



**TESTIMONY ON SB 2360  
SENATE JUDICIAL COMMITTEE  
February 14, 2023  
By: Mary J. Soucie, State Librarian  
North Dakota State Library**

---

Chairman Larson and members of the Senate Judicial committee,

For the record, I am State Library Mary Soucie, and I am providing information on SB2360. The State Library coordinates purchases of Online Library Resources (OLRs) or databases for libraries across the state through two methods. We purchase OLRs in a partnership with Minnesota and South Dakota to realize economies of scale. Libraries that participate in this purchase pay a small fee. The formula is based as follows: public libraries pay based on the per capita of their service area; school libraries pay based on the number of students in grades 9-12, elementary and middle schools that feed into a participating high school get access at no additional charge; and academic libraries pay based on the number of FTE's. There are also some OLR's that NDSL purchases that can be accessed by anyone with an NDSL card or a North Dakota public library card with no cost to the local libraries.

The Children's Internet Protection Act (CIPA) was enacted by Congress in 2000 to address concerns about children's access to obscene or harmful content over the Internet. CIPA imposes certain requirements on schools or libraries that receive discounts for Internet access or internal connections through the E-rate program – a program that makes certain communications services and products more affordable for eligible schools and libraries. There are 48 of 83 public libraries that are on Stagenet and those libraries are filtered by NDIT. A total of 64 public libraries utilize filtering software on their public computers and 2 public libraries do not provide internet access at all. Any library that applies for e-rate are mandated to be compliant with the Children's Internet Protection Act (CIPA) which requires libraries to block or filter any internet access certain depicted images for minors and adults. Minors are defined as anyone under the age of 17. CIPA requires the ability to disable filters for adults when requested for bona fide research or other lawful purposes.

Online library resources meet the informational and lifelong learning needs of library users. Our OLRs include general research, self-paced learning courses, foreign language, health, genealogy and books, magazines and newspapers. It is important for libraries to provide access to these resources for people that cannot afford to pay for access to commercial products; for students to complete homework and to support workforce development for job seekers. Access to these resources helps to eliminate the digital divide.

The Miller Test is the primary legal test for determining whether expression constitutes obscenity. It is named after the U.S. Supreme Court's decision in Miller v. California (1973). The Miller test is a three-prong test.

- (1) whether the average person applying contemporary community standards would find the work, taken as a whole, appeals to the prurient interest;
- (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- (3) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Chairman Larson and members of the committee this concludes my testimony, and I am happy to answer any questions.