September 24, 2025

The Honorable Andrew Zwicker
2 Clerico Lane, Building 1
Hillsborough, NJ 08844

Dear Senator Zwicker:

The undersigned organizations represent a broad cross-section of the creative industries, including authors, publishers, bookstores, motion pictures, music, newspapers, and software. We are writing to express our strong opposition to SB 4520, which would unconstitutionally regulate literary works by dictating licensing terms from copyright owners to libraries for ebook and other formats.

This legislation will harm individual authors and artists, undermine creative industries, drastically reduce the value of creative works to the economy, and—as a federal court has already found—represents an impermissible state intrusion into an exclusively federal body of law. In threatening both the integrity and efficacy of the U.S. Copyright Act, SB 4520 also threatens the creators and creative industries that depend on a uniform law and would undercut the Nation's critically important protections of intellectual property. In short, it is of grave concern to all of us and the members we represent.

<u>SB 4520 Will Harm the Creative Industries and New Jersey's Economy</u>

Copyright industries create high-paying jobs and employ millions of people, and the copyright economy consistently grows at a faster rate than the overall U.S. economy. More than eleven million people are directly employed by core copyright industries—including books, motion pictures, music, software, newspapers, and magazines—and these industries add more than $2 trillion in annual value to U.S. GDP and create numerous jobs for distribution partners in New Jersey. That economic growth is the direct result of a uniform federal system of rights and responsibilities and the innovation it spurs.

This bill will harm both creativity and competition. By regulating when and how authors make their works available, this legislation will artificially devalue competitive markets, not only undercutting the royalties that would otherwise be earned by authors, but also exacerbating an already difficult economic environment. In addition, this legislation would distort, if not cannibalize, the commercial markets that local bookstores rely on, thereby threatening family-sustaining jobs that these institutions provide in their communities. SB 4520 would threaten the very foundation that has governed the disposition of copyrighted works to great success, a foundation upon which both libraries and the economy depend.

We understand and appreciate the value and critical importance of our public libraries. Book publishers of all sizes already make their full digital catalogs available for library lending, and as a result, digital library lending is booming at unprecedented levels, with a dizzying *739 million* checkouts last year, an increase of 17% over the previous year. Indeed, despite arguments to the contrary, there is no market failure that would justify the systemic regulation that this bill would establish, even if New Jersey was not federally preempted from enacting legislation of this nature. Rather, literary works of all kinds, motion pictures, music and software are more broadly accessible than they have been at any time in our history.

We appreciate that public libraries will naturally aspire to serve as many patrons as possible with as many creative works as possible. However, this should not be done at the expense of creators whose very livelihoods depend on their ability to control and enforce the use and monetization of their works in accordance with the Copyright Act, including vigorously pursuing their respective marketplace opportunities. While there may be legitimate reasons to examine other ways to support and strengthen public libraries, SB 4520 is harmful and unnecessary. The unprecedented number of digital check outs confirms the premise that there is no shortage of support for libraries from publishers.

SB 4520 Is Unambiguously Unconstitutional

Both state governments and courts have rejected the bill's approach as an illegal and unwise attempt to regulate intellectual property. In December of 2021, New York Governor Kathy Hochul vetoed almost identical legislation in concluding that "**copyright protection provides the author of a work with the exclusive right to their works. As such, federal law would allow the author, and only the author, to determine to whom they wish to share their work and on what terms. Because the provisions of this bill are preempted by federal copyright law, I cannot support this bill**."[1]

The federal courts agreed. In 2022, a federal district court swiftly struck down a similar bill enacted in Maryland, finding it "**unconstitutional and unenforceable because it conflicts with and is preempted by the Copyright Act**." It held that the now-overturned Maryland law "**stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress**."[2] Maryland declined to appeal from this well-reasoned decision.

SB 4520 Would Decrease Public Access to Books and Other Copyrighted Works

As organizations who represent authors, artists, creators, and other copyright holders, we are committed to ensuring broad access to copyrighted works by bringing those creative works to market, and it is the copyright law that makes that possible. Across the creative industries, robust federal copyright protection has been the bedrock upon which flexible business models have been built, giving consumers more choices than ever before about how, when and where they view the content they love. By regulating the license terms of copyrighted

[1] "Hochul Vetoes New York's Library E-book Bill," Publishers Weekly (Dec. 30, 2021), https://www.publishersweekly.com/pw/by-topic/digital/copyright/article/88205-hochul-vetoes-new-york-s-library-e-book-bill.html.

[2] Ass'n of Am. Publishers, Inc. v. Frosh, No. DLB-21-3133, 2022 U.S. Dist. LEXIS 105406 (D. Md. June 13, 2022).

works, SB 4520 would put a chilling effect on these vital freedoms. The legislation encroaches upon these freedoms not only by regulating a certain manner of commercial dealing under penalty of law but by regulating when and how authors ought to make their works available.

In closing, we are happy to support public libraries in ways that do not violate federal law or undermine authors, publishers, and other copyright holders. But we must vigorously oppose legislation that will hurt small businesses, including bookstores, authors, and other creators and that violates the federal copyright framework, endangering our ability to bring books and other copyrighted works to the public marketplace.

For all of these reasons, we respectfully oppose SB 4520.

Sincerely,

Association of American Publishers
American Booksellers Association
American Society of Composers, Authors & Publishers
Broadcast Music Inc
CreativeFuture
Entertainment Software Association
Independent Film & Television Alliance
Music Workers Alliance
National Press Photographers Association
New York News Publishers Association
Recording Industry Association of America
Software & Information Industry Association
The Authors Guild
American Association of Independent Music
American Society of Media Photographers
Copyright Alliance
Digital Media Licensing Association
Independent Book Publishers Association
Motion Picture Association
National Music Publishers' Association
New Jersey Press Association
News Media Alliance
Screen Actors Guild – American Federation of Television and Radio Artists