



*End discrimination based on
sexual orientation and
gender identity*

Opposition Statement of Thomas Witt

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HB 2662 – Elimination of affirmative defense; Refusal to teach based on religious objection

House Committee on K-12 Budget

Feb 16, 2022

Greetings Chairwoman Williams and members of the committee –

Equality Kansas is the leading LGBTQ advocacy organization in our state. We have had a full time presence in the statehouse since 2006, and in that time two of our main priorities have been school bullying prevention and the inclusion of sexual orientation and gender identity in school non discrimination, harassment, and bullying prevention policies.

We are appearing today in opposition to two sections of HB 2662 – Section 4, which removes the affirmative defense for teachers presenting curriculum-approved materials, and Section 5, which permits teachers to claim a religious exemption to teaching course materials they were employed to teach.

Section 4 is not new in this building. The goal of this section is to remove the “affirmative defense” teachers are entitled to when teaching controversial materials as part of an approved curriculum. In 2016, I testified in opposition to SB 56, a bill nearly identical to HB 2662’s Section 4. In my opposition testimony that year, I asked the committee a simple question: Which of the books on the American Library Association’s list of banned books, many approved and required by districts for use in classrooms, could my English-teacher husband teach without going to prison? My husband is now retired, but that question remains, and is increasingly relevant to Equality Kansas, as many of the recent book-bans have focused on LGBT-themed materials.

Fortunately, that 2016 hearing was the end of the discussion about jailing teachers for using approved materials in the classroom.

Unfortunately, like so many other truly wretched ideas in this building, it’s back.

Many of you on this committee are or have been public school teachers. Imagine, if you will, that you are working as a substitute teacher. Your classroom placement for the day is to sub for a sophomore Honors English teacher. You follow the lesson plan – part of the school’s approved curriculum - left by the regular teacher. Following that approved plan, you assign Chapter 1 from the oft-banned “Catcher in the Rye,” and distribute the books to the students. That afternoon, you are arrested for providing obscene materials to a minor.

That’s what’s in front of you today: A bill to criminalize teaching in this state. It was a bad idea in 2016, and it remains a bad idea today. If this bill advances anywhere, it needs to advance without Section 4.

Speaking of bad ideas, in the 2014 session a bill was introduced that would have granted a religious exemption to employees of private companies who refused to serve customers and clients based on their “relationship status.” HB 2453 was part of the then-ongoing debate over whether same-sex relationships were legally recognized, and was targeted at same-sex couples, married and unmarried. Had HB 2453 become law, employees could have refused to serve customers despite their employers’ policies, and been immune from any disciplinary action whatsoever.

Section 5 of today’s bill is much the same, but for teachers: They would be able to claim a religious exemption to doing their job. It’s easy to predict science teachers refusing to teach science, or history teachers refusing to teach history. And, of great concern to Equality Kansas, are teachers and other school employees refusing to address students by their preferred name or pronouns, and refusing despite school district policy, the wishes of the student, or the wishes of the student’s parents. Like 2014’s monstrosity, school employees could refuse to recognize legal marriages of students’ parents – much in the way some private schools in Kansas punish students who have LGBT family members.

Like 2014’s truly horrible plan to exempt people from doing the jobs they were hired to do, 2022’s repeat performance should meet the same fate: Section 5 of this bill should not advance in any form out of this committee.

Thank you for your time, attention, and your service to our state and nation. I am happy to stand for questions at the appropriate time.

Attached: American Library Association’s top banned books, 2001 through 2020

American Library Association's "Top Banned Books" 2001-2020

1984	George Orwell
A Bad Boy Can Be Good For A Girl	Tanya Lee Stone
A Brave New World	Aldous Huxley
A Child Called "It"	Dave Pelzer
A Clockwork Orange	Anthony Burgess
A Day in the Life of Marlon Bundo	Jill Twiss
A Day No Pigs Would Die	Robert Newton Peck
A Prayer for Owen Meany	John Irving
A Time to Kill	John Grisham
A Wrinkle in Time	Madeline L'Engle
Alice McKinley (series)	Phyllis Reynolds Naylor
Alice series	Phyllis Reynolds Naylor
Almost Perfect	Brian Katcher
Always Running	Luis Rodriguez
America	E.R. Frank
Anastasia (series)	Lois Lowry
And Tango Makes Three	Justin Richardson and Peter Parnell
Angus, Thongs, and Full Frontal Snogging	Louise Rennison
Anne Frank: Diary of a Young Girl	Anne Frank
Are You There, God? It's Me, Margaret	Judy Blume
Arming America	Michael Bellasiles
Athletic Shorts	Chris Crutcher
Awakening	Kate Chopin
Bad Kitty (series)	Nick Bruel
Beloved	Toni Morrison
Beyond Magenta: Transgender Teens Speak Out	Susan Kuklin
Black Boy	Richard Wright
Bless Me, Ultima	Rudolfo Anaya
Blood and Chocolate	Annette Curtis Klause
Blubber	Judy Blume
Bone (series)	Jeff Smith
Brave New World	Aldous Huxley
Bridge To Terabithia	Katherine Paterson
Bumps in the Night	Harry Allard
Burned	Ellen Hopkins
Captain Underpants (series)	Dav Pilkey
Catcher in the Rye	J.D. Salinger
Crank	Ellen Hopkins
Crazy	Benjamin Lebert
Crazy Lady	Jane Leslie Conly
Cut	Patricia McCormick
Daughters of Eve	Lois Duncan
Deal With It!	Esther Drill
Detour for Emmy	Marilyn Reynolds
Drama	Raina Telgemeier
Draw Me a Star	Eric Carle

Dreaming In Cuban	Cristina Garcia
Eleanor & Park	Rainbow Rowell
Ender's Game	Orson Scott Card
Extremely Loud & Incredibly Close	Jonathan Safran Foer
Fade	Lisa McMann
Fahrenheit 451	Ray Bradbury
Fallen Angels	Walter Dean Myers
Fat Kid Rules the World	K.L. Going
Feed	M.T. Anderson
Fifty Shades of Grey	EL James
Forever	Judy Blume
Friday Night Lights	H.G. Bissenger
Fun Home: A Family Tragicomic	Alison Bechdel
George	Alex Gino
Glass	Ellen Hopkins
Go Ask Alice	Anonymous
Go the Fuck to Sleep	Adam Mansbach
Goosebumps (series)	R.L. Stine
Gossip Girl (series)	Cecily von Ziegesar
Grendel	John Gardner
Habibi	Craig Thompson
Harris and Me	Gary Paulsen
Harry Potter (series)	J.K. Rowling
Heather Has Two Mommies	Lesle'a Newman
His Dark Materials (series)	Philip Pullman
House of Night (series)	P.C. Cast
House of the Spirits	Isabel Allende
Hunger Games	Suzanne Collins
I Am Jazz	Jazz Jennings and Jessica Herthel
I Know Why the Caged Bird Sings	Maya Angelou
I Saw Esau	Iona Opte
In Our Mothers' House	Patricia Polacco
In the Night Kitchen	Maurice Sendak
Internet Girls (series)	Lauren Myracle
It's Perfectly Normal	Robie Harris
It's So Amazing	Robie Harris
It's a Book	Lane Smith
It's Perfectly Normal	Robie H Harris
Jacob's New Dress	Sarah Hoffman
Julie of the Wolves	Jean Craighead George
Junie B Jones (series)	Barbara Park
Kaffir Boy	Mark Mathabane
Killing Mr Griffen	Lois Duncan
King and King	Linda de Haan
Life is Funny	E.R. Frank
Lolita	Vladimir Nabokov
Looking for Alaska	John Green
Lush	Natasha Friend

Madeline and the Gypsies	Ludwig Bemelmans
Mick Harte Was Here	Barbara Park
Monster	Walter Dean Myers
My Brother Sam Is Dead	James Lincoln Collier
My Mom's Having A Baby	Dori Hillestad Butler
My Princess Boy	Cheryl Kilodavis
Nasreen's Secret School	Jeanette Winter
Neonomicon	Alan Moore
Nickel and Dimed	Barbara Ehrenreich
Nineteen Minutes	Jodi Picoult
Of Mice and Men	John Steinbeck
Olive's Ocean	Kevin Henkes
One Flew Over the Cuckoo's Nest	Ken Kesey
Persepolis	Marjane Satrapi
Prince and Knight	Daniel Haack
Rainbow Boys	Alex Sanchez
Revolutionary Voices: A Multicultural Queer Youth Anthology	Amy Sonnie
Roll of Thunder, Hear My Cry	Mildred Taylor
Saga	Brian K. Vaughan
Scary Stories (series)	Alvin Schwartz
Sex is a Funny Word	Cory Silverberg
Shade's Children	Garth Nix
Skippyjon Jones (series)	Judith Schachner
Slaughterhouse-Five	Kurt Vonnegut
Snow Falling on Cedars	David Guterson
So Far from the Bamboo Grove	Yoko Kawashima Watkins
Song of Solomon	Toni Morrison
Speak	Laurie Halse Anderson
Staying Fat for Sarah Byrnes	Chris Crutcher
Stuck in the Middle	Ariel Schrag
Summer of My German Soldier	Bette Green
The Absolutely True Diary of a Part-Time Indian	Sherman Alexie
The Adventures of Huckleberry Finn	Mark Twain
The Adventures of Super Diaper Baby	Dav Pilkey
The Bluest Eye	Toni Morrison
The Boy Who Lost His Face	Louis Sachar
The Catcher in the Rye	JD Salinger
The Chocolate War	Robert Cormier
The Color of Earth (series)	Tong-hwa Kim
The Color Purple	Alice Walker
The Curious Incident of the Dog in the Night-Time	Mark Haddon
The Dirty Cowboy	Amy Timberlake
The Earth, My Butt, and Other Big, Round Things	Carolyn Mackler
The Face on the Milk Carton	Caroline B. Cooney
The Facts Speak for Themselves	Brock Cole
The Family Book	Todd Parr
The Fighting Ground	Avi
The Giver	Lois Lowry

The Glass Castle	Jeannette Walls
The Great Gilly Hopkins	Katherine Paterson
The Handmaid's Tale	Margaret Atwood
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The Hate U Give	Angie Thomas
The Holy Bible	
The House of the Spirits	Isabel Allende
The Joy of Gay Sex	Dr Charles Silverstein
The Kingdom of Little Wounds	Susann Cokal
The Kite Runner	Khaled Hosseini
The Librarian of Basra	Jeanette Winter
The Lovely Bones	Alice Sebold
The Perks of Being a Wallflower	Stephen Chbosky
The Stupids (series)	Harry Allard
The Terrorist	Caroline B. Cooney
The Things They Carried	Tim O'Brien
The Upstairs Room	Johanna Reiss
The Walking Dead (series)	Robert Kirkman
Thirteen Reasons Why	Jay Asher
This Book is Gay	Juno Dawson
This Day in June	Gayle E Pitman
This One Summer	Mariko Tamaki
Tiger Eyes	Judy Blume
To Kill a Mockingbird	Harper Lee
Tricks	Ellen Hopkins
ttyl; ttfn; l8r g8r (series)	Lauren Myracle
Two Boys Kissing	David Levithan
Uncle Bobby's Wedding	Sarah S Brannen
We All Fall Down	Robert Cormier
Whale Talk	Chris Crutcher
What My Mother Doesn't Know	Sonya Sones
What's Happening to My Body Book	Lynda Madaras
When Dad Killed Mom	Julius Lester
Year of Wonders	Geraldine Brooks
You Hear Me?	Betsy Franco