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February 23, 2023

South Dakota Senator Kyle Schoenfish, Chair  
District 19

Dear, Sen. Schoenfish,

I understand the South Dakota Senate Education Committee will review HB 1116 — An Act to prohibit the use of state resources in hosting lewd or lascivious content. As a South Dakotan, an artist, and an arts advocate, I am concerned about the possible overreach of such legislation. I urge you to consider the long-term, unintended consequences carefully.

Having several conversations with the prime sponsor, Rep. Karr, I fully realize his intentions are not directed at limiting freedom of artistic expression. I know Chris, and I know he appreciates the arts in South Dakota. But, unfortunately, once law, defining "lewd or lascivious content" may be taken beyond Rep. Karr's intentions.

Specific language in the law, such as "nude or semi-nude adults" and "adults who remove clothing for the entertainment of one or more individuals," can easily overreach censoring accepted artistic expression, such as SDSU presenting the Broadway musical Chicago. In fact, this happened in April of 2019 as an opening show for the new theater in the Oscar Larson Performing Arts Center. I was there and played trumpet in the pit orchestra for the Official Broadway Tour of Chicago the Musical. Indeed that show features "semi-nude adults" and "adults who remove clothing for entertainment," yet it has won six Tony Awards and toured the world for 26 years. Would such a show be prohibited from playing at the Oscar Larson Performing Arts Center?

Ultimately, we already have US Federal laws that regulate and clearly define "obscenity." Should anybody, including those connected with a South Dakota state agency or institution under the control of a state agency, develop, implement, facilitate, host, promote or fund "obscene" content are subject to prosecution and penalties? Why do we need additional legislation in South Dakota?

Please consider whether South Dakota needs additional laws over-governing already accepted norms. And if we pass HB 1116, at what point will the unintended consequences limit South Dakotans' freedom of expression?

Best Regards,



Jim Speirs

Executive Director

