Testimony in opposition to SB 2199
Senate Judiciary Committee
Christina Sambor, North Dakota Human Rights Coalition
January 18, 2023

Chairwoman Larson and Members of the Committee:

I come before you today on behalf of the North Dakota Human Rights Coalition to oppose SB 2199. First and foremost, trans and non-binary people exist, are precious, and deserve human rights. SB 2199 seeks to deny these basic truths. It is an unenforceable and indefensible law. In essence, the bill requires an imprecise and indiscernible group of people and entities to engage in unclear conduct based on unknowable characteristics. If these people fail to engage in the proscribed conduct, they are to face a financial penalty that is not clearly civil or criminal in nature, is not clearly part of any civil or criminal agency's jurisdiction, and not clearly payable to anyone. Respectfully, I see no way that this law would pass any sort of legal challenge based on basic legal construction principles. It is vague, fails to advance any legitimate state interest, and not only would cause impermissible gender-based discrimination, its very purpose is gender-based discrimination.

When preparing my testimony on the bill, I struggled to put together a coherent response. Once you spend any time trying to conceptualize what the bill is actually doing, you must engage in mental gymnastics to understand how it would even work. Some examples to illustrate my point – 1) a person with the name of "Chris" writes a letter to a school board. The school responds in writing. How does the school board determine the person's gender to ensure it is complying with this bill? 2) That same person shows up at a school board meeting, doesn't have hair or breasts due to cancer treatment. They are dressed in loose clothing, and are not wearing makeup. Again – how does the school board determine their biological sex so as to "properly" refer to this person? 3)

The child on whose behalf they are advocating is pre-pubescent and named Morgan. They attend the meeting and are dressed in a green shirt with mid length hair. How does the school board determine that individual's sex to as to comply with this law? The screamingly obvious question from these examples presents itself – why on earth would their sex matter in these scenarios? What legitimate interest does North Dakota have in knowing everyone's biological sex? Furthermore, how many times a day, in what number of communities across the state are people who work for entities that receive state funding interacting with individuals in ways that would require them to comply with this proposed statute? What kind of relationships and community dynamics would this policy create?

It may sound hyperbolic, but the only way this law would be enforceable is the require every person in North Dakota, not just citizens but all people physically present in the state, to wear some sort of external indicator of their "biological sex." We need not delve too far into history to see that when we have toyed with or implemented policies that reduce people down to a single physical or racial characteristic and require certain treatment of those people based on that characteristic - which is objectionable in the eyes of a socially dominant group - the result is a tragic and shameful chapter in human history.

Getting down to the heart of the matter, this committee must stop in its tracks bills such as this one. I could give reasons and examples to you for hours about why this bill as drafted is not an enforceable or constitutional law. Bills can sometimes be amended to cure those deficiencies. This bill must be killed because its very goal and intent is impermissible and cruel discrimination without any legitimate goal. That cannot be cured through wordsmithing and amendments.

This bill is aimed at very real and very wonderful human beings in our state who deserve to live their lives without their gender and their identity being questioned and then disregarded.

The North Dakota Human Rights Coalition joins in and lifts up the many testimonies given today that illustrate in painful detail the harm caused to trans and non-binary people by efforts such as this bill. Send a message **today**. Kill this bill and let all North Dakotans know that our State does not stand for dehumanizing our fellow citizens. Send a message that this committee will not recommend legislation that targets trans and non-binary individuals by telling them it is against the law to recognize them. What can be more cruel than to tell another human being they do not exist?