary committee for the opportunity to give my testimony. My name is Karen Krenz, I am from District 1, in Williston and a mother of 3 boys. I was a teacher and counselor for 23 years in many districts in ND. I am asking that you please RENDER a DO PASS SB2360.

There is a movement across our country. Many of the same books are popping up all over the US and ND. All these “recommendations” are coming from the same organization. They are coming from an organization call America Library Association, the ALA. The ALA has a list of “The Top 10 Most Challenged Books of 2021”. ALL these books are scattered across ND. For example, “The Hate U Give” by Angie Thomas, which is a book that contains inflammatory racial commentary; frequent profanity; and inexplicit sexual activities, is in 40 school and public libraries across ND, including ND Youth Correctional Library. Interestingly enough, majority of the books on this list have a publishing date of 2015-2020. The ALA does not have the protection of innocence for minors anywhere on their radar. They believe that all INDIVIDUALS regardless of AGE should have access to any and ALL BOOKS. The following is from their website:

Access to Library Resources and Services for Minors: An Interpretation of the Library Bill of Rights

The ALA supports equal and equitable access to all library resources and services by users of all ages. Library policies and procedures that effectively deny minors equal and equitable access to all library resources and services available to other

users is in violation of the ALA Library Bill of Rights (which is not a legal document but a statement of principles. WBSD #7 is using the Library Bill of Rights verbatim in our school policy as the schools “Library Bill of Rights”.) The ALA **opposes** all attempts to restrict access to library services, materials and facilities based on the age of the library users.

The ALA is not a friend of the parents either. As stated in an article from Daily Citizen, which I have included in my testimony, instead of taking parents’ concerns seriously, the organization’s Office for Intellectual Freedom has advice for librarians about how to fight back against parents who believe certain books might be inappropriate for children. It dramatically labels parents involvement “censorship” and “book banning.” ALA believes children should be able to check out whatever books they want and that they deserve “privacy and confidentiality”- including from parents- in those decisions.

As I read the next paragraphs, keep in mind that this organization and person, is the third party that is having the influence on what type of books we choose for our kids in many if not all school and public libraries’ in our state of ND.

The ALA recently announced that Emily Drabinski is the 2022-2023 president elect. She will serve as president of the organization beginning in July 2023.

Drabinski tweeted “I just cannot believe a Marxist lesbian who believes that collective power is possible to build and can be wielded for better world is president-elect of the ALA.”

In her campaign, she stated:

So many of us find ourselves at the ends of our worlds, The consequences for decades of unchecked climate change, class war, white supremacy, and imperialism have led us here. If we want a world that includes public goods like the library, we must organize our collective power and wield it. The ALA offers us a set of tools that can harness our energies and build those capacities.

Social and economic justice and racial equity requires that we make a material difference in the lives of library workers and patrons who have for too long been denied power and opportunity on the basis of race, gender, sexuality, national origin, spoken language and disability.

Dranbinski said she would “advance a public agenda that puts organization for justice at the center of the library.”

Thank you for your consideration on this important issue and for your service to the state of North Dakota.

Testimony by Kara Geiger in OPPOSITION to SB 2360

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

It seems to me that this bill attempts to rewrite a law that currently applies only to displays of pornographic publications available for sale that might be visible to minors. It's why we see certain magazines wrapped in plastic and their covers concealed in bookstores and convenience stores. My understanding of this is based on the language in the current law: "...is devoted to, or is *principally made up of* depictions of nude or partially denuded human figures posed or presented in a manner to exploit sex, lust, or perversion *for commercial gain*" (emphasis my own). Furthermore, the current law exempts "a bona fide school, college, university, or museum, or public library for limited access for educational research purposes carried on at such an institution by adults only."

SB 2360 puts every single book, magazine, pamphlet, etc. (including artistic and scientific materials) in a business, school library, or public library that simply *contains a written description* – not just images – of sex and nudity on the same level as an issue of Playboy magazine. Materials no longer have to be "principally made up of" sexually explicit depictions – they just have to "contain" them. It makes criminals out of librarians. Think about that. It's not reasonable. It's not legal. It's not good for society.

This bill tasks each public and school library in the state with reviewing its entire collection of materials, which places an undue burden on institutions that already do not receive enough funding. This bill will especially hurt rural libraries, many of which have only one paid staff member. I fear that we will see a mass closing of public libraries in the communities that need them the most.

This bill, if passed, would set a very dangerous precedent. What category might be censored next? How about books that challenge Christianity or promote atheism?

Considering the demographics of the current legislature, it seems entirely possible that something like that could be next, if this bill passes. Where does it stop? It needs to stop here and now, by killing this bill.

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

A bill like SB 2360 tells me that our government does not trust public libraries, their staff, or their trustees. If that is true – if you truly believe that public libraries in North Dakota are not operating with the best interests of our citizens in mind – then we have a much bigger problem than the scope of what this bill addresses. If I'm mistaken – if you DO trust libraries – then I respectfully ask you to back off and let libraries do their job. Encourage your constituents to work with their local library to address their concerns about materials they feel shouldn't be in the library. Encourage them to attend library board meetings, which are always open to the public, to ask questions, and to engage in productive dialogue.

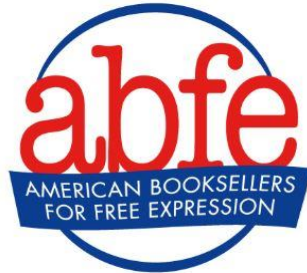
A bill like SB 2360 also tells me that our government does not trust school librarians, administrators, parents, or guardians.

The government should not have a say in what a public library should or should not have in its collection. That's censorship and it's illegal. **Vote NO on SB 2360**

History tells us that those who try to ban books are NEVER on the right side of history. Be on the right side and vote NO on this bill.

Thank you for your time.

Kara L. Geiger, Mandan



Dear Chair Klemin and members of the committee:

On behalf of American Booksellers for Free Expression (ABFE), the free speech initiative of the American Booksellers Association – the not-for-profit trade association of independent bookstores across the country, including North Dakota – I am writing today on behalf of North Dakota bookstores in opposition to S.B. 2360.

The bill would make it a Class B misdemeanor if a “person willfully displays at newsstands or any other business establishment frequented by minors, or where minors are or may be invited as a part of the general public, any photograph, book, paperback book, pamphlet, or magazine, the exposed cover or available content of which exploits, is devoted to, or contains depictions or written descriptions of nude or partially denuded human figures posed or presented in a manner to exploit sex, lust, or perversion.”

S.B. 2360 is a threat to independent bookstores (and indeed, all bookstores), which stock and sell thousands of books. It would simply be impossible for bookstore owners to know everything in every book and materials that a store sells – meaning any given book on the shelf of the store represents a potential Class B misdemeanor. ABFE, on behalf of ABA, believes this bill represents a threat to a bookstore's owner's First Amendment right to carry and sell legal materials.

On behalf of our North Dakota bookstore members, we urge the House Judiciary Committee to oppose this bill.

We appreciate the opportunity to share our concerns with the committee.

Sincerely,

David Grogan, Director
American Booksellers for Free Expression, Advocacy & Public Policy
American Booksellers Association
333 Westchester Ave, S202

SB2360

I urge you to vote NO on SB2360.

This bill is bad policy for the state of North Dakota. This bill is censorship of all materials that can be put in libraries. The wording is so vague that all libraries will be forced to remove and dispose of ¼ of the books that are in the library. And if the library does not comply the staff will be arrested and charged with a Class B misdemeanor. Are there not more important things to be arresting people for like drug or sex trafficking?

Who is going to pay for removing all the materials? Who is going to pay for the extra staff that is going to be required in order for libraries to be in compliance with this bill? Who is going to pay for the cost to law enforcement when they have to arrest library staff? Who is going to pay court costs and attorney fees? How about the already backed up court dockets? And now you want to fill those dockets with library staff?

Who is going to define what the vague wording in these bills means? Something that offends me will not be the same thing that offends you. What is sex-based classifications?

Libraries already have policies in place for collection management that is age appropriate as well as reconsideration policies for any patron to complete to have a book removed or reshelfed. Library computers are already locked down from accessing any sites that would cause concern for minors.

What about prime time TV??? Minors see far more pornography on TV then they see in a library. What about smart phones that all the minors have? They can google anything they want to on their phone and find the answer or what seems to be the answer. Are you going to ban minors from having phones?

The bill requires that library directors submit a report to the attorney general. What is this report supposed to be about? Who is going to review these reports and respond back to directors? This put additional work on the attorney general's office who is going to pay for that? Are you going to write job descriptions for all the employees of the state of North Dakota or just Library Directors?

This bill is bad policy and bad politics and need to be voted down.

Respectfully submitted,

Cindy Aaser

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

Members of the House Judiciary Committee:

My name is Rachel Kercher and I am the Youth Services Librarian at the Leach Public Library in Wahpeton. I am writing to urge you to vote "do not pass" on bill 2360. This bill is poorly written and overreaching.

The first half of this bill deals with preventing minors from seeing books displayed that include written and visual depictions of nudity and sexually explicit content. I agree with this. Young children do not need to see or read about nudity or the sexual activities that would interest adult patrons. Plenty of libraries have separate children's, teen, and adult collections to prevent this. Unfortunately, there is no way to prevent minors from entering the adult areas of the library. We are a public library, not a prison. Very young children often enter the adult collection area with their parents. Middle and High School-aged children sometimes checkout materials from the adult fiction section or use the adult non-fiction section to help with school projects. There is no way to prevent minors from accidentally coming across this information.

The second half of this bill deals with library databases, which is a completely separate subject and should be handled separately. By federal law, libraries and schools are required to have CIPA filters on their computers, and while no filter is perfect the ones in North Dakota libraries (which are provided by DPI) do a very good job. We have not had a problem in my library in the ten years that I have worked here. Problems arise by trying to police database creators and providers. Libraries will be required to withhold payments and submit provider names to the state attorney general for non-compliance? This is a fine idea, until you consider that the creators and providers of our databases are not located in North Dakota and are therefore not subject to North Dakota law. They have no obligation to comply, so how is this expected to work? Is there a plan to enforce this tremendous overreach? Or will librarians and teachers be punished for something they have no control over?

Please vote "Do not pass" on this bill.

March 10, 2023

Dear Senators and Representatives,

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

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

Difficult Balancing Act

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

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

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

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

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

Obscenity/Pornography

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

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

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

A Case Study

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

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

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

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

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

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

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

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

SB 2360

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

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

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

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

HB 1205

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

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

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

What Might Be Banned?

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

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

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

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

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

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

Is Compromise Possible?

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

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

A Suggestion (Finally...)

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

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

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

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

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

In public libraries, successfully challenged materials should be allowed to be re-cataloged for a more mature group. In addition, there should be no threats of misdemeanors for librarians having potentially challengeable materials in the collection.

To be clear, I'm not promoting removing items from libraries. I just think there needs to be some way for communities to be heard and materials possibly moved to a more appropriate location. It would be tragic if librarians were jailed in North Dakota, if large numbers of items were banned, or if eBook services were lost, all because no compromise was explored.

Conclusion

If the ND legislature passes a bill that outlines how children's materials can be challenged for age-appropriateness, communities would be empowered to determine whether certain items meet local standards. Instead of banning books and other materials, library legislation could provide a roadmap for how disputes can be resolved.

Librarians are stuck between opposing views of what should be included in library collections. Some folks want to ban hate speech (as they define hate). Others want to ban misinformation, which really means opinions with which they disagree. Some people want to ban books they consider racist or insensitive (even Dr. Seuss and Roald Dahl!). Others want to ban material they believe is harmful to their children, while some parents want their children to explore those same materials. If we start banning materials, where do we stop? The answer is to defend everyone's freedom to speak, read, write, and view, but to provide a mechanism whereby viewpoints can be properly categorized for age-appropriateness according to contemporary community standards.

The First Amendment guarantees several of our most important freedoms. We must protect the freedoms of others in order to preserve those freedoms for ourselves.

Thank you kindly for your consideration, and for making it to the end of this letter.

Sincerely,



Joseph Rector
Jamestown

Birgit Pruess, Ph.D.
3696 Harrison St. S
Fargo, ND

March 10, 2023

RE: SB2360

Dear members of the 68th Legislative Assembly of North Dakota,

I am resident of Fargo, ND and testifying as a private citizen and not in representation of any group. Please, accept the below as my testimony IN OPPOSITION of SB2360 regarding public libraries.

I am an academic and an intellectual and as such very much appreciate libraries and the work of librarians. I believe in the first amendment as well and that means free speech. To ALL of us. Censorship as such in this bill is not in agreement with those values and I oppose any attempts at banning books from our public libraries.

Of course, I condemn true pornography and certainly when it is provided to children. But the list of 'explicit material' goes beyond the normal definition of pornography, which involves commercialization. Nobody in a public library makes money from a book that contains the description of sex, whether that is in a picture or words.

There is no definition of what constitutes a 'reasonable' adult.

There are educational books that explain sex. And how to avoid getting pregnant. I consider such books useful. Why would we ban them?

Threatening a librarian with a class B misdemeanor for doing their job as in providing books to the general public is not acceptable in a free society.

Has it occurred to anybody that the bible contains sexual content?

If the bill should be passed, it needs to include appropriated funding for libraries to hire the employees that are needed to read every book for sexual content. I don't expect our librarians to know the content of every book they provide.

Altogether, I oppose SB2360 and recommend a DO NOT PASS vote.

As in all my testimonies, I much appreciate the hard work and dedication that each member of my state legislative assembly puts into our state. Thank you.

Sincerely and respectfully
Birgit Pruess

SB2360

I urge you to vote NO on SB2360.

This bill is bad policy for the state of North Dakota. This bill is censorship of all materials that can be put in libraries. The wording is so vague that all libraries will be forced to remove and dispose of ¼ of the books that are in the library. And if the library does not comply the staff will be arrested and charged with a Class B misdemeanor. Are there not more important things to be arresting people for like drug or sex trafficking?

Who is going to pay for removing all the materials? Who is going to pay for the extra staff that is going to be required in order for libraries to be in compliance with this bill? Who is going to pay for the cost to law enforcement when they have to arrest library staff? Who is going to pay court costs and attorney fees? How about the already backed up court dockets? And now you want to fill those dockets with library staff?

Who is going to define what the vague wording in these bills means? Something that offends me will not be the same thing that offends you. What is sex-based classifications?

Libraries already have policies in place for collection management that is age appropriate as well as reconsideration policies for any patron to complete to have a book removed or reshelfed. Library computers are already locked down from accessing any sites that would cause concern for minors.

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The bill requires that library directors submit a report to the attorney general. What is this report supposed to be about? Who is going to review these reports and respond back to directors? This put additional work on the attorney general's office who is going to pay for that? Are you going to write job descriptions for all the employees of the state of North Dakota or just Library Directors?

This bill is bad policy and bad politics and need to be voted down.

Respectfully submitted,

Cindy Aaser

Dear Honorable Members of House Judiciary Committee,

I would like to urge you to not pass SB2360 for a number of reasons as I will state below.

Libraries are already filtering, and communities already regulate libraries at the local level. This bill is redundant and government overreach that will stifle free speech and remove local control from something already effectively managed at the local level.

In a world with few filters anymore, libraries filter everything through their local policies set by governing boards and community needs using tools that help them select appropriate resources. Community members always have the right to challenge any item based on policies put in place by governing boards. No two communities are alike, and each should be allowed to regulate their libraries as they see fit and not be dictated to by a "nanny state" that seeks more regulation.

This bill is fiscally irresponsible in that it will cost the state and local communities vast amounts of money to comply with something already regulated, as I have said above, through the layers of filters. It will require expanding government at the state and local level, adding additional burdens to governments and taxpayers already stretched thin. Should this bill become law, it will face the inevitable challenges of violating the First Amendment, and those challenges will cost taxpayers additional dollars.

As a citizen and a taxpayer, I oppose a bill that will cost my community and myself while placing control of our libraries in the hands of a law that will ultimately be redundant, unconstitutional and cost taxpayers tons of money.

Respectfully submitted.

Mark Holman, Williston, North Dakota.

This bill is being promoted as a safety measure for children. However, it is a measure that is un-American. We established rules that limit the reach of government. The government, including the State of North Dakota's Legislature, cannot restrict what people write and what people read. This bill breaks those rules by imposing restrictions on individual freedoms that are protected by the Bill of Rights. A super-majority of Americans across political divides oppose book bans. This is not a partisan issue. We need to resist the urge to impose restrictions that are out of line with our ideals as Americans.

This bill must be rejected as it is unAmerican.

I am writing in opposition of SB2360. This bill violates our First Amendment rights. The First Amendment protects us against government limits on our freedom of expression. The First Amendment prevents government from keeping you from hearing or reading the words of others (even if you never speak out yourself, you have the right to receive information).

This proposed censorship of materials in public libraries will only provide less educational opportunities for people. Being exposed to materials that have the naked human body are opportunities to teach, learn and provoke conversation. As the bill reads and I interpret, this material would include human anatomy books, educational books about our bodies, books about natural processes with our bodies, etc. I remember learning about the human body, both male and female as early as 5th and 6th grades. I am not damaged by knowing about the human body from a young age and am thankful for the discussion and education. I can only imagine the message we send when we chose to ignore and censor the human body- should we be ashamed? Should we be fearful? Are we bad?

Many of these periodicals are not meant to be interpreted as pornography and the like. Exposure to this material comes down to parents being parents, educating and discussing these things with their children, teaching them to navigate society and the world. The legislature should not interfere with librarians/library board decisions about building collections based on each community's needs. Censorship in libraries will not "protect" our youth. When does the censorship stop? What about cell phones and access to the internet? Those devices and resources pose more of an issue than the books in the library. Maybe children under 18 should not be allowed to have cell phones. The internet is a more dangerous place than the library.

Concerned Citizen,

Sarah Mertz

I oppose SB2360. Our government complains of Communist China being oppressive with censorship. Any version of censorship is oppressing the First Amendment. Any government official that supports censorship is not conservative but rather communist.

I am a librarian, employed at the University of North Dakota. While my testimony is informed by my past experience as a librarian, teacher, and bookseller, it is offered as a private citizen and not as a representative of my employer, my professional organization, or my colleagues.

We have entered a very censorious age in the United States. Support for the First Amendment, however construed, is declining, especially amongst the younger generations. Online discourse is full of praise and condemnation of attempts to curb the written word and constrain readers. In recent weeks, we've seen a publisher bowdlerize the works of Roald Dahl to make them more palatable to a progressive readership, and Stanford University hauling in a student to account for himself for having been seen reading—not espousing—*Mein Kampf*, which is an important source for many historical researchers, who read it without ill effects as it is one of the least persuasive books ever written for anyone with the slightest moral sense.

When private publishers and educational institutions engage in this behavior, it may be laughable or a worrisome sign of the times, but they're certainly free to manage their affairs and intellectual property as they see fit, under the First Amendment (and private citizens may criticize them). What is actually threatening, and which inspires me to write this testimony opposed to this bill, is when this attitude is taken up by a government with the power to tax, the power to fine, and the power to imprison. This law goes far beyond the State's historic role regulating speech, the press, and thought; I believe it violates the First Amendment and I strongly suspect that the courts will be called on to decide the matter, at great expense to the State.

Common to all the censors—or, to themselves, the upholders of virtue—is an implicit belief that books are magic spells: Upon exposure to them, they work of their own accord, and compel the reader to adopt some political belief, convert to some religion, or live some sort of lifestyle. That this is untrue is self-evident to outside observers; indeed, none of the supporters of private or government censorship can claim to be protecting *themselves* from books, but some other, weaker, less intelligent, group that for whatever reason cannot speak for itself.

But we all know, since we see it every day, that children think for themselves, as do students, immigrants, or whoever else is supposed to need protection from these wicked

books—and the price of this “protection” is to place libraries, bookstores, and other public spaces under surveillance and threaten their staff with fines and prison.

That families have a role in choosing what and how their children read is self-evident; they do so no matter what libraries, bookstores, and the internet may offer, by teaching and discussing values, and with adults and children realizing that books can be read or not read, and agreed with or not agreed with.

Regarding the book—the one book—that has inspired all this legislative effort. Every family in the world believes that their children should be exposed to the variety of forms and shapes of human sexuality gradually and in certain ways. Every community is composed of families with a range of those opinions. The challenge for a good librarian is to make books available that appeal to that range; a librarian who ignores their most conservative *or* progressive patrons is not properly doing their job. But it is also a betrayal of the library to make it a weapon for one “wing” of its patron base to deny material to the other. To do so would be to infantilize a whole swath of the community, to pretend they are not intelligent or “good enough” families to read on their own.

I believe that the State of North Dakota has a role to play in strengthening and empowering North Dakota families. Improving access to childcare; credits for families with children; encouraging immigration for families from impoverished, war-torn, and authoritarian countries—all these would be an unmistakable signal to the world that North Dakota welcomes all families who wish to strengthen themselves and contribute to our state and communities.

On the other hand, if the State of North Dakota wishes to encourage and enrich First Amendment lawyers—a likely byproduct of this legislation—it might be better off to simply fund a few new positions at the University of North Dakota Law School.

I urge the state’s representatives in the legislature to turn away from this censorious moment, to treat their fellow citizens as an intelligent free people, and to learn how librarians actually select books, connect with their local communities, and try to welcome everyone to their institutions.

Dear Honorable Members of the North Dakota senate,

My name is Lilly Funk, and I live in Minot, North Dakota. I am a federal employee at Head Start (as an assistant teacher). The purpose of this written testimony is to persuade members of the North Dakota senate to support SB 2360.

I am in support of this bill because it protects children from obscene images and videos. Pornographic images and videos profoundly influence the human brain. Since the brain is so easily rewired (through consistent messages), children who see obscene images/videos from such a young age become desensitized to them. This negatively affects them later in their lives.

Research shows that pornographic material negatively influences relationships, self-esteem, and mental health (amongst many other issues it causes). Children must be shielded from this material, and this bill would be a step in maintaining children's preservation from the devastating effects of pornography.

Thank you for considering making the right decision to pass this bill.
Lilly Funk

Please Oppose SB2360 – Vote NO

Why is the ND Legislature wasting time and energy trying to restrict the sorts of books that Public Libraries have? Public Libraries' personnel use common sense in serving their patrons and especially children. Banning books like the Bible which has some passages of graphic sexual content is inane. I am a pastor and find this bill ridiculous and an undue incursion of government upon Free Speech as well as Religion.

Vote NO on SB2306

I am Pam Carswell, veteran spouse, mother of three. I have been a librarian for teens for over ten years.

This bill takes away great books from teens who need information and context about sex. Whether the teens wish to read a book in the fiction or nonfiction section, there are books that include this human subject in every well stocked library. Pass this bill and teens lose this access they desperately need to accurate information. That's quite unwise and a recipe for higher STD rates, unintentional pregnancies and a lot of poor decisions.

Adults who enjoy a romance novel lose out with this bill. Those who enjoy a Tom Clancy novel will lose out. Those who want to read the Bible will lose out. These books will disappear from our libraries as there is sexual content and not so pretty content in many cases in these books. The rape of Tamar in 2 Samuel is particularly abhorrent. I hope the bill's sponsors are willing to speak with every disappointed adult reader when they can't get the books they want to read! I don't fancy it personally. We have a lot of senior ladies who will be quite riled without their steamy paperbacks!

The irony of all of this is that if the Republican sponsors of this bill had followed their avowed commitments of smaller government and local control, they would have filled out a form for reconsideration for a material they questioned. All public libraries have this available. This form would have opened the door for a civil conversation about the placement of perhaps too mature materials or inaccurate information in the materials and this all could have been taken care of quickly and easily.

Now, they have attempted to make overreaching decisions for all readers in North Dakota which are NOT appropriate or appreciated. Rewriting how libraries operate over a few books you personally object to is not the way to run the government.

**CENSORSHIP REFLECTS A
SOCIETY'S LACK OF
CONFIDENCE IN ITSELF. IT IS A
HALLMARK OF AN
AUTHORITARIAN REGIME.**

#ReadingIsNotACrime

LIBERTAS BELLA

Potter Stewart

House Judiciary Public Hearing
March 14th, 2023
SB 2360 - Testimony in Opposition

Chairman Clemin and members of the House Judiciary Committee, my name is Whitney Oxendahl, and I am writing in opposition of SB 2360. I oppose this bill because I am a parent of three small children, and this bill aims to limit what books and resources my public library can offer to my family, my children, and my community.

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

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

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

Beyond this, the bill would create a tremendous, nearly impossible burden on North Dakota librarians to audit their entire collection for this type of content. "Explicit sexual material" is too broad to even define to implement removal of this content.

This bill is not about freedom and liberty, this is about placing restrictions on ideas and information. This bill is about censorship, and I urge you to give SB 2360 a Do Not Pass recommendation.

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

Reasons 1205 and 2360 are not necessary and are bad for communities:

- Libraries already have policies and procedures in place for adding and removing items from the collection
- Possibilities of Class B misdemeanor for library staff and employees at businesses that sell books, magazines and movies is an overreaction that is harmful to employees and business owners
- The definitions of “sexually explicit” are vague and could have a potentially overly broad impact
- Legislation controlling what people have access to is extreme government overreach and removes all pretense of local control
- While protecting youth is an admirable goal, resources could be better spent preventing suicide, violence, food insecurity, and much more
- Financial implications have not been considered, including a) the cost to pay staff to read EVERY book , b) the cost to remove supposedly “obscene” books, and c) the increase to liability insurance/legal fees if public employees face criminal charges
- Obscenity laws already exist in the NDCC
- Libraries DO. NOT. CARRY. PORNOGRAPHY.

It is the twentieth-first century, not time for book bans. Public libraries collect books for EVERYONE! What is right for person A might not be right for person B. Only person B (or parents) can make that decision.

Thank you.

Hello,

I am writing in opposition to SB 2360. This bill limits the access of information for children and adults. There are already laws and filters in place on the internet in schools and libraries. The definitions of North Dakota contemporary standards and the opinion of a reasonable adult are vague. Books that reference the LGBTQ+ community are often claimed to be explicit, even if they aren't. Parents have the right to monitor and restrict what their children read, but this should not limit what the general population decides to read. I encourage you to vote do not pass on SB 2360.

Thank you,
Wesley Byzewski

March 11, 2023

Representative Klemin and Committee Members,

SB 2360 violates the First Amendment and is bad for North Dakota. I strongly urge a “Do NOT Pass” out of committee and “NO” votes on the floor for SB 2360.

I am a North Dakota resident and local church pastor. Two weeks ago, I and hundreds of others, including members of my church community stood for half an hour outside the Bismarck Public Library reading books. We read in the bitter cold to protest this bill because it restricts the rights of the people, bans the Bible from public access, removes knowledge of the human body from the public eye, and restricts the access of the homeless, the homebound, the hospitalized, and all North Dakotans.

The First Amendment protects the freedom of speech. This bill broadly and subjectively redefines “obscene” (a definition which was already legally established in 1973 in the *Miller v. California* case) and will remove from our libraries a wide spectrum of publications including medical texts with images of the human body, pregnancy books, parenting resources, history accounts, art books, fitness materials including workout videos, health magazines, and a large number of other non-fiction and fiction books and movies in *all* sections of our libraries. In addition, our state will lose access to on-the-go resources like Libby and Hoopla, which provide a way for residents to remotely borrow digital and audio books and watch movies while traveling, homebound, hospitalized, or too busy to physically stop at the library. Important medical resources, history accounts, commentaries on society, works of art, and entertainment will be banned by SB 2360. As a result, thousands of voices will be silenced throughout the state by this bill. This is a direct violation of our First Amendment rights.

The First Amendment also protects the freedom of religion. SB 2360 will unequally remove religious texts from our public libraries. As a Christian pastor, it alarms me that our legislators would restrict the religious freedoms of North Dakotans by banning the Bible and commentaries related to the Bible from our libraries. Other religious texts will also be banned by this bill, but the censorship will affect the variety of religions unequally.

Our libraries already have established policies for curating appropriate collections based on each community’s needs. The legislature should not infringe on the responsibilities of our library boards or school boards to make the best decisions for their local community or the right of parents to make the best decisions for their own children.

Not only is SB 2360 a direct violation of the First Amendment and an act of government overreach into the decision-making process of local communities, but it will also be expensive to implement. Tax dollars will need to be spent to hire readers for every book, article, and magazine currently in circulation in our libraries and schools. The curation of current and future collections will require additional staff. In addition, tax dollars will need to be spent on litigation as a result of this bill.

As a North Dakotan, I strongly urge a “Do NOT Pass” on SB 2360 and a “No” vote on all forms of SB 2360.

Sincerely, Rev. Gretchen Deeg

North Dakota Policymakers, Greetings.

My name is Kevin R. Tengesdal from here in Bismarck. I am writing today to oppose this bill before the 2023 North Dakota Legislative Assembly. SB 2360 (relating to the definition of a public library and required safety policies and technology protection measures) would criminalize schools, colleges, universities, museums, public libraries, and art galleries under state obscenity laws and looks to proactively redefine the Miller Test for obscenity, which has been settled law for over 50 years. As a citizen of North Dakota, I firmly request a unanimous DO NOT PASS on Senate Bill 2360 as presented or amended.

The American Library Association recorded 681 attempts in 2022 to ban or restrict library resources, with 1,651 book titles questioned, up from 1,597 in 2021. According to PEN America, a nonprofit organization that protects and celebrates free expression in the United States, books about queer characters or authored by queer writers were disproportionately challenged or banned during the 2021-2022 school year.

Missouri enacted legislation prohibiting student access to explicit sexual material. In turn, school districts within the state removed works about classical artists from the Renaissance era; Batman and X-Men comic books; graphical displays of Shakespearean work; and the Pulitzer Prize-winning graphic novel about the Holocaust, Maus. These prohibitions could include romance novels and their steamy covers, movies with sex scenes, and any books with images relating to sexual identity or gender identity on the covers or the pages therein.

These pro-censorship bills are vague and prohibit people of all ages from accessing information based on the subjective judgment of what is considered obscene. This censorship would affect every library collection and result in the disposal of thousands of books and movies. Will it include censoring the internet as well? In addition, these bills are so vague and broad in their censorship that the gathered writings of Scripture could be under scrutiny for the explicit sexual material (as initially enumerated by HB 1205):

01] HUMAN MASTURBATION Genesis 38:8-9 whenever he fucked his brothers widow he jacked his jizz on the ground so he wouldnt produce a child for his brother ;

02] DEVIANT SEXUAL INTERCOURSE Ezekiel 16:17 then you took all that fine jewelry I gave you, my gold and my silver, and made dildos of them for your bedrooms ;

03] SEXUAL INTERCOURSE (abundant passages) First Book of Kings 11 King Solomon was obsessed with women. He stole them from pagan nations of which God had clearly warned Solomon lusted with them anyway, refusing to give them up. He screwed a thousand women in all! And they seduced him away from God. As Solomon grew older, his wives beguiled him with their alien gods and he became unfaithful he didnt stay true to his God as his father David had done .;

04] DIRECT PHYSICAL STIMULATION OF GENITALS Deuteronomy 25:11-12 the wife of the one man, trying to rescue her husband, grabs the dick and balls of the man hitting him ;

05] SADOMASOCHISTIC ABUSE Ezekiel 23:3 they let their boobs be whipped, and there their supple nipples were twisted hard ; or, 1 Samuel 18: David was delighted to accept the offer. So, before the time limit expired, he and his men went out and killed two hundred Philistines and presented their foreskins to King Saul ;

06] POSTPUBERTAL HUMAN GENITALS Deuteronomy 23:1 No one who had a vasectomy or has his balls removed for any reason may enter any church

07] SEXUAL PREFERENCES (all throughout) First Book of Kings 11 King Solomon was obsessed with women. He stole them from pagan nations of which God had clearly warned Solomon lusted with them anyway, refusing to give them up ;

08] SEXUAL ACTIVITY (numerous passages) 1 Corinthians 7:3-4 The husband should give to his wife her right to

sexual intercourse, and likewise, the wife to her husband. The wife does not have authority over her own sexual activities, but the husband does; likewise, the husband does not have authority over his own sexual activities, but the wife does ;

09] SEXUAL PERVERSION (all of the above?) Genesis 2:25 the couple were both naked, neither of them was embarrassed or ashamed ;

10] SEX-BASED CLASSIFICATIONS Ephesians 5:22-24 women are to submit to mens leadership as you submit to the Lord. Men are in charge of women like Christ is in charge of the Church ;

11] SEXUAL IDENTITY Genesis 3:16 God said to the woman, Your sexual orientation will be to bear children in intense pain and suffering, and you shall desire your husbands lusts, and he shall be your master ;

12] GENDER IDENTITY Genesis 1:27 God created human beings in their image, they created them with dicks and balls and others with vulvas and uteruses .

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

However, we should be honest: it is not the bible, the internet, or The Birth of Venus these bills will target first it will be those books, novels, and movies with queer stories or by queer authors. Historically these materials have provided and should continue to provide queer youth with a lifeline when they need it most. Libraries are among the few welcome public spaces left for all people to congregate, share ideas, and collaborate without being forced to spend money. Libraries should be places where everyone finds welcome, no matter who they are, and where everyone can see themselves reflected in the material among the stacks. Laws like these make that a lot less likely.

These bills are written with such a thin veneer to attempt to safeguard children, yet one can understand they are targeting marginalized communities and those who advocate with them. North Dakota cannot let a small groups discomfort over any single book or movie become censorship for all. These unreasonable and unnecessary bills would open our institutions, workers, and boards to harassment and allegations under the criminal code. These bills will criminalize schools, colleges and universities, public libraries, and museums for books, ebooks, educational resources, and artwork in their care.

I urge North Dakota Legislators to vote down HB 1205 and SB 2360 and for each North Dakota citizen to contact their representative to denounce censorship.

Yours sincerely,

Kevin R. Tengesdal, Bismarck

CONCERNED
WOMEN *for* AMERICA
LEGISLATIVE ACTION COMMITTEE

March 14, 2023
House Judiciary Committee
Testimony in Support of SB 2360

Chairman Lawrence Klemin and members of the House Judiciary Committee, I am Linda Thorson, State Director for Concerned Women for America (CWA) of North Dakota. Today, I am testifying for Concerned Women for America Legislative Action Committee in support of SB 2360.

As the largest public policy women's organization in the nation and our state, Concerned Women for America (CWA) of North Dakota urges you to protect minors by prohibiting the promotion of obscenity, objectionable materials, and obscene performance which appeals to a prurient interest.

I appreciate the opportunity to address the merits and necessity of passing SB 2360, relating to obscenity control. There are numerous harms for children which make pornography a public health risk.

In 2011, at the National Strategy Conference on Combating Child Exploitation, [Attorney General Eric Holder](#) expressed alarm at the rapid growth of pornography associated with children and sex abuse saying,

"As everyone here knows, the work isn't easy. In fact – in this time of growing demands and limited resources – your efforts – to protect children in need and at risk, to support juvenile victims, and to safeguard our young people from exploitation, abuse, trafficking, sexual violence, and online threats – have never been more urgent."

Since the launch of Project Safe Childhood five years ago, investigations and prosecutions of child exploitation crimes have increased dramatically. Unfortunately, we've also seen a historic rise in the distribution of child pornography, in the number of images being shared online, and in the level of violence associated with child exploitation and sexual abuse crimes. Tragically, the only place we've seen a decrease is in the age of victims."

[The facts](#) are:

- Today's pornography includes hardcore, explicit material that is warping reality and increasing the prevalence of divorce, rape, sexual violence, and sex trafficking.
- The ever-increasing prevalence of pornography, prostitution, and sex slavery, and the ways that those forms of commercial sexual exploitation feed off of each other [form a](#)

[multi-billion dollar industry](#) that exploits thousands of girls and women in this country and millions around the world.

- Pornography has been known for being used for training sex slaves on how they are to perform during sex acts. Many of these sex slaves are children who will often become desensitized to the material.
- [The violent, sexual subjugation of women](#) is not an unfortunate byproduct of pornography but one of its main selling points. It is an industry that rewards risky sexual behavior and preys on the minds of both young men and women by appealing to the prurient instincts and feeding the most debased desires.
- Numerous pieces of [literature](#) are available in the National Library of Medicine on the topic of compulsive sexual behavior, [sexual addiction, sexual compulsivity, and sexual impulsivity](#) showing pornography is addictive.
- A [study](#) was done by the Max Planck Institute for Human Development on 64 male adults regarding the impact that pornography had on each of their brains. What they found was that the more hours of pornography that a subject consumed, the less gray matter they would find in the right caudate and the less functional connectivity there would be between the right striatum and the left dorsolateral prefrontal cortex. In plain terms, the disconnectedness and intense stimulation that pornography causes in the brain's reward system can be similar to that of drug and alcohol addictions.
- Pornography that is easy to access has led to widespread use leading to illegal activity, like child abuse, prostitution, and sex trafficking. In a [study](#) done on 854 women in prostitution, researchers found that 49 percent stated that pornography was made of them.

Safety policies and technology protection measures as outlined on SB 2360 are urgently needed and can be done. As [Ross Douthat of The New York Times](#) argued in an op-ed:

“The belief that [porn] should not be restricted is a mistake; the belief that it cannot be censored is a superstition. Law and jurisprudence [changed once](#) and can change again, and while you can find anything *somewhere* on the internet, making hard-core porn something to be quested after in dark corners would dramatically reduce its pedagogical role, its cultural normalcy, its power over libidos everywhere.”

I ask you to speak up for our fellow men, women, and children and work to end pornography's destruction. Unless we respond as a society, courageously and with a sense of urgency, we can expect the problem to grow.

Please give SB 2360 a Do Pass recommendation.

To: House Judiciary Committee

Regarding: SB 2360

As a 16 year volunteer at a small community public library as well as a mother and grandmother, I have been following the legislative process of SB 2360 closely . I have reviewed the State Statute Chapter 12.1-27.1 Obscenity Control and the changes SB 2360 proposes.

This Chapter is a part of a public library's consideration when selecting books for its collection, along with written reviews, popular demand, timeliness and accuracy, and patron requests. Some adult books such as romance novels, murder mystery or suspense novels, and biographies include a romantic or sex related scene as a part of their story.

I am concerned that the added language in this Chapter puts public libraries in no-win position when selecting books for its collection. The proposed language "*contains depictions or written descriptions of nude or partially nude...*" coupled with item (7) "*sexual activity*" in Definitions leads to a very subjective interpretation that puts librarians and books at risk.

Additionally, the language added in Definitions 1. says "the exposed cover or available content of which *either contains explicit sexual material that is harmful to minors or exploits...*". Again, very subjective. Do public libraries need to have a gate and required proof of age at their adult section to avoid being charged with an offense based on someone's opinion? Shouldn't anyone who objects to material in the library first be expected to use the library's Reconsideration of Materials process before threatening legal charges?

I hope you can see how troubled we are with the ambiguity of this bill's proposal for language changes and how vulnerable we feel with its subjectivity.

At minimum I propose that in the list of Descriptions, 2.a. item (7) "*sexual activity*" be removed and let the other more specific definitions of explicit sexual behavior stand. Plus, I propose to remove the "*either contains explicit sexual material that is harmful to minors*".

Preferably I propose that you veto this bill and let the current language of Chapter 12.1-27.1 – Obscenity Control stand as is.

Thanks for your time and consideration.

Lisa Anderson

Dear Legislators and Committee Members,

My testimony is to ask that you give this bill a Do Not Pass.

I am a public school educator and a 29 year resident of North Dakota. This bill actively harms members of community.

Thank you for your time and consideration.

Sincerely,

Christopher Brown

Thank you, Mr. Chairman and members of the Judiciary committee for the opportunity to testify **in favor of SB 2360**. My name is Ruth Heley and I have been a resident of Dickinson, ND since 1994. I was an instructor of music for 22 years and am a current home school mother of a 13 year-old. I have extensive experience with working with teenagers and young adults and feel that their healthy development is of paramount concern to the future of the people of North Dakota.

I would like to clarify some of the discussion around this bill and what it is trying to solve for. I feel like the focus has occasionally been skewed so that we start to forget that **this bill is directed at the protection of minors**. Historically, state and national governments have passed numerous laws and concomitant regulations to ensure that this vulnerable population is protected. Minors are treated differently than adults by the law. I would note, just to name a few, that minors are not allowed to vote, own property, enter contracts, buy cigarettes, join the military, drink alcohol, are limited in how many hours they work, are generally tried in Juvenal court and may not have consensual sex (generally until age 16-18 depending on the state). Radio, television, and newspapers are all regulated to conform to decency standards in regards to obscenity for the public.

Why do we do this as a society? We do it because our children are a vulnerable population. They have incomplete reasoning skills and a lack of experience. Their minds and emotional maturity continue to develop into young adulthood. According to Psychology Today,

“In teen brains, gray matter in the cortex thins considerably. The number of synapses between neurons in the cortex is scaled back. This process of selective pruning is affected by the environment and helps make adolescence a time of particular susceptibility to outside influence....The prefrontal cortex, involved in planning and other executive functions, is still developing into early adulthood (with changes such as synaptic pruning), later than a number of other brain areas.”

As you can see, teens and children can be easily influenced by what is in their environment. We protect them as a society from certain choices because those choices can have irreversible consequences that harm them and others around them.

What kind of harm do these sexually explicit books present in our libraries and schools? These books advocate gender exploration to pubescent children and teens, a population that is only just getting to understand who they are and make sense of their body changes. They advocate illegal or risky behaviors—under-age sex, sexting, pornography for sexual education and entertainment, and anal toys. **What are the possible consequences?** STI/STDs, pregnancy, physical injury, sextortion, permanent sterility and emotional trauma.

This bill is not really about “the right to read”, censorship or LGBTQ issues. Adults are free to make such choices for themselves. Our goal as parents and educators should be to prepare our children for that eventuality, but at the same time to preserve as much as we can their opportunities to develop and grow in a healthy way without skewed influences. A child has the right to not have their person and healthy development encroached upon. I respectfully urge **do pass for SB 2360**.

Members of the House Judiciary,

My name is Lisa Pulkrabek and I live just outside of Mandan in District 31. I am the mother of six children and I take them to the local libraries often. I generally look over and approve the books they check out. However I feel that a taxpayer funded library should not have sexually perverted material in the children's and teen's sections. Kids should not be subjected to that kind of material at the library. It should be a safe environment for them.

I am writing this letter to you regarding SB 2360 Relating to the definition of a public library and required safety policies and technology protection measures. Please render a Do Pass recommendation.

I am not against students learning about the human body from an appropriate textbook nor am I against the freedoms of the 1st Amendment. But this bill does not go against those common sense issues. It simply says that explicit content should not be displayed in public in the common view and presentation to children and teenagers. It gives citizens the authority to ask library staff to remove such materials or display them in a place and manner where children are not likely to see them. Remember video stores? Movies were rated and kids were not allowed to rent R rated movies without an adult and they were sure not allowed to go back behind the curtain and rent X rated films. Why can't we simply protect the kiddos from explicit material in written and digital form at the library? This doesn't sound like it should be such a controversial subject.

There is so much porn on the internet - at home there are filters, blockers and limits that parents have the responsibility to put on their children's devices.

Why can't we have a safe place- free of porn, sex talk, perversion and grooming for our kids at the library?

Can I count on you to vote YES on this bill? I sure hope so. Thanks kindly! Lisa Pulkrabek

RE: SB 2360

Dear Members of the House Judiciary Committee,

I am writing to express strong opposition to SB 2360 and urge you to please recommend a DO NOT PASS.

SB 2360 is redundant with existing CIPA regulations and will impose unnecessary and time consuming requirements that take educators away from more important tasks. Indeed, it potentially criminalizes the act of education.

Further, the censorship imposed by SB 2360 amounts to a violation of First Amendment rights. The language used in SB 2360 is vague and may result in highly subjective and destructive choices.

I have spent the last 19 years raising my family in North Dakota. All four of my children have attended public schools in our community and visited our public library nearly every week – sometimes more often. At no point in time have I felt concerned about my children being exposed to any of the materials in a public school or library. Nor do I believe that it is a legislative responsibility to determine which materials exist in these spaces, or to override parental responsibility.

I urge you, DO NOT PASS SB 2360.

Thank you for your consideration.

Daphne Pedersen, Grand Forks, ND

I write in strong opposition to SB 2360.

I have lived in ND almost my entire life; I am recently retired from a professional career, and raised two children in this state. I believe in limited government and the strength of the family. I am not, nor ever have been, officially affiliated with any library. I believe in economic growth for this state.

For these reasons I oppose SB 2360. It thrusts the arm of government where it does not belong. Its undefinable terms attempt to legislate morality and take the place of true parenting. This censorship bill would put this state on a very slippery slope and send an unwelcoming message to potential newcomers.

If a citizen is upset about a book in their local library, they may contact the librarian and the library board, write a letter to the editor, campaign against the book on social media, etc. There are many routes for one to pursue if they are upset about a book. Do NOT attempt to legislate the solution.

Thank you.

Mona Tedford Rindy
14129 1st St NE
Portland, ND 58274

Chairman Klemin and members of the House Judiciary Committee,

The Fargo Board of Education governs the Fargo Public School District with student achievement as our central focus. We are the 3rd largest district in the state with over 11,000 students and the 4th largest employer in the Fargo-Moorhead community with over 2,200 full and part-time employees. We are writing to you in opposition to Senate Bill 2360. This bill would have a detrimental impact on the quality of North Dakota's public education system and our students.

As we're sure you have already received plenty of other testimony discussing the philosophical merits of censorship, we'll skip straight to the practical implications of this bill.

If it becomes law, this bill would place an immediate, significant, and costly burden on FPS staff and district resources. Our schools contain over 300,000 books. If passed, it would likely mean having to go through entire collections with a fine-tooth comb to verify whether each word on each page of each chapter of each book fails to meet the criteria set out in this bill. While we wholeheartedly trust that our library media specialists are knowledgeable professionals, we cannot expect them to know the entire content of each and every book in their collection. We ask a lot of our teachers, but omniscience is impractical. That's why FPS has a robust policy governing the selection and reconsideration of instructional and library material. The FPS policy also provides parents or guardians the opportunity to restrict their student's ability to check out specific materials.

Over the course of many years, as librarians come and go, each librarian curates a school's collection according to the highest of standards. Materials must be age appropriate and educationally valuable. Librarians make these decisions based upon their own education (often Master's level), training, and years of experiences. Moreover, our school librarians are certified as library media specialists by North Dakota's own Department of Public Instruction. Surely this highly qualified group of professionals can be counted on to curate a school's book collection.

Instead of placing an additional burden on already stressed staff and resources, the objective of the bill can be accomplished through library selection and reconsideration policies. We're already struggling to attract and retain enough staff to maintain school operations. Adding thousands of hours of work to pour over pages of books is a waste of our limited human resources, and it's also a waste of taxpayer money.

As a Board, we know and trust our educators to have selected age-appropriate, educationally valuable materials for our schools. We strongly encourage you Do Not Pass Senate Bill 2360.

Greg Clark
Governmental Affairs Committee – Member
On behalf of Fargo Board of Education

Hello ND House Judiciary Committee,

I would like to express to you my opposition to Senate Bill 2360. The current wording is very detrimental to libraries and the freedom of speech and information that they provide to their communities. My primary issue regarding the bill is that it could open the door to frivolous censorship. Learning from what has happened in the world these last several years, it should not be any government's goal to further restrict access to information, even if it's information that one might find objectionable. Freedom of information is meant to be freedom of all information, not just what a select few determine it to be.

Additionally, I do not know of a single library or library board within the state that doesn't already have a process for patrons to request to have questionable materials to be removed. This bill appears to be an attempt to override what a locally elected/appointed library board decides. I'm a firm believer that whenever possible, it is best to limit or remove government overreach where none is needed. Finally, the bill does not include any section that would allow for the library to argue to keep and/or maintain the challenged item within their current collection. This ultimately could lead to nearly any romance book or any piece of media with romance as a sub-plot to being accused and forcefully removed without due process.

As it is worded, there is not even a burden of proof requirement for the accuser to prove that a book should be considered indecent and therefore removed. The only process for defending a book under this bill would be through a full criminal court trial. People often talk about putting a book on trial as hyperbole, SB2360 however would make it reality.

As a fellow resident, voter, and library supporter of North Dakota, I hope that you consider and take my comments into consideration, and to vote "no" to its passage or referral.

Thank you for your time,
Dylan Gonser 1110 Walnut ST.
Grand Forks, ND 58201



THE MEDIA COALITION

DEFENDING THE FIRST AMENDMENT SINCE 1973

American Booksellers Association Association of American Publishers Authors Guild Comic Book Legal Defense Fund
Entertainment Software Association Freedom to Read Foundation Motion Picture Association

Memo in Opposition to North Dakota Senate Bill 2360 as passed by the Senate

We oppose North Dakota Senate Bill 2360 as amended to incorporate Senate Bill 2123 and passed by the Senate (S.B. 2360) because we believe it violates the First Amendment rights of retailers and other businesses that distribute mainstream content in North Dakota. The trade associations and organizations that comprise Media Coalition have many members throughout the country, including North Dakota: authors, publishers, booksellers and librarians, producers and retailers of films, home video and video games. They have asked me to explain their concerns.

S.B. 2360 would amend North Dakota's existing display law to make it a crime for any business that permits minors to enter the premises to display "any photograph, book, paperback book, pamphlet, or magazine, the exposed cover or available content of which exploits, is devoted to, or contains depictions or written descriptions of nude or partially denuded human figures" in a sexual context. The existing law is limited to material that principally contains images of nudity in a sexual context. The bill would also amend the existing definitions of obscenity and harmful to minors to delete the word "political" from the test for what material is illegal.

Under the bill a bookseller, and other retailers, who admit minors can be prosecuted for displaying romance novels, health books, novels, dramas, memoirs, biographies, photo and art books, dramas, graphic novels, magazines and any other content that includes descriptions or images of nudity. The content does not have to be on the cover or visible to the general public browsing the media.

The bill is unconstitutional for several reasons. First, it goes far beyond material that the U.S. Supreme Court says cannot be displayed to minors. S.B. 2360 would bar the display of descriptions or images containing nudity in a sexual context, but the Supreme Court has been clear that content can only be restricted for minors if it meets a specific test established by the Court. While minors do not enjoy the protection of the First Amendment to the same extent as adults, the Supreme Court has ruled that "minors are entitled to a significant measure of First Amendment protection, and only in relatively narrow and well-defined circumstances may government bar public dissemination of protected material to them." *Erznoznik v. City of Jacksonville*, 422 U.S. 212-13 (1975). The contours for what speech can be barred for minors were established in *Ginsberg v. New York*, 390 U.S. 629 (1968), and subsequently modified by the Supreme Court in *Miller v. California*, 413 U.S. 15 (1973). In those cases, the Supreme Court created a three-part test for determining whether material is protected by the First Amendment for adults but is unprotected as to minors. Under that test, in order for sexually explicit material to fall outside the First Amendment as to a minor, it must, when taken as a whole:

1. predominantly appeal to the prurient, shameful or morbid interest of minors in sex;

2. be patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
3. lack serious literary, artistic, political or scientific value.

Governments may restrict minors' access to sexually explicit speech under this test, often referred to as speech "harmful to minors," but it cannot go beyond this narrow range of material as determined by the *Miller/Ginsberg* test. In *Miller*, Chief Justice Berger emphasized that any state law regulating obscenity "must be carefully limited" to avoid "the inherent dangers" of criminalizing speech. *Miller*, 413 U.S. at 23-24.

The Supreme Court has repeatedly rejected attempts to restrict minors' access to sexual speech beyond what may be barred under the *Miller/Ginsberg* test. In *Reno v. American Civil Liberties Union*, the Supreme Court struck down a federal law that barred dissemination of content that did not meet the *Miller/Ginsberg* test. 521 U.S. 844 (1997). It barred dissemination of "any comment, request, suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication." The Court dismissed the government's argument that this speech satisfied the *Ginsberg* precedent. *Id.*, at 865. See also, *Sable Communications of Cal., Inc. v. FCC*, 492 U.S. 115, 127 (1989) (struck down a law barring indecent content rather than content that is harmful to minors under the *Miller/Ginsberg* test); *Erznoznik* at 213-14 (striking down a law barring minors from viewing material containing nudity without any of the prongs from the *Miller/Ginsberg* test); *Powell's Books v. Kroger*, 622 F.3d 1202, 1213 (9th Cir. 2010) (blocking enforcement of an Oregon law barring sexual speech for minors that did not comply with the *Miller/Ginsberg* test); *Entertainment Software Ass'n v. Blagojevich*, 469 F.3d 642 (7th Cir. 2006) *aff'g* 404 F. Supp. 2d 1051 (N.D. Ill. 2005) (permanently blocking an Illinois law that barred the sale of sexual material to minors but omitted the third prong of the *Miller/Ginsberg* test).

Laws restricting display not only must be limited to material harmful to minors, but courts have insisted that such laws may only restrict material that is harmful to oldest minors. The controlling case on regulation of the display of material harmful to minors is *Virginia v. American Booksellers Assn., Inc.*, which was brought by members of Media Coalition. 488 U.S. 905 (1988), on remand 882 F. 2d. 125 (4th Cir. 1989). The court held that if material has serious value for "a legitimate minority of normal, older adolescents, then it cannot be said to lack such value for the entire class of juveniles taken as a whole." *Id.*, at 129 (citing *Commonwealth v. American Booksellers Ass'n*, 372 S.E.2d 618, 624 (1988); see also *American Booksellers Ass'n v. Webb*, 919 F.2d 1493 (11th Cir. 1990), *rev'g* 643 F. Supp. 1546 (N.D. Ga. 1986); *Davis-Kidd Booksellers v. McWhorter*, 866 S.W.2d 520 (Tenn. 1993). This means that a restriction on the display of material with descriptions or depictions of nudity or sexual conduct must be limited to the narrow band of material that is legal for an 18-year-old but illegal for a minor who is almost 18 years old.

Even if the bill was limited to barring the display of material harmful to minors, as defined by the Supreme Court and applied to oldest minors, S.B. 2360 would still be an unconstitutional violation of the rights of retailers because the only way to comply with the law is to bar minors

from entering or purging the store of books that include descriptions or depictions of nudity. The Virginia legislature amended its law to prohibit the display of harmful to minors material if a minor was able to browse it. In *Virginia v. American Booksellers*, the court ruled that limitations on the display can only require that a retailer take reasonable steps to prevent minors from perusing harmful to minors material. On remand from the Supreme Court, the Fourth Circuit held that to be convicted, the bookseller “must have knowingly afforded juveniles an opportunity to peruse harmful materials in his store or, being aware of facts sufficient to put a reasonable person on notice that such opportunity existed, took no reasonable steps to prevent the perusal of such materials by juveniles.” 882 F. 2d. at 129 (4th Cir. 1989) (citing *Commonwealth v. American Booksellers Ass'n*, 372 S.E.2d 618, 625 (1988)). The court declined to allow the state to mandate blinders, bagging or segregation as the only way to prevent minors from perusing the material.

Absent these elements, any restriction on display is an unconstitutional burden on a bookseller and an unreasonable hindrance on the right of adults to access such material. Booksellers have tens of thousands of titles in their stores and they would have to inspect every one for any mention of nudity or sex. The task of browsing every page of thousands of new books and magazines received by a store each month to determine what cannot be displayed is difficult, time consuming for staff, and expensive for management. The staff would also have to ask for an ID from everyone who entered the store to determine their age to assess what material is acceptable for each person, then monitor every minor’s browsing to make sure they were not looking at anything inappropriate for them. The alternative would be barring minors from entering the store or driving away adult customers by removing all books from the store that could be illegal for younger kids. Even if a store owner wanted to comply with the bill by creating a segregated “adults only” area for these titles, this would have a chilling effect on adult customers. Many would avoid entering an “adults only” section of the store to avoid being stigmatized for perception they were looking at “pornographic” material. Others would avoid the “adults only” section for fear that the material was illegal. These are unreasonable burdens on the First Amendment rights of bookseller and adults.

S.B. 2360 cannot be saved by a promise of legislators or prosecutors that the statute will be construed narrowly or be benignly enforced. In *U.S. v. Stevens* the Court said, “[T]he First Amendment protects against the Government; it does not leave us at the mercy of noblesse oblige. We would not uphold an unconstitutional statute merely because the Government promised to use it responsibly.” 559 U.S. 460, 480 (2010).

Passage of this bill could prove costly. If a court declares it unconstitutional, there is a strong likelihood that the state will be ordered to pay the plaintiffs’ attorney’s fees. In *Powell’s Books v. Kroger*, a case brought by members of Media Coalition, the state of Oregon paid the plaintiffs more than \$200,000.

For these reasons we oppose S.B. 2360. We would welcome the opportunity to do so to discuss these concerns further. If you would like to do so, please contact our Executive Director David Horowitz at horowitz@mediacoalition.org or by phone at 212-587-4025. We ask you to protect the First Amendment rights of retailers and all the people of North Dakota and amend or reject S.B. 2360.

Senate Bill 2360 – Library Censorship

As a daily user of public libraries in North Dakota for research and entertainment, I urge you to vote against passage of Senate Bill 2360, an attack on Freedom of Speech.

I am appalled this bill and urge you to vote against it. Its language is so broad as to even ban the Bible, Greys Anatomy, Leonardo DaVinci drawings, medical textbooks, romance novels, most art books, and other staples of our public libraries.

You have every right to protect your children from reading books you think are inappropriate, but you have no right to tell me, my children, and my grandchildren what we should be reading. Banning books in public libraries and schools will not fix whatever problem you are trying to solve, because smartphones and the internet can access all these things you propose to rip from our public institutions. What a waste of time and money when the state has so many other pressing issues to solve!

I raised my children to make good choices. I trust you can do the same, but I suggest you home-school your kids, take away their phones and computers, and keep them chaperoned until they are adults if you really think naughty language and pictures are so dangerous. Please focus on other matters of importance to North Dakota and leave fringe politics to Florida.

I am in opposition of SB2360 for the following reasons:

- The responsibility of monitoring/censoring what a child/person is consuming should fall squarely and solely on the parents or individual, not the publicly funded institution or government. To have criminal action taken against an employee of the publicly funded institution for possession of certain materials is absolutely insane
- What one "reasonable" adult may find obscene may be completely different from the next "reasonable" adult
- I do not think that removing the materials from the library is going to stop children from finding out this information as most have access to the internet and TV where a lot more "obscene material" can be readily found
- What materials I am able to consume from the public library as an adult should not be dictated by what another may find obscene, as not every one will ever have the same opinion on a lot of different issues. It should also not be dictated by what is considered ok for a child, as there is a clear separation of material meant for children or adults already

I believe this bill would be a detriment to the public libraries around the State and would only harm the greater populations access to free information.

March 12, 2023

Chairman Lawson and Members of the Judiciary Committee:

This testimony is in opposition to SB 2360. I urge you to vote DO NOT PASS.

I have been an English teacher since 2006 and a mother since 2015. My students are college-aged, and my son is about to turn 8. When speaking with my students or with my son, I relay the same message when it comes to discussions of the First Amendment: if you don't like a certain book, leave it on the shelf and move on – your goal should never be to restrict someone else's access to that material.

The federal Children's Internet Protection Act (CIPA) requires public schools that receive federal funding to have filters in place on all school and library devices. Public libraries in North Dakota also utilize filters. Schools and public libraries already have established internet policies which include acceptable use policies. The generalized wording in this bill could very easily restrict access to educational resources and, as a mother, the idea of my son's access to library materials being limited is greatly concerning to me.

Additionally, this bill seeks to change the legal definition of obscenity. The Supreme Court ruled on the definition of obscenity over fifty years ago. SB 2360 is one that will surely waste state money and time due to lawsuits and litigation defending First Amendment rights.

I urge you to please vote DO NOT PASS on SB 2360.

Thank you for considering my testimony today and for your service to North Dakota.

Very sincerely,

Erin Price

I will be testifying in person in support of this bill.

Vicki Grafing

Children's Right to Innocence Project-ND

Chairman and Committee Members,

SB2360 contains changes to the law that are needed to keep our children from being exposed to graphic and written material that is damaging to their healthy development. There are so many forms of assault upon our children and their well-being. Please support SB2360 and at least attempt to thwart one such avenue of harm.

Sincerely,

Rachel Haidle

Chairman Klemin and members of the House Judiciary. For the record, my name is Farren Richard and I am from Lefor, North Dakota. I am here to speak in favor of Senate Bill 2360.

I want to address some of the testimonies that have provided inaccurate information about the books in the library's juvenile section:

First off, many opposing testimonies bring up the first amendment and hammer on free speech, but the first amendment does not help them in this scenario. Obscenity and pornography are not covered under federal law.

Opposing testimonies constantly discuss the cost that could incur with the passage of this bill; the threats of lawsuits, the supposedly additional labor that would occur, and other hints of labor costs. If a list of 107 books can be gathered in a short amount of time, by a small amount of people, then this so called cost is exaggerated. As to the lawsuits, this is fear tactics.

Opposing testimonies discuss these books as educational and that it would be harmful to remove them.

A previous testimony spoke about an increase of STI's and hints that it could escalate if these books are removed; let me remind you that one of these books states that STI's are "no biggie."

Another testimony stated that you might see the same information in a school sex education class as in the book, "Let's Talk About It," but the last I checked, a school setting would never tell a student that porn is a 'fun sugary treat' or that sexting is 'fun and sexy.'

Do not be dissuaded by these sugar coated testimonies; they are skating over the very disturbing reality that these books provide explicit sexual acts that are dangerous and obscene. Fisting is dangerous and obscene; it could literally cause extreme physical harm. But we are being told by our libraries that this is not considered obscene for minors.

Therefore, I respectfully request a do pass recommendation for Senate Bill 2360. Thank you and I'll stand for any questions.

TESTIMONY OF MARILYN FOSS

OPPOSING SB 2360

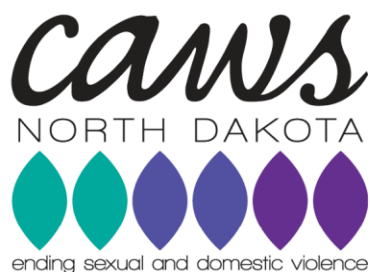
Chairman Klemin, Members of the House Judiciary Committee, my name is Marilyn Foss. I am a North Dakotan, born, raised, and educated. I spent my entire professional career, some 48 years, working in North Dakota. I am a mother of three and a grandmother of seven. As parents, owners of a self-started small business, as ranchers and as practicing professionals all are committed to North Dakota and having it be a place of safety in which to raise children.

As a general matter, I subscribe to the principle of parental, rather than government directives and oversight when it comes to decisions about what is or is not appropriate material and information for children. And I cannot conceive that I, as a parent, could not control or restrict my child's access to inappropriate materials or information better than a librarian or the local body given responsibility to oversee taxpayer funded libraries.

I think adults should be allowed to decide for themselves what **non-obscene** information they access. And, that no one, including librarians and other public employees, should be made into targets for members of the public who may want to control other adults' access to **non-obscene** material and information and substitute their viewpoints for those of others.

I think it is highly unlikely that any public library in North Dakota provides children with unfettered computer access to digital pornography. Given that, I would expect the provisions of this bill relating to contracts and verification for digital resources will do little other than cause libraries to cease to offer digital resources for use by children thereby depriving many of critical skills for the future.

Because I read the changes proposed by SB 2360 as trampling on parents' and adult free speech rights governed by the U.S. Constitution I oppose SB 2360 and respectfully ask you to give this bill a "do not pass" recommendation



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Senate Bill No. 2360
House Judiciary Committee
Testimony Presented by Seth O'Neill, JD, MSW
Email: soneill@cawsnorthdakota.org
March 14, 2023

Chairman Klemin and members of the Committee, my name is Seth O'Neill and I am representing CAWS North Dakota in opposition to HB 1533. This bill would put content restrictions on books, pamphlets, or magazines with explicit sexual content available anywhere where minors frequent.

Our programs frequently work with adults and children who experience sexual assault. As part of that work, we provide educational pamphlets on sexual assault among other topics. These pamphlets provide victims with information on what constitutes sexual assault and what services may be offered to support a victim. Under this bill, a staff member of our program could be charged with a Class B Misdemeanor for having these pamphlets available in the lobby of their location. I have included with my testimony an example of one of these pamphlets. I do not believe it is explicit but under this bill it would be banned from being in a public area accessible to minors.

Although this may not be the intent of this bill, this is a grim reality of what could happen if this bill passes. This bill would hinder our efforts to educate victims on sexual assault and ensuring the safety of all North Dakotans. We encourage the committee to give SB 2360 a do not pass recommendation or at the very least provide an exception to domestic violence and sexual assault organizations. I appreciate your time and I am happy to answer any questions you may have. Thank you.



Talking about sexual violence isn't easy, and it may make you uncomfortable. Sexual violence is NOT about sex. It's not about what a victim looks like, how they acted, or even how much they had to drink.

Sexual violence is about power and control. Unfortunately, many people buy into harmful stereotypes about sexual violence that only transfer blame from the offender to the victim. Learning the truths about sexual violence can empower you to make a difference in someone else's life – either as an active bystander or supporting a victim of sexual assault.

TRUTHS ABOUT SEXUAL VIOLENCE

Sexual violence can happen to anyone, anywhere, anytime.

People can be victims of sexual violence regardless of age, income, race, or social standing. By the time they turn 18, 1 in 4 girls and 1 in 6 boys will be the victim of sexual violence. Although statistically, women are more likely to be victimized, men are also victims. It's also important to be aware that although the majority of offenders are men, that doesn't mean the majority of men are offenders.

Most people who are raped or sexually assaulted DO NOT report to law enforcement.

One of the most common fears victims have is that no one will believe them. Victims often experience many different emotions that directly impact IF they decide to tell someone about the assault and WHO they decide to tell. It may be through sharing their experience with another person that they decide to report to law enforcement. Victims with past negative experiences with law enforcement or other agencies face additional barriers to reporting.

Despite common stereotypes, most acts of sexual violence are committed by someone the victim knows or trusts in a location known to the victim.

Sexual violence is not a crime of lust or uncontrollable sexual urges. It is a crime of power and control. The truth is that anyone can be an offender: family, friends, a dating partner or spouse, or someone you met last weekend. More than 90% of sexual assaults in North Dakota involve someone the victim knows. When the victim is under 18 years of age, the percentage is more than 95%. Many sexual assaults occur in the home of either the victim or the offender.

Sexual Violence IS Your Business

Sexual violence isn't just a "women's issue" or something people start caring about after someone close to them is directly affected. Sexual violence is a human issue – one that hurts victims, their families, friends, and communities. Through increasing awareness, practicing bystander intervention, and calling out victim-blaming attitudes sexual violence can be prevented.

RETHINKING RAPE CULTURE: WHAT IS "ENTHUSIASTIC CONSENT"?

Sex is never an obligation – and only YES means YES.
"Wait" means NO.
"Maybe later" means NO.
"Not now" means NO.
"Let's just go to sleep" means NO.
Being asleep or unconscious means NO.
And most importantly, silence means NO.

If you adopt this idea of "enthusiastic consent" and teach it to those around you, soon it will become a shared value.

Remember, consent must be:

- **Informed**
- **Freely, actively given**
- **Mutually understandable words or actions**

Rape culture: Being surrounded by images, language, laws, and other everyday phenomena that not only allows but justifies sexual violence.
"Living in a rape culture" means that we are continually exposed to advertising, film, TV, music, video games and online content that sexualizes and trivializes violence, especially violence toward women and girls. Sexual coercion and control seem so "normal" that people don't view rape as a shared problem to solve, but "just how things are."

Victim blaming: A cornerstone of rape culture, this common tendency relies on society's inclination to find excuses for the offender's behavior, usually by blaming the victim. Through comments about the victim being "dressed like that" or how much they had to drink, attitudes of victim blaming tend to reinforce faulty beliefs. One example of such beliefs is most rapes are false accusations made by someone like a revengeful ex.

FOR MORE INFORMATION



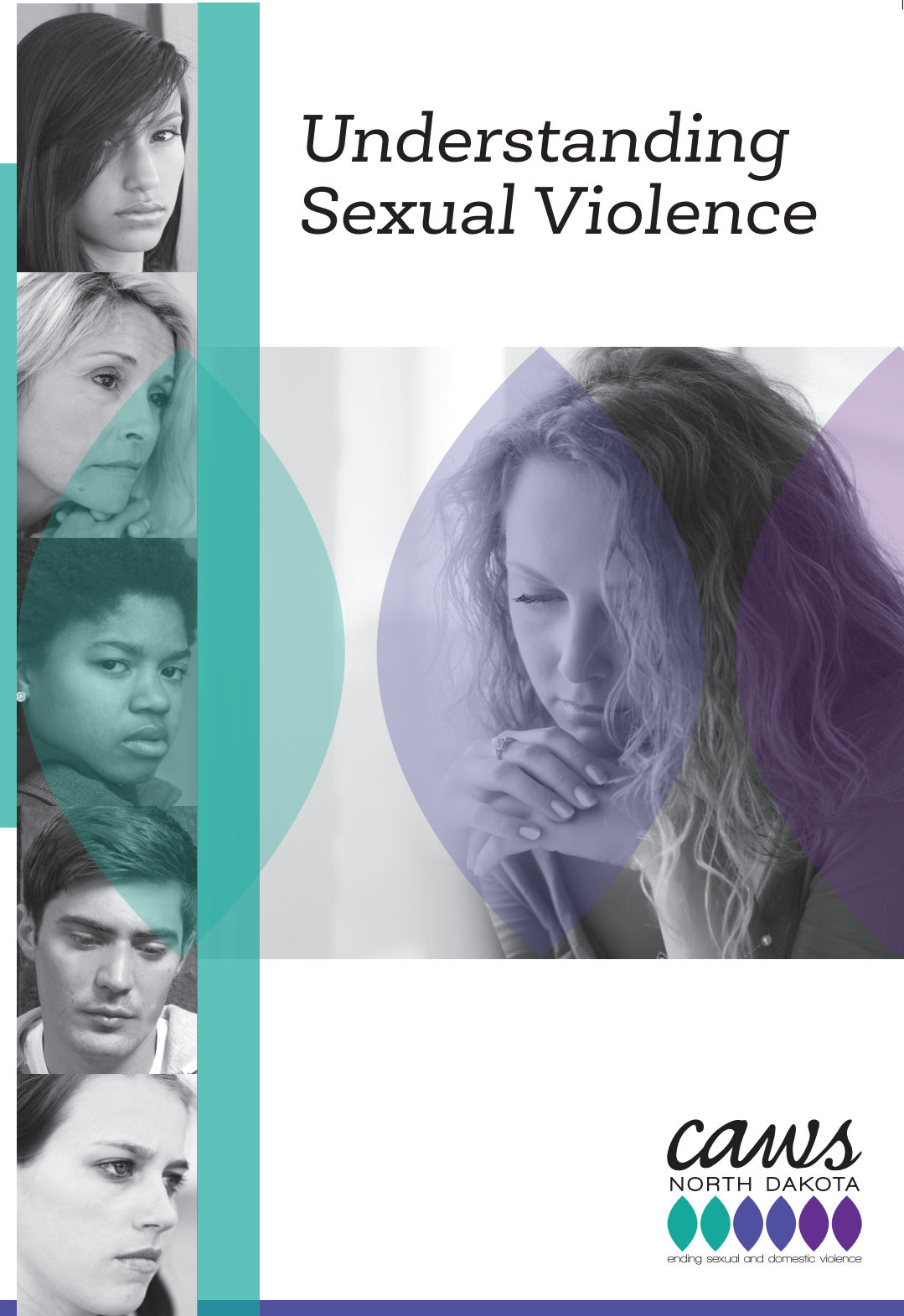
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05/2018

Understanding Sexual Violence



ending sexual and domestic violence

SEXUAL VIOLENCE DEFINED

Sexual violence is unwanted, forced or coerced sexual contact. It is also sexual violence when a person is unable or unwilling to give consent. It can be in the form of:

- Rape (*stranger or non-stranger*)
- Sodomy
- Incest
- Statutory Rape
- Sexual exploitation
- Sex trafficking
- Sexual and street harassment
- Dating Violence
- Alcohol and drug-facilitated sexual assault
- Child sexual abuse
- Stalking
- Indecent exposure
- Unwanted touching (*i.e. fondling or molestation*)
- Voyeurism ("*peeping tom*")

KNOW WHAT CONSENT IS

Defining consent is easy. Without active consent, a sex act is a sexual assault. "Enthusiastic" consent is the idea that all partners are actively into and agree to sex acts. Consent can be granted (*and removed*) at any time – it's everyone's responsibility to seek a definite "yes" rather than looking for a "no."

There's no such thing as "legitimate rape" and expecting victims to physically resist in order for the sexual assault to be valid is another form of victim blaming. Often victims appear to "go along" with the assault or don't "fight back" as a survival mechanism. Everyone reacts to trauma in different ways. A victim may succumb to the violence because of fear, confusion, or an inability to resist. They know they must do whatever is necessary to survive or to lessen the potential for greater violence.

Aside from being 18 or older, remember that under the law your potential partner must be mentally competent to understand what is happening. If your partner is substantially impaired, you can't get consent.

CONSENT AND MINORS IN NORTH DAKOTA

In North Dakota, a person can be charged with a serious crime if they engage in a sexual act or sexual contact with a minor (*anyone under 18*). The seriousness of the crime and the penalties are even greater if the minor is under the age of 15. Even if a minor person has consensual sexual contact with someone younger than 15, they can be charged with gross sexual imposition (*the legal term for rape in North Dakota*) in juvenile court. If the case is transferred to adult court, the defendant will be treated as an adult sex offender and will be subject to the same penalties as an adult. (*Adapted from "What Teenagers Need to Know About Sex Offenses" by North Dakota Office of Attorney General*)



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10 WAYS TO HELP END SEXUAL VIOLENCE

1. Assess your own actions

Do your own actions, attitudes, or beliefs help support the objectification and de-valuing of women and girls? Don't join in on behavior that makes light of sexual violence – and let others know that sexist jokes and language aren't acceptable.

2. Speak up and speak often

Sharing how you feel is important because silence affirms and supports sexual violence. Being open about what you think can influence and change attitudes, especially of those close to you. Sexual violence isn't OK – so stand up and say so!

3. Ask how you can help

It's not easy or even popular to stand against violent actions or behavior. Ask how you can help if you suspect abuse, harassment, or an assault. And if you are abusing other people in ANY way, stop immediately and seek professional help.

4. Help create a culture shift

Listen to and learn from women – don't be afraid to help create a culture shift that doesn't tolerate disrespect or devaluing of women. Don't objectify women or act in ways that make them feel uncomfortable. If you're unsure, ask!

5. Be a positive example for young people

Aside from being a healthy role model, teach youth that "no" means "no" and "stop" means "stop." Help boys understand that "being a man" means treating women with respect. Help young people understand that only THEY have the right to make decisions about their body and those decisions should be respected.

6. Always hold the offender accountable

Avoid making excuses for the offender's behavior or buying into the argument that sexual violence is caused by substance abuse, mental illness, lack of anger management skills, or stress. By making excuses, you diminish the offender's responsibility for their actions and blame the victim for the sexual assault.

7. Remember no one "wants" to be sexually assaulted

Never voice, believe, or support the idea that the victim "wanted it." Sexual assault is a violent crime that no one asks for – one with an extensive recovery and healing process.

8. Communicate with your partner

Make sure you find out what your partner wants – never assume. If you think you're getting mixed signals, talk to your partner. If they say they aren't sure, wait until they're sure. Remember that consent isn't automatic. Respect your partner's right to say "no" or change their mind at any time. And most importantly, treat your partner with respect and dignity – never pressure, coerce, or force them to have sex.

9. Be a source of support for people in your life

Let your friends and family know you're someone they can talk to about sexual violence or abuse. If someone discloses a sexual assault, intimate partner violence, stalking, or abuse of any kind, let them know you believe them and connect them to a local crisis intervention center.

10. Get help for yourself

If you are the victim of sexual violence, the most important thing to know is that it isn't your fault. Emotional support is very important – who are people you can talk to and who will support you? Preserve evidence by not showering, bathing or douching, eating, changing clothes, or altering the environment where the assault took place. Getting connected to a confidential victim advocate can help you think about options for reporting, medical care, counseling services, safety planning, as well as your rights and legal options.

GET CONNECTED

For more info or confidential help with a crisis 24 hours a day, call 1-800-656-HOPE.





1 I come here today representing NDCEL and all your school leaders and administrators
 2 in North Dakota. But I also come to you today as a concerned parent, former English
 3 teacher, a history minor with a specialization in Nazi Germany and World War II, and
 4 with all that – this bill not only concerns me – it scares me.

5 I don't want my daughters exposed to gross or pornographic material. But I will tell you
 6 my concern is NOT with our libraries. It's not. As a teacher I will tell you that because
 7 of laws I know are ALREADY in place, that libraries are likely one of the safest places
 8 for kids. We've seen scores of parental rights bills. Decisions about children are to be
 9 made by the parents. Well, if parents are making decisions that allow their children to
 10 have the equivalent of a supercomputer in their hand or in their pocket...banning books
 11 in libraries will not produce the result you wish. If you want to ensure an organizing of
 12 content and an area where you must be the age of majority to utilize or see books, then
 13 so be it. But please don't begin to take on totalitarian rule.

14 Ok – as a teacher I must ask – When you were in English class in high school, did any of
 15 you read any works by Shakespeare? The Great Gatsby by F. Scott Fitzgerald? The
 16 Catcher in the Rye? To Kill a Mockingbird by Harper Lee? Grapes of Wrath or Of Mice
 17 and Men by Steinbeck?? 1984 or Animal Farm by George Orwell? Catch-22? Brave New
 18 World? The Jungle by Upton Sinclair? The Scarlet Letter? All Quiet on the Western
 19 Front? Diary of Ann Frank? And my favorite as it is ironic and, on this list, Fahrenheit
 20 451? Recently Senator Nicole Poolman and I got together and talked about all the books
 21 she would have to take out of her AP English Classroom (all titles listed). I've read and
 22 taught at some point each of these books as well. All these titles would need to come
 23 out of the library. These works of literature would no longer be taught in English

*NDCEL is the strongest unifying voice representing and supporting administrators and educational leaders in pursuit of quality education
 for all students in North Dakota.*

Executive Director: Aimee Copas-----Government Lead and Special Projects: Kevin Hoherz



1 Classrooms. What are you trying to protect our children from when they still have
2 phones that their parents got them? That the parents have every right to get them?

3 In my role, I've been coming before the legislature for well over a decade. There are only
4 a few legislators left who were here when I started first at NDUS and now with NDCEL.
5 I'm hopeful that this new legislature is still just as thoughtful as the ones I've worked
6 with for the past 14 years. Please do not be the legislature of book banning. The
7 legislature that is essentially attempting to execute the meaning of Fahrenheit 451. The
8 legislature that doesn't take the first amendment rights of citizens seriously. Because
9 our students are entitled to this right too.

10 Tinker vs. Des Moines in 1968 cemented the rights of students in education; they do not
11 lose their rights simply by being in an educational system. Further, Pico vs. Island
12 Trees ruled in 1982 that public schools cannot remove books from schools because it is
13 a First Amendment violation of students' rights. Right now, the fight about books in
14 schools is focused on "parental rights," purposefully ignoring the rights students have
15 to a well-rounded education that teaches them not *what* to think, but *how* to think. That
16 is what including books like the ones just mentioned does. Not only are young people
17 given windows and mirrors into our globe and the people inhabiting it, but they're given
18 the chance to talk about tough, challenging topics that encourage them to dive deeper,
19 to do research, to evaluate the sources of their information, and to ultimately become
20 capable and engaged citizens.

21 If our educators cannot help guiding them through these critical thinking moments –
22 who will? Yes, some parents will – but not all. And even the best parents can't do it as

*NDCEL is the strongest unifying voice representing and supporting administrators and educational leaders in pursuit of quality education
for all students in North Dakota.*

Executive Director: Aimee Copas-----Government Lead and Special Projects: Kevin Hoherz



1 much as they'd like. We have more dual working parents who struggle to pick up kids
2 from school and get them to events – rarely do they have time to eat a meal
3 together...much less have the time to thoughtfully and carefully with a standard driven
4 set of guideposts to have some of these conversations. It happens some – but the reason
5 we have schools is because as a parent, I want that absolutely dedicated time for my child
6 to be with teachers who do just this as I work to put food on the table for my family. I
7 work in partnership with schools in building the quality of my child as a contributing
8 citizen. Let me say that again – I work in partnership with my school. I need them to
9 help my children to think through these conversations. I need them to have content that
10 challenges the. I am a better person for having had guided exposure to these things.

11 I ask you to please not pass this bill which doesn't protect my children as some might
12 think, but actually limit their opportunity for growth.

ORAL TESTIMONY

Honorable members of the Committee, my name is Donna Rice Hughes, and I am the CEO and President of Enough Is Enough, a national non-partisan 501c3 organization. There is additional information submitted in my written testimony for the **official record in support of**

Enough Is Enough® (EIE) recognized the abuse of the internet by pornographers, child pornographers, and sexual predators, and In 1995, birthed the internet safety movement in America, with a mission to make the internet safer for children and families.

Today I will discuss the sexual exploitation of children via online pornography, the majority of which is prosecutable under current federal obscenity laws. As you know, obscenity, often referred to as hardcore pornography, is illegal: 18 U.S.C. Chapter 71 § 1460-1470, prohibits distribution of hardcore pornography on the Internet, on cable/satellite TV, on hotel/motel TV, in retail shops, and by

common carrier. Unfortunatley, these laws have not been enforced by DOJ since AG Ashcroft in the Bush 1 admin which makes it critically important for the House to pass ???

The continuous invasion of graphic internet pornography, prosecutable under federal obscenity law, has been called the “largest unregulated social experiment in human history”. Any child with unrestricted Internet access can freely view obsecene pornorgraphy.

-Popular themes depicting teen rape, strangulation, violence. ?? depicts violence against womenThey can also view child pornography (now being termed child sex abuse material or CSAM for short) depicting the actual sexual abuse or rape of a child.

Once exposed, it can never be erased from their minds. It's not a matter of if, but when. Kids with mobile devices now have 24/7 internet access. By age 11, 53% of kids have their own smartphone,

While there are many reasons that children are being sexually exploited at alarming rates, a key reason is that existing federal obscenity, CSAM, predation laws have not been adequately funded or aggressively enforced. In fact, the federal obscenity laws have not been enforced at all since President George W. Bush's administration.

This is why it is critically important for states like North Dakota to stand up and take action.

Of note, and as a result of EIE's advocacy efforts, the following language was included in the US Congress' Appropriations FY 21 and 22 bill Report directing DOJ to: "*...investigate and prosecute major producers and distributors of hardcore adult pornography that meets the Supreme Court test for obscenity. Such enforcement is necessary to protect the welfare of families and children...*". Currently, we are calling on Congress to conduct oversight hearings to address DOJ's failure to enforce the federal obscenity laws.

The harm of exposing kids to such content is best understood from their own stories. I interviewed a dozen young teens about their internet experiences for EIE's video series.

Zach, age 15, told me, *“Even if you’re not looking for it, it will find you.”*

Courtney, 16-years old, told me that she and her friends smoked weed and watched pornography together, which led to orgies. She said that pornography *“destroyed our lives, because we depended on it, and it just broke our friendships, it broke like, respect for ourselves and our respect for others.”*

Children under the age of 10 now account for 22% of online porn use by minor children, while 10- to 14 year-olds make up 36% of minor consumers (Bitdefender, 2016).

Two years ago, I had the opportunity to deliver a Ted Talk in Fargo, North Dakota, in Governor Bergham's back yard beneath his amazing tree house.

I reminded the audience that it wasn't that long ago that it was LEGAL to drive without a seatbelt while holding a child in your lap and litter our highways.

What changed? Each issue was reframed as a public health issue that impacted everyone. And as a result, public opinion drove public policy to make needed changes.

The sexual exploitation of children is in fact a public health pandemic.

Peer-reviewed research demonstrates that obscenity fuels addiction, child sex abuse, violence against women, sex trafficking and other crimes against humanity. Its harmful impact upon the emotional, mental and sexual health of children and its negative impact on the culture has led 17 states to pass resolutions recognizing pornography as a public health crisis.

Pornographers understand that extreme pornography is highly addictive. They know that if they can get children hooked at a young age, they will likely have a consumer for life.

The pornography addiction cycle often leads kids **to act out** what they see in. The trend of sexting among youth is staggering:

Self-generated imagery now accounts for nearly 1/3 of web pages featuring sexual images of children. More than 3/4 features 11 to 13-year-old children, the majority are girls. (IWF Jan. 15, 2020)

Further, pornography sets up unhealthy attitudes about sex, teaching that sex without love, intimacy and commitment is desirable, and that females are nothing more than sex objects.

Viewing this content can also lead to sexually aggressive behaviors. The average age of first perpetration of sexual violence is 15 -16 and is associated with exposure to pornography.

Additionally, Sexual predators use pornography as part of the grooming process to sexualize a child and then entice the child to take sexual pictures and videos of themselves. They then use the content to blackmail the child into silence and compliance. The resulting child pornography is then shared and sold online, fueling a vicious cycle of abuse and child exploitation.

- In 2021, NCMEC received more than 29 million reports containing over 84.9 million images, videos, (infants and toddlers) and other content related to suspected child sexual exploitation (up 29.8% over 2020). (January 31, 2022)

Senator Boehm, I want to thank you and your fellow Senators for introducing Senate Bill 2360 to curb the threat of our children accessing obscene materials, whether online or in a public place. Your leadership and commitment to this issue is greatly needed. Protecting children from sexual exploitation is a **non-partisan issue that deserves wide bi-partisan support**. It is because of champions like you that the safety and dignity of children will become a top priority in North Dakota. Our children's innocence is worth fighting for. Thank you for your time.

I am happy to answer any questions.

Testimony in Support of SB2360

March 14, 2023

Thank you Chairman Klemin and committee members for allowing me this opportunity to testify in support of SB2360. My name is Kristin Sharbono. I am a ND resident, mother of 5 children, and Licensed Professional Clinical Counselor. I specialize in working with children and their families that have experienced trauma. SB2360 is taking a proactive approach to reducing trauma for our youth. What is trauma? It is someone experiencing an event beyond their ability to cope. Sexually graphic materials meets the definition for exceeding the ability to cope for most if not all children. As a mental health provider I follow the rule when it comes to talking to children about mature topics, sex being one of them to answer questions directly but not to provide more information than what is being asked. This minimizes the risk of exceeding the ability to cope. Having sexually graphic materials has the strong possibility of providing them with information that they are not mature enough to cope with. The question where babies come from is a common example. An appropriate response to this question differs greatly depending on age, maturity, cultural beliefs, and circumstances around the question being asked etc. A book in a library or classroom does not provide the opportunity for these factors to be considered.

As a licensed mental health professional, I am a mandated reporter when I become aware of any type of abuse. Abuse is defined by the ND Department of Human Services on their website: [Mandated Reporters - Home Page \(pcand.org\)](https://pcand.org). I have included the full information about criteria for reporting sexual abuse in my written statement. As a part of my verbal testimony, I would like to highlight one of the criteria for mandate reporting that is directly related to this bill. A child being shown pornographic material is considered sexual abuse and is one criterion that mandates reporting. SB 2360 would provide consistency and clarity to ensure that our youth are not being exposed to pornographic material in public institutions. This is a commonsense bill why would it be appropriate to have materials in public locations that fits the definition of childhood sexual abuse?

It is crucial that standards are set to teach our children appropriate boundaries. Our children have been receiving mixed messages. My children over the last 3 years have had 3 teachers and 1 paraprofessional that have left their positions at school due to inappropriate sexual behaviors. It is important that parameters are made clear to our youth about what is and is not appropriate. Having pornographic materials available blurs the lines. As a mental health professional and a mother, I have the responsibility to teach me clients and children who and

when it is appropriate to talk about personal matters. Sexuality is a private matter. School is not the appropriate setting to be exploring sexuality.

Beyond school being an inappropriate setting there are many students that have already been harmed by sexual abuse and access to these materials will increase the harm. The statistics for the number of children that have been sexually abused varies. The CDC estimates that about 1 in 4 girls and 1 in 13 boys in the United States experience child sexual abuse. This is an important statistic to keep in mind. This means that in a classroom of 25 students (12 girls and 13 boys) approximately 4 students have been sexually abused. Why is this relevant to SB2360? Most children who have been sexually abused have PTSD (Post Traumatic Stress Disorder). Children with PTSD often respond to triggers or reminders of abuse in ways that the educational environment would be challenging for them and their peers. Examples include irritability, angry outbursts, withdrawal, dissociation, and avoidance. Finding sexually explicit materials in the classroom or library would likely trigger students that have been sexually abused. These materials have the potential to increase disruptive behaviors in the classroom in addition to providing harm.

This is a commonsense bill. As a mental health professional, I have training to provide a therapeutic environment for children to process situations that make them uncomfortable and/ or are traumatic. I would lose my license if I showed pornographic materials to my minor clients. Why would it be considered appropriate to have these materials available in the classroom or library? This bill is necessary in providing standards that keep the mental health of our youth a priority.

In summary there are 3 main points that I want to highlight

- 1) Allowing children to view sexually graphic materials in considered child abuse according to definitions provided for mandated reporters.
- 2) There is a significant number of children that have been sexually abused and viewing these materials greatly impacts there ability to learn and the learning environment of their peers.
- 3) Mental health professions have training in addressing sexual abuse and related circumstances, but it is considered unethical for mental health professionals to provide these materials why would it be appropriate for them to be available in a library?

Respectfully submitted,

Kristin Sharbono, M. Ed., LPCC



Testimony in Support of Senate Bill 2360

Mark Jorritsma, Executive Director
North Dakota Family Alliance Legislative Action
March 14, 2023

Dear Chairman Klemin and honorable members of the House Judiciary Committee:

North Dakota Family Alliance Legislative Action is submitting testimony in support of Senate Bill 2360, and respectfully requests that you render a "DO PASS" on this bill.

Our organization and its constituents feel strongly about protecting minors from explicit sexual material. Many of our constituents have told us, particularly in recent months, that they feel unsafe allowing their children and grandchildren to visit the public library when they are not present, because of the content found in books that are available and sometimes even promoted by the libraries. Both public and school libraries currently allow highly inappropriate books to be read by children, frequently under the guise of educational purposes. Appendix A shows examples of current books from multiple public libraries around our state, the intended audience for each (children and young adults), and descriptions of why each is often banned, per the American Library Association.

We obtained a number of the books found in North Dakota libraries which have been identified as potentially obscene and showed them to willing constituents, both more liberal and conservative. Most responded with disbelief and shock, and even the more "progressive" among them still expressed significant concern. While this was certainly not a formal study, the informal polling of these individuals and families strongly indicates an undeniable desire to keep these books out of children's hands.

Until now, libraries have been permitted to push the boundaries further and further regarding what is shown to our children, and not surprisingly, the situation has continued to deteriorate. However, this bill would make them accountable to ensure no books in our North Dakota libraries violate our obscenity laws.

Counter to what some may claim, SB 2360 is not out to stifle creativity, artistic expression, or academic research. It specifically exempts organizations such as colleges, universities, museums, and art galleries from the requirements found in the bill. This bill is not about stifling expression or thought, but instead, has everything to do with protecting children from having their innocence stolen from them by age-inappropriate materials.

1515 Burnt Boat Dr., Suite C-148, Bismarck, ND 58503
mark@ndfamilyalliance.org
701-355-6425
www.ndfamilyalliance.org

We understand that our world today is a complex and sometimes confusing place for children as they try to understand social constructs such as gender identity, or scientific facts about subjects such as biological reproduction, puberty, and STIs/STDs. They need to learn about these things to function in our society – shielding them is not an option. However, Senate Bill 2360 would ensure that they are introduced to these concepts honestly and appropriately when their parents decide it is time. Further, we like that the bill focuses on public libraries, allows for legal action to be taken against individuals (not just organizations) violating the law, and contains an extensive definition of “explicit sexual material”.

North Dakota Family Alliance Legislative Action wholeheartedly agrees with what this bill seeks to do – protect our children. As a result, we ask that you render a “DO PASS” on Senate Bill 2360. Thank you for taking the time to read our testimony and please do not hesitate to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Mark Jorritsma". The signature is written in a cursive, flowing style.

Mark Jorritsma
Executive Director

Appendix A

Find: Search All Fields

Log in to your account:

Help More Search Options

List View

Keyword: me and earl
Results: 23 matches

Search Refinements

Current Refinements
23 rows in main search.
• No refinements specified.

Add Refinement
Require

Keyword
 Add

Availability
Medium

Downloadable

Location

Material type

Language

Copyright Year — Add

Cover	Match	Location	Label	Title	Author	Available			Total	Date
						VC	LV	MU		
	100	Adult Audio Books	YA CD AND	audio book: Me and Earl and the dying girl	Andrews, Jesse	1	0	0	1	2015
	97	YA Fiction	YA AND	Me and Earl and the Dying Girl	Andrews, Jesse	1	0	0	1	2015
	97	Adult DVDs	DVD MEA	DVD: Me and Earl and the dying girl		1	0	0	1	2015
	78	Research branch	SHEET MUSIC SHELF 12 ITEM LE 2	Leave me with a smile / by Earl Burtnett and Chas. Koehler	Burtnett, Earl	0	0	1	1	1921
			SHEET MUSIC	I wish you were jealous of me						

Online chat is not available

Visit Us Contact Us Language Kids' Catalog

Source: Valley City Barnes County Public Library, Valley City, North Dakota.

BANNED BOOKS BY YEAR

Top 10 Most Challenged Books of 2021

Find more shareable statistics on the Free Downloads webpage.

The ALA Office for Intellectual Freedom tracked 729 challenges to library, school, and university materials and services in 2021. Of the 1597 books that were targeted, here are the most challenged, along with the reasons cited for censoring the books:

- Gender Queer by Maia Kobabe**
Reasons: Banned, challenged, and restricted for LGBTQIA+ content, and because it was considered to have sexually explicit images
- Lawn Boy by Jonathan Evison**
Reasons: Banned and challenged for LGBTQIA+ content and because it was considered to be sexually explicit
- All Boys Aren't Blue by George M. Johnson**
Reasons: Banned and challenged for LGBTQIA+ content, profanity, and because it was considered to be sexually explicit
- Out of Darkness by Ashley Hope Perez**
Reasons: Banned, challenged, and restricted for depictions of abuse and because it was considered to be sexually explicit
- The Hate U Give by Angie Thomas**
Reasons: Banned and challenged for profanity, violence, and because it was thought to promote an anti-police message and indoctrination of a social agenda
- The Absolutely True Diary of a Part-Time Indian by Sherman Alexie**
Reasons: Banned and challenged for profanity, sexual reference and use of a derogatory term
- Me and Earl and the Dying Girl by Jesse Andrews**
Reasons: Banned and challenged because it was considered sexually explicit and degrading to women
- The Sweetest Thing by Toni Morrison**

Source: American Library Association

Find: Search All Fields

Log in to your account:

Help More Search Options

Log in to your account: To manage reserves, renewals, etc.

Search Refinements

Current Refinements
119 rows in main search.
• No refinements specified.

Add Refinement
Require
Keyword Add
Availability
Medium
Downloadable
Location
Material type
Language
Copyright Year — Add

Previous Searches
Keyword: the absolutely true Results: 116 matches
Keyword: me and earl — 23 results

Cover	Match	Location	Label	Title	Author	Available	Total	©Date
						VC LV MU		
	100	YA Fiction	YA ALE	The absolutely true diary of a part-time Indian	Alexie Sherman	1 0 0	1	2007
	50	~Internet	~OverDrive	OverDrive eBook: The Absolutely True Diary of a Part-Time Indian	Alexie Sherman	1 1 1	3	2012
	50	~Internet	~OverDrive	OverDrive Audiobook: The Absolutely True Diary of a Part-Time Indian	Alexie Sherman	1 1 1	2	2008
	46	~Internet	~OverDrive	OverDrive eBook: Witches: The Absolutely True Tale of Disaster in Salem	Schanzer	0 0 0	0	2011

Online chat is not available

Visit Us Contact Us Language Kids' Catalog

Source: Valley City Barnes County Public Library, Valley City, North Dakota.

Top 10 for 2017

View the Censorship by the Numbers infographic for 2017

The ALA Office for Intellectual Freedom tracked 354 challenges to library, school and university materials and services in 2017. Of the 416 books challenged or banned in 2017, the Top 10 Most Challenged Books are:

- Thirteen Reasons Why** written by Jay Asher
Originally published in 2007, this New York Times bestseller has resurfaced as a controversial book after Netflix aired a TV series by the same name. This YA novel was challenged and banned in multiple school districts because it discusses suicide.
- The Absolutely True Diary of a Part-Time Indian** written by Sherman Alexie
Consistently challenged since its publication in 2007 for acknowledging issues such as poverty, alcoholism, and sexuality, this National Book Award winner was challenged in school curriculums because of profanity and situations that were deemed sexually explicit.
- Drama** written and illustrated by Raina Telgemeier
This Stonewall Honor Award-winning, 2012 graphic novel from an acclaimed cartoonist was challenged and banned in school libraries because it includes LGBT characters and was considered "confusing."
- The Kite Runner** written by Khaled Hosseini
This critically acclaimed, multigenerational novel was challenged and banned because it includes sexual violence and was thought to "lead to terrorism" and "promote Islam."
- George** written by Alex Gino
Written for elementary-age children, this Lambda Literary Award winner was challenged and banned because it includes a transgender child.
- Sex is a Funny Word** written by Cory Silverberg and illustrated by Fiona Smyth
This 2015 informational children's book written by a certified sex educator was challenged because it addresses sex education and is believed to lead children to "want to have sex or ask questions about sex."
- To Kill a Mockingbird** written by Harper Lee
This Pulitzer Prize-winning novel, considered an American classic, was challenged and banned because of violence and its use of the N-word.
- The Hate U Give** written by Angie Thomas
Despite winning multiple awards and being the most searched-for book on Goodreads during its debut year, this YA novel was challenged and banned in school libraries and curriculums because it was considered "pervasively vulgar"

Source: American Library Association

Refine your search

Availability

Limit to currently available items

Authors

- Beach Boys
- Beck
- Block, Adam
- Brickell, Edie
- Christie, Chris
- Show more

Collections


- Biography
- CD
- DVD
- NonFiction






Home libraries


Dr. James Carlson Library




Your search returned 7 results. 

Found 1 results in the library's OverDrive collection

Relevance 

 Unhighlight |  Select all |  Clear all | Select titles to: Add to...  

All boys aren't blue : a memoir-manifesto / George M. Johnson. 
by Johnson, George M. (George Matthew), 1985-.

Edition: First edition.
Material type:  Text; Format: print; Nature of contents:  ; Literary form: Not fiction; Audience: Adolescent;
Publisher: New York : Farrar Straus Giroux, 2020
Other title: All boys are not blue.
Availability: **Items available for loan:** Main Library (1) [Collection, call number: **Biography** JOHNSON, G. J67].
Lists: LGBTQ+ History Month, LGBTQIA+ Reads for Adults, LGBTQIA+ Reads for Adults 2022.


- The very best of the Beach Boys : sounds of summer / the Beach Boys.** 
by Beach Boys [composer,, audio producer,, performer].

Source: Fargo Public Library

The ALA Office for Intellectual Freedom tracked 729 challenges to library, school, and university materials and services in 2021. Of the 1597 books that were targeted, here are the most challenged, along with the reasons cited for censoring the books:

- 1. Gender Queer by Maia Kobabe**
Reasons: Banned, challenged, and restricted for LGBTQIA+ content, and because it was considered to have sexually explicit images
- 2. Lawn Boy by Jonathan Evison**
Reasons: Banned and challenged for LGBTQIA+ content and because it was considered to be sexually explicit
- 3. All Boys Aren't Blue by George M. Johnson**
Reasons: Banned and challenged for LGBTQIA+ content, profanity, and because it was considered to be sexually explicit
- 4. Out of Darkness by Ashley Hope Perez**
Reasons: Banned, challenged, and restricted for depictions of abuse and because it was considered to be sexually explicit
- 5. The Hate U Give by Angie Thomas**
Reasons: Banned and challenged for profanity, violence, and because it was thought to promote an anti-police message and indoctrination of a social agenda
- 6. The Absolutely True Diary of a Part-Time Indian by Sherman Alexie**
Reasons: Banned and challenged for profanity, sexual references and use of a derogatory term
- 7. Me and Earl and the Dying Girl by Jesse Andrews**
Reasons: Banned and challenged because it was considered sexually explicit and degrading to women
- 8. The Bluest Eye by Toni Morrison**
Reasons: Banned and challenged because it depicts child sexual abuse and was considered sexually explicit
- 9. This Book is Gay by Juno Dawson**
Reasons: Banned, challenged, relocated, and restricted for providing sexual education and LGBTQIA+ content.
- 10. Beyond Magenta by Susan Kuklin**
Reasons: Banned and challenged for LGBTQIA+ content and because it was considered to be sexually explicit.

Source: American Library Association

MELISSA

ALIX BEND



2015

2. **George**

by **Gino, Alex**, author.

Call Number: PZ7.1.G576 Geo 2015

Summary: "When people look at George, they think they see a boy. But she knows she's not a boy. She knows she's a girl. George thinks she'll have to keep this a secret forever. Then her teacher announces that their class play is going to be Charlotte's Web. George really, really, REALLY wants to play Charlotte. But the teacher says she can't even try out for the part ... because she's a boy. With the help of her best friend, Kelly, George comes up with a plan. Not just so she can be Charlotte-- but so everyone can know who she is, once and for all"-- Provided by publisher.

Web Site: [Alex Gino blog](#)

Target Audience Note: Grades 3-7.

Source: OCLC WorldCat



FULL DISPLAY



PLACE REQUEST

Add to My List

Source: Grand Forks Public Library

Top 11 Most Challenged Books of 2018

View the Censorship by the Numbers infographic for 2018

The ALA Office for Intellectual Freedom tracked **347 challenges** to library, school and university materials and services in 2018. Of the **483 books** challenged or banned in 2018, the Top 11 Most Challenged Books are:

1. **George by Alex Gino**

Reasons: banned, challenged, and relocated because it was believed to encourage children to clear browser history and change their bodies using hormones, and for mentioning "dirty magazines," describing male anatomy, "creating confusion," and including a transgender character

2. **A Day in the Life of Merlon Bundo by Jill Twiss, illustrated by EG Keller**

Reasons: banned and challenged for including LGBTQIA+ content, and for political and religious viewpoints

3. **Captain Underpants series written and illustrated by Dav Pilkey**

Reasons: series was challenged because it was perceived as encouraging disruptive behavior, while *Captain Underpants and the Sensational Saga of Sir Stinks-A-Lot* was challenged for including a same-sex couple

4. **The Hate U Give by Angie Thomas**

Reasons: banned and challenged because it was deemed "anti-cop," and for profanity, drug use, and sexual references

5. **Drama written and illustrated by Raina Telgemeier**

Reasons: banned and challenged for including LGBTQIA+ characters and themes

6. **Thirteen Reasons Why by Jay Asher**

Reasons: banned, challenged, and restricted for addressing teen suicide

7. **This One Summer by Mariko Tamaki, illustrated by Jillian Tamaki**

Source: American Library Association

Sandi L. Bates, MLIS, private citizen, Bismarck, ND
ADAMANTLY OPPOSED SB2360 – VOTE DO NOT PASS

The First Amendment guarantees our freedom of speech and right to access information. Censoring intellectual and academic freedom raises significant constitutional questions and issues and is bad public policy. Censoring also deeply impacts librarians' ability to perform their duties as set forth by academic institutions, local library boards and city commissions. Decisions and oversight of library materials collections should be left to the communities they serve.

You already have made your decision about how you will vote today so I'm not sure exactly why we are all submitting testimony other than it is the formality of the process.

Libraries are the great equalizers. Libraries do not care if you are short or tall or medium; fat or skinny or just right; smart, not so smart or trying desperately to improve yourself in whatever manner. It does not matter the pigmentation of your skin or whom you choose to love.

Libraries are the great equalizer. You can learn to sew clothes; explore another land real or imaginary; craft a quilt; build a Lego structure; write computer code; build your business by learning accountancy; find self help where no one judges you; and even fix your toilet.

Libraries are the last bastions of altruism. EVERYONE IS WELCOME!

Your beliefs are not checked at the door and neither should anyone else's beliefs. You can read the Bible, the Koran or any other religious text. You can read romance novels, thrillers or murder mysteries. You can be excited, terrified and find love. Everyone should have the right to read books of interest to them. This includes youth who are trying to figure life out – whether it is gender identity or sex or just how a human body works. The truth about this bill is it isn't really about protecting children from pornography. It is about keeping children from being exposed to any thoughts of homosexuality and anything speaking to transgender humans. There should not be a "naughty book area or room" where the reader is subjected to shame for looking at "those" library materials. Everyone who enters the doors of a library should be accorded the respect to browse whatever collection.

Libraries are the great equalizer. Libraries have built nations. Libraries make people more intelligent in so many ways – they make you book smart and common sense smart. They allow anyone to learn to critically think by examining opinions and material contrary to their own beliefs. By exploring reading and browsing a library, bumping into some foreign concept, people learn compassion and sympathy. They begin to see all their neighbors as humans who are only trying to find happiness, just like them.

Why anyone thinks it is a good thing to suppress and censor library materials – yes, it is censorship when you take away people's ability to find information in the library – is beyond my comprehension. Libraries provided me with countless hours of entertainment and knowledge. After 25 years working in another industry, I returned to college to earn a master's degree in library and information science. Throughout my years, I was a detective with Nancy Drew and flew on a broom with Harry Potter and his friends. I fixed my toilet, sink and dryer vent all on my own. I have sewed quilts that were later donated to a charity to give someone warmth. Are all those books available for purchase by me? Yes, of course. Could I afford to explore all those topics if I had to buy all of these books? Not possible. That's the beauty of public libraries. Altruistic through and through. That's why I love them!

You have listened to inflammatory material read from ONE BOOK. How many of you have actually read any of the other books on the challenged book list deemed pornographic? I wonder how many of you actually are active library users – not just card holders but visit your library on a regular basis.

I adamantly oppose SB2360 – no matter how it is amended or changed. It remains censorship and I am even more adamantly opposed to that. VOTE DO NOT PASS!

Chair Klemin and members of the House Judiciary Committee,

I urge a 'DO NOT PASS' on SB 2360. I am quite concerned about this bill and the consequences of it passing in its current form. I am a mother of two and I am also beginning my second term as a board of trustees member for Carnegie Regional Library in Grafton.

SB 2360 has been advertised as a bill that is aiming to protect children. I agree with that aim, but after reading this bill I can see that it goes past protecting children and into the arena of censorship. I do not agree with censorship of materials accessible for adults in the public library and other settings. I do not feel that it is the responsibility of the Legislature or Libraries to decide if adults may access materials that may contain something some people find objectionable. There are ideas in materials in our library that I personally object to, but I do not get to decide if other citizens may access those ideas. I will defend the right of others to have access.

I feel there are less restrictive ways to go about protecting children from sexually explicit material. I see that allowing this sort of broad restrictions is a slippery slope to someday restricting other topics and ideas that some deem objectionable. Further the language of this bill is a bit broad and subjective.

Libraries already have policies in place to develop collections that are appropriate and useful for their patrons. Not everyone will agree on every book, but the First Amendment guarantees freedom of speech and the right of citizens to access information.

Many libraries, including ours, already utilize filters on library devices, often in line with the federal Children's Internet Protection Act (CIPA).

It is my job as a parent to know what my children are accessing at the library, online, etc. That is not a responsibility I want to hand over to the State. It is my right, and the right of all adults in this country to access the materials of their choice as long as they are not illegal. I do not want that right taken away from anyone, even if I do not agree with the ideas they choose to consume. I fervently hope to see this bill marked 'DO NOT PASS' and see it defeated in the North Dakota Senate.

Thanks for your time and consideration.

Mr. or Madam Chairman and members of the committee,

My name is Kathy Grooms from Dickinson, ND and I am in favor of this bill, 2360. Please protect our children and grandchildren and future generations from unnecessary exposure to obscene and pornographic materials in public places such as school libraries and public libraries.

Thank-you,

Kathy Grooms

Mr. or Madam Chairman, and members of the committee. My name is Keylana Heinrich from Dickinson. I am in favor of SB 2360 because I believe in protecting the innocence of North Dakota's children. No child should be subject whether voluntarily or otherwise to such obscene material in a public place. It is disgusting and horrific to even suggest that such literature as has been found in our public entities is suitable for any child or adult to consume.

Chairperson, Mr. Klemin, members of the House Human Services committee, I am Barry Nelson, here on behalf of the Fargo Human Rights Commission to testify regarding SB 2360, and on behalf of the Commission I urge you to vote do not pass on this bill.

The Fargo Human Rights Commission consists of [eleven volunteer members](#) who are nominated by the Mayor and appointed by the City Commission. Each serves a three-year term. The Human Rights Commissioners represent a broad range of racial, religious, ethnic, social, economic, political and professional groups.

Our mission is: The Fargo Human Rights Commission provides leadership and education in areas of civil rights, to eliminate discrimination against persons because of color, creed, religion, national origin, age, sex, sexual orientation, gender identity, disability, or marital status. It encourages adherence to civil rights through education, conciliation, and mediation. It identifies human and civil rights-related concerns of the public and recommends policies to the board of city commissioners that protect and preserve individual rights.

At its February, 2023 commission meeting, the assembled commission members voted unanimously on a resolution standing in opposition to the numerous bills targeting our Transgender community.

Our opposition to these bills is based on two principles: 1) it is harming our kids, and 2) it is restricting our freedoms.

In support of principle number one, I cite the following: National research tells us that 75% of transgender youth feel unsafe at school and are more likely to miss school out of concern for their safety. The North Dakota Youth Risk Behavior Surveillance (YRBS) data from 2021 indicates that suicide ideation and attempts are disproportionately higher for LGBTQ. Evidence is as follows: middle school students who ever seriously considered suicide: straight – 22%; LGB – 65%; Transgender – 74.7%. Middle school students who have ever attempted suicide: straight – 7.5%; LGB – 29.3%; Transgender – 46.3%.

Passing bills that directly or indirectly target LGB and specifically Transgender students only enhance this environment by further targeting them within schools and community.

It is within the overall context of the numbers and breadth of bills being presented in this legislative body, that we stand in opposition to SB 2360.

But, wait, you may say: SB 2360 does not specifically say out loud the words lesbian, gay, bisexual or transgender, nor does it express any concern about LGBTQ. I will get to that in a moment.

But first, I must ask: what prurient interest was served by those who came up with this bill, much less to stand on the floor of our government's most sacred and prestigious places of law making and read specific sections of this bill, as profoundly prurient sounding as it all sounds?

We should and could be spending collective time addressing the very serious issues of hunger amongst school age children, about the critical shortage of child care, of the crisis in lack of mental health services for all our citizens, much less the sobering statistics on suicide of our young people. We stand in a time when there is ample resources that could be seriously studied and committed to addressing the serious issues faced by our young

people, our working families and our elderly. I know there are serious members of this prestigious body who in fact are attempting to do just that.

Instead, we are spending time debating as to what rises to the level of obscene material, trying to find that reasonable North Dakota person, and trying to figure out what is or is not offensive sexual conduct whether normal or perverted. And, to prepare for this conversation, someone had to sit around alone or with a group of people to define explicit sexual material – is there really only nine categories? And to determine that a nude or partially denuded human figure can go to the degree to which a breast is exposed and to the degree of separation from the areola? Does this rise to the level of civil rule making?

SB 2360 does not specifically address books or material regarding LGBTQ individuals. It is, however, within the larger context of the number of bills that seek to restrict rights of, to even attempt to erase the existence of members of the LGB and particularly members of the Transgender community, that the broad and vague language of this bill could disproportionately be used to remove books with an LGBTQ theme from our public libraries.

PEN America, a literary and free expression organization, identified in a report released on Monday [at least 50 groups at the national, state or local level](#) that have advocated for book bans in recent months.

Many of these efforts seek to pull books with LGBTQ characters or themes – think Maia Kobabe’s “[Gender Queer](#)” or George M. Johnson’s “[All Boys Aren’t Blue](#)” – and are part of a [broader, conservative-led movement](#) to chisel away at the rights and status of LGBTQ Americans.

In the 1970s in particular, there was a major movement from social conservatives to keep gay and lesbian teachers out of classrooms. There was a [major statewide initiative in California](#). There was, of course, [Anita Bryant in Florida](#).

The animus that was driving those campaigns was, *We need to keep gays and lesbians out of classrooms precisely because they’re an inherent danger to our children. They’re predatory. They’re recruiting.*

In many respects, what’s happening now isn’t a new invention.

This article further explains: Those who are affected the most by book banning are the students in the classroom. When books are banned or challenged, **the footing of the curriculum becomes unstable**. By opening children up to places, people, and different cultures, books help children develop empathy for others. Oct 14, 2022

Books that are explicitly about LGBTQ topics, or have LGBTQ protagonists or prominent characters have been disproportionately targeted during the last nine months of bans, PEN America found. Thirty three percent of all banned books—or 379 books—contained LGBTQ themes, including a subset of 84 titles that deal with transgender characters and topics. EducationWeek, April, 2022.

Given what is happening around the country with over 400 homophobic and transphobic bills being introduced in just the past three months, given that in North Dakota 21 bills have been introduced to restrict or limit the rights of Transgender students, their parents, educational organizations and health care providers, it is not difficult to ascertain what the unspoken intent of this bill is.

Please vote no on SB 2360.

March 13, 2023

To: Chairman Klemin, and Members of the House Judiciary Committee,

My name is Mariah Ralston Deragon and I oppose Senate Bill 2360.

I am a fourth generation North Dakotan, which for the tribal nations of our state, means my family is still new to this area. Nonetheless, I feel a strong connection to the cultural, geographic, and social landscape of North Dakota.

My father, Tim Ralston, was a North Dakotan poet. I myself am a librarian.

I'm also an ally to LGBTQIA+ individuals. That stands for Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual, and + holds space for other identities not included in that acronym, such as Two Spirit, which is an identity particular to certain Indigenous nations.

I support sex education. To be clear, books about sex education are not obscene, they are not the same as pornography. According to the Guttmacher Institute, which is a leading research and policy organization committed to advancing sexual and reproductive health worldwide,

“All young people should have access to comprehensive sexual and reproductive health information that is medically accurate, LGBTQ inclusive, and culturally and age appropriate so that they can make informed decisions about their sexual behavior, relationships and reproductive choices. Sex is already part of [many adolescents' lives](#), and they deserve to receive high-quality information to inform their decision-making. Unfortunately, just [30 states and the District of Columbia](#) require sex education to be taught in schools, and fewer states require that the school curricula include key sex education topics or even medically accurate information.” (<https://www.guttmacher.org/fact-sheet/sex-education>)

For the proponents of this bill who think that librarians in this state are out of touch with North Dakota values, I truly ask you consider this in good faith...Maybe it is North Dakota falling short on the values whereby we support ALL of our citizens, regardless of creed, race, sex, gender, or sexual orientation?

I would also like to add...Each time I've come to the Capitol to testify this session, on either HB 1205 or SB2360, the bills have been amended drastically. It makes it rather difficult to provide testimony addressing the specificity of the changes. I think that in itself demonstrates the fact that these bills are not conceptually sound. This is evidenced by the constant substantial edits being done to the major tenets of the bills.

Regardless of the specific language used in this amended bill, it continues to be at its core, unconstitutional.

The following points are paraphrased from a letter I co-wrote with a group of individuals called the 701 Library Advocacy Taskforce, an ad hoc North Dakota public library advocacy group composed of librarians, public library stakeholders, library patrons, and ordinary citizens. We have serious questions about the fiscal and social consequences of HB1205 and SB2360.

We firmly believe there are undisclosed costs amounting to unfunded mandates for counties and municipalities, small businesses and entrepreneurs, that would create an overreach of government into the personal affairs of North Dakotans.

In addition to being unconstitutional, SB2360 in particular puts an unsustainable financial burden on counties, cities, libraries and staff to re-review the entirety of their collections, a monumental task that will take years, if it ever can be accomplished on top of adding new materials... in addition to an unfunded and significant increase in payroll. Who is paying for that? And what are libraries supposed to do with the now “obscene” materials that they cannot sell or give away?

If the police will be tasked with enforcing this new statute, will they get paid for that? Will prosecutors, public defenders, sheriff departments, jailers, and probation officers be compensated? Given that the behavior outlined in the bills will be clearly criminal, will police departments have to arrest staff for violation of the statute, or will they only issue citations with penalties? Will municipalities and county attorneys be required to try persons arrested or cited for violation of these new acts? How exactly would arrested and convicted library workers be charged and prosecuted? Who exactly in the organizations would be charged? Library directors who have overall managerial responsibility, or the front desk library workers? Or the library board of directors? This even brings up the possibility of a “banned book registry,” and who will be in charge of that... Who will inspect the libraries to make sure the titles are removed? Will the Attorney General or the Commissioner of Public Safety have to hire staff to enforce this law?

Has the ND Division of Insurance and/or the insurance industry been advised or invited to take a position on these bills, especially since effectively every public board of directors, staff members, school district librarians, teachers, school board members, and state regulatory bodies, and private business selling books, magazines, electronic media, even games and music, could be subject to the bills’ broad provisions, and would likely need some kind of indemnification insurance for criminal acts that come with the ordinary discharge of their duties.

As noted above, are there other fiscal considerations extending to municipal and county governments? What may happen with cities’ municipal bond ratings if libraries are forced to close or significantly reduce services?

At the time I am submitting this testimony and to my current knowledge, the fiscal implications of these bills have not been assessed by the Appropriations Committees in either Chamber, and there are no Fiscal Notes identifying impacts on State agencies’ and/or local governments’ delivery of services and the discharge of their duties. What is this bill going to cost all of us?

There are clearly serious and long term negative fiscal AND financial considerations affecting the rights and prerogatives of every North Dakota citizen embedded in this bill.

In closing, I support the freedom to read, the freedom for parents and individuals to have open access to the constitutionally protected materials, which they are afforded rights to under the First Amendment. I ask you to VOTE NO on SB2360.

Sincerely,
Mariah Ralston Deragon

To Whom it may concern

My name is Lesley Allan, I live in Williston ND, and I am writing in opposition to SB2360. Approving this bill will do more damage than good. First, *and most importantly*, it is a violation of first amendment rights. Those rights extend to every citizen, even students.

This bill is far too vague and would require ND library staff and school districts to spend millions of dollars and thousands of hours conducting work that is **already overseen** by locally elected school boards. Don't North Dakota School Boards already have policy and procedures in place to address placement and reconsideration? Last time I checked, this was not the North Dakota conservative standard - letting big government meddle at the local level. This Bill would require every single resource to be vetted for items that "either contain explicit sexual material" or "contain visual depictions or written descriptions of nude or partially denuded human figures." The definition of "sexually explicit" remains vague and thus, impossible to implement faithfully leaving a lot of questions that need answers.

- Should the ND state standards for health education - including sexual reproduction and activities - be abandoned?
- When looking at "sex-based classifications" will all classifications be targeted? So possibly only books about non-bianary people should remain on the shelves.
- The definitions of "nude or partially nude" are unclear, and thus, impossible to implement.
- What about animals? Will books about baby animals be allowed in the science section? There is an elementary book that talks about the chicken and egg cycle, how many days it takes, how the chick forms in the egg...

If these seem silly, please understand, when faced with a large fine and a Class B Misdemeanor, teachers are going to want to know the deep details of what they can continue to have on their shelves. Since the legislature is trying to move this bill into law even though there is overwhelming opposition testimony, YOU should be responsible for answering these questions and not have the ability to pass that responsibility onto someone else.

Do parents have the right to say what **their student** can or can not read? Of course they do! That is part of a parent's job - but they only have responsibility for their child and should not be able to force their beliefs on other families. But what this bill is attempting to do - and not doing it very well - is to make it the job of the government - not individual parents - to say what ALL students can or cannot read. Please do not pass this bill!

To Whom it may concern

My name is Lesley Allan, I live in Williston ND, and I am writing in opposition to SB2360. Not only is it a horrible overreach of government but it violates everyone's first amendment rights.

The requirement in the Bill is redundant. North Dakota School Boards already have policy and procedures in place to address placement and reconsideration. North Dakota librarians and classroom teachers select books first referring to local school board policies and procedures, then with consideration of age appropriate books for each division (elementary, middle, and high).

North Dakota Educators believe parents should be able to review any and all resources and have a voice in what their student selects. **Parents can already opt their child out of any supplemental resource in the classroom/library and may restrict their students from any library resource that does not meet their personal or family standards.** The key phrase is "their child". One parent should not be able to dictate what a child who is not their own gets to choose. Just because 'Parent A' doesn't want 'Student A' reading *Captain Underpants* does not mean that same parent can make the decision for 'Student B'. That responsibility is for 'Parent B' to decide - and certainly not for the government to decide either.

North Dakota School Boards have jurisdiction over ND school libraries and classrooms. Determining policies and procedures around resource purchases and reconsideration should remain at a local level. School libraries are supposed to reflect the demographics of all the students (and their families) along with reflecting the wider school district community. Grand Forks libraries do not look the same as Williston libraries. Even within a school district one classroom library will not contain the same materials as a classroom in another school.

North Dakota Educators care deeply about students and their safety - we would not have chosen this profession if we did not. Please reconsider moving this bill forward and trust the professionals already serving in the schools, trust the school boards that have been voted on by local people, trust that state government does not need to micromanage on a local level.

Members of the House Judiciary Committee. My name is Sharlet Mohr and I reside in District 23. I am asking that you please render a do pass on SB 2360.

I don't have children currently in the school district, but I do have a grand child in grade school, she is 11.

We do not need to have literature in our schools or public libraries teaching my grand child on how to give a blowjob, or what a Butt Plug is. Maybe we wouldn't have half the problems in schools if we spent more time educating them on moral values, their country, and their history.

How did we get here? I'm pretty sure you go to jail for this kind of thing being given to a child in any other setting.

If my grandchild tried to google any of these words on their School issued Chrome Books, it would be flagged as "Not appropriate."

The schools and public libraries blocks electronic access , but you have no barriers to protect what they read in schools or public libraries. There is no educational value to pushing Porn on our students. Right is right and wrong is wrong, and their mental health is just as important as their physical body.

I know some of you on the judiciary committee have passed or tried to pass bills such as: standing up for children, fighting for our veterans, election Integrity, and gun laws. Some of you just starting and some that have been there for 20 years.

Our Veterans didn't fight and die for our children to be violated by adults. Its time we stand up and fight for the country they fought and died for. There are 4,000 reasons in Arlington Cemetery why you need to continue to stand up for these children.

I urge you be their voice. Stand up for these children. Please render a do pass on SB 2360

Dr. Jill Manning
Mental Health Practitioner

Chairman Klemin and Members of the House Judiciary Committee,

I grew up in a military family and with a mother who was a teacher-librarian. I deeply cherish the freedoms and liberties we enjoy in this country. In line with these freedoms is the responsibility to protect our youth who are the most vulnerable audience of sexually explicit content. As a citizen, mother, and mental health practitioner, I support Senate Bill 2360 to protect minors from content that meets the legal standard of obscenity.

In the past, I was indifferent and ignorant of the impact of sexually explicit content. I had a 'live and let live' attitude, which I thought was evolved and open-minded of me, but in truth, it was an intellectual cop-out. When I became a marriage and family therapist, which included layered training in human sexuality, I started encountering people of all ages who were directly impacted by obscenity online and in print, and I realized I could no longer remain indifferent.

As a Licensed Marital & Family Therapist and Certified Clinical Trauma Professional, I now have over two decades of clinical and research experience with pornography-related issues. My practice specializes in the treatment of individuals impacted by sexual betrayal (the majority of whom are betrayed through secretive and persistent pornography use), and in the past, I have worked with adults and adolescents in both outpatient and inpatient settings who struggled with compulsive sexual behavior. I have published research in peer-reviewed journals and various other media on the impact of pornography. It is my experience that many who advocate for unfettered access to obscenity are sorely dissociated from what the social and medical science research reveals about the impact of it on developing brains and young nervous systems.

The scientific data reveals a range of troubling correlations which include but are not limited to:

1. The normalization and desensitization to obscenity.
2. Increased risk of exposure to incorrect information about sexual behavior.
3. Misperceptions of exaggerated sexual activity in the general populace.
4. Overestimating the prevalence of less common or illegal sexual practices (e.g., incest, group sex, bestiality, or sadomasochistic activity).
5. Perceiving sexual promiscuity as normal.
6. The adoption of permissive sexual attitudes.
7. Earlier age of sexual debut, thereby increasing the number of sexual partners over the lifespan and the risk of contracting sexually transmitted infections.
8. Acquiring a mechanical view of sexual activity.
9. Developing cynical attitudes about love and marriage.
10. Believing superior sexual satisfaction is attainable without having an attachment with or affection for one's partner.
11. Developing a negative body image.
12. Increased risk for developing sexual compulsions.

13. Increased aggression and misogyny when exposed to violent content, including the trivialization of rape.
14. Increased risk of engaging in sexually risky behaviors.
15. Decreased social integration.
16. Increased behavioral problems and higher levels of delinquent behavior.
17. Higher incidence of depressive symptoms.
18. Decreased emotional bonding with caregivers, meaning relationship quality declines.

In closing, the rate, manner, and type of exposure to this content are categorically different from that of pre-Internet generations 34 years ago and before the advent of the Young Adult genre of literature came into being 50 years ago. We have a responsibility to protect young people from these harms in ways that reflect today's cultural landscape.

Wall Street Journal book critic, Megan Cox Gurdon, once stated, "The book business exists to sell books; parents exist to rear children and oughtn't be daunted by cries of censorship. No family is obliged to acquiesce when publishers use the vehicle of fundamental free-expression principles to try to bulldoze coarseness or misery into their children's lives."

I would ask that you vote Yes on Senate Bill 2360.

Respectfully,

Jill Manning, Ph.D., LMFT, CCPS, CCTP, BC-TMH

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University Senate

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SB 2360

ND Senate Judiciary Committee

March 14, 2023

Chairman Klemin and members of the House Judiciary committee:

My name is Robert Newman. I am a professor at the University of North Dakota and Chair of UND's University Senate. On behalf of the UND University Senate I submit this **testimony in opposition to SB 2360.**

The Senate Judiciary committee received a substantial volume of testimony on this bill, much of it opposing the bill. The version under consideration now in your committee has already received an abundance of testimony, laying out the reasons why the bill, should it become law:

- solves no problem that does not already have an accepted solution, and
- creates the impression that North Dakota is a state with state-sponsored censorship.
- Is clearly un-constitutional (see for example the testimony of David Horivitz)

I do not believe that members of the legislature would willfully cast our state in a negative light, for no good reason and that leads me to hope that you will reconsider this ill-advised bill. Although the bill targets both retailers and public libraries, places where minors will allegedly be faced with what the bill deems "obscene material," I will focus on libraries in my testimony.

Please remember the purpose of public libraries. They are repositories of knowledge and the arts, they are gathering places and community centers that support education and shared experiences, and importantly, they are fundamental to democracy by allowing access to these valuable resources for everyone.

Censorship and book banning have no place in a democracy. They are incompatible with the First Amendment right to freedom of speech and expression. Moreover, you simply cannot ban any information anymore in our modern information age. The only impact will be that citizens will lose trust in the government because the government is conspicuously attempting to prevent people from accessing material that is readily available online.

Today, the University of North Dakota rests on the ancestral lands of the Pembina and Red Lake Bands of Ojibwe and the Dakota Oyate — presently existing as composite parts of the Red Lake, Turtle Mountain, White Earth Bands, and the Dakota Tribes of Minnesota and North Dakota. We acknowledge the people who resided here for generations and recognize that the spirit of the Ojibwe and Oyate people permeates this land. As a university community, we will continue to build upon our relations with the First Nations of the State of North Dakota — the Mandan, Hidatsa, and Arikara Nation, Sisseton-Wahpeton Oyate Nation, Spirit Lake Nation, Standing Rock Sioux Tribe, and Turtle Mountain Band of Chippewa Indians.

As a practical matter, we do not and do not want to live in a society where authorities are monitoring our every move (have you read Orwell's 1984?). I think we would all agree that is un-American, or at least we would like to think so. Moreover, librarians are professional information facilitators. It is not their job to prevent people from accessing information, quite the opposite in fact. Read the testimony they have submitted.

As to the concerns raised in this bill, as other testimony has already noted, libraries already have policies about acceptable material, age-appropriate access, and opportunities for public participation in the process. Criminalizing librarians because some community members are offended by their decisions is highly inappropriate and creates an impossible situation for them.

Finally, you may question why the faculty at one of our universities is offering an opinion about this. Actually, I hope you are not questioning that because it should be obvious. The mission of colleges and universities is to foster learning and discovery for all members of society. But students of all ages most likely first encounter local public libraries and school libraries long before they arrive on a college campus. The knowledge and learning skills they develop at home, in schools, and, yes, through access to local libraries sets the stage for success in higher education. Our mission in higher education builds on that foundation.

Let libraries and librarians do their job! If anything they are doing was causing harm, we would all have already been harmed long ago. It did not happen and is extraordinarily unlikely ever to happen. This bill is not a solution to any problem. It will only make life difficult for librarians, library patrons, both of whom are your constituents.

We urge the committee to oppose SB 2360 and vote Do Not Pass.

Respectfully,
Robert Newman, PhD. / Chair, University Senate, UND

Mr. or Madam Chairman, and members of the committee, my name is Brandi Waples from Dickinson, North Dakota. I am in FAVOR of the SB2360

The following sentences came from the Department of Justice website concerning obscenity and minors: "Federal law strictly prohibits the distribution of obscene matter to minors. Any transfer or attempt to transfer such material to a minor under the age of 16, including over the Internet, is punishable under federal law."

Why does the public school system and libraries have the authority to give my children access to material that is punishable under federal law for anyone else who would do so? As a parent and taxpayer, I urge you to vote in FAVOR of SB 2360.

Thank you,
Brandi Waples

Chairman Klemin, members of the Judiciary committee, my name is Rozell Unruh from Dickinson.

It is our duty to protect our children not only physically but also mentally and emotionally. So we need to protect them from the grooming, overtly sexual and explicate books that are currently in our public and school libraries. Their minds are not mentally or emotionally equipped to comprehend what these books are promoting. These books have an actual agenda that is geared towards our children especially tweens and teens to encourage pornography, sexting, gender identity questioning, sexual experimentation and sexual promiscuity.

Minors are not legally allowed to vote, smoke cigarettes, drink alcohol, be in the military, sexting, let alone go into a strip club or an adult book store, so why would we allow them to read or look at these pornographic, explicate books in our public or school libraries?

Please vote a DUE PASS SB2360

Thank you,
Rozell Unruh

Mr. Chairman and members of the House Judiciary Committee,

My name is Miki Thompson. I am a resident of Dickinson. I am a homeschooling parent of two children. I am in favor of this bill. I am a part of a group of concerned parents that have been watching this bill closely.

We as taxpayers and citizens are exhausted. We have been working tirelessly to be heard by our library board and leadership. We have filled out their forms for reconsideration with no response. We have attended their meetings. We have been ridiculed on social media, and via testimony to the state by standing library board members. We went to our city leaders and they passed the buck back to the library. So, we turned to our representatives at the State House who drafted bills, because we were not being heard by those who are supposed to be serving our community locally.

I want to be clear. This is not political. This is about protecting the innocence of our children. Adults in opposition have unfortunately made it about themselves and their own rights. That is not what this is about. No adult rights are being violated here. Adults have no right giving children access to pornography. In fact, it is illegal. I have looked at and read some of the materials in question. They are disturbing to say the least. One book represents porn as a sugary treat. Porn has been proven to be highly addictive and destructive. Fifteen states have declared a porn epidemic, including South Dakota, Idaho, Pennsylvania, Arizona, and Montana. Why are employees of publicly funded government entities pushing this sexualization on children? Who would want to push sexuality on children at younger ages? Our state is very clear on the age of consent at being 18. These materials also encourage children to break state and federal laws. They encourage unprotected sex. I have heard the excuse from library staff that these materials need to be in the library for those kids without involved parents that can help them process the information. So we now are victimizing children that have no parental direction in their life?

During one library board meeting, I was in the overflow room at city hall. There were about 80-100 concerned citizens there that night. In the overflow section we were watching the meeting via the video monitors. Several people had brought images from some of the materials in question. During their time to speak(which was limited unfairly) they showed the images. The video in the overflow could not show us the images. We would be cut off if reading passages from the material. If it cannot be shown at a public meeting why are the libraries allowing this to be in a children's section at a library? You cannot even go to the library computers and look up the terms explained in the books. As a parent I can no longer trust that my local library is safe for any child.

When you walk into our library social justice displays have taken over. Gone are the displays that encourage children to read and learn about the world around them. I remember walking into my local library as a child and seeing displays about the jungle, different genres, author spotlights, and so much more. The displays would have books, new and old. Unfortunately personal, social agendas have infected our libraries. They are not run locally. They are not even run by the state association. We have let a federally funded leftist extremist group gain control of all our libraries. The ALA makes all the rules and codes of ethics for our libraries. These codes and rules do not reflect our North Dakotan community standards. Enough is enough. Time to protect our most precious assets. Time to take our libraries back.

Thank you for your time.

House Judiciary Committee
March 14th, 2023 HB 2360
Testimony in Opposition

Dear Chair Klemin and the members of the House Judiciary Committee,

I'd urge a "Do Not Pass" on 2360

I have spent five hours reviewing the entirety of testimony submitted during the Senate hearing and provide the analysis of it below. Here is what I believe should be considered when weighing judgment today.

1. Current written language will challenge Miller Test and testimony warns of lawsuit
 - a. Miller Test serves as protective factor in cases of obscenity, meaning the criminal penalties applied to librarians from this bill will be held to much more subjective tests than one defined by Supreme Court according to testimony
2. Proponents in favor have misunderstood a few relationships
 - a. The American Library Association guidelines are being mistaken for carte blanche access for any kid for any book - libraries have several safety mechanisms to stop kids from accessing age inappropriate material.
 - b. Research on the harm of pornography is being applied to any sexual content, where that is not a fair or adequate comparison. Pornography as a classification is different from material that happens to be sexual in nature.
 - c. They treat books they personally find distasteful as pornography, when that is not how any of our systems work nor is it how research into pornography works.
3. Parents are the person in charge of their child and what their child has access to
 - a. It makes no sense to hold libraries accountable to the discretion of individuals who can already govern their child's access and reading material.
 - b. Libraries already do have very strict standards they follow as professionals and institutes.
 - c. Many of these parents are very equipped with every book to avoid (being given lists by national groups) that will have their specifically tailored preferences. This seems much more in line with personal freedom and liberty than banning books for everyone on personal discretion or redefining obscenity.
4. This is likely a moral panic responding to heavy amounts of fear
 - a. The book in questions in our state libraries was not checked out once prior to the entire complaint process leading to this bill according to testimony

Overall, Librarians expressed a dismay that many people testifying did not understand the policies or the implementations of the policies they commented on. Our State Librarian, during neutral testimony offered professional opinion that the word 'pornography' as it is being used

within a criminal component should not be applied nor has it ever been applied to the books within the state library nor would the books being brought up be construed as such.

I believe that many people testifying in favor of this bill, did earnestly try to create the change they wanted to at local levels before bringing it into a bill. I, however, do not believe they would ever be satisfied until any books they personally found objectionable would be removed for all patrons. Moral panics, more than anything are built on the notions of wanting to keep youth safe and lead to reckless actions in hopes to feel less anxious about the world we find.

It took me two hours of reading testimony to realize why they wanted to criminalize librarians. And I realize it was because in their head, all of this material was pornography. Which means, in their head, these librarians were effectively giving their kids harmful porn with devastating effects. But keep in mind the read-ins occurring in our state and the many people found the material in question to not to be harmful or obscene.

I empathize with the individuals who are currently afraid for their kid, but we have solutions for them that don't compromise personal liberty for all people to pursue within our public institutes. We have an interest in balancing the rights of our citizens. I believe the fairest option would be for these individuals to initiate a measure and if passed on the ballot, we as a state could not strictly complain about the outcomes.

Otherwise, we're deciding the sensibilities of North Dakota's opinions on obscene material with less than a fraction of its constituents. While I believe lawmakers do represent their district in most policy discussions, I do not believe our lawmakers represent what 16,500 people agree on is obscene.

It is for these reasons I urge a "Do Not Pass"

Thank you,
Faye Seidler

Testimony Analysis

In Favor

1. Policy
 - a. [Suggests CIPA doesn't regulate Print and isn't effective opposition](#)
 - b. [Parents have tried local solutions and they have not worked](#)
 - c. [Criminalize librarians for giving sexually explicit material to kids](#)
 - d. [Supreme court obscenity ruling should be disregarded](#)
2. Harm
 - a. [Kids access to sexual material is too easy](#)
 - b. [Need this to protection children from inappropriate material](#)
 - c. [This bill protects sexual abuse victims/porn is abuse](#)
 - d. [Stop queer/drag from harming kids](#)
 - e. [Pornography is responsible for Ted Bundy](#)

- f. [ALA is allows kids to check out any book](#)
- 2. Agenda
 - a. [There is an agenda to sexualize kids](#)
 - b. [There are Woke Librarians harming kids](#)

In Opposition

- 1. Rights
 - a. [Libraries are protected by first amendment rights](#)
 - b. [Censorship and likely immediate court challenges](#)
 - c. [Defies and redefines federally accepted Miller Test](#)
- 2. Policy
 - a. [Internet protections already exist with Libraries](#)
 - b. [Vague standards could allow anyone to label any LGBTQ+ material as obscene](#)
 - c. [Could hurt capacity for research](#)
 - d. [Restrict schools ability to teach age appropriate material](#)
- 3. Culture
 - a. [Source of this bills come from a book that wasn't checked out once before public outcry](#)
 - b. [Parents have the right to restrict their kids reading](#)
 - c. [Compared to most phones, the libraries are very secure, why focus on libraries?](#)
 - d. [There is a history of this moral panic](#)

Written Testimony	In Favor	In Opposition
Word Count	16000	5,900
Citizen	25	5
Stakeholder/Qualified	3	17
Legal/Political	3	0
Out of Region	1	0
Total 54	32	22
	59.26%	40.74%
In person testimony Mins	91	3
Total minutes 94	96.81%	3.19%

Committee Vote	Do pass	Don't pass
Total 7	6	1
	85.71%	14.29%

Floor Vote	Yay	Nay
Total 47	38	9
	80.85%	19.15%

*Stakeholder/Qualified for this bill was determined individuals working with children, IT, or Libraries



March 14, 2023

Chairman Klemin and Members of the Judiciary Committee,

My name is Misti Frink. I am providing this testimony on behalf of Bismarck Public Schools in opposition to SB2360. I am a member of the Learning Design and Curriculum team, and the library coordinator for our district. The proposed amendments in this bill are unnecessary, vague, and would cause financial and workforce hardship to schools.

This bill removes language that protects schools and education from criminal charges. As you know, North Dakota educators care deeply about students and their safety and have local policies and procedures in place to select appropriate primary and supplemental educational materials. We hold ourselves to high standards to select print and online materials that are age appropriate, professionally reviewed, research based, connected to standards, and relevant to students. We already filter our networks to protect students online, going beyond what is required by CIPA (Child Internet Protection Act). We have collection development and resource selection policies in place that guide our educational resource selection, and we have policies and procedures that allow stakeholders (parents, students, teachers, community members) to bring items that they feel may not align to these policies back to a committee for reconsideration. These robust checks and balances are already in place for print and digital resource selections.

North Dakota Educators believe parents should be able to review resources and have a voice in what their child select. In our local policies, parents are able to opt their children out of supplementary materials at any time, notes can be added into library software to address specific student

needs, parents must give permission for students to check out books from a higher grade band, and families can login to see what their students have checked out at any time.

This Bill will create unnecessary hardship and expense on staff and schools. North Dakota school libraries are an investment by the local school to reflect the demographics of North Dakota students and to help prepare all students for their chosen futures. Libraries include hundreds and often thousands of books and resources. With such vague language, we would need to review every print and digital resource, by hand, for images and written descriptions to identify areas of concern. This would be a huge undertaking with tens of thousands of print resources and online resources that are changing daily. There would be a financial impact for this work as well as undue stress placed on staff, and ultimately, our students. Especially, since these resources are already peer reviewed and vetted by our local processes.

North Dakota School Boards have jurisdiction over ND school libraries and classrooms. Determining policies and procedures around resource purchases and reconsideration should remain at a local level. This bill is unnecessary, vague, and will not only cause immediate hardship to our schools and libraries, but also opens the door to costly, and unnecessary litigation. Please vote in opposition to SB2360.

March 12, 2023

Dear Chairman Klemin and members of the House Judiciary Committee,

We write to you as the Executive Committee of UND United, the local of ND United (AFT Local #6942) which represents faculty and staff at UND, to express our **opposition to SB 2360**. We have many concerns about SB 2360 and ask your committee to give it a “do NOT pass” recommendation and vote NO on this bill.

Supporters of this bill argue it is needed to protect children. While we agree it is important to protect children, we believe this bill is unnecessary, and as written is likely to have impacts beyond its stated purpose. Collection policies already exist that make libraries accountable to the public and provide ways to challenge the holding of particular materials. Our librarians already work very hard to cultivate age appropriate materials for their patrons. It has not been demonstrated that existing policies are inadequate for reviewing or challenging potentially problematic materials. If someone finds a holding concerning, we would encourage them to utilize existing processes for evaluating and challenging library materials.

The language of the bill is also overly broad and problematic for a variety of reasons. For example, the bill includes vague definitions, such as defining “explicit sexual material” to include written depictions of “sex-based classifications.” What are “sex-based classifications” and why are they included in the definition of explicit sexual material? Including language like this would allow this law to be used for purposes beyond the stated intent and would create substantial challenges for librarians who would be expected to identify such material.

We are also concerned about the inclusion of criminal penalties related to this legislation. Doing so would create barriers to recruiting and retaining librarians in our state. Our campus and community librarians are exceptionally responsive to the needs and concerns of the public they serve and more than willing to work with patrons. Threatening librarians with criminal penalties over such matters is very concerning and will lead our librarians to seek employment elsewhere.

Finally, while amendments to the bill appear to create exceptions for certain types of educational materials, these materials are limited to a few specific courses and types of classes and thus could be used to censor the holding of materials used in other courses not listed. For this reason, we are particularly concerned about the impact of this bill on our university libraries. In addition, university libraries are open to members of the general public, including children, and our university libraries often loan materials to other public libraries across the state. This bill would also have implications for database access, which impacts students and general population access to materials. As a result, we believe this legislation may have unanticipated implications and enforcement would be exceptionally difficult.

In short, this bill is likely to have broader impacts on libraries and librarians beyond the bill’s intent. As a result, we respectfully ask your committee to give **SB 2360 a “do NOT pass”** recommendation and encourage committee members to vote NO on this legislation.

Sincerely,

UND United Executive Committee
Liz Legerski, UND United President
Daphne Pedersen, Secretary-Treasurer
Kristin Borysewicz, Member-at-Large



Great Public Schools

Great Public Service

Testimony Before the House Judiciary Committee
SB 2360
March 14, 2023

Chairman Klemin, and members of the House Judiciary Committee, for the record, my name is Nick Archuleta, and I am the president of North Dakota United. ND United is a union of 11,500 members dedicated to public service. On their behalf, I urge the Committee to recommend to the House a ***do not pass*** recommendation for SB 2360.

North Dakota United has no doubt that the intentions of the sponsors of this bill are honorable. Our members unanimously agree that all children should be shielded from negative influences like pornographic and violent themed materials that are not appropriate for specific age groups (I'll note here that this bill is silent on the issue of violence). We also believe, however, that the state should not be dictating what adults can read, or what they can research.

Mr. Chairman and members of the Committee, SB 2360 serves as a vehicle to circumvent policies that are already in place in communities across North Dakota designed to remove books from, or add books to, library collections. These policies are in place to look at issues as they arise. In contrast, SB 2360 initiates a sweeping overreach that usurps the carefully considered and crafted policies created at the local level. In our view, and in the view of North Dakotans of every political stripe who believe in local control, the state should respect the decisions made closest to the people who must live by them.

Public libraries have historically been American institutions at which we and our fellow citizens have read, researched, and relaxed. Public libraries have served as safe places for Americans to explore the world around them through the written word, computerized code, and visually through film and movies. In short, libraries-be they public, school, or university-have allowed all citizens of North Dakota to expand their horizons and continue

their education, be it formally or informally. Our outstanding and beloved librarians have dedicated their lives to spreading the love of reading and lifetime learning.

Chairman Klemin and members of the Committee, legislation like that before you today, appropriates the authority of local librarians and their boards to administer their community libraries and, intentionally or not, devalues their important work. The same is true of school libraries which are administered by locally elected school boards. Though SB 2360 may have come from a place of good intention, it ultimately undermines local control and should be defeated. To that end, I respectfully urge a ***do not pass*** recommendation for SB 2360.

Chairman Klemin and Members of the House Judiciary Committee,

My name is Kimberly Hurst and I reside in District 1. I am asking that you please render a DO pass on SB2360.

I am a mom of four children who are enrolled in the public school system. To say I am *stunned* with the kind of sexual material that has come from their school libraries is a serious understatement. As many of you are likely aware, the level of misbehavior and rapid decline in mental health concerning our youth is unparalleled to anything we have ever seen before. It's basic common sense that minors should not be exposed to obscene material and that by doing so, the mental, emotional and moral damage it produces is life-altering. It should be a priority to the lawmakers of North Dakota to protect our children.

It doesn't take a high level of intelligence to understand the definitions and penalties outlined in this bill. The definitions for *obscene material* and *obscene performance* are lucid and the context is indisputable. These definitions are not confusing North Dakota education requirements or accent any literacy value lost, there is a definitive difference between basic human biology and *explicit sexual material*. It is also counterintuitive to identify this bill as a violation of First Amendment Rights. The First Amendment does not protect anyone from the federal consequences of violating 18 U.S. Code § 1470- *Transfer of obscene material to minors* with penalties of fines and up to 10 years of imprisonment. The First Amendment is not uniform with obscenity laws.

The other opposing argument that seems to be the center point is that we all have the authority to exercise our parental rights by choosing which books we want our children to read. In retrospect with my experience of finding obscene materials in my children's school libraries, I

argue that my parental rights are not taken into account. I am unable to chaperone my children while they are in their school's library and vet the book that they choose to read. This leaves children vulnerable to the potential inappropriate content within the books and completely disregards parental rights. I expect my school district to uphold a higher standard and trust that they will vet the books that are being filtered in and to protect our children but it has become apparent that they do not. I have discovered *dozens* of obscene books throughout various schools in my local school district. Which is why I am here today, urging you to support SB2360 and enforce a higher standard for our public school libraries and public libraries to safeguard the children in North Dakota.

Thank you for your consideration of this important matter and for your service to the state of North Dakota.

Kimberly Hurst

Dear Mr. Chairman and members of the committee,

I am a taxpayer living in Dickinson North Dakota and I do not support bill 2360. I do not believe explicit reading materials should be allowed in government run spaces.

Thank you.

Jennifer Knudsen

701-880-7438

jennymaerex@gmail.com

Intro- Maggie Blaylock, LPC-MH in the state of South Dakota. I am also a CSAT (Certified Sexual Addictions Therapist) and a CMAT (Certified Multiple Addictions Therapist). I work daily with the devastation of the aftermath on individual lives and marriages because of Sexual Addiction. In almost every case I work with pornography use was an originating factor in their addiction. Sadly I became a licensed and trained professional because 11 years ago my own marriage was devastated by sexual addiction. My husband was the child of a pastor and his parents tried very hard to monitor the content that he consumed. Unfortunately, he had access to porn he found at his grandparents home and at a friends. When high speed internet hit while he was in college this behavior turned into a major addiction in his life until he eventually could no longer hide it. I became a trained professional because there were no local therapists in my state dealing with such a complex issue. We had to travel to Colorado to find someone skilled enough to know how to help us get into recovery and eventually repair our broken relationship. Sadly, today, I am only 1 of 2 CSATs in my state and last I checked there are none in the North Dakota. I have had clients who drive down into the state of SD to a location that they can find wifi to work with me.

In 2017 the state of South Dakota declared pornography a public health crisis.

Here are three reasons (they stated) why pornography should be recognized as harmful to public health:

1) Exposure to pornography is unmanageable at the individual level: individuals and families are unable to “opt-out” of pornography, and [27% of children](#) are being exposed to it before they’ve even reached puberty.

- Most recently Google even accepted the reality of this truth when they changed their safe search settings to default for people in an attempt to make the internet a safer place for young people.
- More and more younger children are accessing internet pornography. The average age of first exposure is 11 (Randel and Sanchez, "Huffington Post" - 2016). However, "children under 10 now account for 22% of online porn consumption under 18" (British Journal of School Nursing.)

2) Pornography use shrinks the brain: a [2014 study](#) found that increased pornography use is linked to decreased brain matter in the areas of motivation and decision-making, impaired impulse control, and desensitization to sexual reward.

- See image- When one looks at pornography they are using the reward system part of their brain. This would be the limbic system of fight, flight or freeze. This area of the brain is also called the reptilian brain. Pornography or sexual content creates a supernatural stimuli that artificially enhances the release of chemicals in the reward system. The chemicals have a molecular structure very similar to cocaine. We have found that habitual porn use create grey matter in the brain (brain shrinkage) in the prefrontal cortex.

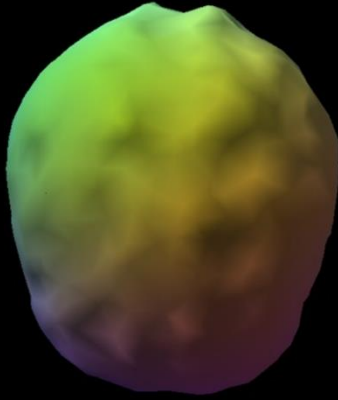
3) Pornography is linked to increased sexual violence: a [2015 meta-analysis](#) of 22 studies from seven countries found that internationally the consumption of pornography was significantly associated with increases in verbal and physical aggression, among males and females alike.

Unfortunately since 2017 the state of South Dakota has done little to no work to make more legislative actions of change or protection for children in this arena.

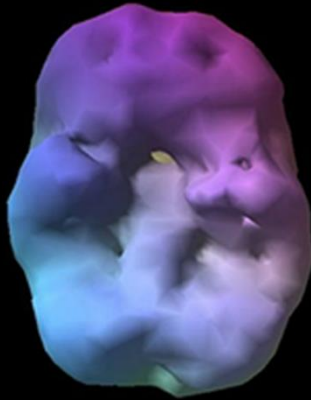
I am honored to be here today to talk about a topic that I passionately believe is an issue that we need to take steps toward correcting. I can not stress enough how big of a problem we are yet to see. I work daily with clients whose lives became unmanageable due to addiction and they barley had access to porn or sexual content compared to what our youth in society has today. I truly believe that we are just beginning to see the impact on those who have had widespread access to porn or sexual content at an early age due to its availability. I don't know how many of you saw the interview on CNN a few weeks ago with the Surgeon General talking about social media but one of the things he said that impacted me the most was that when we saw that cars were becoming more dangerous we passed laws to keep the public safe. We created speed limits and seat belt laws to protect the public. The same fits here with the arena of pornography and sexual content, we need laws in place to protect our young minds until their brains are fully grown and they have been educated and can make their own decisions about what is healthy for them.

Thank you for considering a step toward protection for the children of your state.

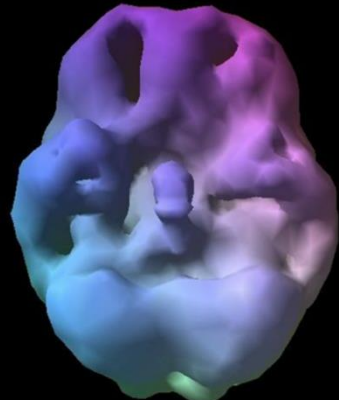
HERE'S YOUR BRAIN



HERE'S YOUR BRAIN
ON HEROIN



HERE'S YOUR BRAIN
ON PORN



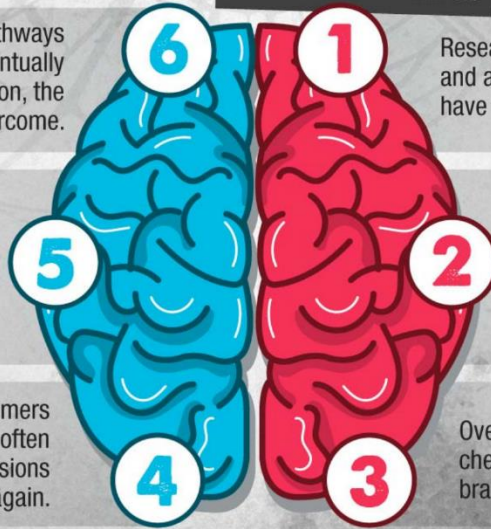
www.ConquerSeries.com

THE EFFECTS OF PORNOGRAPHY IN THE BRAIN

The good news is that if porn pathways aren't reinforced, they'll eventually disappear. As any addiction, the addiction to porn can be overcome.

The images are burned so deeply into the mind that the person will remember them for a long time to come, maybe the entirety of their life.

Just like an addict, regular consumers will end up turning to porn more often or seeking out more extreme versions to feel excited again.



Researchers have found that internet porn and addictive substances like tobacco have very similar effects on the brain.

Like other addictions, porn activates the part of the brain called the "reward center", triggering the release of a cocktail of chemicals that give you a temporary buzz.

Over time, excessive levels of these chemicals cause the porn consumer's brain to develop tolerance.

Dear Mr. or Madam Chairman, and members of the committee, my name is Justin Beery from Dickinson. I'm in favor of this bill because, I feel that we need to protect the innocence of our children. Please vote yes in favor of SB 2360.

Thank you, from a concerned tax payer.

Under the current concept of obscene, the same group behind this piece of legislation stopped my child from checking out books from their high school library they were in the middle of checking out. My child will be 18 in less than a month. The first two books in the series that were pulled for "obscene content" from the Williston Basin School District had no obscene content in them. The community making this demand hadn't even read the books to see if what they were saying was even true. Additionally, it is not the job of the state legislature, community, or others to dictate what is and is not obscene content for my child. That is my decision, as the parent, and my responsibility, as the parent, to make sure that the content my child is exposed to is appropriate for their maturity level. What's appropriate for my child at this age may not be appropriate for another child at the same age, that's how maturity and human nature works.

I'd appreciate it if the state stayed in its lane and not messed with my rights as a parent as well as my child's first amendment rights. I think it's worth reminding ALL of you that you're still obligated to follow federal guidelines and laws when it comes to these subjects, including asking yourselves if this piece of legislation has the ability to create a hostile environment in a public building towards protected classes. If you're not aware of who is a part of federally protected classes, it includes race, sex, gender, and more. Establishing a law that violates current federal guidelines and laws is nothing more than a giant waste of taxpayers dollars.

We walk out of this looking one of two ways. Like a state that protects people's rights, or a state that bows to the fascist movement that is gaining steam here. To be clear, in Williston we have blatant anti-Semitic materials being dropped off at homes in the middle of the night. We have students displaying Nazi related symbolism in our high school. Local business owners are proudly standing behind their membership in the 3%er organization.

Some of the sponsors of this very bill could be a part of this group. Who are the 3%ers? Well here it is in their own words (source: [Three Percenters | Southern Poverty Law Center \(splcenter.org\)](https://www.splcenter.org)) :

"Get an indictment. Present it to the sheriff. If they don't uphold the law, that's where the militia come in." – Jon Ritzheimer, a Three Percenter and former Oath Keepers member, on his plans to link up with local antigovernment militias and conduct a citizen's arrest of U.S. Sen. Debbie Stabenow (D-Mich.)

"The only good Muslim is a dead Muslim. If you're a Muslim I'm going to enjoy shooting you in the head. When we go on operations there's no leaving anyone behind, even if it's a 1-year-old. ... I guarantee if I go on a mission those little fuckers are going bye-bye." – Patrick Stein, member of the terrorist group The Crusaders, which split from the Kansas Security Force Three Percent

"That's what my group does. We monitor them and their activity, we show up in their neighborhoods armed and let them know they're being watched and if they fuck up my guys will take em [sic] out." – David Wright, leader of a Three Percenter group, Bureau of American Islamic Relations (BAIR)

"If you can use deadly force at Area 51 why cant (sic) the same be done at the border?" – Chris Hill, leader of the III% Security Force, posting on one of his social media accounts

So, keep that in mind that the people behind this kind of thinking and legislation are the same people publicly supporting racist, homophobic, transphobic, and anti-government sentiments. Is that what North Dakota stands for? Because I'm having a hard time seeing that it doesn't, and no professionals are

going to want to live, work, or move here if this continues. You need doctors and engineers far more than they need you.



March 12, 2023

Chairman Klemin and the Members of the Senate Judiciary Committee,

My name is Kerriane Boetcher and I am writing as the President of the North Dakota Library Association (NDLA) to voice opposition to SB 2360.

There are several areas of concern that NDLA has with these changes. The first four sections leave public servants open to criminal prosecution for the selection of reading materials that they as a professional deem appropriate for a library collection, pursuant to board policies and in compliance with state and federal laws. There is also the risk of exposure to potential first amendment lawsuits on the censoring of Constitutionally-protected materials. The change of "is principally made up of" to "contains" opens up a realm where even educational materials could be considered as immoral.

This bill will prohibit all librarians from fulfilling their mission to serve information needs of their local communities. It violates the rights of readers to access materials that they would like to read at their libraries.

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

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

In regards to Section Five, we do not believe that this bill accurately reflects safeguards that are already in place. Public schools and libraries in North Dakota that receive federal funding are required under the Children Internet Protection Act (CIPA) to have filters in place in the school

or library. These filters may be lifted for an adult who needs access for bona fide research or other lawful purposes.

With this Act, many schools and libraries have internet policies already in place including acceptable use policies. I firmly believe that children need to learn to navigate online databases and evaluate resources to prepare for success later in life. Options are available for home devices and phones for parents to decide if they would like to filter for their child.

There have been claims from out-of-state organizations such as MassResistance.org, The Heritage Defenders, The Freedom Press Group, and Moms for Liberty, that individuals have found unsuitable materials in databases. However, database staff and librarians have been unable to recreate these searches or find the materials within the database itself.

This bill allows for the prosecution of school district, state agency, public library, or public school employees and changes the definition of obscenity. This definition has been addressed on the federal level multiple times before now.

I urge you to consider voting against SB 2360 and I thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Kerriane Boetcher". The signature is written in black ink and is positioned above the typed name.

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

Maggie Oakland, LPCC, NCG
Valley City, ND
58072

March 14, 2023

Dear Chairman Klemin and Members of the House Judiciary Committee:

I am contacting you to express my support for SB 2360 as a mental health professional and as a parent of a minor in North Dakota.

I have previously provided testimony on SB 2123 and on HB 1205. Therein, I provided general information about the development of the human brain and the functional limitations of the brain in adolescence. I will repeat here that individuals under the age of eighteen do not generally have the capacity to defer impulses, to conceptualize long-term consequences, or to make rational decisions in the same way that they could in adulthood, because the parts of their brains that handle those functions still remain under development. In my testimony on the other bills, I also delineated some of the empirical research showing evidence of the harm caused to youth by exposure to or consumption of sexually explicit materials. Because this is a different bill, I will repeat that list at the end of this document, even though you have likely already seen it. One thing I would point out regarding the research is that at least one study has looked at the effects of sexually explicit comic books per se, i.e., media similar to the book “Let’s Talk About It” by Erika Moen and Matthew Nolan, and found statistically significant associations between the use of such media in young people entering adolescence and early sexual debut, unsafe sexual practices, and multiple sexual partners (Lin et al., 2020). Whereas systemic ethical protocols tend to prevent researchers in the United States from studying the effects of sexually explicit materials on adolescents, we still have information sufficient to establish the harm caused by these materials, particularly when we draw on research that has been conducted in other countries around the world, where ethical protocols in research may be different from our own.

This legislation has been proposed because today’s librarians in North Dakota, as generally knowledgeable and well-intentioned as they may be, either don’t understand the risks of providing children and adolescents unrestricted access to media that floods them with sexual information and/ or that promotes sexual experimentation, or else they have set those risks aside in a corner as being less important than the “freedom to read” or less important than their duty to provide information to whomever wants it, whenever they want it, whatever the consequences.

I have specific comments to offer on the letter of 2360.

Page 1, line 28 denotes “sex-based classifications” as a form of sexually explicit material. I would suggest removal of this term, as it is vague, and it intuitively suggests categories that are not in themselves sexually explicit.

Page 1, lines 21 and 27 contain the terms “deviant” and “perversion”, which have been criticized as being subjective. It may be advisable to refine the entire list to create a more clear and more objective list of specific behaviors, which, considered together, would comprise the sexually

explicit material targeted. I have previously provided such a list to a legislator and would provide it again, if asked.

There have been many characterizations of this bill by its opposition as a bill that targets “any book that mentions sex,” even though that is clearly not the bill’s intent. Librarians in my community have stated publicly that the bill may apply to books like the Bible, the Diary of Anne Frank, and the Art of Walt Disney, as well as to drawing books and art books. They suggest that the bill may affect many, many books rather than just the relatively small proportion of books having been acquired by libraries in very recent years that are actually sexually explicit and causing a problem. I believe it’s important to assume that this is not just an argument for the sake of opposition but rather that it represents, at least to some extent, a genuine concern about insufficient clarity or specificity, which could cause a problem for librarians in discerning what is and is not permitted under the bill. For this reason, I would suggest adding additional clarifying language in the area around page 2, line 15, to further describe the targeted material as material that is, in whole or in part, overtly intended to promote, glorify, or facilitate recreational sexual behavior and/ or to induce sexual arousal.

Finally, I have noted per the ndlegis.gov website that an amendment was proposed to HB 1205 on 3/13/2023, which narrowed that bill’s application to libraries’ children’s collections. I implore you to please not narrow SB 2360 in the same way. In my community, there is nothing that prevents a child from accessing the general collection of the library, and children are in fact encouraged to access the general collection, when they have exhausted the materials available to them in the children’s collection. Requiring libraries to move the problem books from one shelf to another, or even from one floor to another, will not solve the problem. I urge you to please not rely on a distinction between a library’s “children’s collection” and its “general collection,” because the separation of these collections is, in reality, fluid and permeable. Allowing libraries to retain sexually explicit material for adult use only could be accomplished by the creation and management of “adult only” collections within the libraries. However at present, such “adult only” collections do not exist, and I know of no protocols in libraries that could limit access to materials by age. However you proceed, please keep in mind that restrictions applied only to a “children’s collection” will not prevent adolescents from intentionally accessing any book in a library, and it would not even fully prevent children from inadvertently stumbling into any book in a library.

I appreciate your effort to make our libraries and schools safer for youth, and I hope you will continue to pursue the fruition of this legislation skillfully and diligently. Thank you for your service to our State.

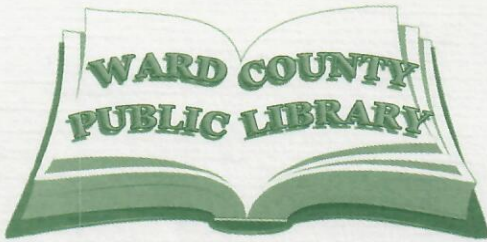
Maggie Oakland, LPCC, NCG

The summary of research previously shared in my other testimony includes as follows: (1) there is a robust association between adolescent pornography use and permissive sexual attitudes (Peter & Valkenburg, 2016); (2) the probability of teens engaging in sexual intercourse increases with the frequency of their consumption of sexually explicit material (Bogale & Seme, 2014; Brown & L’Engle, 2009; Manaf et al., 2014; and Cheng, Ma, and Missari, 2014); (3)

consumption of sexually explicit material in adolescents is associated with initiating sexual activities at younger ages (Kraus & Russell, 2008; Morgan, 2011); and (4) there is evidence to suggest the consumption of sexually explicit material by adolescents is associated with substance abuse (Carroll et al., 2008) as well as with both sexual aggression (Brown and L'Engle, 2009) and sexual victimization (Bekele, Van Aken, & Dubas, 2011). At least one study has examined effects of sexually explicit comic books, along with a variety of other sexually explicit media, and has shown statistically significant associations between the use of these materials in young people entering adolescence and subsequent risky sexual behaviors (Lin et al., 2020).

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March 12, 2023

Chairman Klemin and the Members of the Judiciary Committee,

I am writing to voice my opposition to SB 2360.

I have several areas of concern as this bill is currently written. Section One is vague without any determining factor as to who decides what contemporary and reasonable mean. Section Two gives a definition of a public library, which is already defined by North Dakota Century Code and does not need a new definition here. There is also the risk of exposure to potential first amendment lawsuits. Section Three's vagueness opens the potential for any book in a library being labelled as sexually explicit without any context of the book or knowledge of who the book is written for. Anywhere that minors are or may be invited includes a person's own personal library (minors other than their children may be invited).

My library already has a collection development policy as approved by the Ward County Public Library Board of Trustees that lays out the procedures that I must follow when evaluating books for our collection whether it be a book that we are purchasing or one that is donated by a taxpayer to the library. It also includes a process for the reconsideration of materials should a patron have concerns over a particular material while still remembering that a work must be evaluated as a whole and not a single scene or comic panel.

Section 5 addressing the safety policies and technology protection measures is unnecessary with the policies already in place. Public Schools and Public Libraries that receive federal funding are already required to under the Children Internet Protection Act (CIPA) to have the filters in place on their school and/or library devices. This act was enacted in 2000 to address concerns with rules issued in 2001 and updates in 2011. The protection measures must block or filter Internet access to pictures that are: (a) obscene; (b) child pornography; or (c) harmful to minors (for computers that are accessed by minors). Schools and libraries subject to CIPA are required to adopt and implement an Internet safety policy addressing:

- Access by minors to inappropriate matter on the Internet;
- The safety and security of minors when using electronic mail, chat rooms and other forms of direct electronic communications;
- Unauthorized access, including so-called "hacking," and other unlawful activities by minors online;
- Unauthorized disclosure, use, and dissemination of personal information regarding minors; and

- Measures restricting minors' access to materials harmful to them.

Schools and libraries must certify they are in compliance with CIPA before they can receive E-rate funding.

- CIPA does not apply to schools and libraries receiving discounts only for telecommunications service only;
- An authorized person may disable the blocking or filtering measure during use by an adult to enable access for bona fide research or other lawful purposes.
- CIPA does not require the tracking of Internet use by minors or adults.
(<https://www.fcc.gov/consumers/guides/childrens-internet-protection-act>)

With this Act, many schools and libraries have internet policies already in place including acceptable use policies. I firmly believe that children need to learn to navigate online databases and evaluate resources to prepare for success later in life. Likewise, many of the other changes have been addressed at the federal level multiple times.

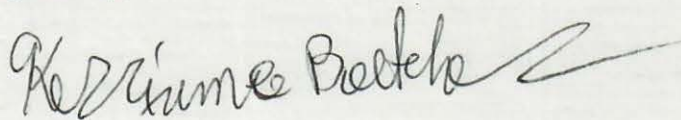
All sections fail to address the fiscal impact of libraries reviewing every book in their current collection in addition to any new purchase or the impact of who will pay the penalties associated with not paying for online resources on time.

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

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

I urge you to consider voting against SB 2360 and I thank you for your time and consideration.

Respectfully,



Kerrianne Boetcher
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Ward County Public Library
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701-857-6471

March 14th, 2023

This testimony is in opposition to SB 2360. I urge you to vote DO NOT PASS.

As a lifelong reader and self-proclaimed bookworm, I cannot begin to fathom why our government feels it's appropriate to censor the books that are available for their citizens to read. In a time where there is a push for focusing on the fundamental rights of parents, why isn't this being viewed as a fundamental right?

Adults should have the right to choose what they want to read, and guardians can set boundaries for minors in their care. Books create safe spaces and feed the imagination. They introduce you to people and places you've never seen before. Books share the life stories of our fellow man, from all walks of life. Life is not always picture perfect or turns out as we expect, and books are there to help us expand our world view.

In a state with a small minority population, I treasure being able to learn about people who are different from me by reading their stories. I buy books for my niece and nephew to help expand their views of people who are different from them. They get to learn about people of color, different religions, and types of love. These books create wonderful talking points and bonding time in the evening with their parents. Their generation will grow up being more open and accepting because of all the information at their fingertips.

Don't take a step back into the past by removing content that go against some points of view. Leap forward and learn to respect those who are different from you.

I urge you to please vote DO NOT PASS on SB 2360.

Respectfully,

Jaci Bjornstad

I strongly oppose SB 2360.

Not only does it fly in the face of the First Amendment, it takes away my right as a parent to decide what my child reads and puts that choice in the hands of people I don't know and may not share my values. No one is being forced to read books they don't like or approve of – why penalize libraries for making them available to the people who do want to read them?

Tonya Palmer

Grand Forks, ND

SB 2360 - Do Not Pass

Good morning. My name is Wendy Wendt and as a North Dakota citizen, a mother, a lifelong learner, and a library director, I am asking you to vote "Do not pass" on SB 2123.

First, it is unconstitutional and violates our citizens' 1st Amendment Rights.

Second, this bill is redundant and unnecessary. There are already policies, blocks and filters in place for internet use in libraries and schools, as required by Federal law.

Third, this bill is overly-broad and will have numerous unintended impacts on the information rights of North Dakota citizens of all ages, as well as huge monetary repercussions for libraries trying to implement the potential law. While the intention of the bill may be good, the implementation is unfeasible.

Not only does this proposed bill limit children's and teen's access to information, it limits adult access to materials that adults have the right to access. Children have access to the entire library therefore this bill affects every area of the library. It takes away my freedom to read and view and it takes away your right. Needlessly.

And, importantly, it takes away the rights of parents to raise their children and make decisions as each parent sees fit. Each parent has the right to choose what their children have access to, including books, television, computers, food, friends, and everything else. They do not have the right to choose what other children – or adults – may read or access.

Please remember that freedom is no freedom if it is accorded only to the accepted and the inoffensive. I adamantly urge you to **vote 'Do Not Pass' on SB 2360** for my freedom and yours.

Respectfully,

Wendy Wendt

Written Statement of

**Donna Rice Hughes
CEO & President
Enough Is Enough**

Before the

**House Judiciary Committee
North Dakota State Legislature**

March 14, 2023

**Solving a Public Health Crisis:
The Online Sexual Exploitation and Abuse of Children**

Some of the facts and information contained herein are derived from training and research, but all information and observations are supported by personal and professional experiences as a subject matter expert related to internet safety.

Problem

Over the past ten years, our world has gravitated more and more toward the use of a variety of digital devices including cell phones, tablets, and gaming devices. By age 11, a majority (53%) of kids have their own smartphone, and by age 12 more than two-thirds (69%) do as well (Common Sense Media, 2019). This explosion in the use of such devices, evolving social media and app platforms, and the expansion of the availability of public Wi-Fi has left adults, including law enforcement officials, ill-equipped and often overwhelmed as to how to best protect children and families from new and emerging online threats and hold offenders accountable. Additionally, internet technology giants often exacerbate the dangers to children by failing to enforce corporate acceptable use policies to comply with current law, and by the very real possibility of shifting their technology to “warrant-proof” end-to-end encryption on social media platforms or other forms of online communication. Other technologies such as TOR and Peer-to-Peer networks, and bad actors moving to the deep and dark web further complicate law enforcement’s efforts to interdict these heinous crimes and hold offenders accountable.

Existing federal laws to prevent the internet-enabled exploitation of children have not been adequately enforced due to a lack of resources and access to new tools, methods, and technologies. Additionally, new public policies at both the federal and state levels are not being enacted and implemented to keep ahead of both existing and emerging threats. This has led to increased harm to minors from obscenity, child pornography, predation, sex trafficking,

sextortion, and cyberbullying. To complicate matters, Section 230 of the Communications Decency Act often provides immunity for website platforms and can serve as a roadblock to successful investigations and prosecutions. As a result, the burden to protect children from online sexual exploitation is falling on adults, who are not always adequately educated and equipped to protect children from all forms of exploitation in today's rapidly evolving digital world.

The sexual exploitation of children has been further escalated with the COVID-19 pandemic and is at an all-time high:

- Children under the age of 10 now account for 22% of online porn consumption among those under the age of 18, while 10- to 14-year-olds make up 36% of minor consumers (Bitdefender, 2016).
- A 2022 report by Common Sense Media revealed that 75% of teenagers have viewed pornography by age 17, and the average age of first exposure to pornography is age 12.
- Reports of online enticement, including sextortion, increased by 265% from 2018 to 2021. Sextortion occurs when a child is being groomed to take sexually explicit images and/or ultimately meet face-to-face with someone for sexual purposes, or to engage in a sexual conversation online or, in some instances, to sell/trade the child's sexual images ([National Center for Missing and Exploited Children, February 2022](#))
- In 2021, NCMEC received more than 29.3 million (up 35% over 2020) CyberTipline reports containing over 84.9 million images, videos, and other content related to suspected child sexual exploitation (up 29.8% over 2020). (National Center for Missing and Exploited Children, January 31, 2022)
- New research has found the U.S. hosts more child sexual abuse content online than any other country in the world. The US accounted for 30% of the global total of child sexual abuse material (CSAM) URLs at the end of March 2022 (Internet Watch Foundation, April 26, 2022).
- Forty percent of kids in grades 4-8 reported they **connected with a stranger online**. ([Center for Cyber Safety and Education, March 2019](#))
- There has been a 40% increase in **reports of sex trafficking crisis cases** by the Trafficking Hotline (compared to the month prior to lockdown) ([Polaris, June 2020](#)).
- 1 in 5 girls and 1 in 10 boys (aged 13-17) say that they have **shared their own nudes**. 40% agreed that "it's normal for people my age to share nudes with each other". ([Thorn](#),

["Self-Generated Child Sexual Abuse Material: Attitudes and Experiences" August 2020](#)).

- **Self-generated imagery** now accounts for nearly a third of web pages featuring sexual images of children actioned by the Internet Watch Foundation (IWF). More than three quarters of the self-generated material - be it images or videos –feature 11 to 13-year-old children, of which the majority are girls. (Internet Watch Foundation, Jan. 15, 2020)
- A meta-analysis of 46 studies reported that the **effects of exposure to pornographic material** are “clear and consistent:” pornography use puts people at increased risk for committing sexual offenses (A meta-analysis of the published research on the effects of pornography, 2000). Further support for an association between pornography use and sexual offending is found in a national longitudinal study of sexual offenses (e.g., sexual harassment, sexual assault, coercive sex, and rape) among youth aged 10–21 years. (Prevention Science, 2018). The study found that the average age of first perpetration was between 15 and 16 years old, and more importantly current exposure to violent pornography (after considering control factors for potentially influential characteristics).
- Internet sex predators are manipulating **children to record their own sexual abuse** and that of their friends and siblings ([Internet Watch Foundation Annual Report, 2020](#)).

These crimes have irreparable consequences for the most vulnerable in our communities – namely our children. As in the example of the expansion of unrestricted public Wi-Fi in government, educational, commercial, and other facilities, and spaces, this emerging threat has created unsafe public environments with the unintended consequences of freely available access by anyone to online obscenity, child pornography, predation, and sex trafficking. The public nature of these connection 'hotspots' makes it overly challenging for law enforcement to accurately track and interdict the offenders, opening the door for predators to fly under the radar of law enforcement on public Wi-Fi. As a result, youth are victimized as predators can view, download, or distribute the child sex abuse images, groom children, and communicate with other predators and traffickers on the premises without recourse.

In 2018, technology companies reported over 45 million online photos and videos of children being sexually abused, double the amount from the year before. A New York Times article revealed the internet's largest technology platforms “are failing to effectively shut down the giant portions of online child sexual abuse material.”

On June 7, 1995, at the advent of the internet age, I addressed members of Congress and community leaders on Capitol Hill which included the following [remarks](#):

Unfortunately, the worst and most deviant forms of illegal pornography have invaded our homes, offices and schools via the internet. [The internet] has emerged as the leading-edge technology for the distribution of hard-core pornography and child pornography. Children today are increasingly computer literate, in most cases, much more so than their parents. Any child with a computer and a modem can access pornographic material in seconds, and once they've seen it, it can't be erased from their minds. Just as disturbing, is the fact that we cannot protect ourselves or our children from those who derive sexual pleasure from viewing this toxic material.

Since then, multi-billion-dollar pornography, child pornography and trafficking criminal enterprises have thrived, at the expense of the most vulnerable – our children. Be it in the home, school, shopping mall, or anywhere else children have unfiltered internet access, they can be lured, seduced, and groomed by pornographers, predators, and traffickers. No child is immune from online victimization.

The continuous invasion of graphic, hard-core online pornography, prosecutable under U.S. federal obscenity law, has been called the “largest unregulated social experiment in human history”¹. Any child with unrestricted Internet access is just a click away from viewing prosecutable obscenity (hard-core extreme content depicting graphic sex acts, rape, strangulation and violence) and even material depicting the sexual abuse or rape of a child (child sexual abuse material), found only on the black-market pre-internet.

It's not a matter of if, but when a child will be exposed to this content. As the digital world has gravitated toward the use of mobile digital devices including cell phones, tablets, and gaming devices, kids are vulnerable to sexual exploitation and 24/7 via exposure to illicit content as well as online predators and traffickers who anonymously groom vulnerable children. By age 11, a majority (53%) of kids have their own smartphone, and by age 12 that percentage rises to more than two-thirds (69%) ([Common Sense Media, 2019](#)).

While there are many reasons that children are being sexualized, exploited and abused at alarming rates in the digital age, a key reason is due to the disappointing reality that existing federal obscenity, CSAM, predation and trafficking federal laws have not been adequately funded and prosecuted. In fact, the obscenity laws have not even been enforced since President George W. Bush's administration. Peer-reviewed research demonstrates that extreme pornography fuels child sex abuse, violence against women, sex trafficking and other crimes against humanity. which is why we must aggressively enforce and strengthen obscenity laws at both the federal and state level.

¹Seto.

The free, easy and unprecedented access to online pornography continues to fuel generations of kids to consume—and often become addicted to—this toxic content. Internet pornography, as one researcher said, is "the largest unregulated social experiment in human history." Once exposed, the content can never be fully erased from their minds.

The corroding influence of internet pornography as a public health crisis is backed by peer-reviewed social and medical science. Its harmful impact upon the emotional, mental and sexual health of young children, tweens and teens continue to worsen. As such, nearly 17 states have either passed or adopted public health crisis resolutions, recognizing the many levels of harmful effects upon individuals and society, as well as the need for education, research, prevention, and policy change.

Pornographers understand that the sexually exploitative pornography they produce and distribute is highly addictive. They're keenly aware that if they can get children hooked and desensitized at a young age, they will likely have a consumer for life unless the cycle of addiction is broken.

This peer-reviewed research also supports unequivocal harm to youth from exposure to Internet pornography. Research conducted on the brain revealed that as hours of pornography use increased, the gray matter in the brain decreased, and neurochemically alters the underdeveloped brain of a child or adolescent.

Further, the content offers unrealistic and unhealthy attitudes to sex, teaching sex without love, intimacy and commitment is desirable, and that women are to be viewed as sexual objects. It can also have an impact on the development of harmful sexual behaviors. The average age of first perpetration of sexual violence is 15 -16 and is associated with exposure to pornography. Viewing this content may also lead to sexually aggressive behaviors. (Prevention Science, 2017).

Sexual predators use this content to groom and sexualize a child into developing child sexual abuse material, or "CSAM", fueling a vicious cycle of abuse including child sex abuse, sex crimes, sexual exploitation, violence against women, sex trafficking, and sexual predation. In cases of sex trafficking, pornography fuels the demand for women and children to be sold commercially, which can lead to further abuse as sex crimes are turned into pictures and videos that are distributed, sold and shared.

The harm of exposing kids to such content is best understood from their own stories. I interviewed a dozen young teens about their internet experiences for EIE's [Internet Safety 101](#) video series.

Zach, age 15, told me, *“Even if you’re not looking for it, it will find you.”* He added, “Pornography shaped my want for sex and what I wanted to do whenever I started having sex, big time! It wasn’t just like I just wanted to have a relationship and have sex with her. I just want to have sex with as many as I can. Sex was pretty meaningless. I just wanted them to do what they did on the porn.”

Courtney, a beautiful 16-year old, told me that she and her friends participated in parties where they smoked weed and watched pornography together, resulting in orgies. She said that pornography *“destroyed our lives, because we depended on it, and it just broke our friendships, it broke like, respect for ourselves and our respect for others.”*

Rene shared the story of her son, Joe, who was addicted to pornography at age 11. After checking the search history on a family computer kept in the “office” in their home, Rene and her husband were shocked to discover their son had visited more than 900 pornographic sites during the middle of the previous several nights. Even when strict passwords and filters were put into place to prevent access, Joe still found ways to access the content to “feed” his addiction, going so far as to place video cameras on a bookshelf above the computer keyboard to “decode” the password.

The Internet industry has exacerbated dangers to children by failing to implement adequate responsibility policies and best practices for the protection of children. These willful acts fail to comply with federal laws and turn a blind eye to child exploitation occurring on their platforms.

Preventing sexual exploitation and abuse is a bi-partisan issue in which we can all agree. As a result of EIE’s advocacy efforts, the following language was included in the US Congress’ Consolidated Appropriations bill report. in both FY21 and FY22, directing DOJ to: *“...investigate and prosecute major producers and distributors of hardcore adult pornography that meets the Supreme Court test for obscenity. Such enforcement is necessary to protect the welfare of families and children...”*. This language is a huge step forward in combating child sexual exploitation, child pornography, and trafficking. Currently, we are calling on Congress to conduct DOJ oversight hearings to address the department’s failure to enforce the federal obscenity laws. (For nearly two decades, illegal pornography enterprises have operated without impunity, flooding the Internet with toxic content depicting themes of teen rape, incest, torture, and strangulation.)

Additionally, the [Children’s Internet Protection Act](#), which EIE was involved in getting passed in 1998, requires schools and libraries using government eRate funds for internet access to filter both obscenity and child sex abuse images. That said, many public libraries nationwide are not in compliance with CIPA. This year, we are seeking Congress to conduct FCC oversight hearings to enforce this critical law.

The State of North Dakota has the opportunity to enact similar protections through Senate bill 2360 which would effectively ensure safety policies and technology protection measures are included in current statutes relating to obscenity control. These provisions must be immediately adopted and aggressively enforced to ensure the protection of children. Safeguarding the innocence of vulnerable children deserves our top priority. Thank you.

Donna Rice Hughes, President and CEO of Enough is Enough, is an internationally known Internet safety expert, author, speaker, and producer. Her vision, expertise and advocacy helped to birth the Internet safety movement in America at the advent of the digital age. Since 1994, she has been a pioneering leader on the frontlines of U.S. efforts to make the Internet safer for children and families by implementing a three-pronged strategy of the public, the technology industry and legal community sharing the responsibility to protect children online. This strategy has been adopted by industry and governments worldwide. Under her leadership, EIE has created various curricula including the creation of the Internet Safety 101 Program with U.S. Department Of Justice, Office of Juvenile Justice and Delinquency Prevention. She developed and spearheaded the "National Safe Wi-Fi" Campaign" calling on Corporate America to filter pornography and child sex abuse images on public Wi-Fi. As a result, both McDonald's and Starbucks are now filtering Wi-Fi in all of their company owned stores in America. Hughes also spearheaded EIE's bi-partisan Children's Internet Safety Presidential Pledge (2016); The Governor's Pledge and the State Attorneys General Pledge. She has given thousands of media interviews on all the major news outlets on topics related to online dangers (porn, CSAM, sexual predation, bullying, trafficking, online gaming, social media, etc.), safety solutions, testified numerous times before Congress, and is the winner of numerous awards including the 2013 Women In Technology Award for Social Impact and the 2014 Professional Women in Advocacy Excellence In Advocacy Award for "Veteran Practitioner". She also received a Senate appointment to serve on the Child Online Protection Act Commission.

March 14th, 2023

This testimony is in opposition to SB 2360. I urge you to vote DO NOT PASS.

Reading allows people to expand their mind. It allows people to learn new things about cultures and beliefs that are vastly different from their own. We have TVs/computers/tablets/phones that can do similar things, but reading allows for an entirely different experience. When reading, you are required to use your imagination to picture the places and events. The screens do that for you and remove any need for imagination. Reading pushes the reader to create the image they want. What one person envisions while reading a book can be very different from the next person reading that same book.

The fact is, I don't read as often as I should. My wife encourages me to read more. My wife and I will often read books together and enjoy them, but there are times she might want to read a book that I don't have an interest in, or vice versa. Imagine deciding you wanted to read a book but because your significant other didn't like what was in it, it was banned from your household. Maybe my spouse likes doing a certain craft, but I don't have an interest in it. Should I ban it from being done in our home?

I have a 100-year-old grandmother. There isn't a lot that she finds much interest in anymore at this point in her life, but she still enjoys reading. The particular topic of books she usually enjoys reading is romance novels. A lot of senior citizens are on fixed incomes and can't afford buying everything they want to read from a bookstore or online, so they are limited to what their local libraries have in stock. If this bill goes through, many books they might find enjoyment in reading will no longer be available to them.

This bill is focused on children, but it is not only children who would be affected by it. Everyone will be. Parents are entrusted to monitor what their children watch on TV and what movies they can go to at the theaters. Why would our government suddenly think they can't be trusted to monitor what their children are reading? It does not make logical sense to pass this bill.

This bill is also restricting tools that parents can use to teach their children about events in life, how some people have different views and beliefs and how to treat others. We can't limit others (adults and children) to specific views/beliefs just because we might not like the others that are out there.

This bill will undo a lot of work people have done over the last century to get us to a place that is open and allowing people to choose what is best for them. Not having others dictate what is best for them.

Please vote DO NOT PASS on SB 2360.

Respectfully,

Derek Bjornstad

Melissa Lloyd

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3/14/2023

Chairperson Larson and Members of the Senate Judiciary Committee,

I am reaching out to urge you to oppose SB 2360. For these reasons:

Reason#1: The bill is redundant and unnecessary. Public schools and libraries already have filtering under the CIPA (Children's Internet Protection Act). As a librarian we have filtering on all computers, including our Wi-Fi. If a child/teen has a device provided by the parent, it is up to the parent to set up and monitor what they are accessing especially outside of school or library grounds. As a parent, I set the expectations with my teens, and set up internet filtering on our home Wi-Fi. That is my responsibility as a parent. If my child goes over to a friend's house who doesn't know how to put restrictions on, then as a parent I've already communicated to them what is acceptable and the consequences of their actions. I trust my children to make smart choices, and be responsible. I don't hold the other child's parents accountable if MY children make poor choices.

Reason #2: The bill is trying to re-define the Supreme Court's ruling on obscenity. It crosses out words like ordinary and replaces it with reasonable and crosses out contemporary, leaving North Dakota standards. How would you define reasonable North Dakotan standards? I'm a reasonable adult, and I've lived in North Dakota my whole life. By what reasonable North Dakotan standard is this bill supposed to go by? Libraries have a policies/procedure in place if a person dislikes or doesn't agree with any book/material. As a librarian, I respect and understand a person's right to read what they choose, and if someone doesn't agree with a book any book they have the right to Request a Reconsideration of that book/material. If the issues of books of a "sexually explicit" nature. Then do we remove everything that is deemed "sexually explicit"? I've had patrons come in and complain an Inspirational Romance was too "sexually explicit" because the main characters "kissed and embraced". Plenty of teens in my community read Inspirational Romance, do I deny them the opportunity to read books their parents have approved because another person believed it to be sexually explicit? The Miller Test already defines obscenity and pornography, and the books/materials this bill is targeting do not fit in the guidelines set forth by the Supreme Court. If this bill were to pass, it would create many restrictions for books already on the shelf, including books like the Holy Bible, Classic Pieces of Literature, and even Inspirational Romance.

Reason #3: This bill is attacking Educators and Librarians. It is my understanding that this bill was introduced to response to a book that has been challenged both at Dickinson and Valley City Barnes County Public Library. The book *Let's Talk About it: The Teen's Guide to Sex, Relationships and Being*

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

In the course of this book challenge. The library and staff were painted as the bad guys, when all we did was make information available to those who choose to read it. I and other staff members have been threatened, bullied, and treated with contempt. I feared for the safety of my children, the staff, and myself. Now this bill would do further damage by persecuting librarians and educators who work hard to provide educational materials for everyone in the community who wish to seek it out.

Librarians and educators work hard to provide services to the community, and we are constantly seeking out educational opportunities to better serve our communities. We attend conferences, webinars, continuing education classes, further our education by earning Masters in Education and Masters in Library Science so we are qualified and experienced to provide services for our communities. This bill mocks and dismisses the extensive knowledge of educators and librarians. Treating them as a criminal by charging them with a Class B Misdemeanor. My question is why? Why would you criminalize the educated and knowledgeable people who are doing a phenomenal job of helping build up the communities they serve?

Please excuse the length of my testimony, but I'm finding these bills to be troubling and feel they infringe on the rights and freedoms guaranteed to me and my community by the constitution. I have been a North Dakotan my whole life, and have always taken pride in being North Dakotan, we work hard, we take care of each other, and protect our freedoms. Now, I'm ashamed to be North Dakotan.

As a Librarian, I've always considered libraries a sanctuary. I've always had the interests and safety of the children/teens/adults who come to the library seeking a safe place for knowledge free of judgement and persecution at heart. Now, with these bills, you have created fear.

Thank you for the opportunity to share my story.

Sincerely,

Melissa Lloyd



March 14, 2023

Chairman Klemin and Members of the House Judiciary Committee,

For the record, my name is Andrea Placher, and I am the director of the Williston Community Library. Due to the potential First Amendment violation and vagueness of SB2360, among many other problematic issues, I am urging you to vote DO NOT PASS.

Our library board is made up of members from both Williams County and the City of Williston. These members are appointed by Williams County and City of Williston Commissioners. As you know, these Commissioners are elected by their respective constituents or as I like to refer to them, community members. The responsibility of the policies, procedures, materials inventory, and day to day business of the Williston Community Library lies with those mentioned above and the library director, as stated in the North Dakota Century Code. Our library currently has existing policies addressing materials collection and disposal, as well as materials reconsideration requests, and in my six years as director, not one material in our library has been challenged.

The financial and functional burden that would be placed on our library, which will in turn affect Williams County, the City of Williston, and its tax paying citizens, would be outrageous. Our library currently holds approximately 50,000 items in its inventory with an additional 2,000 materials added annually. The staff time needed to read every item by the proposed deadline would be literally impossible with current staff and budget, a rough estimate puts us around 7.5 million dollars. Not to mention if we are tasked with reading every day until we made it through our entire inventory, how are we to run the library efficiently?

It is my opinion that SB2360 is unnecessary as local policies and procedure are already in place and will place an immense financial and functional burden to North Dakota community members.

Respectfully,

A handwritten signature in blue ink that reads "Andrea Placher". The signature is written in a cursive, flowing style.

Andrea Placher
Library Director | Williston Community Library
Williston, North Dakota

Tuesday March 14, 2023

I am writing to urge the committee to vote Do Not Pass on SB2360. The bill as written is broad in scope and infringes on First Amendment rights in ways I feel the sponsor may not have considered. Libraries and schools already apply content filters in accordance with the Children's Internet Protection Act.

Renee Newton

Thomas A. Starks
March 14, 2023

Testimony in Opposition to SB2360

My wife and I, Laura and Thomas Starks, are in opposition to SB2360. As parents we acknowledge the importance of what is appropriate for our children. As owners of a book store, Lisbon Adventures, we are deeply troubled by the wording of this bill that would ban more books and content than people realize.

This bill is a direct violation of the 1st amendment. The government does not have the right to dictate and control ideas or education on a subject. Nor make decisions that are for parents, like myself, about when its appropriate to discuss or teach about sex education. While the bill attempts to safe guard that subject it also contradicts itself in the process. Leaving the decision to be arbitrarily enforced.

Majority of the books we sell are romance novels, which are written works that are not sold to minors, with out parental consent, that are rated with an 18+. To ban these books would directly hurt a small Mom and Pop business. We also host games for people of all ages for play table top gaming, card games, and board games, most of whom are minors. We provide a safe place for young people in our town to hang out, while also encouraging healthy outlets such as reading.

The fear instilled in a minority of people over “Lets talk about it” which is a sex education book, is not a just cause to use government to ban books and take away our right as parents and free thinking people from purchasing written art or education. This would encourage people to seek knowledge on the internet, and buy books using companies such as Amazon, which directly hurts and harms our small business. I understand the idea behind the bill, but it fails to capture the nuances of reality to force a narrow perspective. As a parent of two young kids and a book store owner, My wife and I are completely opposed to this bill SB2360 which would make us criminals for selling books.

Testimony to ND Legislators on SB 2360 – March 14, 2023

Chairman Representative Klemin, Vice-Chair Representative Karls, and Representatives of the Judiciary Committee, thank you for the opportunity to address you on Senate Bill 2360.

I am Dan Wakefield from Devils Lake, a recently retired high school teacher.

On February 14th I submitted written and oral testimony to the Senate Judiciary Committee on SB 2360. I return today to testify in support of that bill based on and sharing in part what I have personally experienced in education related to an important objective of that bill:

“required safety policies and technology protection measures ... relating to obscenity control.”

This law, I believe, is critically needed at this moment to stop ongoing, ever-expanding exposure of our children and youth to extremely inappropriate, damaging media in schools and communities across our state.

In the Fall of 2021, I discussed with a teaching support specialist in our district the serious roadblock low reading comprehension of many students presents to their academic success and negative consequences for them on leaving school. That staff member applied for, and our school was awarded “Federal Striving Readers Grant” money to purchase books. In late Fall of 2021, and again in January 2022, DLHS received several boxes containing an assortment of paperback books that were placed in all Social Studies classrooms. I briefly overviewed the first shipment into my classroom. They were a cross-section including fantasy, science-fiction, sports, history, and books about teenage relationships. When the second set of books came in January, some appeared suspect and possibly inappropriate for public high school students based on their blurbs and book covers. I decided to put them in a large, locked cabinet. In early June, the box of books came to my attention again as I was completing checking out of school, so I spent time reviewing them.

Though I did not take time to review all of the many books that dealt with relationships, some I believe fit Merriam-Webster’s Collegiate dictionary definitions of - obscene - “abhorrent to morality or virtue *specifically*: designed to incite lust or depravity”; and prurient – “marked by or arousing an immoderate or unwholesome interest or desire; esp.: marked by, arousing, or appealing to sexual desire.” (Proscriptive terms applied in SB 2360)

These were books I reviewed from the Federal Striving Readers Grant with important themes:

A Very Large Expanse of Sea by Mafi – sporadic language that didn’t seem to do anything for the story – Fuck – Asshole – Shit

I Hope You Get This Message by Farah Naz Rishi – begins with homosexual encounter in the first chapter

White Fragility: Why It’s So Hard For White People To Talk About Racism by Robin Diangelo – prominent Critical Race Theory book - no other book in the collection providing a counter view

Unpregnant by Hendricks and Caplan – boy gets girlfriend intentionally pregnant – girl goes on a 900 mile road trip with friends for abortion

The Music of What Happens by Konigsburg - teen boys working together becomes gay sexual relationship

We Are Totally Normal by Kanakia – protagonist has gay and straight sex experiences against a backdrop of high school socializing and partying

Odd One Out by Stone – graphic raw sex – a three way

At the conclusion of the June school checkout, I advised administration that the books that had come into the high school from federal grant money needed to be reviewed because of inappropriate content before they were put into circulation for the coming school year. I was thanked for the heads up. I also informed a colleague who was still in the building about the books. The response was, well that's not so bad; it would be different if staff were assigning or teaching from those questionable books. When I shared that response with a leading North Dakota early childhood educator, her response was – what? That would be like knowing drugs are in the school, but staff are not pushing them so it's not a problem and we don't need to do anything about it.

What follows next is my response as a parent and long-time educator. They are the reasons I'm testifying.

But first I need to preface my comments: I believe those reactions to what happened in my school and what is likely happening all across ND is more lackadaisical or indifferent than willful. When I asked our teaching support specialist in June how we ended up with trash books, she told me when she ordered, she asked the out of state company filling the order for a cross-section of books appealing to a variety of subject areas and interests. She was surprised to learn when I told her what showed up in the boxes in our school from being awarded the Federal Striving Readers Grant.

Overall, this is a worrisome eye-opener for families and their students that attend our schools for the following reasons:

1. The books I mentioned above fit the proposed law's average, reasonable person standard in SB 2360 – quoting from Section 1. Amendment. Subsection 5. provisions – the books that ended up in my school appeal to a prurient interest, describe patently offensive sexual conduct, and/or lack serious literary, artistic, or scientific value.
2. Standards absent for filtering objectionable materials could be a growing trend in my school. The Federal Striving Readers Grant money books were not a one-off experience last Spring for inappropriate books coming into our school. Personally, while waiting to consult counselors on school matters, I paged through a brand-new hardcover in the sitting area outside the counselors' offices. While subbing for another teacher, I found another brand-new book prominently displayed. A very quick look revealed both books teenage main characters engaged in the same graphic sexual language and themes. In the past several years, on many occasions, I paged through new books in our school library. Prior to this past school year, I have never found sexually explicit books directed at young people in our school building.
3. These inappropriate books, cited in this testimony, meet SB 2360's definition of lack of serious literary, artistic, or scientific value promoting obscenity to minors. Whenever these materials

are accessible in schools across ND, they made me and by extension all school staffs complicit, intentionally, or not, and without our consent, for the sexualizing of minor children and youth.

4. In our schools, I believe staff is mostly not willful in participating in the placement of inappropriate sexual materials. But because they are busy, they are somewhat oblivious or distracted to an apparent disturbing trend. Infrequently, I have heard this unfortunate, dismissive comment: Well, they (students) have heard / seen all of that before – the implication being, so what difference does it make in the schools? Sadly, it is true that studies show large percentages of children as young as nine have been exposed to hard-core pornography. Most teachers and staff do not want to contribute to that ongoing tragedy.
5. SB 2360 correctly recognizes the widespread transmission and reception of digital and online media in ND schools. Recently, both LRSC and DLHS have eliminated most of their book stacks in their school libraries. My high school in recent years has been promoting online reading and research in all subject areas. The high school library has promoted the reading of digital books and novels as well. Student cell phones and computer tablets are ever-present and in use in school buildings. Much of the school day students are given the freedom to access their phones on web sites other than those promoted by the school to increase learning. Obviously, the intent of this law cannot be realized without robust web filters in schools and school compliance to prevent inappropriate online content to circulate in schools.
6. Objection to this proposed law will be made that students should be able to read and access whatever they want in schools as part of learning and in the name of free speech. Along that line, the argument goes that not allowing students to read about homosexual, bisexual, or any other variations of sex is discriminatory and hateful. Most average, reasonable, persons, as the proposed law states, would reject that assertion for reasons from time immemorial related to natural law: that students as minor children are dependents and do not have the same rights, or maturity to engage in outcomes related to sex as adults; and that the intent of parents, guardians, and the local community in supporting education through schools is academic learning. Promoting any manner of heterosexual, homosexual, bisexual, or any other sex has never been supported or recognized as the role of schools in North Dakota.
7. Another objection will be made that North Dakota will lose money, or talent, or business, or people because ND is not inclusive or fair or doesn't guarantee equal outcomes. These assertions are getting tired and more and more worn out and can't be substantiated. In fact, it is just the opposite. Look at population trends around the country. Forcing LGBTQ... media and curriculum into schools is just one more of many, many reasons, more and more people are voting with their feet and moving to states like Florida, Idaho, Texas, and yes, now the Dakotas. That in-migration, including younger parents and families is on, to our towns and cities, even despite our winters. More and more people are attracted to a people and a place like North Dakota that still values the innate dignity and shared humanity of everyone instead of dividing people based on categories.
8. Parents and Guardians: The most important reason to support SB 2360 is because it helps preserve the primary relationship between minor children and their parents or guardians' role as the first and primary teachers of personhood and identity in guiding their minor children; and to not cause that role to be undermined by state power pushed through the schools. This concern of parents and guardians about their natural rights to guide their children in the values of personhood and identity is also the reason for the upsurge in home schooling,

private, and parochial education. The concern is now so great, but for the financial sacrifice, we would see a large increase away from public education, even in North Dakota.

To conclude: In our school, we took action to improve literacy – and what happened? An out of state vendor sent us books and is sending books all over the country with federal tax money that are highly inappropriate. In our school those books went right past the superintendents and business' office down the hallway into classrooms – into my classroom - without needed adult oversight- why? In large part because we presume schools are safe – not an environment that blatantly assaults our youth.

Books were ordered to improve literacy. I didn't ask for these books, nor did staff, and certainly not the parents and guardians of our students.

In conferences and communications with parents and guardians what are their concerns and interests? – academic success is at the top of the list – including subject areas like biology, anatomy, and physiology – but not to have the school hyper-sexualize their children.

During the Senate testimony, proponents testified this law is not needed because federal law protects students from inappropriate content – really? Not now at DLHS and likely other schools in ND that use federal grant money to improve literacy. Don't expect federal enforcement anytime soon from government that is now funneling obscene media into classrooms.

Librarians testified they saw no obscene material in libraries accessible to minor children. Critics of this legislation warn this is book banning.

This concern isn't about banning books. This is about our schools using age-appropriate books. Where is the adult supervision in the room? If your teenager asks to borrow the car, would you intentionally leave a 12 pack in the front seat? If you have children who are fascinated by fireworks, do you hand them a can of gasoline and matches and tell them to go play in the garage?

Another criticism – this will create costly lawsuits against ND from powerful individuals and organizations.

Well, what is a child's innocence worth? What are your children's and grandchildren's values worth?

This law is needed – I visited my former classroom a couple weeks ago – the books I alerted administration to last June remain in the bookcase for use by students.

Inappropriate media is spilling into our schools. The federal government using public tax money made me complicit – it made our staff and school complicit.

This law will send an important message to busy, distracted, and indifferent adults. It will help protect vulnerable children and youth where they congregate. The bill specifically mentions school libraries. But books and other media are all over schools. For clarity, schools should be specifically mentioned regarding the use of textual as well as digital materials in this proposed legislation. I did not find it.

I urge passage of this important first step, but more legislation is needed. I understand this is all that may be possible in this legislative session.

Cell phones and other internet devices are everywhere in many schools and libraries. Students access them throughout the school day. Websites like Tik Tok can be blocked by filters – but that does nothing to prevent a free flow of sometimes negative messaging and images on students' cell phones resulting in bullying or students accessing embarrassing, demeaning, obscene or violent videos. The net effect: every school day of this growing culture of distraction results in significant loss of learning and personal degradation.

Last year the federal government made my school complicit by funneling destructive age-inappropriate media to our students.

SB 2360 is an important remedy that can help. We have a federal system – you – we in ND don't have to be complicit.

Thank you for your attention. I stand for your questions.

Dan Wakefield

Devils Lake

Note to the House Judiciary Committee: On the next page you will see photos of the bookcase with books in my classroom (the other half of the order remained in a secure cabinet until the end of the school year) and a placarded book from the Federal Striving Readers grant of the type placed in all the Social Studies classrooms.



Odd One Out

Purchased with Federal Funds
through the Striving Readers
Grant

March 14, 2023

Chairman Klemin and Members of the House Judiciary Committee,

For the record, my name is Andrea Placher, and I am the Collection Development Chair of the North Dakota Digital Consortium. Our consortium is made up of libraries across the state who work together to provide an online audio book, eBook, and magazine collection through a company called OverDrive to North Dakota communities. For the reasons listed below, I am urging you to vote DO NOT PASS.

OverDrive, known to most North Dakotans as Library2Go or Libby, (the online app) sorts materials into categories such as fiction, nonfiction, children, young adult, etc. so patrons can easily find the materials they are looking for. Their filtering system is easy to use and navigate for all users. In addition, our consortium currently has existing policies addressing materials collection, as well as materials reconsideration requests. In the last five years, 51,669 unique users utilized Library2Go and checked out 3.133 million items.

The staff time needed to read and/or listen to every item by the proposed deadline would be literally impossible with current North Dakota library staff and budget. Our collection currently holds 67,628 items with additional materials added annually. The financial and functional burden that would be placed on libraries across the state, which would in turn affect its tax paying citizens, would be outrageous.

It is my opinion that SB2360 is unnecessary as policies and procedures are already in place and will place an immense financial and functional burden to North Dakota community members.

Respectfully,



Andrea Placher
North Dakota Digital Consortium
Collection Development Chair

March 14, 2023

Re: SB 2360 – OPPOSE

Chairman Klemin and Members of the House Judiciary Committee:

For the record my name is Christine Kujawa, Library Director at Bismarck Veterans Memorial Public Library and I oppose Senate Bill 2360.

Much like HB 1205, SB 2360 is vague, broad, disregards many considerations, and would prohibit people of all ages from accessing information. The definition of “obscene” is defined by being “judged by a reasonable adult.” If the deciding factor is based on a judgement, then is it not subjective? How can you consider a criminal penalty for something that is subjective and based on personal judgment, especially when you’re dealing with the livelihoods and integrity of our state’s public librarians who strive to create an informed and connected citizenry that our communities expect and deserve?

Furthermore, SB 2360 will result in the removal of millions of articles and other digital information for our citizens. I’m sure our database providers will not take on the task of deciding what may or may not be obscene, and as a result, we will have to remove these resources altogether. I consulted with one of our vendors OverDrive, and if this bill passes, we will be responsible, not the vendor, for reading and inspecting over 72,000 titles from this collection and using our subjective, personal judgement to censor information from our citizens. How long might it take, and how many staff would be needed, to sift through 72,000 titles from this one database, along with the several other online resources we have? What amount of funding will this require and where is it coming from? Is the state giving it to us?

It doesn’t matter that our library filters the Internet because digital resources are available anywhere with one’s library card and an Internet connection. We subscribe to two databases, Libby and hoopla, which provide access to a mixture of over 1.3 million eBooks, audiobooks, and videos, with 150,000 downloads annually. The cost for these resources is funded through the Friends of the Bismarck Public Library and the library’s budget. If this bill becomes law we’d have no choice but to either remove titles one by one or end the subscription completely if that’s not possible. We would be out the taxpayer and donated funds we’ve put into them. If a minor checks out a title at home and their parent finds it inappropriate, and I can’t remove it, according to this bill, I could be fined and jailed for this, too, is that correct?

As a lifelong citizen of North Dakota, this bill, along with HB 1205, is an embarrassment to our state, our citizens, and anyone considering making North Dakota their home. Censoring intellectual and academic freedom raises significant constitutional questions and issues. Both HB 1205 and SB 2360 violate the First Amendment. These bills interfere with librarians’ ability to make decisions within our institutions per our policies and procedures, which have been approved by our Board of Directors, who have been approved by our City Commissions. This bill undermines our ability to build our collections that will interest and edify our diverse communities who are utilizing them.

Each of us gets to decide for ourselves the information we want to access but we don’t get to choose for other people. If you find a book, an article, or other information objectionable, you have the right to not look at it. And, of course, in the case of minors, it should be the parent who decides what their children access, no different from everything they see on the Internet and television.

Please choose "DO NOT PASS" on SB 2360. If HB 1205 comes across your desks in some form again, I ask that you choose "DO NOT PASS" for that bill, as well.

Sincerely,
Christine Kujawa
Library Director
Bismarck Veterans Memorial Public Library

Mr. or Madam Chairman, and members of the committee, my name is Karen Heinrich from Dickinson. I am in favor of this bill because we should not be exposing our children to material that has the potential to be detrimental to their well-being. We should be putting laws in place to protect their innocence. As a parent and concerned citizen, I urge you to vote in favor of this bill. Thank you for your consideration.

Chairman Klemin and Representative members of the Judiciary Committee,

My name is Anita Tulp and I am the Director of the Valley City Barnes County Public Library. As a librarian I am definitely concerned about how SB 2360 will affect not only our library, but the school and public libraries across our state. However, today I would like to speak from mostly a personal point of view as a voice that I believe you have not heard yet. I speak today as the voice of a survivor. A survivor of both child abuse and sexual abuse. This is a story not easily told so I will keep it as short as possible.

I came to know my father as what I call an equal opportunity abuser. My mother, siblings, and I were all victims of his abuse. It didn't matter if he was drunk, angry, or even happy, he would always find a way to justify his actions. Anything could set him off. If he didn't think we worked hard enough, or were too noisy, or were too quiet, or even too happy, are just a few examples of the reasons he used to abuse us verbally, mentally, and physically. I will not go into the sordid details of those years, yet I will say that they were full of pain, bruises, blood, and mostly fear. Instead, I will focus on my journey of survival.

That journey began in the public library. There I found *The Little House on the Prairie* books and the Nancy Drew mysteries. They provided me times of escape from my real world into a world where families were happy and adventurous, and where fathers were loving and supportive. As I grew older, I found books on romance and I dreamed that someday someone would come to rescue me and show me a life very different from the one I knew. Of course, those were only dreams. I didn't know that those types of "normal" lives even existed.

At the end of my junior year in high school, my father moved us to North Dakota. I continued to read and ventured into books of a more realistic and true story nature such as *Alive* and *The Other Side of the Mountain*. After graduating from high school and moving on to college, I found friends that supported me who kept telling me that my life could be different. What I experienced as a child was not a normal childhood. I tried to believe that yet with the threats of violence and the psychological chains that lasted well into my marriage. I still feared my father. Even though my husband was loving and supportive, I couldn't get past the feeling of waiting for the other shoe to drop so to speak.

The library continued to be a part of my journey of healing. I was now an adult and finally found books I really connected with like *A Child Called It*, *Go Ask Alice*, and *A Million Little Pieces* that were stories of abuse and the struggle to survive and heal. I didn't feel alone anymore. Those books and others I found made it easier to talk about, dispelled some of the fear, and helped me build more confidence in myself. My journey continued as I went back to college, earned a teaching degree and became a school librarian.

I know that you have heard a lot of scientific facts about the effects that pornographic and obscene material can have on a child that is not ready to see it. The trauma and

possible addiction that a child can experience is horrible. I cannot dispute those facts because I have lived through it. However, from all the testimony I listened to and read, I did not hear any confirmed facts from any of the experts saying that this is happening in the library. I know that was not my experience and I know that my abusers did not get their ideas from any materials in a library.

From my own experience, I know that healing does take place from materials found in a public library. I know that I could not afford to buy a lot of the books I read nor could I afford counseling, so the library became an important resource for my own journey to healing. I firmly believe that if the library had some of these books when I was a child, I might have realized much sooner that my life was not normal, that I could do something to stop the abuse, and that I might have started my journey to healing much sooner. It saddens me to know that children and teens are still experiencing child abuse, sexual abuse, and quite often neglect in a world that should cherish our children. I pray that they can break their silence and break the cycle. If the library can help them do that, it needs to have the information in it to do so.

I will always defend the library and the rights of people to read and view the materials they wish to find. Our first amendment rights guarantee us freedom of speech whether it is verbal, written, or pictorial. This bill may lead to the silencing of many authors that choose to tell their stories through words or drawings. It will discriminate against those that want to and perhaps need to read or view them.

Our library, as well as most if not all others, already has a collection development policy in place to ensure that items purchased meet the criteria and placement requirements appropriate for each section of our library. We also have a policy for reconsideration which includes information about the reconsideration procedure that allows any person to challenge a material they feel is not appropriate in some way. These policies work and allow the community to be a part of the process where their voices can be heard. Since we as librarians also live and work in the community, we focus on having materials available that reflects the diversity of our population. It would make no sense to spend money on materials that would just sit on a shelf. We can easily find materials we do not own in our library through online resources or through Interlibrary Loan.

We know that these policies work as our library was one that recently went through the process with the challenge of the book "Let's Talk About It" by Erika Moen and Matthew Nolan which seems to have been one of the primary reasons for this legislation. The challenge led to a public hearing where both opposition to the book as well as supporters of the book had an opportunity to speak publicly or provide written testimony to our Library Board. The Library Board took all the provided testimony under consideration in making the final decision about the book. The decision was made to move the book from the Young Adult section of the library to the Adult section. This issue was solved locally through our own governing policies. I strongly believe that this type of governing should stay at the local level. I fear that if this bill passes, our community will no longer have a say in what they want to read and view in the library.

Our online resources and computer services are important services that we offer to our community. I fear that if this bill would pass, we would lose our online databases due to either the provider refusing to filter the resources they carry for us or the exorbitant cost that would be passed on to us for them doing so. We already have filtering systems in place which keeps both our computer users and WiFi users from accessing any inappropriate material.

My greatest fear is that if this bill passes, I might have to tell a patron that we no longer can carry the kind of reading material they wish to have. We have many people in our community that depend on the library for their research and entertainment needs. So far this year, our library has saved our patrons \$90,000 by providing them with materials they want free of charge. This money is then spent throughout our community supporting businesses and organizations. The public library becomes an important resource for everyone in our community!

In conclusion, I thank God for the libraries I encountered throughout my journey and the many voices within them that spoke to me in ways that I needed to hear. I also thank God for my husband who for the last 45 years has been my protector and biggest supporter through the many years of fear and struggle to heal. I know that without either, I would not be the wife, mother, grandmother, and the educated professional I am today.

Please vote "Do Not Pass" on SB 2360.

Thank you for your time and consideration.

Anita Tulp, VCBC Public Library Director

Testimony to Bill 2360 - In opposition
Arlene Gunderson - Grand Forks

Once I complained on Facebook about Senate Bill 2360, Facebook flooded my account with advertisements for out-of-state bookstores. Such as this one from Easthampton, MA.

Facebook advertisement from February 19, 2023



Chris Korczak, Bookseller

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This subscription is for you. With each package, I will send one or two science fiction or fantasy books. Hardcover will be one per package, paperbacks will be two per package.

These titles will run the gamut from the 40s through current books and will be in good reading condition. Junk books go to the junk dealer. Not you.

Sometimes I will even send an older sci fi magazine like Fantasy, Isaac Asimov's Science Fiction, Analog, Galaxy and the like.

*Maybe you just want to surround yourself with books. That's cool, too.

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House Judiciary Committee
Senate Bill 2360 – **DO NOT PASS**

Andrew Alexis Varvel

North Dakota State Capitol
March 14, 2023

Pioneer Room
2:30PM

Chairman Klemin, Madame Vice Chairman Karls,
and Members of the House Judiciary Committee:

My name is Andrew Alexis Varvel. I live in Bismarck.

I oppose Senate Bill 2360.

This written testimony is addressed to the First Engrossment of Senate Bill 2360, Version 23.072.05000. I am pointing this out because, based on my experience with its sister piece of legislation House Bill 1205, it is more than likely that the version of SB 2360 that people will be talking about during oral testimony may be different in key respects from the version of the bill that is before us now.

“There she lusted after her lovers, whose genitals were like those of donkeys and whose emission was like that of horses.”

This is the Word of God, according to the Prophet Ezekiel.
(Ezekiel 23:20, New International Version)

“You also took the fine jewelry I gave you, the jewelry made of my gold and silver, and you made for yourself male idols and engaged in prostitution with them.”

Ezekiel 16:17, New International Version

“My beloved thrust his hand through the latch-opening; my heart began to pound for him.

Song of Songs 5:4, New International Version

This is a beautiful and highly poetic way of saying, “Tab A goes into Slot B.”

According to the Book of Genesis, the two daughters of Lot got their father drunk and tricked him into impregnating them. (Genesis 19:30-38) I think this was raucous commentary about contemporary religious stories in Mesopotamia about Ishtar (a major sex cult of antiquity) getting her uncle Enki drunk, as well as a commentary about the prevalence of premarital temple prostitution in Moab and Ammon.

Now, I suppose that with enough research from psychiatrists from the University of California and neuroscientists from the University of Cambridge, perhaps they will be able to show that reading the Holy Bible causes harm to the mental health of children.

I went to Hobby Lobby. I'll tell you what I saw. Bibles! Bibles for sale, right in front of the checkout line where any child would be able to access them. And it's not just Hobby Lobby. This bill would affect every bookstore in the state. Yet, there are clearly winners from this legislation. Once I complained about Senate Bill 2360 on Facebook, Facebook flooded my account with advertisements for out-of-state bookstores.

Most librarians and booksellers don't read every book they sell. They don't have the time. This legislation would require some kind of rating system, which in turn would require either a large staff of censors to rate each book according to the standards set by SB 2360 – or reliance on artificial intelligence to tell us what books we can read.

According to the literary standards set out in Senate Bill 2360, the Holy Bible would be banned. So would *To Kill A Mockingbird*. So would George Orwell's *1984*. This goes far beyond the enforcement of community standards. This goes far beyond the Miller test.

Senate Bill 2360 puts these literary classics into the same category as classics of video pornography such as *Debbie Does Dallas*. And to my chagrin, I discovered that no library in North Dakota has that video in stock. If there is demand from adult patrons to borrow video pornography from public libraries, what exactly would be wrong with having them in stock? I could buy a DVD of *Debbie Does Dallas* on Amazon right now!

And if I want to borrow *The Joy of Sex* by Alex Comfort from a public library, why not?

I doubt that Senate Bill 2360 can be salvaged. If local control and enforcement of community standards under the Miller test is what proponents of this legislation have in mind, this legislation would need to get hoghoused in order to accomplish that.

Concerning its sister legislation House Bill 1205, I have already suggested the idea of allowing patrons to circulate a petition. With enough signatures on the petition, the book deemed objectionable would be put onto a referendum ballot for the entity that pays the bills for a public library. The best way to ascertain whether a book adheres to community standards is for the community to vote on whether to keep the book or not.

You might be surprised by what your neighbors would say on a secret ballot.

I think the Bible may have something to say about undue prudishness which is so conservative in its paganism that not even the Bible can rise up to its moral standards:

“When David returned home to bless his household, Michal daughter of Saul came out to meet him and said, “How the king of Israel has distinguished himself today, going around half-naked in full view of the slave girls of his servants as any vulgar fellow would! David said to Michal, “It was before the LORD, who chose me rather than your father or anyone from his house when he appointed me ruler over the LORD's people Israel – I will celebrate before the LORD. I will become even more undignified than this, and I will be humiliated in my own eyes. But by these slave girls you spoke of, I will be held in honor.” And Michal daughter of Saul had no children to the day of her death.”

2 Samuel 6:20-23, New International Version

This concludes my written testimony. Please recommend **DO NOT PASS** on SB 2360.



March 14, 2023
Memorandum in Opposition to Senate Bill 2360
House Judiciary Committee
Jeff Trexler, Interim Director
Comic Book Legal Defense Fund
jeff.trexler@cblfdf.org

Chairman Klemin and members of the House Judiciary Committee, thank you for considering our testimony regarding Senate Bill 2360. All of us at the Comic Book Legal Defense Fund share your commitment to protecting the youth of North Dakota, whatever our differences may be as to the wisdom of enacting this specific legislation.

Many of our legal objections to S.B. 2360 have already been expressed in others' testimony, most notably that of the Media Coalition, of which the CBLDF is a member. Rather than repeat these arguments in full, this memo incorporates by reference document number 24274 (appended), the Media Coalition's testimony submitted by David Horowitz on March 13, 2023, and instead focuses on concerns of particular relevance to graphic novels and the North Dakota retailers, librarians, educators, creators, and readers whom this bill would harm.

Reframing the question

First, I want to consider the ostensible problem that S.B. 2360 is designed to address. As the testimony in favor of this bill illustrates, an oft-repeated justification for imprisoning anyone who makes sexually-themed graphic novels publicly accessible is that such books are hard-core pornography that corrupts children's minds. Since the spread of graphic novels seems to be resistant to arguments against them, the only way to keep these allegedly pernicious works away from an innocent child is supposedly to criminalize them.

But why have these books suddenly become mainstream? How did North Dakota's librarians, teachers, and small-business booksellers go from being pillars of society to alleged radical pornographers? It may be, as some have claimed, that our institutions have been infiltrated by a radical cabal, but a closer look at what is happening points to a distinctly legal explanation.

In brief, the explosion of graphic novels such as *Gender Queer* and *Flamer* over the past decade can be traced back to a series of landmark decisions by the Supreme Court. Starting with *Hollingsworth v. Perry*, 570 U.S. 693 (2013), and *U.S. v. Windsor*, 570 U.S. 744 (2013), the Court has issued a series of opinions establishing that various forms of sexual expression are protected civil rights. The most iconic example of this is the Court's 2015 decision in *Obergefell v. Hodges*, 576 U.S. 644 (2015); this ruling recognized a fundamental right to marry grounded in the Due Process Clause of the Fourteenth Amendment, which "extend[s] to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs." Five years later, the Court similarly found sexual orientation and gender identity to be protected classes under Title VII of the Civil Rights Act of 1964.

These Supreme Court rulings changed the American civic landscape. Sexuality was legally no longer just a private matter; instead it became an integral component of our defining ideals. In quintessentially American fashion, the democratization of sexual orientation and gender identity as a civic value became a topic of national conversation. At the same time, the digital revolution had helped make the integration of words and images a standard part of our communications landscape. In this communications environment it was inevitable that graphic novels depicting sexual expression as a civic value would start appearing in schools, libraries, bookstores, and comic shops alongside explorations of race, women's rights, disabilities, and other protected classes in civil rights law.

What distinguished graphic novel memoirs and coming-of-age stories about sexual expression from their text-based counterparts was, of course, the amount of visual information that a single image could contain. Seeing a visual depiction of the human body and reading a textual description do not have the same immediate impact; at the CBLDF, for example, we started to encounter schools and libraries that prohibited graphic novel adaptations of certain literary works (e.g., Miles Hyman, *Shirley Jackson's "The Lottery": The Authorized Graphic Adaptation* (2016); Anne Frank, Ari Folman, and David Polonsky, *Anne Frank's Diary: The Graphic Adaptation* (2018)) but retained the text originals. Equally significant, critics soon learned they could go viral on Twitter and YouTube by showing select images from Maia Kobabe's award-winning graphic novel memoir *Gender Queer* (2019) and other works dealing with sexual expression.

This gets to what is really at the heart of the current debate: not so much a never-ending battle between pornographers and book banners, but the difficult question of how to depict sexuality in a culture where it is both a civil right and a subject of debate. One especially complicated aspect of this is the conflict between public ideals and personal values; another, given the nature of the topic, is differing notions as to the appropriate time, place, and manner of conveying sexual information to minors. These are the very sort of issues that the Founders' protections for free speech and freedom of the press were designed to help us discuss.

It is undeniable that some people object to the sexual imagery in certain graphic novels; the testimony in favor of S.B. 2360 makes this more than clear. However, as I noted in a recent case in Virginia in which the court found an attempt to have *Gender Queer* deemed harmful to minors to be unconstitutional, there is no graphic novel exception to the First Amendment. Laws that effectively criminalize artistic depictions of sexual expression protected as a civil right will not

stand up to judicial scrutiny. Likewise, despite the repeated accusations by S.B. 2360 advocates against selected excerpts from the educational graphic novel *Let's Talk About It: The Teen's Guide to Sex, Relationships, and Being a Human* (Erika Moen and Matthew Nolan (2020)), the literary, artistic, political, and scientific significance of the work taken as a whole protects it from being classified as harmful to minors. Deciding how best to display these books in a library or store is a matter for negotiation, not arrest.

Protecting the community

As multiple concerned citizens have noted in their testimony in opposition to S.B. 2360, this legislation would cover far more than the few books from which a few selected images have gone viral on Twitter. In fact, by eliminating the reference to “commercial gain” in N.D.C.C. § 12.1-27.1-03.1, the bill would make it illegal to have books, magazines, or photographs with sexually alluring nudity or partial nudity accessible any place “where minors are.” Thus, enacting S.B. 2360 would arguably make it illegal for a parent to bring home the *Sports Illustrated* swimsuit issue and even to have an electronic device with access to the internet, which is, after all, host to countless digital books, magazines, and photographs with sexually explicit content.

What I hear from librarians and retailers in North Dakota is that they are afraid. S.B. 2360 is so broad and ambiguous that no one can be sure whether a particular book will get them arrested. Even comics that one might otherwise assume to be outside the reach of this bill – *Wonder Woman*, *The Adventures of Superman*, *The Amazing Spider-Man*, *Fantastic Four*, *Red Sonja*, *Sandman* – could have characters wearing provocative costumes, engaging in a same-sex kiss, or identifying as transgender, thus leaving retailers with the Hobson’s choice between banning minors from their stores or removing popular books. There are also concerns about the potential for this bill to sever connections among retailers, schools, and community libraries – for example, it is not uncommon for a libraries and schools to order graphic novels from a local comic shop.

Criminalizing the public display of graphic novels and other books simply for containing sexually suggestive material would be a clear unconstitutional overreach. From the standpoint of civics education, showing children that the way to deal with diverse perspectives is to vote for a law that would send the people with whom you disagree to jail would be nothing short of obscene.

If the Committee has any questions about any of the graphic novels mentioned in the testimony regarding S.B. 2360, please let me know. More importantly, before you vote on this legislation, I would recommend visiting the schools, libraries, and small businesses this bill would put at risk. The people there are not pornographers or groomers – they are your neighbors and friends, and like you, they are trying their best to serve the varied interests of their communities while honoring their own sense of what is right.

I respectfully recommend that the House Judiciary Committee not pass S.B. 2360.



THE MEDIA COALITION

DEFENDING THE FIRST AMENDMENT SINCE 1973

American Booksellers Association Association of American Publishers Authors Guild Comic Book Legal Defense Fund
Entertainment Software Association Freedom to Read Foundation Motion Picture Association

Memo in Opposition to North Dakota Senate Bill 2360 as passed by the Senate

We oppose North Dakota Senate Bill 2360 as amended to incorporate Senate Bill 2123 and passed by the Senate (S.B. 2360) because we believe it violates the First Amendment rights of retailers and other businesses that distribute mainstream content in North Dakota. The trade associations and organizations that comprise Media Coalition have many members throughout the country, including North Dakota: authors, publishers, booksellers and librarians, producers and retailers of films, home video and video games. They have asked me to explain their concerns.

S.B. 2360 would amend North Dakota's existing display law to make it a crime for any business that permits minors to enter the premises to display "any photograph, book, paperback book, pamphlet, or magazine, the exposed cover or available content of which exploits, is devoted to, or contains depictions or written descriptions of nude or partially denuded human figures" in a sexual context. The existing law is limited to material that principally contains images of nudity in a sexual context. The bill would also amend the existing definitions of obscenity and harmful to minors to delete the word "political" from the test for what material is illegal.

Under the bill a bookseller, and other retailers, who admit minors can be prosecuted for displaying romance novels, health books, novels, dramas, memoirs, biographies, photo and art books, dramas, graphic novels, magazines and any other content that includes descriptions or images of nudity. The content does not have to be on the cover or visible to the general public browsing the media.

The bill is unconstitutional for several reasons. First, it goes far beyond material that the U.S. Supreme Court says cannot be displayed to minors. S.B. 2360 would bar the display of descriptions or images containing nudity in a sexual context, but the Supreme Court has been clear that content can only be restricted for minors if it meets a specific test established by the Court. While minors do not enjoy the protection of the First Amendment to the same extent as adults, the Supreme Court has ruled that "minors are entitled to a significant measure of First Amendment protection, and only in relatively narrow and well-defined circumstances may government bar public dissemination of protected material to them." *Erznoznik v. City of Jacksonville*, 422 U.S. 212-13 (1975). The contours for what speech can be barred for minors were established in *Ginsberg v. New York*, 390 U.S. 629 (1968), and subsequently modified by the Supreme Court in *Miller v. California*, 413 U.S. 15 (1973). In those cases, the Supreme Court created a three-part test for determining whether material is protected by the First Amendment for adults but is unprotected as to minors. Under that test, in order for sexually explicit material to fall outside the First Amendment as to a minor, it must, when taken as a whole:

1. predominantly appeal to the prurient, shameful or morbid interest of minors in sex;

Executive Director: David Horowitz **General Counsel:** Michael A. Bamberger, Dentons US LLP

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2. be patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
3. lack serious literary, artistic, political or scientific value.

Governments may restrict minors' access to sexually explicit speech under this test, often referred to as speech "harmful to minors," but it cannot go beyond this narrow range of material as determined by the *Miller/Ginsberg* test. In *Miller*, Chief Justice Berger emphasized that any state law regulating obscenity "must be carefully limited" to avoid "the inherent dangers" of criminalizing speech. *Miller*, 413 U.S. at 23-24.

The Supreme Court has repeatedly rejected attempts to restrict minors' access to sexual speech beyond what may be barred under the *Miller/Ginsberg* test. In *Reno v. American Civil Liberties Union*, the Supreme Court struck down a federal law that barred dissemination of content that did not meet the *Miller/Ginsberg* test. 521 U.S. 844 (1997). It barred dissemination of "any comment, request, suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication." The Court dismissed the government's argument that this speech satisfied the *Ginsberg* precedent. *Id.*, at 865. See also, *Sable Communications of Cal., Inc. v. FCC*, 492 U.S. 115, 127 (1989) (struck down a law barring indecent content rather than content that is harmful to minors under the *Miller/Ginsberg* test); *Erznoznik* at 213-14 (striking down a law barring minors from viewing material containing nudity without any of the prongs from the *Miller/Ginsberg* test); *Powell's Books v. Kroger*, 622 F.3d 1202, 1213 (9th Cir. 2010) (blocking enforcement of an Oregon law barring sexual speech for minors that did not comply with the *Miller/Ginsberg* test); *Entertainment Software Ass'n v. Blagojevich*, 469 F.3d 642 (7th Cir. 2006) *aff'g* 404 F. Supp. 2d 1051 (N.D. Ill. 2005) (permanently blocking an Illinois law that barred the sale of sexual material to minors but omitted the third prong of the *Miller/Ginsberg* test).

Laws restricting display not only must be limited to material harmful to minors, but courts have insisted that such laws may only restrict material that is harmful to oldest minors. The controlling case on regulation of the display of material harmful to minors is *Virginia v. American Booksellers Assn., Inc.*, which was brought by members of Media Coalition. 488 U.S. 905 (1988), on remand 882 F. 2d. 125 (4th Cir. 1989). The court held that if material has serious value for "a legitimate minority of normal, older adolescents, then it cannot be said to lack such value for the entire class of juveniles taken as a whole." *Id.*, at 129 (citing *Commonwealth v. American Booksellers Ass'n*, 372 S.E.2d 618, 624 (1988); see also *American Booksellers Ass'n v. Webb*, 919 F.2d 1493 (11th Cir. 1990), *rev'g* 643 F. Supp. 1546 (N.D. Ga. 1986); *Davis-Kidd Booksellers v. McWhorter*, 866 S.W.2d 520 (Tenn. 1993). This means that a restriction on the display of material with descriptions or depictions of nudity or sexual conduct must be limited to the narrow band of material that is legal for an 18-year-old but illegal for a minor who is almost 18 years old.

Even if the bill was limited to barring the display of material harmful to minors, as defined by the Supreme Court and applied to oldest minors, S.B. 2360 would still be an unconstitutional violation of the rights of retailers because the only way to comply with the law is to bar minors

from entering or purging the store of books that include descriptions or depictions of nudity. The Virginia legislature amended its law to prohibit the display of harmful to minors material if a minor was able to browse it. In *Virginia v. American Booksellers*, the court ruled that limitations on the display can only require that a retailer take reasonable steps to prevent minors from perusing harmful to minors material. On remand from the Supreme Court, the Fourth Circuit held that to be convicted, the bookseller “must have knowingly afforded juveniles an opportunity to peruse harmful materials in his store or, being aware of facts sufficient to put a reasonable person on notice that such opportunity existed, took no reasonable steps to prevent the perusal of such materials by juveniles.” 882 F. 2d. at 129 (4th Cir. 1989) (citing *Commonwealth v. American Booksellers Ass'n*, 372 S.E.2d 618, 625 (1988)). The court declined to allow the state to mandate blinders, bagging or segregation as the only way to prevent minors from perusing the material.

Absent these elements, any restriction on display is an unconstitutional burden on a bookseller and an unreasonable hindrance on the right of adults to access such material. Booksellers have tens of thousands of titles in their stores and they would have to inspect every one for any mention of nudity or sex. The task of browsing every page of thousands of new books and magazines received by a store each month to determine what cannot be displayed is difficult, time consuming for staff, and expensive for management. The staff would also have to ask for an ID from everyone who entered the store to determine their age to assess what material is acceptable for each person, then monitor every minor’s browsing to make sure they were not looking at anything inappropriate for them. The alternative would be barring minors from entering the store or driving away adult customers by removing all books from the store that could be illegal for younger kids. Even if a store owner wanted to comply with the bill by creating a segregated “adults only” area for these titles, this would have a chilling effect on adult customers. Many would avoid entering an “adults only” section of the store to avoid being stigmatized for perception they were looking at “pornographic” material. Others would avoid the “adults only” section for fear that the material was illegal. These are unreasonable burdens on the First Amendment rights of bookseller and adults.

S.B. 2360 cannot be saved by a promise of legislators or prosecutors that the statute will be construed narrowly or be benignly enforced. In *U.S. v. Stevens* the Court said, “[T]he First Amendment protects against the Government; it does not leave us at the mercy of noblesse oblige. We would not uphold an unconstitutional statute merely because the Government promised to use it responsibly.” 559 U.S. 460, 480 (2010).

Passage of this bill could prove costly. If a court declares it unconstitutional, there is a strong likelihood that the state will be ordered to pay the plaintiffs’ attorney’s fees. In *Powell’s Books v. Kroger*, a case brought by members of Media Coalition, the state of Oregon paid the plaintiffs more than \$200,000.

For these reasons we oppose S.B. 2360. We would welcome the opportunity to do so to discuss these concerns further. If you would like to do so, please contact our Executive Director David Horowitz at horowitz@mediacoalition.org or by phone at 212-587-4025. We ask you to protect the First Amendment rights of retailers and all the people of North Dakota and amend or reject S.B. 2360.

Chairman and members of the committee, my name is Lindsey Bertsch, and I am a District 3 resident of Minot, North Dakota. I am the manager of Main Street Books, which is also located within District 3. I am urging you to give a DO NOT PASS recommendation to Senate Bill 2360.

I testified in opposition to a previous version of this bill, Senate Bill 2123, on January 23rd. At this hearing, I brought up several books that this bill would criminalize librarians and booksellers for carrying, including the Bible. I heard no argument refuting how this bill wouldn't criminalize the Bible being on library and bookstore shelves. I encourage you to read this bill carefully:

"A person is guilty of a class B misdemeanor if the person willfully displays at newsstands or any other business establishment frequented by minors...any book ... **contains** depictions or **written descriptions** of nude or partially denuded human figures posed or presented in a manner to exploit sex, lust, or perversion." Although the Bible is full of verses that would criminalize it, I cited the story of Oholibah in Ezekiel chapter 23, specifically verse 20 which is as follows: "She lusted after her lovers, whose genitals were as large as donkeys and whose emissions were that of a horse." If this bill passes, someone would be fully within their right to go to the police station and report a librarian or bookseller for having this book in their inventory and not checking an individual's ID before they can pick it up and look at it. If the excuse for this reality is "No one would ever do that," then that is just plain irresponsible and not a solid foundation for a law. There is **nothing** in SB 2360 that exempts the Bible, or 1984, or Slaughterhouse Five, or I Know Why the Caged Bird Sings, or the *innumerable* other books that would be criminalized under this bill. There truly seems to be a misunderstanding of how many books would be affected if this bill is enacted - the unintended ramifications would be dire.

I would also like to mention some books that have been brought up in some of the testimonies in favor of SB 2360. I read Let's Talk About It from cover to cover. Multiple testimonies have stated that this book encourages the act of "fisting." I have read this book and there is not even a mention of the word "fisting" in this book. There's also no instruction on "how to give a blowjob" in this book - if this is the book certain testimonies have been referencing when they say that. Representative Satrom said on the house floor that on Page 108 of this book, there is an illustration of a young girl with a hand down her pants at a family picnic. This illustration not only doesn't appear on page 108, but doesn't exist within this entire book. As for other citations, many of them leave out key details, picking and choosing phrases to fit their narrative. For example, this book does talk about sexting, however it actively discourages anyone under the age of 18 from engaging in it because of potential consequences, including legal consequences. I'm not trying to convince you to like this book, I'm just trying to correct some things that have been said about it. I personally don't agree with all of the phrasing in this book, but

compared to what minors have access to on the internet or through peer pressure, it is a valuable resource. What this book does very well is it tells teenagers to NEVER do anything if they feel they're being pressured into it, by anybody. It gives them tools to set boundaries in relationships with both romantic partners and friends, and it shows them how to own up to mistakes in relationships and heal them. It even has questionnaires outlining abusive behavior to watch out for in relationships; something I think young people can definitely benefit from. Regardless, if this is the book we keep coming back to in conversation - go right ahead and write a bill about this book! Because now, it reaches so much further than Let's Talk About It.

There is one more book I'd like to discuss - it was mentioned in one testimony given in favor of this bill (on behalf of the ND Family Alliance) but it concerned me more than any others being brought up. That is *The Absolutely True Diary of a Part Time Indian* by Sherman Alexie. It's been challenged in libraries across the country since its publication in 2007 for its honest portrayal of multiple topics and life challenges, but I believe the only thing that would qualify it for criminalization under SB 2360 would be the narrator's account of getting an erection. The narrator is a teenage boy dealing with a lot of coming-of-age issues that are important to address - the narrator grapples with his identity, his hopes and dreams, his family and impoverished state, his community, and the feeling of being othered by those around him both on and off his reservation. This is a beautiful book, and for YEARS I have recommended it to every parent looking for a book for a teenage son. In fact, just this past Friday, March 10th, I recommended this book, and *Speak* by Laurie Halse Anderson - which also could qualify for criminalization under this bill - to a gentleman looking for books to gift his 16 year old granddaughter. This bill could send me to jail for that.

I am twenty five years old and can remember when smart phones started to enter my daily life in middle and high school. Trust me when I say teenagers CAN and DO see far worse on smartphones than what is found in books like *Let's Talk About It*, or *Looking for Alaska*, or the plethora of other young adult books being challenged. I can recall many times being shown images I did not consent to seeing due to peers showing them off on their smartphones at school. I'm sure the younger members of this committee can relate to that experience as well.

Finally, I would like to thank Representatives Schneider, Rep. Roers Jones, and Rep. Bahl, for voting against HB 1205 when it was on the House floor. I hope you recognize that Senate Bill 2360 is also an egregious infringement on personal freedoms and the right to read, and do your due diligence in illustrating that point to your colleagues. If passed, this bill poses a deeply concerning threat to the future of literacy in North Dakota. Thank you.

Mindy M. Iverson
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March 14, 2023

Honorable Chairman Klemin
RE: Testimony on SB2360

Dear Chairman Klemin and Members of the Judiciary Committee:

I am providing this personal testimony in opposition to HB2360. My name is Mindy Iverson and I am a concerned parent from the Bismarck community. I have two children, one in middle school and one in high school. I believe it is the parents' right and responsibility to monitor what their child is reading and not the state's position to determine what should or should not be in a library collection.

Passing this bill will have major implications on our children. In a society that already struggles with mental health, we will be pushing children over the edge who are grappling with their identity, physical and sexual abuse. I ask you to self reflect, what if you went to a space that eliminated everything that represented you. A library is a safe space for these students and the material in it should represent everyone, not one person's agenda.

I encourage you and parents to look at your district's criteria for book selection and reconsideration. You will find they have policies and procedures in place. Community members need to follow the process and take the appropriate action steps if they have an issue with materials in our school libraries.

My next concern is the targeting of educational databases. Databases are vetted and reliable resources only accessible when purchased by districts or the state library. I also worry about the repercussions this will have on smaller towns in our state. Many of them rely heavily on the state funded databases and do not have the financial means to purchase them on their own. Additionally, students of North Dakota will not be prepared for college as it is required to have peer reviewed articles when writing essays, thesis, and action research papers at advanced levels. These articles are only found in the databases! Imposing this bill will drive teachers away from requiring this resource and push students to use the open internet more, which will ultimately increase their exposure to uncensored material.

I oppose this bill and ask you to give a 'do not pass' recommendation.

Sincerely,

Mindy M. Iverson

Jan Schmidt
Library Media Specialist
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Bismarck ND 58501
jan_schmidt@bismarckschools.org

March 14, 2023

Honorable Chairman Klemin
Re: Testimony on HB 2360

Dear Chairman Klemin and Members of the Judiciary Committee:

I am providing this personal testimony in opposition to HB 2360. My name is Jan Selle Schmidt. I have had the honor to be a Library Media Specialist in North Dakota for 28 years. I spend my days co-teaching with classroom teachers, assisting students in research and creating digital products, and helping students develop critical thinking skills. I also assist students in selecting reading materials for research and personal interests in the library.

Books help kids feel understood when they see themselves in a character; books help them explore new worlds and experience different cultures. Banning books based solely on sexual content is dangerous, without considering the work as a whole. Under this bill, books students have connected with, will be removed because of one word, sentence, paragraph, picture or scene. When excerpts from books are read out of context, they sound shocking and appalling. Reading excerpts out of context can be misleading, as the whole story may reveal a character who has overcome significant challenges and provide inspiration or comfort to the reader.

Furthermore, students and teachers need to have access to books about suicide, depression, sexual abuse and anxiety. Our North Dakota kids are dealing with these issues on a daily basis. Books open doors and offer solutions or empathy for those who have experienced tough situations. Sexual content in literature is also often used as a tool to explore important themes and issues related to identity, relationships and personal growth. From an educator's point of view, this bill will further limit educators' already restricted access to materials due to cost and availability.

The current bill suggests librarians read and evaluate each book for any reference, in words or pictures, to a long list of criteria. It is not possible to read every title in a library and classroom. In most library collections, we try to have at least 20 books per student (at a minimum). Reading every page in a 15,000+ title library is simply unrealistic. On top of managing the library collection, librarians are teaching ND state library and technology standards, supporting the classroom curriculum, assisting patrons, managing building technology devices, organizing events, running student groups, and planning reading programs. Content included in this bill is also not always easy to identify and what might be considered sexual content to one, may not be to another. Instead, we rely on book reviews, age ratings and summaries when selecting titles to purchase.

You may ask how books are chosen for a school library in the first place. School librarians choose books based on the curriculum needs first and then student interests. Before purchasing, they research titles, consult professional reviews and ensure age appropriateness before adding them to the collection. If a student requests a book from an older library, parent permission is required. Students often check out and return books that parents do not want their child reading, such as scary books, or books with witches etc. This does not mean the book should be banned. Instead, parents choose to have a conversation with their child and

then we help them find a book that better meets the families needs. Local school districts already have clear policies on selection and reconsideration of materials. Parents are encouraged to fill out a form if they feel a title is inappropriate. An impartial committee will then read the whole work, review the book and make a recommendation.

I believe in the innovative, progressive North Dakota that values local control and allows communities to choose school board members to reflect its values and develop policies that meet its needs. While it is important to consider parents' concerns, it's equally important to provide patrons access to information and foster critical thinking. Librarians are working hard to keep students safe and select appropriate materials for students. I urge you to vote against HB 2360.

Sincerely,

Jan Schmidt
Library Media Specialist

SB 2360

Members of the Judiciary Committee. My name is Todd Beard, Senator from Williston District 23. I am here to speak in support of SB 2360.

The sexually explicit material available to our minor children in our schools and public libraries has become a major issue in our state. Let me be clear. This sexually explicit material is pornography. We have all seen the material we are trying to address here. It is pornography. Pornography available to children. Let me repeat. Pornography available to children. Why is it available? Very simply, because the people responsible for the material made available will not take responsibility. Some of the comments I have heard are "It's the parent's responsibility" or "this material may be needed for a child to discover who they are". Well, which is it. How can a parent that wants to keep their children safe do so if the school and public libraries do not take the responsibility to ensure the material is appropriate? If a reptile display was set up for children to participate in, I think most people would agree that would be a great experience. What if there was a rattlesnake on display, wouldn't you expect the person in charge of the display to protect all the children? Well, the pornographic materials currently in the libraries are a rattlesnake on display. Once a child visualizes pornographic material it can't be unseen. It can't be undone.

SB 2360 would send a clear message that school and public libraries have a responsibility to keep pornography out of the hands of children. And yet, nowhere in this bill do you find the word "ban". This bill does not ban anything as has been suggested by some. It just declares a responsibility.

I ask for a Do Pass vote on SB 2360.

Thank You

Senator Todd Beard

Chairman Klemin and members of the house judiciary. My name is Connor Traynor and I am in opposition to bill 2360.

I am a young man who has lived in North Dakota his whole life. I work at our local comic book store and have read many comic books that include "sexual content". I feel like these books have had little to no effect on my mental health and development. I also feel that the bill is not distinct enough in what is being considered "Sexual Content" and what books would be banned because of it. I know where I work we would never sell a sexually explicit book to a child.

I understand I don't speak for our store but that is a policy that we have in place. Many of the most impactful graphic novels and books would get banned under this bill. Many of these comics and graphic novels have little "sexual content" within them and it would be a shame if kids could not read these impactful pieces of literature. I understand that sex is a sensitive topic to many, but it is a natural thing that occurs in everyday life and is important for people to be exposed to. If this bill were to pass, the store I work at would possibly have to be made an 18 plus establishment if we still wanted to sell a majority of our comics.

If it is not more defined in its restrictions than true pieces of great literature would not be able to be read by minors. Examples of this include the book Watchmen, which talks about sex in a more or less positive way.

If this bill were to pass this would leave me without a job and would hurt the store that means so much to countless members of our community. If this bill were to pass it would deter more kids from reading in a world where reading has become a dying hobby. If the bill does pass this wouldn't completely prevent kids from reading these types of literary art as they have easy access to the internet, as it contains these books and much worse things for them to be exposed to. This would also lead to local brick and mortar stores losing many customers and encouraging them to spend more money on sites on the internet.

So, in conclusion, if this bill were to be passed there would be almost no benefit to the bans and lead to many children losing out on reading some of the greatest pieces of literature.

Brian Kopp

Testimony - Timeline of specific examples of how this and related bills have come about. There is substantial commentary about library boards and local libraries not being responsive or acknowledging issues brought forth from the public. What's interesting about this is being on the board and being able to see the happenings and see what people claim versus what actually happens shows me that a lot of the complaints are not in good faith. There are folks who simply want their way or no way at all. The first amendment does not allow compromise when it comes to items that are not in any way harmful, but only an opinion from some. Some. That is what we have here. We also have a gross misrepresentation of many items.

As you will see in the following I have been accused of crimes, there has been claims of child abuse, all without evidence or any specifics, only third hand stories. But what we do have is massive research backing. That knowledge is power. Children and teens that have the knowledge to know what they can do if they feel threatened, uncomfortable, or abused have a much higher chance of seeking help and stopping the abuse or even preventing it in the first place. There has been testimony that has been misrepresented as saying the opposite. However, you will find if you read these studies. All of them have shown that the books that have been in question are shown to not be harmful but actually helpful to society. Removing books that help society, in regard to reducing abuse and neglect, or a benefit to society. However some folks use their own beliefs to want to force society into their beliefs instead of the reality of what's happening.

I will detail that in the following testimony:

10-4-22 Dickinson Press Article is published: "Dickinson Public Library to offer controversial teen sex book"

<https://www.thedickinsonpress.com/news/dickinson-public-library-to-offer-controversial-teen-sex-book>

In this article we have the start of the commentary on images that depict anything sexual in nature as pornography. This will be a theme and the lie that starts the uproar over a sex education book that leads to the book banning bill we are discussing.

Excerpt from the article:

"The book includes an illustration in the pornography chapter of "Let's talk about it," on page 165, ..."

This lie started what became this bill.

10-7-22 and onward. Many Facebook/Social Media/Press discussions/articles on censorship vs protection vs parental rights. **Many are good information, but those supporting the view of anything they do not like is pornography or obscene becomes commonplace.** One of those people is the former representative Luke Simons who also accuses me committing a crime.



Author

Luke Simons for North Dakota

[Brian Kopp](#)

Yes I'm very much deflecting, I believe showing pornography to children is wrong!

1d Like Reply



Brian Kopp

[Luke Simons for North Dakota](#) You worry education will show them something you don't want them to understand. Denial of what they see and hear in school doesn't change what they see and hear in school.

You are also welcome to parent and not allow your children in the library if you don't want them to have access to the book or any book for that matter.





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


Luke Simons for North Dakota

Brian Kopp

It's public taxpayers money that pays for that library, to put child pornography in a facility that is tax paid for is not good policy.

Now Mr. Kopp  if you would like to open up a private library and offer children's pornography that's your business.

The fact is is you're promoting child pornography.  

22h Like Reply



Brian Kopp

Luke Simons for North Dakota you just called it child pornography.

Another thing libraries have are dictionaries. 1. Nothing in the books depicts those under 18 in any sexual way.

<https://www.merriam-webster.com/dictionary/pornography>

Definition of pornography

1: the depiction of erotic behavior (as in pictures or writing) intended to cause sexual excitement

10-11-22 Dickinson Area Public Library Board Meeting, Dickinson Area Public Library

50 Plus members of the community attend the board meeting both in support and opposition of the Book "Let's Talk About It - teen's guide to sex, relationships and being a human" written by Erika Moen and Matthew Nolan. The majority are in opposition and the meeting is not orderly once public comment is allowed. There is much yelling and talking over each other with many contradictory comments about parental rights and freedoms. Folks are for the first amendment but claim we need to protect the innocence of children, then the same folks reject that their parental responsibility for their minor children allows for protection of their

perception or belief of innocence. **There is also the claim this is porn being given to kids, even though it's in the young adult section and does not contain pornography**

Obscenity is defined and the majority of the group in attendance has decided the book and others are obscene and contain pornography. However, these terms have meanings in legal terms as follows:

The Miller Test is the primary legal test for determining whether expression constitutes obscenity. It is named after the U.S. Supreme Court's decision in Miller v. California (1973). <https://www.mtsu.edu/first-amendment/article/1585/miller-test>

In his majority opinion, Chief Justice Warren Burger outlined what he called "guidelines" for jurors in obscenity cases. These guidelines are the three prongs of the Miller test. They are:

- (1) whether the average person applying contemporary community standards would find the work, taken as a whole, appeals to the prurient interest;
- (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- (3) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

In Pope v. Illinois (1987), the Court held that the trier of fact should apply a national standard to the third prong.

One man even hands out printed copies of pages of the book in an attempt to shock and force agreement with the groups statements. Citizens are allowed to bring up issues with a book and follow the book reconsideration form to bring attention to an issue they have and to have it addressed by the library director and after the director responds it can be escalated to the library board if the submitter so chooses.

11-2-22 Southwest Patriot's Meeting – St. Anthony Club Dickinson ND

Available on Facebook (recording): <https://www.facebook.com/SWNDPatriotsCoalition>

I attended the meeting where the book "Let's Talk about It" and others were discussed and a slide show displayed. There was copious amounts of misinformation. And it was operated more like a pep rally than an in good faith informational event.

Suicide rates are tied to groups, not to the cause of suicide or lack of support by one speaker. One of the lies about suicide rates implied that books like this cause suicides when studies show people who feel supported and have resources (mental health, abuse/harassment, education (like the library provides)) have a lower rate of suicide.

"Research is helping improve our ability to identify people at risk for suicide and to develop and improve effective treatments. NIMH researchers continue to study suicide and how to best implement suicide prevention and intervention programs in different settings, including health care, community, school, and the justice system."

<https://www.nimh.nih.gov/health/topics/suicide-prevention>

There are comments about the percentage of a county (Stark) that is Christian, most people claim the book is porn, others speak about the need to protect children, but never suggest how children are negatively impacted by the books. Again, against all research showing that support reduces abuse and harm and religion isn't allowed to dictate what others read in the library since we have the first Amendment for both freedom of speech and freedom of religion.

One speaker who goes on for a much longer duration of time than most speakers discusses third hand stories about the abuse happening due to the type of social services being provided by the county/state. Claiming to know from people who work as social workers telling them. If this were true then everyone in the stories could be complicit since these employees would be mandatory reporters of child abuse and neglect.

Comments were made in regard to other libraries keeping controversial books behind lock and key/inaccessible to the general public. This was researched by the state library and found to be false. The Bismarck Public Library was cited as one of those locations and staff at the Bismarck Public library confirmed they do not have any books that are separated from the public due to controversial content.

The commentary about protecting kids and young adults goes against all research. If the goal is to protect people of all ages then access to accurate information has been proven to lower suicide, sexual violence, dating violence, harassment and abuse. However, this bill would actually do the opposite as it would remove educational opportunities from our state.
<https://info.primarycare.hms.harvard.edu/review/sexual-education-violence-prevention>

Local legislators Lefor and Steiner speak at this meeting. They vow to protect children, again not mentioning how or what harm they are experiencing, nor did anyone at the meeting ever provide any actual harm or potential harm to children from the books in the library

St. Anthony Club was told this group would be a small group of people gathering to discuss current local issues. The group was too political for the setting, they were asked to not use a microphone after (St. Anthony) member complaints of them being too loud, but used it at this meeting anyway. The coordinator for the Patriots was informed over the phone of no longer being able to hold their meetings at the St. Anthony Club, the staff apologized for the inconvenience, and then the staff explained that he "flipped" and told staff "that they needed to learn to do their job better and be more professional." He eventually had to be hung up on as he started questioning their motives and asking if they sided with supporters of the book, but with different language. This information came from talking with the staff at the St. Anthony Club.

11-8-22 Dickinson Are Public Library Board Meeting, Dickinson City Hall

This meeting should be available by request of Dickinson City Hall as it was recorded.

This meeting was held for public testimony on the book "Let's Talk About It". Testimony was heard from both those who want the book removed or restricted. The testimony

in favor of the book being available came from a teen who commented on information in the book being relevant to her age group and valuable information, social workers with masters degrees, emotional testimony from one woman who wished she would have had the information in this book available to her when she was a teen as maybe some of the pain in her life could have been avoided, and the general consensus that access to accurate information is a benefit to the community and if someone doesn't want to read a book or have their kids read a specific book that's fine, as parents have the ability and obligation to parent and adults have no obligation to read any book in the library.

The opposition had a few calm and coherent testimonies centering on their belief that these types of books shouldn't be in the library as kids might see them or that they simply didn't think the information was of value to the community. **There was much yelling and many accusations of having pornography in the library**, outbursts that the librarian should be fired for what she is doing, and an overall tense situation which I was glad we had law enforcement present for. Everyone was given 3 minutes to speak and the same number of people spoke for each side of the argument.

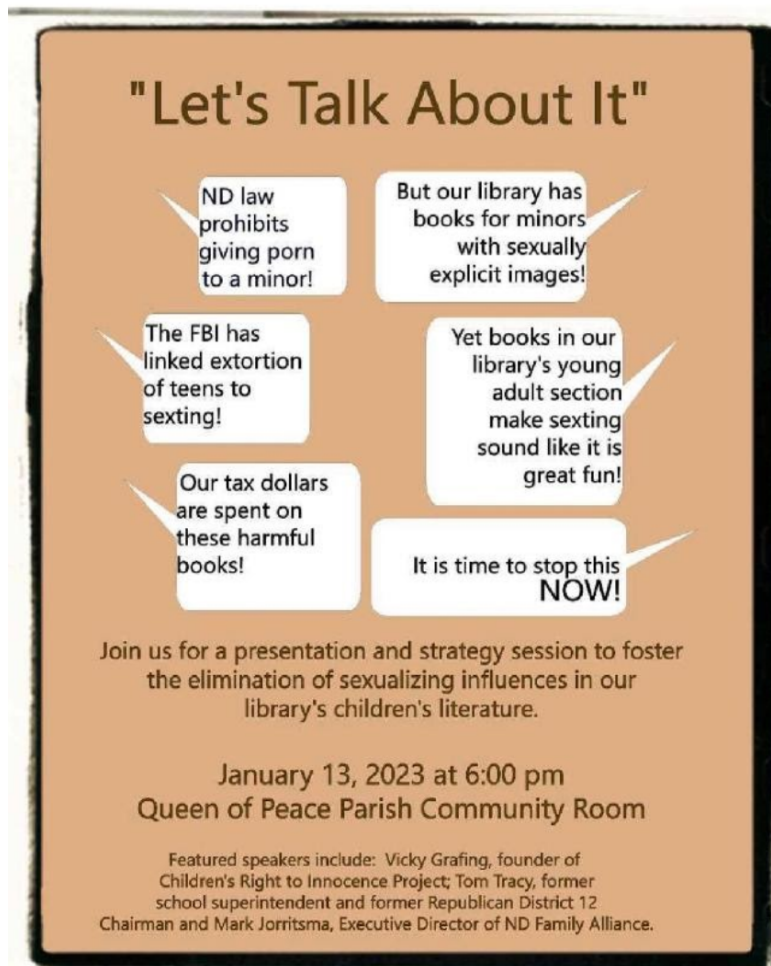
When one person asks the audience, from the presentation mic, who has read the book? The majority of the folks who are in favor of book in question raise their hands. Two or three people in the room in opposition to the book raise their hand. So the book is being opposed by a vast majority of people who haven't read the book.

1-6-23 Scheduled meeting of the Southwest Patriots, 1-13-23 Cancelled after flier is published

< Southwest Patriots Coali... 🗨️ 🔍

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There will be a seminar "Let's Talk About It" on the Dickinson Library's book selections on Jan 13th at 6:00pm at the Queen of Peace Parish Community Room.



Again, the flier states there is pornography. It declares the books harmful, but has no justification or evidence. The book quoted about texting being fun also explains how it's illegal if you are under 18.

The group did not tell Queen of Peace Church that they would be having speakers and that it would be a political event. They described it as a small group gathering to discuss the book. The event was moved to a local hotel after this.

The book by chapter:	
What is ... this book?	1
What is ... first?	9
What is ... a relationship?	25
What are ... gender and sexuality?	41
What is ... body image?	57
What is ... your body?	71
Where do you ... start?	93
What is ... masturbation?	107
What is ... safe sex?	125
What is ... climax?	137
What is ... sexting?	147
What are ... kinks, fantasies, and porn?	155
What is ... aftercare?	169
Where are ... friends in all this?	177
What is ... jealousy?	185
What is ... rejection?	197
What is ... next?	219
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When looking at the above flier and then the chapters of the book it becomes clear that misinformation is being used. I've read the book and it focuses on facts, current issues with relationships, of all kinds, and sure, there are parts that don't align with my faith, but I'm not obligated to go out and do anything I learned because I read it. I have the knowledge of my own morals and also can be a better person as I can empathize with situations in the book that I had never been presented with before.

You might also see that these topics are the same topics you would expect to find in sex education class in high school. Which makes sense as this book is targeted for teens. These are all items a teenager is likely to deal with and as I discussed prior, knowledge is power, and that knowledge prevents abuse. There is information in the sexting chapter about how it is illegal for minors to take and send nude images of themselves. There are multiple pages that discuss what different types of abuse are and some information on how to know if you are abused or if you might in fact be an abuser and not even know it. Multiple pages of resources and places to get help are listed. Kids and young adults who have the knowledge of their bodies and are taught what is and isn't appropriate along with how to stand up for themselves by saying no, and how to get help if they are being abused.

What makes this so difficult to understand is how a small group of people, motivated by a press article that incorrectly calls a book pornography, escalates to local legislators writing a bill to ban books without the small group nor the legislators reading the books or coming to the library board meetings to learn or discuss what is happening. It's also odd that I went to the same high school as the children of Representative Lefor and Representative Steiner and I do not recall any backlash that our class materials were porn. Having had a comprehensive sex education that was similar, though less detailed and useful than the book in question, it doesn't seem to be about protection of children, but rather misinformation snowballing all the way to my

recounting my experiences over the last five plus months to simply state facts and that the definitions of words matter while being accused of crimes and being yelled at in public meetings.

There is already a procedure for materials that a patron may not like. I have attached it below. In short this bill would harm public education, reduce access to accurate and scientifically backed research with vast historical data backing it up, violate free speech, step on the rights of parents to have access to accurate sex education information if they so choose, and it would do exactly what the proponents claim the book does, prevent access to information that could reduce harm to young adults by keeping them ignorant and more susceptible to sexual violence, abuse, and depression.

Dickinson Area Public Library:

RECONSIDERATION OF LIBRARY MATERIALS POLICY

The choice of library materials by a library user is an individual matter. While a person may reject certain materials for themselves or their dependents, they may not restrict access to those materials by other library users.

The Dickinson Area Public Library Board of Directors recognizes that some materials may be controversial or offensive to some library users. The Board recognizes the importance of providing a method whereby opinions and/or complaints regarding materials selection can be voiced. The procedures enumerated below have been developed to ensure that requests of those who disagree with materials represented in the collection or about materials not represented in the collection may be handled in a consistent manner.

Individuals living in the library's service area may request a selection decision be reconsidered by submitting a written Request for Reconsideration of Material form. This form is available at the Circulation Desk and will be added to the library's website. Upon completion, the form may be mailed or delivered electronically to the Library Director.

Upon receipt of the signed form the Library Director will:

1. Review the material in question as soon as possible after the material is returned to the library.
2. Examine the material in question, the issues raised, and the circumstances involved.
3. Consult with the library staff including the librarian who made the selection and the Assistant Director.
4. Make a decision to remove from the collections, reclassify to a different collection, or retain in the original collection the material in question.
5. Respond in writing to the complainant within fifteen business days of review.
6. Provide the complainant with a copy of this policy and inform the individual of the availability of an appeal to the Library Board.

Should the complainant feel that the decision of the Director is not supported by the policy, the complainant may appeal to the Library Board of directors by notifying the Library Director in writing. The Library Director shall include the complaint on the agenda of the next Library Board meeting. The Library Board will reconsider the decision based on whether it conforms to the Materials Selection Policy. The board may, at its discretion, appoint a committee or independent advisory board to review the material and the complaint and make a recommendation to the board. The decision of the Library Board will be final and will remain in effect for three years.

During the review process, the library will take appropriate action to ensure that the material continues to be available.

Chairman Klemin and members of the House Judiciary, thank you for your time today and allowing me to speak. For the record, my name is Autumn Richard and I'm from Lefor, North Dakota and I am here to speak in favor of Senate Bill 2360.

Many people here know who I am; I have been actively working to make our libraries a safer place for our youth. What some do not realize, is that I have a bachelor's degree in Social Work and have worked with children at risk, and this is the core reason why I stand here today and every day before. But, to be perfectly honest, it does not take a degree of any kind to see that what we are dealing with here is harmful to minors.

I became concerned, when I went to my local library and discovered books that any reasonable person would consider obscene in the children's and juveniles' sections of the library. It quickly became apparent that our local libraries were not willing to work with taxpaying citizens, and that is why we are here today, addressing the state and asking for you to protect our youth.

Bill 2360 provides clear definitions of what is considered obscene or pornographic to minors. This was lacking in law, creating a grey area and many stating that the terms pornographic and obscene are subjective. The terms pornographic and obscene should not be subjective, particularly when it comes to our youth, and I applaud this bill for providing a detailed definition.

Bill 2360 also has a preexisting penalty included (Class B Misdemeanor), so anyone that provides obscene or pornographic material to a minor should face the ramifications. Anyone. This is not targeting libraries; on the contrary, they are just included in a multitude of other businesses and entities, public or private, that would all equally face the same penalty. If Walmart cannot have these books on the shelves, why should our libraries?

You've heard about "Let's Talk About It," and "Naked, Not Your Average Sex Encyclopedia," so I won't discuss them today and be redundant. I will say, in light of recent testimony, that there has been some speculation that by removing these books, STI's will flourish at an even higher rate than today, but books such as Let's Talk About It clearly states that STI's are 'no biggie.'

So I will not be redundant but, unfortunately, there are so many books that I have entirely new quotes to read for you today.

I want to remind you that while some of these books have a recommended reading age of fourteen plus, any child of any age can read these books and are often encouraged to do so when these books are placed on displays.

Did anyone read or watch the news article about 11 year old Knox Zajac reading a book he found in his middle school library? Did it make you uncomfortable? I will read from several books today and every time that I give a recommended reading age, I want you to think of a child you know in that age range, reading this book to you. And ask yourself, are you comfortable with that?

Pink Blue and You has a reading age of 4-8. It has small children within the pages saying things like, "When I was born, I was called a girl but I feel like a boy, and, I feel like I'm both a boy and a girl at the same time."

Rupaul Charles is a board book with recommended reading age of 2-5. It states, "you're born naked and the rest is drag."

The ABC's of Equality is a board book with a recommended reading age of 1-5. This book talks about gender (being a boy or girl or either or neither), the LGBTQ community, being privileged and to "be aware of your advantages," transgender, and the pronoun Ze.

Would you, as a parent, grandparent, aunt or uncle, feel comfortable explaining terms such as drag, transgender, or pronouns to a 1 to 5 year old?

You Be You, A Kid's Guide to Gender, Sexuality and Family is for children between the ages of 7-11. This book discusses sex classifications and transgenderism without discussing the possible negative repercussions, while also informing the reader of male and white privilege.

Sex Ed is a book in my library for fourteen year olds; it states that, "the lining of the anus is quite sensitive. Some people find it pleasurable to have this area stimulated, for example, with a penis, sex toy, or fingers." It also says, "There's nothing necessarily wrong with watching porn, so long as someone is choosing to watch it freely, without any pressure and as long as the porn is legal."

Queer Ducks is a book recommended for twelve and older. This book normalizes sexual deviancy by discussing sexual tendencies in animals. A reading from the book about bonobos or monkeys on page 35, "That's when well, they started an orgy; not just two or three or four either. All of the bonobos started having sex with one another. Male with female, female with female, male with male, young and old and everything in between."

Did you imagine a child reading this to you? How did it make you feel? I ask again, what if this was your child? Is this something they should be learning at this age?

This is not an infringement of anyone's first amendment right. According to the Department of Justice, "Federal law strictly prohibits the distribution of obscene matter to minors. Any transfer or attempt to transfer such material to a minor under the age of 16 is punishable under federal law.

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

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

Under our own governmental law, these books should have never been placed in the hands of minors, and yet here we are. Our libraries understand and acknowledge that a minor shouldn't be able to look up certain terms, such as anal sex or any other explicit on a computer, but the library doesn't seem to acknowledge that this same information found in literature should be monitored for minors. This is not about censorship; it isn't called censorship when there are protective limitations for minors on computers; this is no different.

It gives me no pleasure to read these excerpts, but if we do not place Bill 2360 into law, then we, as a state, are saying that a child of any age can read the following. I am going to read a few excerpts from the juvenile section of the Dickinson Public Library. Again, please imagine a child reading this, not me, not an adult. And I'm going to read one excerpt from a penthouse letter. There are 8 total excerpts. If you cannot find the difference between what the library thinks is acceptable and an actual quote from an authentic pornographic magazine, then I think the answer is clear that Senate Bill 2360 needs to pass today.

- 1) "I was using my right hand to stroked my penis while my left hand pressed against the wall of the very small shower to steady myself because my legs didn't feel very sturdy and I had never masturbated standing up before."
- 2) "I breathe out as he touches my breasts, first with his hands and then with his mouth. I lie back and his hands move to my thighs, to the hem of my dress and then under it. He bends his head to kiss between my legs."
- 3) "He bends me over the bed and drizzles some lube on my ass. I made him wear a condom, of course. And he starts pushing it in and wow that hurts. Eventually he finishes, and pulls out, and the condom, of course, is covered in shit."
- 4) "She pushes me back on the bed and we start kissing again and when her hand moves between my legs, I don't stop her."
- 5) "At least you fucked a straight guy in the ass until he came. That's got to be an accomplishment, right?"
- 6) "Then he placed me over the seat on my stomach. I felt him lift the back of my skirt over my buttocks. I felt so dirty this way and I loved it."
- 7) "His hand comes over me, between us and through my track pants it seems so innocent and so dirty."
- 8) "I'd sucked my share of dicks and had gotten plenty of blowjobs, handjobs, every other kind of job, but the only buttsex I'd had was with this junior who was in love with my cock."

I implore you to see the necessity of this bill and respectfully ask that you vote this bill in today, as is. This concludes my testimony and I am happy to stand for any questions. Thank you.

*References for the excerpts: Autoboynography, by Christian Lauren

Little & Lion, by Brandy Colbert

The Nerdy & the Dirty, by B.T. Gottfred

Jack of Hearts, by L.C. Rosen

House Judiciary Committee
SB2360
March 14, 2023

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

On behalf of the ACLU of North Dakota, I submit testimony in opposition to SB2360.

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

ACLU

AMERICAN CIVIL LIBERTIES UNION

North Dakota

P.O. Box 1190

Fargo, ND 58107

701-404-7269

northdakota@aclu.org

aclund.org

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

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

This bill is not only government censorship, it would impose an undue burden and restriction on public libraries, which are already underfunded and understaffed. Moreover, it infringes on the local control of library boards and school boards to govern public library and school policy. Curating collections under this proposed law is next to impossible in scope, compliance, and enforcement. Furthermore, the Children's Internet Protection Act (CIPA) enacted by Congress in 2000 already addresses online concerns, making a portion of the bill redundant and unnecessary.

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

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

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

Today, you have the opportunity to affirm our shared belief in an educated North Dakotan citizenry and a society where ideas are openly disseminated, discussed, and debated. We urge the House Judiciary Committee to give SB2360 a “Do Not Pass” and the North Dakota House of Representatives to follow in defeating this bill.

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



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February 14, 2023

Dear Members of the Senate Judiciary Committee,

I am writing to urge you to oppose SB 2360. I am opposed to this bill for many reasons, but will address just one of my concerns in this testimony.

The bill says “material or a performance is obscene must be judged with reference to reasonable adults.” I am wondering how this judgement of who are “reasonable adults” will be made and by whom?

In 1928 all public libraries banned the classic story “The Wizard of Oz” because the book was argued “that the story was ungodly for depicting women in strong leadership roles.”

In 1957 the book caused controversy in Michigan and libraries banned the book on the basis that it had “no value” for children and supported “negativism.”

In 1986, the book was nearly banned in Tennessee because it depicted nice witches.

These cases that all refer to one book point out to me the wide range of judgements that “reasonable adults” can have. So, who decides?

Even “The American Heritage Dictionary of the English Language” was banned in Alaska for its “objectionable” entries, particularly slang words including “bed,” “knocker,” and “balls.”

The list of books that have been banned in the past is long and includes many beloved classics and children’s books.

I believe I fit in the category of “reasonable adults” and I ask you to oppose this bill.

Thank you.

Nancy Farnham

5529 134th Ave. SE

Enderlin, ND 58027

Members of the House Judiciary Committee,

Thank you for taking the time to read testimony about bills laid before you this session. I hope you are taking to heart the vast amount of comments and evidence surrounding the impact so many of the proposed bills will have on the citizens of our state. In North Dakota we have always prided ourselves as friendly and welcoming. Unfortunately, many bills this session run contrary to these thoughts.

I feel it is my duty as a citizen of this state to voice my strong objection to SB 2360. I have spoken to and heard from many North Dakotans on both sides of the political spectrum who agree this bill is at best a waste of time, and at worst is critically destructive. I understand it is your wish to protect the children of North Dakota, and I applaud that wish. However, this bill does not protect anybody. Instead, what these bills do is give unprecedented power to individuals to control what others have access to. For centuries public libraries have been troves of information, resources, and yes, entertainment, and they continue to be just that. They are not dens of pornography, and to those who claim otherwise I say shame on you. What I have access to at my library should be limited only to what I wish to access, and to what trained librarians have determined should be on the shelves. What others wish to have access to is up to them; I have no intention on imposing my beliefs on what they read. For example, I have absolutely no desire to read "50 Shades of Grey," but I also have no right to prevent another from checking that book out at the library, or purchasing it at a bookstore. I have two teenaged children who have grown up in public libraries. What they have access to should be limited only to what they wish to access as influenced by the way my wife and I have chosen to raise them. We participate in the lives of our children. We are responsible for teaching them values. And we have the right to decide what is or is not appropriate. To claim the legislature has a duty to make these decisions for every library patron, every family, is the very height of hubris.

Furthermore, this bill takes government overreach to another level by including private business and any institution that has its doors open to the public and contains virtually any type of printed material. This level of government intrusion is truly disheartening. Nearly every growing city in our state is involved in actively seeking new businesses. What does it tell these businesses when our state government is willing to go to extreme measures to exert their power and opinion over business owners in our state?

In his testimony in favor of HB 1205, a bill with similar aims, Representative Lefor paints a pastoral image of an American family with 3 TV channels and dinners around the table. He goes on to "fast forward many years later" to discuss statistics about stress and mental illness as though these things did not exist in his idyllic childhood. I may be a little bit younger than Representative Lefor, but I too remember having only 3 channels and family dinners around a table. While my teenaged children can't fathom a world with such limited viewing choices on their TV, I am happy to say they will remember family dinners around a table and the discussions that took place. I fully understand the added pressures and stresses that exists in today's world, but Representative Lefor misses the mark in many areas. First of all, the time period he is referencing was not as ideal as he would like it to sound. Stress, peer pressure, and yes, sex, existed even then. At that time however, there weren't tests to measure stress like there are now, and mental illness was something that wasn't talked about. As kids, my generation and older weren't asked about stress, but I assure you it was there. The materials alluded to in SB 2360 and HB 1205 are not causing stress or mental illness. Likewise they are not promoting sex, protected or unprotected. And unprotected sex is another piece that certainly existed in this picture perfect

childhood presented. I personally know a woman, currently in her 70s, who became pregnant as a teenager. The solution? Send her to stay at her “aunt’s house” for a few months. Where she really went was to a kind of boarding house for pregnant teens where the young women and girls were taught how to be good homemakers for their future husbands. They were also taught to ignore and forget their present situation, and when the baby came it was quickly whisked away, any glance from the mother prevented. And yes, this took place in North Dakota. The good ol’ days, as it were, had a lot of hidden dark corners that get forgotten when nostalgically looking back across time. Today, even though there are so many negative elements pushing and pulling us, we know more, and understand more. Because we take an active role in our children’s lives, my wife and I have no worry about what they may come across in a library, bookstore, museum, art gallery, or anyplace else that this bill targets. And if we ever have a question about them going somewhere, we check it out for ourselves first. The removal of individual freedom, and taking that power away from parents, is reckless, and SB 2360 will have a detrimental impact on our state.

Individual freedoms have been high on the priority list for many of you. We have seen this in action during the pandemic especially. You fought for a parent’s right to choose whether or not their children should mask and whether or not to vaccinate their children. These bills do not protect our children. Instead they harm our children by showing them how easy it is for government to step in and tell them and their parents what is right. Continue your fight for individual freedom and protection of our children by allowing us, the people and parents of North Dakota, to make those decisions on our own. I urge you to move a Do Not Pass on SB 2360, and to vote No when it reaches the House floor. Thank you.

23.0672.05000

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2360

Introduced by

Senators Boehm, Beard, Hogue, Paulson, Wobbema

Representative Kasper

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and a new
2 section to chapter 12.1-27.1 of the North Dakota Century Code, relating to the definition of a
3 public library and required safety policies and technology protection measures; to amend and
4 reenact subsection 5 of section 12.1-27.1-01, sections 12.1-27.1-03.1, and 12.1-27.1-11 of the
5 North Dakota Century Code, relating to obscenity control; to provide a penalty; and to provide
6 an effective date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-27.1-01 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 5. As used in this chapter, the terms "obscene material" and "obscene performance"
11 mean material or a performance which:

12 a. Taken as a whole, the average person, applying contemporary North Dakota
13 standards, would find predominantly appeals to a prurient interest;

14 b. Depicts or describes in a patently offensive manner sexual conduct, whether
15 normal or perverted; and

16 c. Taken as a whole, the reasonable person would find lacking in serious literary,
17 artistic, political, or scientific value.

18 Whether material or a performance is obscene must be judged with reference to
19 ordinary reasonable adults, unless it appears from the character of the material or the
20 circumstances of its dissemination that the material or performance is designed for
21 minors or other specially susceptible audience, in which case the material or
22 performance must be judged with reference to that type of audience.

23 **SECTION 2.** A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is
24 created and enacted as follows:

1 As used in this chapter, the term "public library" means a library containing collections
2 of books or periodicals for the general population to read, borrow, or refer to which is
3 supported with funds derived from taxation.

4 **SECTION 3. AMENDMENT.** Section 12.1-27.1-03.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-27.1-03.1. Objectionable materials or performance - Display to minors -**
7 **Definitions - Penalty.**

- 8 1. A person is guilty of a class B misdemeanor if ~~he~~the person willfully displays at
9 newsstands or any other business establishment frequented by minors, or where
10 minors are or may be invited as a part of the general public, any photograph, book,
11 paperback book, pamphlet, or magazine, the exposed cover or available content of
12 which either contains explicit sexual material that is harmful to minors or exploits, is
13 devoted to, or is ~~principally made up of~~contains depictions or written descriptions of
14 nude or partially denuded human figures posed or presented in a manner to exploit
15 sex, lust, or perversion ~~for commercial gain.~~
- 16 2. As used in this section:
- 17 a. "Explicit sexual material" means any written, pictorial, three-dimensional, or visual
18 depiction that is patently offensive, including any photography, picture, or
19 computer-generated image, showing or describing:
- 20 (1) Human masturbation;
21 (2) Deviant sexual intercourse;
22 (3) Sexual intercourse;
23 (4) Direct physical stimulation of genitals;
24 (5) Sadomasochistic abuse;
25 (6) Postpubertal human genitals;
26 (7) Sexual activity;
27 (8) Sexual perversion; or
28 (9) Sex-based classifications.
- 29 b. "Nude or partially denuded human figures" means less than completely and
30 opaquely covered human genitals, pubic regions, female breasts or a female
31 breast, if the breast or breasts are exposed below a point immediately above the

1 top of the areola, or human buttocks; and includes human male genitals in a
2 discernibly turgid state even if completely and opaquely covered.

3 ~~b.c.~~ "Where minors are or may be invited as a part of the general public" includes any
4 public roadway or public walkway.

5 ~~e.d.~~ The above ~~shall~~may not be construed to include a ~~bona fide school~~, college,
6 university, museum, ~~public library~~, or art gallery.

7 **SECTION 4. AMENDMENT.** Section 12.1-27.1-11 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **12.1-27.1-11. Exceptions to criminal liability.**

10 Sections 12.1-27.1-01 and 12.1-27.1-03 shall not apply to the possession or distribution of
11 material in the course of law enforcement, judicial, or legislative activities; or to the possession
12 of material by a ~~bona fide school~~, college, university, or museum, ~~or public library for limited~~
13 ~~access for educational research purposes carried on at such an institution by adults only.~~

14 Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a person who is returning
15 material, found to be obscene, to the distributor or publisher initially delivering it to the person
16 returning it.

17 **SECTION 5.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
18 created and enacted as follows:

19 **Safety policies and technology protection measures required - Report.**

- 20 1. A school district, state agency, or public library may offer digital or online library
21 database resources to students in kindergarten through twelfth grade if the person
22 providing the resources verifies all the resources comply with subsection 2.
- 23 2. Digital or online library database resources offered by a school district, state agency,
24 or public library to students in kindergarten through twelfth grade must have safety
25 policies and technology protection measures that:
- 26 a. Prohibit and prevent a user of the resource from sending, receiving, viewing, or
27 downloading materials constituting child sexual abuse material, an obscene
28 performance, or pornography; and
- 29 b. Filter or block access to pornography and child sexual abuse material.
- 30 3. Notwithstanding any contract provision, if a provider of digital or online library
31 resources fails to comply with subsection 2, the school district, state agency, or public

1 library shall withhold any further payments to the provider pending verification of
2 compliance.

3 4. If a provider of digital or online library database resources fails to timely verify the
4 provider is in compliance with the safety policies and requirements of subsection 2, the
5 school district, state agency, or public library shall consider the provider's act of
6 noncompliance a breach of contract.

7 5. A public school library and a public library shall submit an aggregate written report to
8 the attorney general no later than December first of each year regarding any issues
9 related to provider compliance with technology protection measures required by
10 subsection 2.

11 6. An employee of a school district, state agency, or public library is not exempt from
12 prosecution for willful indecent exposure of child sexual abuse material or pornography
13 to a minor.

14 **SECTION 6. EFFECTIVE DATE.** This Act is effective August 20, 2023.

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2360

Introduced by

Senators Boehm, Beard, Hogue, Paulson, Wobbema

Representative Kasper

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and a new
2 section to chapter 12.1-27.1 of the North Dakota Century Code, relating to the definition of a
3 public library and required safety policies and technology protection measures; to amend and
4 reenact subsection 5 of section 12.1-27.1-01, sections 12.1-27.1-03.1, and 12.1-27.1-11 of the
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- 10 5. As used in this chapter, the terms "obscene material" and "obscene performance"
11 mean material or a performance which:
- 12 a. Taken as a whole, the average person, applying contemporary North Dakota
13 standards, would find predominantly appeals to a prurient interest;
 - 14 b. Depicts or describes in a patently offensive manner sexual conduct, whether
15 normal or perverted; and
 - 16 c. Taken as a whole, the reasonable person would find lacking in serious literary,
17 artistic, political, or scientific value.

18 Whether material or a performance is obscene must be judged with reference to
19 ~~ordinary~~reasonable adults, unless it appears from the character of the material or the
20 circumstances of its dissemination that the material or performance is designed for
21 minors or other specially susceptible audience, in which case the material or
22 performance must be judged with reference to that type of audience.

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3 supported with funds derived from taxation.

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5 amended and reenacted as follows:

6 **12.1-27.1-03.1. Objectionable materials or performance - Display to minors -**
7 **Definitions - Penalty.**

- 8 1. A person is guilty of a class B misdemeanor if ~~he~~the person willfully displays at
9 newsstands or any other business establishment frequented by minors, or where
10 minors are or may be invited as a part of the general public, any photograph, book,
11 paperback book, pamphlet, or magazine, the exposed cover or available content of
12 which ~~either contains explicit sexual material that is harmful to minors or exploits~~either:
13 a. Contains explicit sexual material that is harmful to minors; or
14 b. Exploits, is devoted to, or is principally made up of~~contains~~ depictions or written
15 descriptions of nude or partially denuded human figures posed or presented in a
16 manner to exploit sex, lust, or perversion ~~for commercial gain.~~
17 2. As used in this section:
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19 depiction that is patently offensive, including any photography, picture, or
20 computer-generated image, showing or describing:
21 (1) Human masturbation;
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30 b. "Nude or partially denuded human figures" means less than completely and
31 opaquely covered human genitals, pubic regions, female breasts or a female

1 breast, if the breast or breasts are exposed below a point immediately above the
2 top of the areola, or human buttocks; and includes human male genitals in a
3 discernibly turgid state even if completely and opaquely covered.

4 ~~b-c.~~ "Where minors are or may be invited as a part of the general public" includes any
5 public roadway ~~or~~ public walkway, public library, or public school library.

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7 university, museum, ~~public library~~, or art gallery.

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12 material in the course of law enforcement, judicial, or legislative activities; or to the possession
13 of material by a ~~bona fide school~~, college, university, ~~or~~ museum, or public library for limited
14 access for educational research purposes carried on at such an institution by adults only.

15 Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a person who is returning
16 material, found to be obscene, to the distributor or publisher initially delivering it to the person
17 returning it.

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25 or public library to students in kindergarten through twelfth grade must have safety
26 policies and technology protection measures that:

27 a. Prohibit and prevent a user of the resource from sending, receiving, viewing, or
28 downloading materials constituting child sexual abuse material, an obscene
29 performance, or pornography; and

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- 1 3. Notwithstanding any contract provision, if a provider of digital or online library
2 resources fails to comply with subsection 2, the school district, state agency, or public
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8 noncompliance a breach of contract.
- 9 5. A public school library and a public library shall submit an aggregate written report to
10 the attorney general no later than December first of each year regarding any issues
11 related to provider compliance with technology protection measures required by
12 subsection 2.
- 13 6. An employee of a school district, state agency, or public library is not exempt from
14 prosecution for willful indecent exposure of child sexual abuse material or pornography
15 to a minor.

16 **SECTION 6. EFFECTIVE DATE.** This Act is effective August 20, 2023.

March 10, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2360

Page 2, line 12, remove "either contains explicit sexual material that is harmful to minors or"

Page 2 line 12, overstrike "exploits" and insert immediately thereafter "either:

- a. Contains explicit sexual material that is harmful to minors; or
- b. Exploits"

Page 2, line 15, remove the overstrike over "~~for commercial gain~~"

Page 2, line 26, after the underscored semicolon insert "or"

Page 2, line 27, remove "; or"

Page 2, line 28, remove "(9) Sex-based classifications"

Page 3, line 4, overstrike "or" and insert immediately thereafter an underscored comma

Page 3, line 4, after "walkway" insert ", public library, or public school library"

Page 3, line 12, remove "or"

Page 3, line 12, remove the overstrike over "~~, or public library for limited~~"

Page 3, line 13, remove the overstrike over "~~access for educational research purposes carried on at such an institution by adults only~~"

Renumber accordingly

Senate bill 2360 is a bill to protect minors from exposure to Obscenity and Pornography whether written, pictorial or digital. The material handed out are links to much of the research presented today. Legislative council has produced an amended version and that is the version that we are presenting to you today the changes are small but not insignificant. The purpose of this legislation is to protect minors from pornography. The areas the legislation focuses on are schools and libraries where minors frequent. Our culture has become a culture where there are no bounds on pornographic material. Most of us have heard of the process to kill a frog without it knowing that it is being killed. You put it on a heating element, slowly raise the temperature and in a short while the frog is dead, and it did not even know it. The same thing is happening to our society with pornography and our minors.

The changes in this legislation remove boni-fide school and public libraries from code to protect minors from Obscenity/pornography. It used to be that libraries and schools were safe zones for minors in our towns and communities. This is no longer the case. At this point our schools and libraries are the safe zones for Activists, Groomers and pedophiles as the original language in code protects their ability to disseminate their doctrine and perversion on minors. A real event that happened in western North Dakota. There was a city council public hearing held due to pornography being disseminated in a public library and the opponents could not show or read the material from the books designed for minors as it was Obscene, yet it was in the local library and any activist, groomer or pedophile could get the book and either read it to a child or show it on site or off site to a child. I hear many defenses of free speech from those that are in opposition to this legislation. Our team has found open pornography/obscenity in no less than 40 North Dakota libraries, and they are not all large libraries. We have a list of those books; they are not all in every library investigated. We have time stamp material to validate this in case after this it has been pulled. I have said this before Pornography is not free speech in our minor accessible institutions. Do our schools and libraries have the usual blatant adult pornography in them. No, course not, is that book banning and censorship according to the opposition to this legislation yes, it is. So, we will ban/censor what the opponents of this legislation deem necessary but not obvious obscenity and pornography.

In this amended legislation Page 2 defines a public library and starts to more clearly define pornography. Obscenity and pornography have zero redeeming value in these arenas as an educational research purpose unless one is trying to push an unnatural, perverted and harmful ideological doctrine. I believe that is why we have biology and science courses of which this legislation does not affect. This issue is taken care of on page 2, line 24 and page 4 line 29 of this legislation. In this section LC legal has assured us that the word willful will protect our teachers, librarians and staff from prosecution for normal science/biology/health education. The next change is an addition of a new section to code. Sections 4 clearly defines a level of pornography and Section 6 will add a new section to code. Section 6 legislates protection for minors by adding safety policies and technological protection measures and will also call for a report. Why is this necessary the constitution gives us a bit of a look at this.

The following is from the US constitution

Article I Section 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

Grooming: The Research-backed Links Between Pornography and Child Sexual Abuse

- Pornography Feeds the Growing Appetites of Child Sexual Abusers
- Child Sexual Abusers Use Pornography to Create Plans of Action
- Child Sexual Abusers' Tastes for Pornographic Content Depicting Younger Performers Increase Over Time
- Abusers Point Children to Pornography as a Way to Groom and "Train" Their Victims
- Pornography Normalizes Deviant and Dangerous Sexual Behaviors
- Pornography Has Been Found to Be Connected to a Rise in Child-on-Child Harmful Sexual Behavior

Source:

<https://endsexualexploitation.org/articles/the-research-backed-connections-between-pornography-and-child-sexual-abuse/>

"In this day and age, you will never find a man who has sexually offended who is not deeply steeped in pornography prior to offending. So pornography is the common denominator among all sexual offenses."

Jon Uhler

Therapist with 30 years experience counseling both victims and perpetrators

Full interview:

<https://rumble.com/v27luo0-is-pedophilia-becoming-normalized-a-therapist-for-sexual-offenders-weighs-i.html>

Senate Bill 2360

SUMMARY OF RESEARCH AND TESTIMONY

Pornography is typically introduced in the context of a relationship: a peer or authority figure.¹ Now, public and school libraries are introducing obscenity/pornography designed for minors.

Pornography, like cocaine, is addictive, and impacts the brain in a similar way.² Long-term exposure causes a reduction in gray matter.³

A psychiatrist and trauma specialist stated that “pornography should be forbidden and better regulated, as it is violating... boundaries... in a similar way that direct sexual abuse on their body does.”⁴

The American Library Association (ALA) believes that all individuals, regardless of age, should have access to any and all books.⁵ Their statement allows no exceptions for the known harms of pornography. The ALA even advises librarians how to fight back against parents who believe certain books are inappropriate for children.

Many books defended by the ALA have sexually explicit content, and these books are in at least 40 libraries across North Dakota.

Presenting sexually explicit material to children is considered child abuse, according to definitions provided for mandated reporters.⁶

A significant number of children have been affected by pornography, and viewing pornographic material greatly impacts their ability to learn.⁷

If sexual abuse requires the intervention of a trained mental health professional, why is it appropriate to have sexually explicit content in our libraries?

¹ Stringer DJ. 2018. *Unwanted: How Sexual Brokenness Reveals Our Way to Healing*. NavPress: Colorado Springs.

² Voon VMT. 2014. Neural Correlates of Sexual Cue Reactivity in Individuals With and Without Compulsive Sexual Behaviours. PLoS ONE. PMID: PMC4094516.

³ Kühn S and Gallinat J. 2014. Brain Structure and Functional Connectivity Associated With Pornography Consumption. *JAMA Psychiatry* 71:827-834.

⁴ Giroux DC. 2021. Early Exposure to Pornography: A Form of Sexual Trauma. Retrieved from *Journal of Psychiatry Reform*: <https://journalofpsychiatryreform.com/2021/12/07/earlyexposure-to-pornography-a-form-of-sexual-trauma/>

⁵ American Library Association. <https://www.ala.org/advocacy/intfreedom/librarybill/interpretations/minors>

⁶ North Dakota Department of Human Services. Mandated Reporters. Interactive Training. <https://mandatedreporter.pcand.org/>

⁷ Beyens I, Vandenbosch L, and Eggermont S. (2015). Early Adolescent Boys' exposure to Internet pornography: Relationships to pubertal timing, sensation seeking, and academic performance. *The Journal of Early Adolescence*, 20, 1–32.

**CHAPTER 12.1-27.1
OBSCENITY CONTROL**

12.1-27.1-01. Obscenity - Definitions - Dissemination - Classification of offenses.

1. A person is guilty of a class C felony if, knowing of its character, the person disseminates obscene material or if the person produces, transports, or sends obscene material with intent that it be disseminated.
2. A person is guilty of a class C felony if the person presents or directs an obscene performance for pecuniary gain or participates in any portion of a performance which contributes to the obscenity of the performance as a whole.
3. A person is guilty of a class C felony if the person, as owner or manager of an establishment licensed under section 5-02-01, permits an obscene performance in the establishment. A person is guilty of a class C felony if that person participates, whether or not for compensation, in an obscene performance in an establishment licensed under section 5-02-01.
4. a. In addition to the penalty provided in subsection 1, 2, or 3, any person who violates subsection 1, 2, or 3 in the course of a commercial or for-profit activity or transaction in which the offender had or shared ownership, control, managerial responsibility, or a financial interest other than wages is subject to the following penalty:
 - (1) For an individual, a fine not to exceed ten thousand dollars; or
 - (2) For a corporation, limited liability company, association, partnership, or other legal entity, a fine not to exceed twenty-five thousand dollars.b. In addition to the penalty provided in subsection 1, 2, or 3, the court shall impose the following penalty upon the conviction of a person or entity described in subdivision a for a second or subsequent offense under subsection 1, 2, or 3:
 - (1) For an individual, a fine not to exceed fifty thousand dollars; or
 - (2) For a corporation, limited liability company, association, partnership, or other legal entity, a fine not to exceed one hundred thousand dollars.
5. As used in this chapter, the terms "obscene material" and "obscene performance" mean material or a performance which:
 - a. Taken as a whole, the average person, applying contemporary North Dakota standards, would find predominantly appeals to a prurient interest;
 - b. Depicts or describes in a patently offensive manner sexual conduct, whether normal or perverted; and
 - c. Taken as a whole, the reasonable person would find lacking in serious literary, artistic, political, or scientific value.Whether material or a performance is obscene must be judged with reference to ordinary adults, unless it appears from the character of the material or the circumstances of its dissemination that the material or performance is designed for minors or other specially susceptible audience, in which case the material or performance must be judged with reference to that type of audience.
6. As used in this chapter, "disseminate" means to sell, lease, rent, advertise, broadcast, transmit, exhibit, or distribute for pecuniary gain. "Disseminate" includes any transmission of visual material shown on a cable television system, whether or not accompanied by a soundtrack, and any sound recording played on a cable television system.
7. As used in this chapter, the term "material" means any physical object, including, but not limited to, any type of book, sound recording, film, or picture used as a means of presenting or communicating information, knowledge, sensation, image, or emotion to or through a human being's receptive senses.
8. As used in this chapter, the term "patently offensive" means so offensive on its face as to affront the contemporary North Dakota standards of decency.
9. As used in this chapter, the term "performance" means any play, dance, or other exhibition presented before an audience.

figures posed or presented in a manner to exploit sex, lust, or perversion for *commercial gain*.

2. As used in this section:
 - a. "Nude or partially denuded human figures" means less than completely and opaquely covered human genitals, pubic regions, female breasts or a female breast, if the breast or breasts are exposed below a point immediately above the top of the areola, or human buttocks; and includes human male genitals in a discernibly turgid state even if completely and opaquely covered.
 - b. "Where minors are or may be invited as a part of the general public" includes any public roadway or public walkway.
 - c. The above shall not be construed to include a bona fide school, college, university, museum, public library, or art gallery.

12.1-27.1-03.2. Exhibition of X-rated motion picture in unscreened outdoor theater - Penalty.

Any person who, knowing of its character, exhibits any motion picture rated X by the motion picture association of America in any outdoor theater where the screen is visible beyond the limits of the theater audience area, so that the motion picture may be seen and its content or character distinguished by normal unaided vision by a minor viewing it from beyond the limits of the theater audience area, is guilty of a class B misdemeanor.

12.1-27.1-03.3. Creation, possession, or dissemination of sexually expressive images prohibited - Exception.

1. A person is guilty of a class A misdemeanor if, knowing of its character and content, that person:
 - a. Without written consent from each individual who has a reasonable expectation of privacy in the image, surreptitiously creates or willfully possesses a sexually expressive image that was surreptitiously created; or
 - b. Distributes or publishes, electronically or otherwise, a sexually expressive image with the intent to cause emotional harm or humiliation to any individual depicted in the sexually expressive image who has a reasonable expectation of privacy in the image, or after being given notice by an individual or parent or guardian of the individual who is depicted in a sexually expressive image that the individual, parent, or guardian does not consent to the distribution or publication of the sexually expressive image.
2. A person is guilty of a class B misdemeanor if, knowing of its character and content, that person acquires and knowingly distributes any sexually expressive image that was created without the consent of the subject of the image.
3. This section does not authorize any act prohibited by any other law. If the sexually expressive image is of a minor and possession does not violate section 12.1-27.2-04.1, a parent or guardian of the minor may give permission for a person to possess or distribute the sexually expressive image.
4. This section does not apply to any book, photograph, video recording, motion picture film, or other visual representation sold in the normal course of business through wholesale or retail outlets that possess a valid sales tax permit or used by an attorney, attorney's agent, or any other person obtaining evidence for a criminal investigation or pending civil action, or by a medical professional or a peace officer acting within that individual's scope of employment.

12.1-27.1-04. Definitions.

Repealed by S.L. 1981, ch. 157, § 1.

12.1-27.1-05. Civil proceeding a prerequisite to criminal liability.

Repealed by S.L. 1981, ch. 157, § 1.

Freedom to View Statement

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

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

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

Endorsed January 10, 1990, by the ALA Council

(/offices/oif)

Lets look at commonly used statement by those in opposition.

It is not put out by any legal entity.

It is put out by a entity that has a vested interest in promoting pornography. when i look at the description of who formed it, the statement says all the right things but comes from an organization that supports pornography because it is supposedly free speech. Our government is tasked with protecting its citizens and that is what this legislation does. Pornography is reaching our children and the formerly safe institutions are being used to do it. I challenge everyone that hears this to study our sanctioning organizations and affiliations to see what they are really purveying, and you find out they are not gold standards but dark standards as they promote pornography and perversion.



**TESTIMONY ON SB2360
HOUSE JUDICIAL COMMITTEE
03/14/2023**

**By: Mary J. Soucie, State Librarian
North Dakota State Library**

Chairman Larson and members of the Senate Judicial committee,

For the record, I am State Librarian Mary Soucie, and I am providing information on SB2360. The definition of a public library in SB2360 is a "library containing collections of books or periodicals for the general population to read, borrow, or refer to which is supported with funds derived from taxation." The State Library provides materials to any resident of North Dakota from our collection, North Dakota libraries and out-of-state libraries through InterLibrary Loan (ILL). The ILL service is facilitated statewide for libraries and individual patrons.

The State Library has conducted research on the average reading speed, the average length of both fiction and non-fiction books, and the average time it takes to read a book. Our research shows that the average adult reads 200-300 WPM. The average number of pages in a fiction book is 200-400 and a nonfiction book is 150-200.

The State Library's physical collection includes just over 89,000 fiction items. We have computed that we would need 72 employees based on a 40-hour workweek to review our fiction collection by the 2024 deadline in the bill.

The shared e-book collection that NDSL participates in with the public libraries has 8,713 items, which means an additional 34 employees would be needed to review that collection.

The State Library administers the annual Public Libraries Survey in partnership with the Institute for Museum and Library Services. The most recent data available is from 2021. The public libraries that completed the survey owned a collective 4,925,631 items. The number of additional staff needed at the public libraries would vary greatly for each library depending on the size of their collection and the number of items in the children's, young adult, and adult collections. The average reading speed for grades 1-6 is 80-185 words per minute. The average teen reading speed is 195-204 words per minute.

As mentioned above, NDSL facilitates the statewide ILL program. We receive hold requests for materials by libraries on behalf of their local patrons or from individuals. If we are unable to fill the hold in-state, we request the item from an out-of-state library. We access collections at thousands of public, academic, school and special libraries from across the country utilizing a tool called First Search. Many of our public libraries do not have access to the tool which is why NDSL facilitates those requests. NDSL

	# of Temporary Employees	Monthly Rate including fringe benefits	Monthly Fiscal Impact	Annual Fiscal Impact
NDSL	71	2,647.70	187,986.70	2,255,840.40
E-books	35	2,647.70	92,669.50	1,112,034.00
Total	106	2,647.70	187,986.70	3,367,874.40

*Rate is based on NDSL paraprofessionals

23.0672.05000

FIRST ENGROSSMENT

Sixty-eighth Legislative Assembly of North Dakota

ENGROSSED SENATE BILL NO. 2360

Introduced by

Senators Boehm, Beard, Hogue, Paulson, Wobbema
Representative Kasper

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and a new
2 section to chapter 12.1-27.1 of the North Dakota Century Code, relating to the definition of a
3 public library and required safety policies and technology protection measures; to amend and
4 reenact subsection 5 of section 12.1-27.1-01, sections 12.1-27.1-03.1, and 12.1-27.1-11 of the
5 North Dakota Century Code, relating to obscenity control; to provide a penalty; and to provide
6 an effective date.

7
8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**
9

10 **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-27.1-01 of the North Dakota
11 Century Code is amended and reenacted as follows:

- 12 5. As used in this chapter, the terms "obscene material" and "obscene performance"
13 mean material or a performance which:
 - 14 a. Taken as a whole, the average person, applying contemporary North Dakota
15 standards, would find predominantly appeals to a prurient interest;
 - 16 b. Depicts or describes in a patently offensive manner sexual conduct, whether
17 normal or perverted; and
 - 18 c. Taken as a whole, the reasonable person would find lacking in serious literary,
19 artistic, political, or scientific value.

20 Whether material or a performance is obscene must be judged first through the
21 'Collection Development' policy set forth by the local governing board.

22 a. Should a reasonable adult still find the professionally reviewed material or
23 performance to be considered obscene when applying contemporary North
1 Dakota standards, it will then be reviewed using a 'Reconsideration of Materials'
2 process set forth by the local governing board.

3 Whether material or a performance is obscene must be judged with reference to
4 ordinary ~~reasonable~~ average adults unless it appears from the character of the material
or the circumstances of its dissemination that the material or performance is designed
for
5 minors or other specially susceptible audience, in which case the material or
6 performance must be judged with reference to that type of audience.

7 **SECTION 2.** A new subsection to section 12.1-27.1-01 of the North Dakota Century
8 Code is created and enacted as follows:

9 As used in this chapter, the term "public library" refers to public libraries as established
under NDCC 40-38, ~~means a library containing collections~~
10 ~~of books or periodicals for the general population to read, borrow, or refer to which is~~
11 ~~supported with funds derived from taxation.~~

12 **SECTION 3. AMENDMENT.** Section 12.1-27.1-03.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **12.1-27.1-03.1. Objectionable materials or performance - Display to minors -**

15 **Definitions - Penalty.**

16 1. A person is guilty of a class B misdemeanor if ~~hethe person,~~ knowingly and willfully
displays displaying, at newsstands or any other business establishment frequented by
minors, ~~or where~~

17 ~~minors are or may be invited as a part of the general public,~~ any photograph, book,
18 paperback book, pamphlet, or magazine, the exposed cover or available content of
19 which either contains explicit sexual material that is harmful to minors, ~~or exploits, is~~
20 ~~devoted to,~~ or is principally made up of predominantly contains depictions or written
descriptions of nude or partially denuded human figures posed or presented in a manner
to exploit sex, lust, or perversion for commercial gain. ~~for commercial gain.~~

21 2. As used in this section: the terms "explicit sexual material" mean material or a
22 performance which:

23 a. Taken as a whole, the average person, applying contemporary North Dakota
24 standards, would find predominantly appeals to a prurient interest;

25 b. ~~Depicts or describes in a patently offensive manner sexual conduct, whether~~
26 ~~normal or perverted; and~~ Whether the work depicts or describes, in a patently offensive
27 way, sexual conduct specifically defined by the applicable state law; and

28 c. Taken as a whole, the reasonable person would find lacking in serious literary,
29 artistic, political, or scientific value.s

- 1.
2. a. "Explicit sexual material" means any written, pictorial, three dimensional, or visual
3. depiction that is patently offensive, including any photography, picture, or
4. computer-generated image, showing or describing:
5. (1) Human masturbation;
6. (2) Deviant sexual intercourse;
7. (3) Sexual intercourse;
8. (4) Direct physical stimulation of genitals;
9. (5) Sadomasochistic abuse;
10. (6) Postpubertal human genitals;
11. (7) Sexual activity;
12. (8) Sexual perversion; or
13. (9) Sex-based classifications.

14. b. "Nude or partially denuded human figures" means less than completely and
15. opaquely covered human genitals, pubic regions, female breasts or a female
16. breast, if the breast or breasts are exposed below a point immediately above the
17. top of the areola, or human buttocks; and includes human male genitals in a
18. discernibly turgid state even if completely and opaquely covered.

19. ~~b-c.~~ "Where minors are or may be invited as a part of the general public" includes any
20. public roadway or public walkway.

21. ~~e-d.~~ The above ~~shall~~may not be construed to include a ~~bona fide school,~~ bona fide
school, college, university, museum, ~~public library,~~ public library, or art gallery.

22. **SECTION 4. AMENDMENT.** Section 12.1-27.1-11 of the North Dakota Century Code is
23. amended and reenacted as follows:

24. **12.1-27.1-11. Exceptions to criminal liability.**

25. Sections 12.1-27.1-01 and 12.1-27.1-03 shall not apply to the possession or distribution of
26. material in the course of law enforcement, judicial, or legislative activities; or to the possession
27. of material by a ~~bona fide school,~~ bona fide school, college, university, ~~or~~ museum, or public
library for educational research purposes. ~~, or public library for limited~~

28. ~~access for educational research purposes carried on at such an institution by adults only.~~

29. Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a person who is returning
30. material, found to be obscene, to the distributor or publisher initially delivering it to the person
31. returning it.

32. Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to interlibrary loan materials.

33. **SECTION 5.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is created and enacted as follows:

1. **Safety policies, collection development policies, reconsideration of materials policies, and technology protection measures required - Report.**

4. 1. A school district, state agency, or public library may offer digital or online library database resources to students in kindergarten through twelfth grade if the person providing the resources verifies all the resources comply with subsection 2.

7. 2. Digital or online library database resources offered by a school district, state agency, or public library to students in kindergarten through twelfth grade must have safety policies and technology protection within their buildings that measures that:

10. a. Comply with CIPA and/or COPPA and/or FERPA guidelines which prohibit and prevent a user of the resource from sending, receiving, viewing, or downloading materials constituting child sexual abuse material, an obscene performance, or pornography; and

14. ~~b. Filter or block access to pornography and child sexual abuse material.~~

15. ~~3. Notwithstanding any contract provision, if a provider of digital or online library resources fails to comply with subsection 2, the school district, state agency, or public library shall withhold any further payments to the provider pending verification of compliance.~~

19. ~~4. If a provider of digital or online library database resources fails to timely verify the provider is in compliance with the safety policies and requirements of subsection 2, the school district, state agency, or public library shall consider the provider's act of noncompliance a breach of contract.~~

23. 5. A public school library and a public library shall submit their collection development and 'Reconsideration of Materials' policies in an aggregate written report to the attorney general no later than December first of each year, related to provider compliance with technology protection measures required by subsection 2.

27. ~~6. An employee of a school district, state agency, or public library is not exempt from prosecution for willful indecent exposure of child sexual abuse material or pornography to a minor.~~

31. **SECTION 6. EFFECTIVE DATE.** This Act is effective August 20, 2023.

23.0672.05008
Title.

Prepared by the Legislative Council staff for
Representative Klemin
March 28, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2360

- Page 1, line 5, after the first semicolon insert "and"
- Page 1, line 5, remove "; and to provide"
- Page 1, line 6, remove "an effective date"
- Page 2, line 13, remove the overstrike over "~~is principally made up of~~"
- Page 2, line 13, remove "contains"
- Page 2, line 13, remove "or written descriptions"
- Page 2, line 15, remove the overstrike over "~~for commercial gain~~"
- Page 2, line 17, remove "written, pictorial, three-dimensional, or visual"
- Page 2, remove line 18
- Page 2, line 19, replace "computer-generated image, showing or describing" with "material which"
- Page 2, line 20, replace "Human masturbation" with "Taken as a whole, appeals to the prurient interest of minors"
- Page 2, line 21, replace "Deviant sexual intercourse" with "Is patently offensive under prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors"
- Page 2, line 21, after the underscored semicolon insert "and"
- Page 2, line 22, remove "Sexual intercourse:"
- Page 2, remove lines 23 through 27
- Page 2, line 28, replace "(9) Sex-based classifications" with "Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors"
- Page 3, line 4, overstrike "or" and insert immediately thereafter an underscored comma
- Page 3, line 4, after "walkway" insert ", public library, or public school library"
- Page 3, line 12, remove "or"
- Page 3, line 12, remove the overstrike over "~~or public library for limited~~"
- Page 3, line 13, remove the overstrike over "~~access for educational research purposes carried on at such an institution by adults only~~"
- Page 3, line 19, after "**Report**" insert "**- Penalty**"
- Page 3, line 27, remove "child sexual abuse material,"
- Page 3, line 28, remove the underscored comma
- Page 3, line 29, remove "and child sexual abuse material"

Page 4, line 8, replace "attorney general" with "legislative management"

Page 4, line 11, remove "is not exempt from"

Page 4, line 12, replace "prosecution for willful indecent exposure of child sexual abuse material or" with "who willfully exposes"

Page 4, line 13, after "minor" insert "in violation of this section is guilty of a class B misdemeanor"

Page 4, remove line 14

Re-number accordingly

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2360

Introduced by

Senators Boehm, Beard, Hogue, Paulson, Wobbema

Representative Kasper

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and a new
2 section to chapter 12.1-27.1 of the North Dakota Century Code, relating to the definition of a
3 public library and required safety policies and technology protection measures; to amend and
4 reenact subsection 5 of section 12.1-27.1-01, sections 12.1-27.1-03.1, and 12.1-27.1-11 of the
5 North Dakota Century Code, relating to obscenity control; and to provide a penalty; ~~and to~~
6 ~~provide an effective date.~~

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-27.1-01 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 5. As used in this chapter, the terms "obscene material" and "obscene performance"
11 mean material or a performance which:

12 a. Taken as a whole, the average person, applying contemporary North Dakota
13 standards, would find predominantly appeals to a prurient interest;

14 b. Depicts or describes in a patently offensive manner sexual conduct, whether
15 normal or perverted; and

16 c. Taken as a whole, the reasonable person would find lacking in serious literary,
17 artistic, political, or scientific value.

18 Whether material or a performance is obscene must be judged with reference to
19 ordinary reasonable adults, unless it appears from the character of the material or the
20 circumstances of its dissemination that the material or performance is designed for
21 minors or other specially susceptible audience, in which case the material or
22 performance must be judged with reference to that type of audience.

23 **SECTION 2.** A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is
24 created and enacted as follows:

1 As used in this chapter, the term "public library" means a library containing collections
2 of books or periodicals for the general population to read, borrow, or refer to which is
3 supported with funds derived from taxation.

4 **SECTION 3. AMENDMENT.** Section 12.1-27.1-03.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-27.1-03.1. Objectionable materials or performance - Display to minors -**
7 **Definitions - Penalty.**

8 1. A person is guilty of a class B misdemeanor if ~~he~~the person willfully displays at
9 newsstands or any other business establishment frequented by minors, or where
10 minors are or may be invited as a part of the general public, any photograph, book,
11 paperback book, pamphlet, or magazine, the exposed cover or available content of
12 which either contains explicit sexual material that is harmful to minors or exploits, is
13 devoted to, or is principally made up of~~contains~~ depictions ~~or written descriptions~~ of
14 nude or partially denuded human figures posed or presented in a manner to exploit
15 sex, lust, or perversion for commercial gain.

16 2. As used in this section:

17 a. ~~"Explicit sexual material" means any written, pictorial, three-dimensional, or visual~~
18 ~~depiction that is patently offensive, including any photography, picture, or~~
19 ~~computer-generated image, showing or describing material which:~~

20 (1) ~~Human masturbation~~ Taken as a whole, appeals to the prurient interest of
21 minors;

22 (2) ~~Deviant sexual intercourse~~ is patently offensive under prevailing standards in
23 the adult community in North Dakota as a whole with respect to what is
24 suitable material for minors; and

25 (3) ~~Sexual intercourse;~~

26 ~~(4) Direct physical stimulation of genitals;~~

27 ~~(5) Sadomasochistic abuse;~~

28 ~~(6) Postpubertal human genitals;~~

29 ~~(7) Sexual activity;~~

30 ~~(8) Sexual perversion; or~~

1 ~~(9) Sex-based classifications~~ Taken as a whole, lacks serious literary, artistic,
2 political, or scientific value for minors.

3 b. "Nude or partially denuded human figures" means less than completely and
4 opaquely covered human genitals, pubic regions, female breasts or a female
5 breast, if the breast or breasts are exposed below a point immediately above the
6 top of the areola, or human buttocks; and includes human male genitals in a
7 discernibly turgid state even if completely and opaquely covered.

8 ~~b.c.~~ "Where minors are or may be invited as a part of the general public" includes any
9 public roadway ~~or~~ public walkway, public library, or public school library.

10 ~~e.d.~~ The above shall may not be construed to include a ~~bona fide school~~, college,
11 university, museum, ~~public library~~, or art gallery.

12 **SECTION 4. AMENDMENT.** Section 12.1-27.1-11 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **12.1-27.1-11. Exceptions to criminal liability.**

15 Sections 12.1-27.1-01 and 12.1-27.1-03 shall not apply to the possession or distribution of
16 material in the course of law enforcement, judicial, or legislative activities; or to the possession
17 of material by a ~~bona fide school~~, college, university, ~~or~~ museum, or public library for limited
18 access for educational research purposes carried on at such an institution by adults only.

19 Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a person who is returning
20 material, found to be obscene, to the distributor or publisher initially delivering it to the person
21 returning it.

22 **SECTION 5.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Safety policies and technology protection measures required - Report - Penalty.**

- 25 1. A school district, state agency, or public library may offer digital or online library
26 database resources to students in kindergarten through twelfth grade if the person
27 providing the resources verifies all the resources comply with subsection 2.
- 28 2. Digital or online library database resources offered by a school district, state agency,
29 or public library to students in kindergarten through twelfth grade must have safety
30 policies and technology protection measures that:

- 1 a. Prohibit and prevent a user of the resource from sending, receiving, viewing, or
2 downloading materials constituting ~~child sexual abuse material~~, an obscene
3 performance, or pornography; and
- 4 b. Filter or block access to pornography ~~and child sexual abuse material~~.
- 5 3. Notwithstanding any contract provision, if a provider of digital or online library
6 resources fails to comply with subsection 2, the school district, state agency, or public
7 library shall withhold any further payments to the provider pending verification of
8 compliance.
- 9 4. If a provider of digital or online library database resources fails to timely verify the
10 provider is in compliance with the safety policies and requirements of subsection 2, the
11 school district, state agency, or public library shall consider the provider's act of
12 noncompliance a breach of contract.
- 13 5. A public school library and a public library shall submit an aggregate written report to
14 the ~~attorney general~~ **legislative management** no later than December first of each year
15 regarding any issues related to provider compliance with technology protection
16 measures required by subsection 2.
- 17 6. An employee of a school district, state agency, or public library ~~is not exempt from~~
18 ~~prosecution for willful indecent exposure of child sexual abuse material or~~ **who willfully**
19 **exposes** pornography to a minor **in violation of this section is guilty of a class B**
20 **misdemeanor.**

21 — **SECTION 6. EFFECTIVE DATE.** This Act is effective August 20, 2023.

23.0672.05015
Title.

Prepared by the Legislative Council staff for
Senator Boehm
April 7, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2360

In addition to the amendments printed on pages 1414-1416 of the House Journal, Engrossed Senate Bill No. 2360 is further amended as follows:

Page 4, after line 13, insert:

"7. As used in this section, the term "public library" or "state agency" does not include the state library."

Renumber accordingly

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2360

Introduced by

Senators Boehm, Beard, Hogue, Paulson, Wobbema

Representative Kasper

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and a new
2 section to chapter 12.1-27.1 of the North Dakota Century Code, relating to the definition of a
3 public library and required safety policies and technology protection measures; to amend and
4 reenact subsection 5 of section 12.1-27.1-01, sections 12.1-27.1-03.1, and 12.1-27.1-11 of the
5 North Dakota Century Code, relating to obscenity control; and to provide a penalty; ~~and to~~
6 ~~provide an effective date.~~

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-27.1-01 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 5. As used in this chapter, the terms "obscene material" and "obscene performance"
11 mean material or a performance which:

12 a. Taken as a whole, the average person, applying contemporary North Dakota
13 standards, would find predominantly appeals to a prurient interest;

14 b. Depicts or describes in a patently offensive manner sexual conduct, whether
15 normal or perverted; and

16 c. Taken as a whole, the reasonable person would find lacking in serious literary,
17 artistic, political, or scientific value.

18 Whether material or a performance is obscene must be judged with reference to
19 ~~ordinary~~reasonable adults, unless it appears from the character of the material or the
20 circumstances of its dissemination that the material or performance is designed for
21 minors or other specially susceptible audience, in which case the material or
22 performance must be judged with reference to that type of audience.

23 **SECTION 2.** A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is
24 created and enacted as follows:

1 As used in this chapter, the term "public library" means a library containing collections
2 of books or periodicals for the general population to read, borrow, or refer to which is
3 supported with funds derived from taxation.

4 **SECTION 3. AMENDMENT.** Section 12.1-27.1-03.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-27.1-03.1. Objectionable materials or performance - Display to minors -**
7 **Definitions - Penalty.**

- 8 1. A person is guilty of a class B misdemeanor if ~~he~~the person willfully displays at
9 newsstands or any other business establishment frequented by minors, or where
10 minors are or may be invited as a part of the general public, any photograph, book,
11 paperback book, pamphlet, or magazine, the exposed cover or available content of
12 which ~~either contains explicit sexual material that is harmful to minors or exploits, is~~
13 ~~devoted to, or is principally made up of~~contains depictions ~~or written descriptions~~
14 nude or partially denuded human figures posed or presented in a manner to exploit
15 sex, lust, or perversion for commercial gain.
- 16 2. As used in this section:
- 17 a. ~~"Explicit sexual material" means any written, pictorial, three-dimensional, or visual~~
18 ~~depiction that is patently offensive, including any photography, picture, or~~
19 ~~computer-generated image, showing or describing~~material which:
- 20 (1) ~~Human masturbation~~Taken as a whole, appeals to the prurient interest of
21 minors;
- 22 (2) ~~Deviant sexual intercourse~~is patently offensive under prevailing standards in
23 the adult community in North Dakota as a whole with respect to what is
24 suitable material for minors; and
- 25 (3) ~~Sexual intercourse;~~
- 26 (4) ~~Direct physical stimulation of genitals;~~
- 27 (5) ~~Sadomasochistic abuse;~~
- 28 (6) ~~Postpubertal human genitals;~~
- 29 (7) ~~Sexual activity;~~
- 30 (8) ~~Sexual perversion; or~~

1 ~~(9) Sex-based classifications~~ Taken as a whole, lacks serious literary, artistic,
2 political, or scientific value for minors.

3 b. "Nude or partially denuded human figures" means less than completely and
4 opaquely covered human genitals, pubic regions, female breasts or a female
5 breast, if the breast or breasts are exposed below a point immediately above the
6 top of the areola, or human buttocks; and includes human male genitals in a
7 discernibly turgid state even if completely and opaquely covered.

8 b-c. "Where minors are or may be invited as a part of the general public" includes any
9 public roadway ~~or~~ public walkway, public library, or public school library.

10 e-d. The above shall ~~may~~ not be construed to include a ~~bona fide school~~, college,
11 university, museum, ~~public library~~, or art gallery.

12 **SECTION 4. AMENDMENT.** Section 12.1-27.1-11 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **12.1-27.1-11. Exceptions to criminal liability.**

15 Sections 12.1-27.1-01 and 12.1-27.1-03 shall not apply to the possession or distribution of
16 material in the course of law enforcement, judicial, or legislative activities; or to the possession
17 of material by a ~~bona fide school~~, college, university, ~~or~~ museum, or public library for limited
18 access for educational research purposes carried on at such an institution by adults only.

19 Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a person who is returning
20 material, found to be obscene, to the distributor or publisher initially delivering it to the person
21 returning it.

22 **SECTION 5.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Safety policies and technology protection measures required - Report - Penalty.**

25 1. A school district, state agency, or public library may offer digital or online library
26 database resources to students in kindergarten through twelfth grade if the person
27 providing the resources verifies all the resources comply with subsection 2.

28 2. Digital or online library database resources offered by a school district, state agency,
29 or public library to students in kindergarten through twelfth grade must have safety
30 policies and technology protection measures that:

- 1 a. Prohibit and prevent a user of the resource from sending, receiving, viewing, or
2 downloading materials constituting ~~child sexual abuse material~~, an obscene
3 performance, or ~~pornography~~explicit sexual material; and
- 4 b. Filter or block access to ~~pornography and child~~explicit sexual ~~abuse~~ material.
- 5 3. Notwithstanding any contract provision, if a provider of digital or online library
6 resources fails to comply with subsection 2, the school district, state agency, or public
7 library shall withhold any further payments to the provider pending verification of
8 compliance.
- 9 4. If a provider of digital or online library database resources fails to timely verify the
10 provider is in compliance with the safety policies and requirements of subsection 2, the
11 school district, state agency, or public library shall consider the provider's act of
12 noncompliance a breach of contract.
- 13 5. A public school library and a public library shall submit an aggregate written report to
14 the ~~attorney general~~legislative management no later than December first of each year
15 regarding any issues related to provider compliance with technology protection
16 measures required by subsection 2.
- 17 6. An employee of a school district, state agency, or public library ~~is not exempt from~~
18 ~~prosecution for willful indecent exposure of child sexual abuse material or~~
19 ~~pornography~~who willfully exposes explicit sexual material to a minor in violation of this
20 section is guilty of a class B misdemeanor.
- 21 7. As used in this section, the term "public library" or "state agency" does not include the
22 state library.

23 ~~SECTION 6. EFFECTIVE DATE.~~ This Act is effective August 20, 2023.

23.0672.05016

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2360

Introduced by

Senators Boehm, Beard, Hogue, Paulson, Wobbema

Representative Kasper

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and a new
2 section to chapter 12.1-27.1 of the North Dakota Century Code, relating to the definition of a
3 public library and required safety policies and technology protection measures; to amend and
4 reenact subsection 5 of section 12.1-27.1-01, sections 12.1-27.1-03.1, and 12.1-27.1-11 of the
5 North Dakota Century Code, relating to obscenity control; to provide a penalty; and to provide
6 ~~an effective date~~for application.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-27.1-01 of the North Dakota
9 Century Code is amended and reenacted as follows:

- 10 5. As used in this chapter, the terms "obscene material" and "obscene performance"
11 mean material or a performance which:
 - 12 a. Taken as a whole, the average person, applying contemporary North Dakota
13 standards, would find predominantly appeals to a prurient interest;
 - 14 b. Depicts or describes in a patently offensive manner sexual conduct, whether
15 normal or perverted; and
 - 16 c. Taken as a whole, the reasonable person would find lacking in serious literary,
17 artistic, political, or scientific value.

18 Whether material or a performance is obscene must be judged with reference to
19 ~~ordinary~~reasonable adults, unless it appears from the character of the material or the
20 circumstances of its dissemination that the material or performance is designed for
21 minors or other specially susceptible audience, in which case the material or
22 performance must be judged with reference to that type of audience.

23 **SECTION 2.** A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is
24 created and enacted as follows:

1 As used in this chapter, the term "public library" means a library containing collections
2 of books or periodicals for the general population to read, borrow, or refer to which is
3 supported with funds derived from taxation.

4 **SECTION 3. AMENDMENT.** Section 12.1-27.1-03.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-27.1-03.1. Objectionable materials or performance - Display to minors -**
7 **Definitions - Penalty.**

8 1. A person is guilty of a class B misdemeanor if ~~he~~the person willfully displays at
9 newsstands or any other business establishment frequented by minors, or where
10 minors are or may be invited as a part of the general public, any photograph, book,
11 paperback book, pamphlet, or magazine, the exposed cover or available content of
12 which either contains explicit sexual material that is harmful to minors or exploits, is
13 devoted to, or is principally made up of~~contains~~ depictions ~~or written descriptions~~ of
14 nude or partially denuded human figures posed or presented in a manner to exploit
15 sex, lust, or perversion for commercial gain.

16 2. As used in this section:

17 a. ~~"Explicit sexual material" means any written, pictorial, three-dimensional, or visual~~
18 ~~depiction that is patently offensive, including any photography, picture, or~~
19 ~~computer-generated image, showing or describing material which:~~

20 (1) ~~Human masturbation~~ Taken as a whole, appeals to the prurient interest of
21 minors;

22 (2) ~~Deviant sexual intercourse~~ is patently offensive under prevailing standards in
23 the adult community in North Dakota as a whole with respect to what is
24 suitable material for minors; and

25 (3) ~~Sexual intercourse;~~

26 (4) ~~Direct physical stimulation of genitals;~~

27 (5) ~~Sadomasochistic abuse;~~

28 (6) ~~Postpubertal human genitals;~~

29 (7) ~~Sexual activity;~~

30 (8) ~~Sexual perversion; or~~

1 ~~(9) Sex-based classifications~~ Taken as a whole, lacks serious literary, artistic,
2 political, or scientific value for minors.

3 b. "Nude or partially denuded human figures" means less than completely and
4 opaquely covered human genitals, pubic regions, female breasts or a female
5 breast, if the breast or breasts are exposed below a point immediately above the
6 top of the areola, or human buttocks; and includes human male genitals in a
7 discernibly turgid state even if completely and opaquely covered.

8 ~~b.c.~~ "Where minors are or may be invited as a part of the general public" includes any
9 public roadway ~~or~~ public walkway, public library, or public school library.

10 ~~e.d.~~ The above shall may not be construed to include a ~~bona fide school~~, college,
11 university, museum, ~~public library~~, or art gallery.

12 **SECTION 4. AMENDMENT.** Section 12.1-27.1-11 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **12.1-27.1-11. Exceptions to criminal liability.**

15 Sections 12.1-27.1-01 and 12.1-27.1-03 shall not apply to the possession or distribution of
16 material in the course of law enforcement, judicial, or legislative activities; or to the possession
17 of material by a ~~bona fide school~~, college, university, ~~or~~ museum, or public library for limited
18 access for educational research purposes carried on at such an institution by adults only.

19 Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a person who is returning
20 material, found to be obscene, to the distributor or publisher initially delivering it to the person
21 returning it.

22 **SECTION 5.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Safety policies and technology protection measures required - Report - Penalty.**

25 1. A school district, state agency, or public library may offer digital or online library
26 database resources to students in kindergarten through twelfth grade if the person
27 providing the resources verifies all the resources comply with subsection 2.

28 2. Digital or online library database resources offered by a school district, state agency,
29 or public library to students in kindergarten through twelfth grade must have safety
30 policies and technology protection measures that:

- 1 a. Prohibit and prevent a user of the resource from sending, receiving, viewing, or
2 downloading materials constituting ~~child sexual abuse material~~, an obscene
3 performance, or ~~pornography~~explicit sexual material; and
4 b. Filter or block access to ~~pornography and child~~explicit sexual ~~abuse~~-material.
5 3. Notwithstanding any contract provision, if a provider of digital or online library
6 resources fails to comply with subsection 2, the school district, state agency, or public
7 library shall withhold any further payments to the provider pending verification of
8 compliance.
9 4. If a provider of digital or online library database resources fails to timely verify the
10 provider is in compliance with the safety policies and requirements of subsection 2, the
11 school district, state agency, or public library shall consider the provider's act of
12 noncompliance a breach of contract.
13 5. A public school library and a public library shall submit an aggregate written report to
14 the ~~attorney general~~legislative management no later than December first of each year
15 regarding any issues related to provider compliance with technology protection
16 measures required by subsection 2.
17 6. An employee of a school district, state agency, or public library ~~is not exempt from~~
18 ~~prosecution for willful indecent exposure of child sexual abuse material or~~
19 ~~pornography~~who willfully exposes explicit sexual material to a minor in violation of this
20 section is guilty of a class B misdemeanor.
21 7. As used in this section, the term "public library" or "state agency" does not include the
22 state library.

23 ~~SECTION 6. EFFECTIVE DATE. This Act is effective August 20, 2023.~~

24 **SECTION 6. APPLICATION.** Sections 1, 3, and 4 of this Act do not apply to the state
25 library.

April 7, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2360

In lieu of the amendments printed on pages 1414-1416 of the House Journal, Engrossed Senate Bill No. 2360 is amended as follows:

Page 1, line 6, replace "an effective date" with "for application"

Page 2, line 13, remove the overstrike over "~~is principally made up of~~"

Page 2, line 13, remove "contains"

Page 2, line 13, remove "or written descriptions"

Page 2, line 15, remove the overstrike over "~~for commercial gain~~"

Page 2, line 17, remove "written, pictorial, three-dimensional, or visual"

Page 2, remove line 18

Page 2, line 19, replace "computer-generated image, showing or describing" with "material which"

Page 2, line 20, replace "Human masturbation" with "Taken as a whole, appeals to the prurient interest of minors"

Page 2, line 21, replace "Deviant sexual intercourse" with "Is patently offensive under prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors"

Page 2, line 21, after the underscored semicolon insert "and"

Page 2, line 22, remove "Sexual intercourse:"

Page 2, remove lines 23 through 27

Page 2, line 28, replace "(9) Sex-based classifications" with "Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors"

Page 3, line 4, overstrike "or" and insert immediately thereafter an underscored comma

Page 3, line 4, after "walkway" insert ", public library, or public school library"

Page 3, line 12, remove "or"

Page 3, line 12, remove the overstrike over "~~;-or-public-library-for-limited~~"

Page 3, line 13, remove the overstrike over "~~access for educational research purposes carried on at such an institution by adults only~~"

Page 3, line 19, after "**Report**" insert "**- Penalty**"

Page 3, line 27, remove "child sexual abuse material."

Page 3, line 28, remove the underscored comma

Page 3, line 28, replace "pornography" with "explicit sexual material"

Page 3, line 29, replace "pornography and child" with "explicit"

Page 3, line 29, remove "abuse"

Page 4, line 8, replace "attorney general" with "legislative management"

Page 4, line 11, remove "is not exempt from"

Page 4, line 12, replace "prosecution for willful indecent exposure of child sexual abuse material or pornography" with "who willfully exposes explicit sexual material"

Page 4, line 13, after "minor" insert "in violation of this section is guilty of a class B misdemeanor."

7. As used in this section, the term "public library" or "state agency" does not include the state library"

Page 4, replace line 14 with:

"SECTION 6. APPLICATION. Sections 1, 3, and 4 of this Act do not apply to the state library."

Renumber accordingly



**TESTIMONY ON SB 2360
SENATE JUDICIAL COMMITTEE
February 14, 2023
By: Mary J. Soucie, State Librarian
North Dakota State Library**

Chairman Larson and members of the Senate Judicial committee,

For the record, I am State Library Mary Soucie, and I am providing information on SB2360. The State Library coordinates purchases of Online Library Resources (OLRs) or databases for libraries across the state through two methods. We purchase OLRs in a partnership with Minnesota and South Dakota to realize economies of scale. Libraries that participate in this purchase pay a small fee. The formula is based as follows: public libraries pay based on the per capita of their service area; school libraries pay based on the number of students in grades 9-12, elementary and middle schools that feed into a participating high school get access at no additional charge; and academic libraries pay based on the number of FTE's. There are also some OLR's that NDSL purchases that can be accessed by anyone with an NDSL card or a North Dakota public library card with no cost to the local libraries.

The Children's Internet Protection Act (CIPA) was enacted by Congress in 2000 to address concerns about children's access to obscene or harmful content over the Internet. CIPA imposes certain requirements on schools or libraries that receive discounts for Internet access or internal connections through the E-rate program – a program that makes certain communications services and products more affordable for eligible schools and libraries. There are 48 of 83 public libraries that are on Stagenet and those libraries are filtered by NDIT. A total of 64 public libraries utilize filtering software on their public computers and 2 public libraries do not provide internet access at all. Any library that applies for e-rate are mandated to be compliant with the Children's Internet Protection Act (CIPA) which requires libraries to block or filter any internet access certain depicted images for minors and adults. Minors are defined as anyone under the age of 17. CIPA requires the ability to disable filters for adults when requested for bona fide research or other lawful purposes.

Online library resources meet the informational and lifelong learning needs of library users. Our OLRs include general research, self-paced learning courses, foreign language, health, genealogy and books, magazines and newspapers. It is important for libraries to provide access to these resources for people that cannot afford to pay for access to commercial products; for students to complete homework and to support workforce development for job seekers. Access to these resources helps to eliminate the digital divide.

The Miller Test is the primary legal test for determining whether expression constitutes obscenity. It is named after the U.S. Supreme Court's decision in Miller v. California (1973). The Miller test is a three-prong test.

- (1) whether the average person applying contemporary community standards would find the work, taken as a whole, appeals to the prurient interest;
- (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- (3) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Chairman Larson and members of the committee this concludes my testimony, and I am happy to answer any questions.



March 14, 2023

Chairman Klemin and Members of the Judiciary Committee,

My name is Misti Frink. I am providing this testimony on behalf of Bismarck Public Schools in opposition to SB2360. I am a member of the Learning Design and Curriculum team, and the library coordinator for our district. The proposed amendments in this bill are unnecessary, vague, and would cause financial and workforce hardship to schools.

This bill removes language that protects schools and education from criminal charges. As you know, North Dakota educators care deeply about students and their safety and have local policies and procedures in place to select appropriate primary and supplemental educational materials. We hold ourselves to high standards to select print and online materials that are age appropriate, professionally reviewed, research based, connected to standards, and relevant to students. We already filter our networks to protect students online, going beyond what is required by CIPA (Child Internet Protection Act). We have collection development and resource selection policies in place that guide our educational resource selection, and we have policies and procedures that allow stakeholders (parents, students, teachers, community members) to bring items that they feel may not align to these policies back to a committee for reconsideration. These robust checks and balances are already in place for print and digital resource selections.

North Dakota Educators believe parents should be able to review resources and have a voice in what their child select. In our local policies, parents are able to opt their children out of supplementary materials at any time, notes can be added into library software to address specific student

needs, parents must give permission for students to check out books from a higher grade band, and families can login to see what their students have checked out at any time.

This Bill will create unnecessary hardship and expense on staff and schools. North Dakota school libraries are an investment by the local school to reflect the demographics of North Dakota students and to help prepare all students for their chosen futures. Libraries include hundreds and often thousands of books and resources. With such vague language, we would need to review every print and digital resource, by hand, for images and written descriptions to identify areas of concern. This would be a huge undertaking with tens of thousands of print resources and online resources that are changing daily. There would be a financial impact for this work as well as undue stress placed on staff, and ultimately, our students. Especially, since these resources are already peer reviewed and vetted by our local processes.

North Dakota School Boards have jurisdiction over ND school libraries and classrooms. Determining policies and procedures around resource purchases and reconsideration should remain at a local level. This bill is unnecessary, vague, and will not only cause immediate hardship to our schools and libraries, but also opens the door to costly, and unnecessary litigation. Please vote in opposition to SB2360.

CHAPTER 40-38 Public Libraries

40-38-09. Annual report of board of directors — Contents — To whom made.

The board of directors shall make a report on July first of each year to the governing body of the city or board of county commissioners, as the case may be, stating:

1. The condition of the library and property.
2. The various sums of money received from all sources.
3. How much money has been expended and for what purpose.
4. The number of books and periodicals on hand.
5. The number of books and periodicals added by purchase or gift during the year and the number thereof lost or loaned out.
6. The character and kind of books contained in the library.
7. Such other statistics, information, and suggestions as the board may deem of general interest or as may be required by the state library.

Copies of the report shall be filed with the governing body of the political subdivision and with the state library.

Library	Items	FTE	Salary	Amount	
Hazen	2,556	39,915	\$245,248	Young Adult	
Ward Cuntty	3,874	72,280	\$142,448	Young Adult	
McLean Mercer Regional (Riverdale)	7,294	15,080	\$200,000	Juvenile, Young Adult	
Lake Region (Devil's Lake)	12,642	31,200	\$102,600	Juvenile, e-materials	
Valley City Barnes County	16,103	42,000	\$2,604,000	Juvenile, Young Adult	
Bismarck Veterans Memorial	1,210,683	79,000	\$334,840,438	Whole collection, including e-materials (Libby and Hoopla)	

Average Adult Reading Speed: 200-300 WPM / 1 Hour = 40 pages
 Average Grades 1-6 Reading Speed: 80-185 WPM /
 Average Teen Reading Speed: 195-204 WPM /
 Average # of pages / book: Fiction = 200-400 pages Nonfiction = 150-200 Children's = 32
 Average # of hours / book: Fiction = 5 – 10 Hours Nonfiction = 3.75 – 5 Hours
 Average word count: adult = 90,000 YA = 50,000 – 80,000 middle = 25,000-40,000 Children's = 1000 - 10,000
 52 weeks in a year **

Formulas

of pages . = # of collection items x 300 (average # of pages)
 # of hours . = # of pages / 40 (average pages read per hour)
 # of days . = # of hours / 8 (hour work day)
 # of weeks . = # of days / 5 (days in a work week)
 # of years . = # of weeks / 52 (weeks in a year)
 # of emplo . = # items / 260 (number of books read in a year)

of books 1 . = (7.5 hour day x 40 pages per hour) = 300 (average adult book)
 # of books 5 . = one a book a day
 # of books 260 . = 5 books a week x 52 weeks

Children's Calculations

of books 7.5 . = 1 book (32 pages) x 7.5 hour day
 # of books 37.5 . = books read per day x 5 days per week
 # of books 1,950 . = books read per week x 52 weeks

ACADEMIC LIBRARIES

Library Name	City	FTE/Pop. Served	Year One	Year One Implementation	Year One Total Cost	Year Two	Year Three
North Dakota School for the Deaf Library	Devils Lake	35	\$ 1,000	\$ 1,500	\$ 2,500	\$ 1,050	\$ 1,103
Trinity Bible College and Graduate School	Ellendale	231	\$ 1,470	\$ 1,500	\$ 2,970	\$ 1,544	\$ 1,621
UND Thormodsgard Law Library	Grand Forks	274	\$ 1,470	\$ 1,500	\$ 2,970	\$ 1,544	\$ 1,621
Dakota College at Bottineau Library	Bottineau	724	\$ 2,250	\$ 2,000	\$ 4,250	\$ 2,363	\$ 2,481
Williston State College Library	Williston	785	\$ 2,250	\$ 2,000	\$ 4,250	\$ 2,363	\$ 2,481
Lake Region State College Library	Devils Lake	966	\$ 2,250	\$ 2,000	\$ 4,250	\$ 2,363	\$ 2,481
Mayville State University Library	Mayville	1,012	\$ 2,940	\$ 2,000	\$ 4,940	\$ 3,087	\$ 3,241
University of Jamestown	Jamestown	1,235	\$ 2,940	\$ 2,000	\$ 4,940	\$ 3,087	\$ 3,241
Dickinson State University Library	Dickinson	1,309	\$ 2,940	\$ 2,000	\$ 4,940	\$ 3,087	\$ 3,241
Valley City State University Library	Valley City	1,340	\$ 2,940	\$ 2,000	\$ 4,940	\$ 3,087	\$ 3,241
UND SMHS Library Resources	Grand Forks	1,783	\$ 2,940	\$ 2,000	\$ 4,940	\$ 3,087	\$ 3,241
North Dakota State College of Science Library	Wahpeton	2,240	\$ 4,690	\$ 2,500	\$ 7,190	\$ 4,925	\$ 5,171
Minot State University Library	Minot	2,684	\$ 4,690	\$ 2,500	\$ 7,190	\$ 4,925	\$ 5,171
Bismarck State College Library	Bismarck	2,769	\$ 4,690	\$ 2,500	\$ 7,190	\$ 4,925	\$ 5,171
UND Chester Fritz Library	Grand Forks	11,247	\$ 7,500	\$ 4,000	\$ 11,500	\$ 7,875	\$ 8,269
North Dakota State University Library	Fargo	13,201	\$ 7,500	\$ 4,000	\$ 11,500	\$ 7,875	\$ 8,269
UND Music Library	Grand Forks	NA	\$ 1,000	\$ 1,500	\$ 2,500	\$ 1,050	\$ 1,103
41,835					\$ 92,960	\$ 58,233	\$ 61,145

Discounted Package Rate

Library Name	City	FTE/Pop. Served	Year One	Year One Implementation	Year One Total Cost	Year Two	Year Three
North Dakota School for the Deaf Library	Devils Lake	35	\$ 2,100	\$ 2,000	\$ 4,100	\$ 2,205	\$ 2,315
Trinity Bible College and Graduate School	Ellendale	231	\$ 2,100	\$ 2,000	\$ 4,100	\$ 2,205	\$ 2,315
UND Thormodsgard Law Library	Grand Forks	274	\$ 2,100	\$ 2,000	\$ 4,100	\$ 2,205	\$ 2,315
Dakota College at Bottineau Library	Bottineau	724	\$ 4,200	\$ 3,750	\$ 7,950	\$ 4,410	\$ 4,631
Williston State College Library	Williston	785	\$ 4,200	\$ 3,750	\$ 7,950	\$ 4,410	\$ 4,631
Lake Region State College Library	Devils Lake	966	\$ 4,200	\$ 3,750	\$ 7,950	\$ 4,410	\$ 4,631
Mayville State University Library	Mayville	1012	\$ 4,200	\$ 3,750	\$ 7,950	\$ 4,410	\$ 4,631
University of Jamestown	Jamestown	1235	\$ 4,200	\$ 3,750	\$ 7,950	\$ 4,410	\$ 4,631
Dickinson State University Library	Dickinson	1309	\$ 4,200	\$ 3,750	\$ 7,950	\$ 4,410	\$ 4,631
Valley City State University Library	Valley City	1340	\$ 4,200	\$ 3,750	\$ 7,950	\$ 4,410	\$ 4,631
UND SMHS Library Resources	Grand Forks	1783	\$ 4,200	\$ 3,750	\$ 7,950	\$ 4,410	\$ 4,631
North Dakota State College of Science Library	Wahpeton	2240	\$ 6,700	\$ 3,750	\$ 10,450	\$ 7,035	\$ 7,387
Minot State University Library	Minot	2684	\$ 6,700	\$ 3,750	\$ 10,450	\$ 7,035	\$ 7,387
Bismarck State College Library	Bismarck	2769	\$ 6,700	\$ 3,750	\$ 10,450	\$ 7,035	\$ 7,387
UND Chester Fritz Library	Grand Forks	11247	\$ 10,000	\$ 6,000	\$ 16,000	\$ 10,500	\$ 11,025
North Dakota State University Library	Fargo	13201	\$ 10,000	\$ 6,000	\$ 16,000	\$ 10,500	\$ 11,025
UND Music Library	Grand Forks	NA	\$ 2,100	\$ 2,000	\$ 4,100	\$ 2,205	\$ 2,315
					\$ 143,350	\$ 84,000	\$ 90,515

List Rate

PUBLIC LIBRARIES										
Library Name	City	FTE/Pop. Served	Year One	Year One Implementation	Year One Total Cost	Year Two	Year Three			
Hillsboro Public and High School Library	Hillsboro	238	\$ 1,300	\$ 1,000	\$ 2,300	\$ 1,365	\$ 1,433			
New England Public School	New England	270	\$ 1,300	\$ 1,000	\$ 2,300	\$ 1,365	\$ 1,433			
McVile Community Library	McVile	322	\$ 1,300	\$ 1,000	\$ 2,300	\$ 1,365	\$ 1,433			
Dickinson Public Schools	Dickinson	491	\$ 1,300	\$ 1,000	\$ 2,300	\$ 1,365	\$ 1,433			
Wishek Public & School Library	Wishek	1101	\$ 1,800	\$ 1,000	\$ 2,800	\$ 1,890	\$ 1,985			
Velva Public & School Library	Velva	1640	\$ 1,800	\$ 1,500	\$ 3,300	\$ 1,890	\$ 1,985	Discounted Package Rate		
Harvey Public Library	Harvey	1646	\$ 1,800	\$ 1,500	\$ 3,300	\$ 1,890	\$ 1,985			
Stanley Public Library	Stanley	2677	\$ 1,800	\$ 1,500	\$ 3,300	\$ 1,890	\$ 1,985			
Bowman Regional Public Library	Bowman	3024	\$ 1,800	\$ 1,500	\$ 3,300	\$ 1,890	\$ 1,985			
Leach Public Library - Wahpeton	Wahpeton	7734	\$ 1,800	\$ 1,500	\$ 3,300	\$ 1,890	\$ 1,985			
Carnegie Regional Libraries/Grafton	Grafton	12,573	\$ 2,200	\$ 1,500	\$ 3,700	\$ 2,310	\$ 2,426			
Dickinson Area Public Library	Dickinson	33,167	\$ 2,200	\$ 1,500	\$ 3,700	\$ 2,310	\$ 2,426			
West Fargo Public Library	West Fargo	37,058	\$ 2,200	\$ 1,500	\$ 3,700	\$ 2,310	\$ 2,426			
Grand Forks Public Library	Grand Forks	67,643	\$ 3,000	\$ 2,500	\$ 5,500	\$ 3,150	\$ 3,308			
		169,584			\$ 45,100	\$ 26,880	\$ 28,224			
Library Name	City	FTE/Pop. Served	Year One	Year One Implementation	Year One Total Cost	Year Two	Year Three			
Hillsboro Public and High School Library	Hillsboro	238	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087			
New England Public School	New England	270	\$ 1,300	\$ 1,000	\$ 2,300	\$ 1,365	\$ 1,433			
McVile Community Library	McVile	322	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087			
Dickinson Public Schools	Dickinson	491	\$ 1,300	\$ 1,000	\$ 2,300	\$ 1,365	\$ 1,433			
Wishek Public & School Library	Wishek	1101	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087			
Velva Public & School Library	Velva	1640	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087			
Harvey Public Library	Harvey	1646	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087			
Stanley Public Library	Stanley	2677	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087			
Bowman Regional Public Library	Bowman	3024	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087	List Rate		
Leach Public Library - Wahpeton	Wahpeton	7734	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087			
Carnegie Regional Libraries/Grafton	Grafton	12573	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087			
Dickinson Area Public Library	Dickinson	33167	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087			
West Fargo Public Library	West Fargo	37058	\$ 2,800	\$ 1,500	\$ 4,300	\$ 2,940	\$ 3,087			
Grand Forks Public Library	Grand Forks	67643	\$ 3,900	\$ 2,500	\$ 6,400	\$ 4,095	\$ 4,300			
					\$ 58,300	\$ 39,165	\$ 41,123			

SCHOOL LIBRARIES

Library Name	City	FTE/Pop. Served	Year One	Year One Implementation	Year One Total Cost	Year Two	Year Three
North Dakota School for the Deaf Library	Devils Lake	35	\$ 500	\$ 1,000	\$ 1,500	\$ 525	\$ 551
Finley-Sharon School Library	Finley	88	\$ 500	\$ 1,000	\$ 1,500	\$ 525	\$ 551
Hope-Page School Library	Hope	93	\$ 500	\$ 1,000	\$ 1,500	\$ 525	\$ 551
Grafton Elementary School Library	Grafton	145	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Hatton School Library	Hatton	170	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Midway School Libraries	Inkster	179	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Divide County High School Library	Crosby	180	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Larimore High School Library	Larimore	182	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
North Border Walhalla School Library	Walhalla	182	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Larimore Elementary School Library	Larimore	184	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Mandaree School Libraries	Mandaree	195	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Maple Valley School Library	Tower City	212	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Napoleon School Libraries	Napoleon	221	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Dickinson Trinity High School Library	Dickinson	233	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Hillsboro Public and High School Library	Hillsboro	238	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Carrington High School	Carrington	244	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
Hillsboro Elementary School Library	Hillsboro	256	\$ 1,000	\$ 1,000	\$ 2,000	\$ 1,050	\$ 1,103
Grafton High School Library	Grafton	266	\$ 1,000	\$ 1,000	\$ 2,000	\$ 1,050	\$ 1,103
New England Public School	New England	270	\$ 1,000	\$ 1,000	\$ 2,000	\$ 1,050	\$ 1,103
Carrington Elementary School	Carrington	310	\$ 1,000	\$ 1,000	\$ 2,000	\$ 1,050	\$ 1,103
Northwood School Library	Northwood	334	\$ 1,000	\$ 1,000	\$ 2,000	\$ 1,050	\$ 1,103
Cavalier School Libraries	Cavalier	376	\$ 1,000	\$ 1,000	\$ 2,000	\$ 1,050	\$ 1,103
Dickinson Public Schools	Dickinson	491	\$ 1,000	\$ 1,000	\$ 2,000	\$ 1,050	\$ 1,103
North Border Pembina School Library	Pembina	1914	\$ 2,000	\$ 1,250	\$ 3,250	\$ 2,100	\$ 2,205
Divide County Public & Elementary School Library	Crosby	2466	\$ 2,000	\$ 1,250	\$ 3,250	\$ 2,100	\$ 2,205
Billings County Schools Library	Medora	NA	\$ 750	\$ 1,000	\$ 1,750	\$ 788	\$ 827
		9464			\$ 49,500	\$ 24,150	\$ 25,358

Discounted Package Rate

Library Name	City	FTE/Pop. Served	Year One	Year One Implementation	Year One Total Cost	Year Two	Year Three
North Dakota School for the Deaf Library	Devils Lake	35	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Finley-Sharon School Library	Finley	88	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Hope-Page School Library	Hope	93	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Grafton Elementary School Library	Grafton	145	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Hatton School Library	Hatton	170	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Midway School Libraries	Inkster	179	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Divide County High School Library	Crosby	180	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Larimore High School Library	Larimore	182	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
North Border Walhalla School Library	Walhalla	182	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Larimore Elementary School Library	Larimore	184	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Mandaree School Libraries	Mandaree	195	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Maple Valley School Library	Tower City	212	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Napoleon School Libraries	Napoleon	221	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Dickinson Trinity High School Library	Dickinson	233	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Hillsboro Public and High School Library	Hillsboro	238	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Carrington High School	Carrington	244	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Hillsboro Elementary School Library	Hillsboro	256	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Grafton High School Library	Grafton	266	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
New England Public School	New England	270	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Carrington Elementary School	Carrington	310	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Northwood School Library	Northwood	334	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Cavalier School Libraries	Cavalier	376	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
Dickinson Public Schools	Dickinson	491	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
North Border Pembina School Library	Pembina	1914	\$ 2,500	\$ 1,500	\$ 4,500	\$ 3,150	\$ 3,308
Divide County Public & Elementary School Library	Crosby	2466	\$ 3,600	\$ 1,500	\$ 4,500	\$ 3,150	\$ 3,308
Billings County Schools Library	Medora	NA	\$ 1,300	\$ 1,250	\$ 2,550	\$ 1,365	\$ 1,433
					\$ 70,200	\$ 39,060	\$ 41,013

List Rate

MEDICAL-GOVT LIBRARIES

Library Name	City	FTE/Pop. Served	Year One	Year One Implementation	Year One Total Cost	Year Two	Year Three
Cameron Medical Library	Minot	1	\$ 2,000	\$ 1,500	\$ 3,500	\$ 2,100	\$ 2,205
North Dakota State Hospital - Health Sciences Libr	Jamestown	50	\$ 2,000	\$ 1,500	\$ 3,500	\$ 2,100	\$ 2,205
Sanford Health Sciences Library	Fargo & Bismarck	50	\$ 2,000	\$ 1,500	\$ 3,500	\$ 2,100	\$ 2,205
North Dakota Supreme Court Law Library	Bismarck	2	\$ 2,000	\$ 1,500	\$ 3,500	\$ 2,100	\$ 2,205
North Dakota State Library	Bismarck	64,751	\$ 23,000	\$ 7,500	\$ 30,500	\$ 24,150	\$ 25,358
North Dakota Vision Resource Center	Grand Forks	20	\$ 2,700	\$ 2,700	\$ 5,400	\$ 2,835	\$ 2,977
					\$ 49,900	\$ 35,385	\$ 37,154

Discounted Package Rate

Library Name	City	FTE/Pop. Served	Year One	Year One Implementation	Year One Total Cost	Year Two	Year Three
Cameron Medical Library	Minot	1	\$ 2,700	\$ 2,700	\$ 5,400	\$ 2,835	\$ 2,977
North Dakota State Hospital - Health Sciences Libr	Jamestown	50	\$ 2,700	\$ 2,700	\$ 5,400	\$ 2,835	\$ 2,977
Sanford Health Sciences Library	Fargo & Bismarck	50	\$ 2,700	\$ 2,700	\$ 5,400	\$ 2,835	\$ 2,977
North Dakota Supreme Court Law Library	Bismarck	2	\$ 2,700	\$ 2,700	\$ 5,400	\$ 2,835	\$ 2,977
North Dakota State Library	Bismarck	64,751	\$ 44,100	\$ 7,500	\$ 51,600	\$ 46,305	\$ 48,620
North Dakota Vision Resource Center	Grand Forks	20	\$ 2,700	\$ 2,700	\$ 5,400	\$ 2,835	\$ 2,977
					\$ 78,600	\$ 60,480	\$ 63,504

List Rate