

RE: SB 2385

TO: Chairman Larson and Senators of the Judiciary,

FROM: Rozanna Larson, Ward County State's Attorney

This is to express my opposition to SB 2385. The bill will devastate law enforcement and the ability to seize evidence of crimes and contraband. Search and seizure by law enforcement is already extensively governed by the constitution, State law, case precedent and Rules of Criminal Procedure. Requiring due process prior to the seizure will give the defendants the opportunity to remove or destroy contraband, such as, but not limited to: illegal drugs, child pornography, and evidence to support the sale of contraband. There are already a plethora of statutes addressing the Search and Seizure of property from suspects/defendants. NDCC 29-29.1-29-29.1-06 for criminal law; ND R.Crim.P. Rule 41.

Seizure of property by law enforcement also includes asset forfeiture, fruits of the crime. Last session legislature extensively revamped the asset forfeiture procedures providing protection for innocent owners and adding protections against over-zealous "seizures for profit." See NDCC 19-03.1-36 through 19-03.1-38

Other areas of law that allow for search and seizure are within the administrative code and procedures, game and fish statutes, jail and regional policies and administration, and food and drug, just to name a few. (See index of NDCC "Search and Seizure").

My other concern with this bill is the effect it will have on the political subdivisions' ability to exercise their eminent domain powers and its ability to exercise its right to tax foreclosure. These provisions are provided for by State law. Persons affected by eminent domain and tax foreclosure are provided the opportunity to due process after the political entity has exercised its authority and provided notice. See NDCC 32-15-01 to 32-15-35

Tax foreclosure includes both real and personal property. Mobile homes are considered personal property. Tax foreclosure occurs after there has been three years of delinquent taxes. The owner is provided notice and has the opportunity to redeem. See NDCC 32-31-01 to 32-31-07.