

March 17, 2025

Dear Members of the House Judiciary Committee,

I serve as Director of James River Valley Library System in Jamestown, and I'm writing to provide testimony regarding SB 2307. I urge a "do not pass" recommendation on this legislation.

I'm very careful about what materials are included in our library, and I'm sure every other librarian in ND is equally careful about meeting patron needs by collecting appropriate, well-respected information for each age level. The current system of trained librarians collecting materials under the auspices of local boards accountable to our communities is effective and should be preserved.

SB 2307 is an unnecessary government overreach that would "accomplish" multiple harms. The bill would....

- result in a highly imprecise review of library collections
- empower out-of-service-area complaints against our local libraries
- restrict properly cataloged materials for adults *on the basis of whether these materials are appropriate for children*
- result in so many items being restricted that most libraries wouldn't have an extra room big enough to secure all the "naughty" materials
- block young people from educational e-materials due to imprecise content filters
- fuel expensive lawsuits against local libraries
- open members of the "diverse" committees to lawsuits from disaffected persons
- result in some statewide digital content being legal in certain areas while blocked by state's attorneys in other regions (e.g. would an adverse ruling in Williston restrict a statewide e-book in Jamestown?)
- tie up state's attorneys with the lawsuits that will emerge against their decisions, no matter how they rule.

In addition to its overreach, SB 2307 infringes on our First Amendment freedoms when it....

- seeks to make materials that are legal and protected in other states inaccessible in ND
- relies on a statewide test ("contemporary ND standards") rather than the local "community standards" established by the Miller Test for obscenity
- restricts adult materials based on inappropriateness for children
- ignores the fact that an item inappropriate for a ten year-old may be perfect for a seventeen year-old
- doesn't adequately define standards for restricting materials
- inappropriately delegates government authority to a "diverse" committee
- doesn't allow persons of all viewpoints to appeal decisions of the "diverse" committee (lack of due process for those who want to keep items unrestricted)

- imposes the values of some parents upon others who may want something different for their children
- misuses the legal concept of obscenity when it is more accurate to say that some people strongly disagree with the viewpoints expressed in certain materials
- restricts the First Amendment rights of minors
- disproportionately impacts materials from LGBTQ+ and minority authors, meaning that the results of this bill will not be viewpoint neutral
- sets the precedent that public libraries can be used to promote the values of those in power while restricting the ideas of those not in power.

I have on my desk a book entitled *American Album*, published by the well-known magazine *American Heritage*. The book was purchased for Alfred Dickey Public Library in 1968. It's a book of historic American photographs from 1839 to approximately 1910. Among its many pictures, it contains a spread of three semi-nudes showing breasts and backside, with the pubic area partially covered by some gauzy material.

The book was used and mended extensively and finally removed from our collection at an unknown date. To the best of my knowledge, it was never challenged in Jamestown.


SB 2307 explicitly places public libraries and public school libraries under ND obscenity standards, prohibiting "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..."

Would *American Album* be a violation of SB 2307? Would these historic, semi-nude pictures be appropriate for a 7 year old? What about a 13 year old? How about a 17½ year old? Reasonable people will differ on these questions.

Some folks will consider these pictures pornographic. That's their right. However, most people will say, "This is just a book about the history of American photography." That's exactly what people must have thought in 1968 when the library purchased this book. No one leveraged obscenity laws against librarians in 1968, so why are we going there now? Let's leave it up to parents to supervise their children in our libraries.

Librarians have been dealing responsibly with concerns about materials in public spaces for many, many years. SB 2307 is an unnecessary government overreach promoting the values of some, but not all, North Dakotans while limiting free speech. Please allow librarians to continue making careful decisions based on our unique knowledge of patron needs in our communities.

Sincerely,



Joseph Rector
Jamestown