

March 13, 2023

To: Chairman Klemin, and Members of the House Judiciary Committee,

My name is Mariah Ralston Deragon and I oppose Senate Bill 2360.

I am a fourth generation North Dakotan, which for the tribal nations of our state, means my family is still new to this area. Nonetheless, I feel a strong connection to the cultural, geographic, and social landscape of North Dakota.

My father, Tim Ralston, was a North Dakotan poet. I myself am a librarian.

I'm also an ally to LGBTQIA+ individuals. That stands for Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual, and + holds space for other identities not included in that acronym, such as Two Spirit, which is an identity particular to certain Indigenous nations.

I support sex education. To be clear, books about sex education are not obscene, they are not the same as pornography. According to the Guttmacher Institute, which is a leading research and policy organization committed to advancing sexual and reproductive health worldwide,

“All young people should have access to comprehensive sexual and reproductive health information that is medically accurate, LGBTQ inclusive, and culturally and age appropriate so that they can make informed decisions about their sexual behavior, relationships and reproductive choices. Sex is already part of [many adolescents' lives](#), and they deserve to receive high-quality information to inform their decision-making. Unfortunately, just [30 states and the District of Columbia](#) require sex education to be taught in schools, and fewer states require that the school curricula include key sex education topics or even medically accurate information.”
(<https://www.guttmacher.org/fact-sheet/sex-education>)

For the proponents of this bill who think that librarians in this state are out of touch with North Dakota values, I truly ask you consider this in good faith...Maybe it is North Dakota falling short on the values whereby we support ALL of our citizens, regardless of creed, race, sex, gender, or sexual orientation?

I would also like to add...Each time I've come to the Capitol to testify this session, on either HB 1205 or SB2360, the bills have been amended drastically. It makes it rather difficult to provide testimony addressing the specificity of the changes. I think that in itself demonstrates the fact that these bills are not conceptually sound. This is evidenced by the constant substantial edits being done to the major tenets of the bills.

Regardless of the specific language used in this amended bill, it continues to be at its core, unconstitutional.

The following points are paraphrased from a letter I co-wrote with a group of individuals called the 701 Library Advocacy Taskforce, an ad hoc North Dakota public library advocacy group composed of librarians, public library stakeholders, library patrons, and ordinary citizens. We have serious questions about the fiscal and social consequences of HB1205 and SB2360.

We firmly believe there are undisclosed costs amounting to unfunded mandates for counties and municipalities, small businesses and entrepreneurs, that would create an overreach of government into the personal affairs of North Dakotans.

In addition to being unconstitutional, SB2360 in particular puts an unsustainable financial burden on counties, cities, libraries and staff to re-review the entirety of their collections, a monumental task that will take years, if it ever can be accomplished on top of adding new materials... in addition to an unfunded and significant increase in payroll. Who is paying for that? And what are libraries supposed to do with the now “obscene” materials that they cannot sell or give away?

If the police will be tasked with enforcing this new statute, will they get paid for that? Will prosecutors, public defenders, sheriff departments, jailers, and probation officers be compensated? Given that the behavior outlined in the bills will be clearly criminal, will police departments have to arrest staff for violation of the statute, or will they only issue citations with penalties? Will municipalities and county attorneys be required to try persons arrested or cited for violation of these new acts? How exactly would arrested and convicted library workers be charged and prosecuted? Who exactly in the organizations would be charged? Library directors who have overall managerial responsibility, or the front desk library workers? Or the library board of directors? This even brings up the possibility of a “banned book registry,” and who will be in charge of that... Who will inspect the libraries to make sure the titles are removed? Will the Attorney General or the Commissioner of Public Safety have to hire staff to enforce this law?

Has the ND Division of Insurance and/or the insurance industry been advised or invited to take a position on these bills, especially since effectively every public board of directors, staff members, school district librarians, teachers, school board members, and state regulatory bodies, and private business selling books, magazines, electronic media, even games and music, could be subject to the bills’ broad provisions, and would likely need some kind of indemnification insurance for criminal acts that come with the ordinary discharge of their duties.

As noted above, are there other fiscal considerations extending to municipal and county governments? What may happen with cities’ municipal bond ratings if libraries are forced to close or significantly reduce services?

At the time I am submitting this testimony and to my current knowledge, the fiscal implications of these bills have not been assessed by the Appropriations Committees in either Chamber, and there are no Fiscal Notes identifying impacts on State agencies’ and/or local governments’ delivery of services and the discharge of their duties. What is this bill going to cost all of us?

There are clearly serious and long term negative fiscal AND financial considerations affecting the rights and prerogatives of every North Dakota citizen embedded in this bill.

In closing, I support the freedom to read, the freedom for parents and individuals to have open access to the constitutionally protected materials, which they are afforded rights to under the First Amendment. I ask you to VOTE NO on SB2360.

Sincerely,
Mariah Ralston Deragon