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Dear Senator,

I understand HB 1116 may be “smoked out” today after being killed in the Senate Education Committee yesterday. This is concerning. The Senate Education Committee was fully present and appropriate time and attention was given to both proponents and opponents. The committee’s decision was clear and well informed. 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 and honor the committee’s decision to send HB 1116 to the 41st day.

Having several conversations with the prime sponsor, I fully realize his intentions are not directed at limiting freedom of artistic expression. But, unfortunately the legislation clearly opens the door to such unintended consequences and, once law, defining “lewd or lascivious content” may be taken beyond the sponsor’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. There are some who may find this production “prurient” or “lewd and lascivious.” Obviously Chicago the Musical is widely considered serious and accepted artistic expression, but would HB 1116 stifle world-class entertainment from playing at the Oscar Larson Performing Arts Center due to ambiguity in this legislation and the fear it generates?

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? Honor the Senate Education Committee’s decision. Trust your own process.

Best Regards,

Jim Speirs  
Executive Director

