



1 **Testimony in Support of Amendments to House Bill 1222**

2 **Chair and Members of the Committee:** I am here today to provide testimony in support of the
3 proposed amendments to House Bill 1222, specifically those restoring the right of refusal
4 accommodation and reinforcing other constitutional accommodations that ensure the rights of
5 students and educators are protected. Some of these amendments are needed to keep us out of
6 court. To reduce the risk of lawsuit the right of refusal must be brought back into law as that is a
7 US constitutional right. (See amendment below)

8 House Bill 1222 seeks to reaffirm the value of patriotism and respect for our nation’s principles
9 by requiring the daily recitation of the Pledge of Allegiance in public schools. While this bill
10 reflects a commitment to civic awareness and engagement, it is equally critical that we maintain
11 constitutional protections for individual freedoms. The amendments proposed in this bill serve as
12 necessary refinements to uphold both the spirit of unity and the principles of personal liberty.

13 **Restoring the Right of Refusal**

14 One of the fundamental tenets of our Constitution is the protection of individual rights, including
15 freedom of speech and freedom of expression. The U.S. Supreme Court, in *West Virginia State*
16 *Board of Education v. Barnette* (1943), firmly established that students cannot be compelled to
17 recite the Pledge of Allegiance. (**Holding:** The Supreme Court ruled that public schools **cannot compel**
18 **students to salute the flag or recite the Pledge of Allegiance**, as doing so violates the **First Amendment’s**
19 **protections of free speech and freedom of religion.**)

20 The proposed amendment ensures that students and their families retain the right to abstain from
21 participating in the pledge without facing coercion, discrimination, or undue pressure.

22 **Existing Patriotic Education Requirements in North Dakota**

23 North Dakota already has multiple statutory provisions that promote patriotism and civic
24 responsibility in schools. These activities due to the level of student engagement may be a more
25 effective way to promote patriotism with our older students than the pledge recitation.

- 26 • **Instruction in Civic Virtues** (*N.D.C.C. 15.1-21-01*) requires that instruction in civic
27 virtues, including respect for honest labor, truthfulness, and public spirit, be provided in
28 schools.
- 29 • **Patriotic Exercises** (*N.D.C.C. 15.1-19-03.1*) permits school boards to authorize the
30 voluntary recitation of the Pledge of Allegiance while ensuring that students are not
31 compelled to participate.
- 32 • **Youth Patriotic Societies** (*N.D.C.C. 15.1-06-14.1*) allows representatives from youth
33 patriotic organizations to present information to students in schools during the academic
34 year to encourage participation in civic engagement activities.



- 1 • **Required Reading of Historical Documents** (*N.D.C.C. 15.1-21-22*) mandates that
2 students read the Declaration of Independence, the United States Constitution, and the
3 Bill of Rights before graduating to ensure familiarity with foundational texts.
- 4 • **Civics Test Requirement** (*N.D.C.C. 15.1-21-27*) requires students to pass a civics test
5 based on the 100 questions used by the U.S. Citizenship and Immigration Services for
6 naturalization applicants as a prerequisite for high school graduation, reinforcing their
7 understanding of U.S. history and government principles.

8 These provisions illustrate that North Dakota already has mechanisms in place to instill
9 patriotism among students while respecting individual rights. The proposed amendments to
10 House Bill 1222 should align with these existing statutes rather than impose additional mandates
11 that may be difficult to enforce at all school levels.

12 **Challenges for Schools and Students Requiring Accommodations**

13 While the intent of this legislation is to promote patriotism, the practical implementation of a
14 mandatory pledge poses challenges for many schools, particularly at the middle and high school
15 levels. High schools often do not have a uniform start time, making a synchronized pledge
16 difficult to enforce. Additionally, students requiring accommodations, including those with
17 disabilities or anxiety-related conditions, may struggle with a rigid expectation to participate in a
18 public recitation. These challenges highlight the need for flexibility and alternative approaches to
19 fostering civic engagement.

20 **Amendments Recommended:**

21 I urge the committee to adopt the amendments below that restore the right of refusal
22 accommodation and reinforce constitutional protections within this legislation. These changes
23 will strengthen House Bill 1222, ensuring it remains a measure that respects both national pride
24 and personal liberty.

- 25 1. Please reduce the risk of a lawsuit eliminate the redaction of Section 3 #5.
- 26 2. Due to difficulty with application at the MS/HS level and the amount of additional
27 patriotic activities we do at the higher grades, keep the requirement to the elementary
28 school level.

29 5. A school board may authorize the voluntary recitation of student of a public elementary school shall recite the
30 pledge of allegiance by a teacher or one or more students at the beginning of each school day. A student may not be
31 required to recite and must be informed by written notice published in the student handbook, or similar publication,
32 that the student may be excused from reciting the pledge of allegiance, stand during the recitation of the pledge of
33 allegiance or salute the American flag upon written request by the student's parent or legal guardian. During the
34 pledge of allegiance, any unexcused student shall show full respect to the flag by standing at attention, if physically
35 able, with the right hand over the heart and, for males, removing any headdress, except when the headdress is worn
36 for religious purposes.