

Senate Education Committee

Testimony of Travis R Zabloutney SB 2351

February 11, 2025

Chairman Beard and members of the Education Committee:

I ask you to recommend a do pass on SB2351. I am Travis Zabloutney resident of Minot and farmer and a real property owner in the Minot area.

I am asking you to consider and pass changes to the North Dakota Century Code Section 15.1-12 related to the annexation of property to a school district. There are two very specific changes that I am proposing to this section of code and they involve the following:

In the original Bill 2351:

A requirement in Century Code relating to the requirement that notice of a hearing be given to all real property owners of property in a proposed school annexation.

In proposed amendments to 2351:

A requirement in Century Code that requires 2/3<sup>rd</sup>s of the owners of property involved in the annexation are required for the petition of annexation to be considered by the county school board committee and then subsequently by the state school board.

Notice included in the original 2351 bill:

My interest in this bill comes as I have for the first time had real property involved in a school annexation petition. It is also the first time that I have been involved in an annexation hearing conducted separately by both the Ward County Reorganization Committee the State Board of Public-School Education. On September 11<sup>th</sup> 2024 my wife Kerri and I were mailed and emailed a notice of hearing of a petition of annexation of property to a school district to be held on October 23<sup>rd</sup>, 2024. The notice included a description of how our tax obligations would change if the annexation petition was approved by the state school board. This notice was done out of courtesy by Jodi Johnson, Ward County Superintendent of Schools. Jodi testified in both the county committee hearing and the state school board hearing that notice is not required by law. Honestly if she would not have done that, I would have never known that the approximately roughly 128 acres that my wife and I own were under consideration to be annexed from the Surrey School District to the Nedrose School District. The only other notice was a small 1 column legal ad in the Minot Daily News that only included the legal description of the property under consideration. I do not however subscribe to the Minot Daily News. Even had I noticed the ad it would still not have recognizable as pertaining to me as the petition described the territory to be annexed as the following: Section 30: Prairie View Addition: Lot 1 of Surrey Township 156 North -81 West of Ward County, North Dakota and (my property) Section 30: East ½ of the Northwest ¼ and lots 1 and 2 less the Out Lot 15, 16, 17 in the Prairie View Addition of Surrey Township 155 North 81 of Ward County North Dakota. I do not know about you but I do not recognize many of the properties that I own by legal description. In addition, I would like to make note that under the current law, a renter of a house, apartment or any other living quarter can petition to have the property of the owner annexed into a different school district without the knowledge of the property owner and of course that creates all sorts of property rights concerns. I am requesting out of respect for property owners' that notification of a hearing of annexation to a school district be required by Century Code in subsection 1 of 15.1-12-05. The importance of notice will be supported by the reasons I propose in part two of the requested change in Century Code.

NOTE: There is precedence currently in NDCC for the requirement of notice to property owners when property rights are contemplated to be impacted. It is in NDCC 15.1-12 regarding the Annexation, Reorganization, and Dissolution of school districts, specifically 7.1 Subsection 2c regarding the voluntary transfer of property to a school district. It says "Give notice of public hearing regarding the proposed transfer of property to the affected property owners by registered mail



and publish notice of the public hearing in the official newspaper of the county in which the major portion of each affected school districts real property is situated, at least fourteen days before the date of the hearing.”

Additional Proposed Amendments to 2351 of NDCC 15.1-12 Version 1 and 2:

I am also requesting that you consider additional changes to NDCC as it relates to annexation petition rights and who specifically has those rights. The change that I would like to see is that owners of real property have rights to sign (or conversely not sign) the petition for annexation. This contrasts with the current language of qualified electors residing on property to be annexed only being eligible to sign the annexation petition.

There are several issues with allowing only qualified electors to sign an annexation petition in contrast to all real property owners owning contiguous property to the new school district. The issues can all be combined into one primary reason justifying the change to this section of Century Code

That reason, it is an egregious violation of the property rights to be enjoyed by all individuals in our state. These rights are enshrined and protected in our North Dakota Constitution Article 1 Declaration of Rights and specifically in Section 1, 9 and 16.

This is also in contrast to good law: We want good law in North Dakota:

NDCC 1-01-02. Origin of law – States:

Law is a rule of property and of conduct prescribed by the sovereign power.

What is the definition of the rule of property?

The rule of property is a set of rules and regulations that govern the ownership and transfer of property. These rules are part of property law, which is a broader area of law that governs how people interact with their possessions and those of others.

Explanation

Property law governs the use, transfer, and allocation of wealth and the objects of wealth.

Property law reflects the economy, family structure, and politics of a society.

Property law governs both real property (land) and personal property, including intellectual property.

Property can be exchanged through contract law.

If property is violated, one could sue under tort law to protect it. A tort is a civil wrong that causes harm to a person or their property.

Property owners are viewed as holding a “bundle of sticks,” each one representing a distinct type of right to their property.

The rule of law is a principle that states that all people, institutions, and entities are accountable to laws that are publicly promulgated, equally enforced, independently adjudicated, and consistent with international human rights principles.



If a property owner is not able to make the choice to sign or not sign a petition for school annexation the following are potential negative impacts to the “bundle of sticks” representing a distinct type of right to one’s property.

1. Loss of right to enjoy the benefits of the property that would include an unobstructed ability to attend the school district that was attached to the property when it was purchased. One of the main factors in purchasing a lot or property may specifically be the ability for children to attend a specific school.
2. The value of the property may be negatively impacted by the change of school district being proposed by an annexation petition. It is commonly known that there are many factors that make a school district more desirable than others: Quality of education, quality of facilities, amenities, available class opportunities and location just to name a few. School districts have a direct impact on property values. Highly desirable districts increase property value and desirability and conversely undesirable Consider it impacts the value of lots to be developed in the future and the value of all homes including rental properties.
3. The amount of tax levied varies by school district and could have a real impact on a property owners tax obligation.
4. Renters of real property under rental can petition for annexation to a new school district without the knowledge of the property owner and then all the forementioned property rights of the owner may be violated.
5. Real property rights are ceded to the State Board of Education when a property owner is not granted the right to sign or not sign an annexation petition. That property owner is then left only with the right to plead for their property rights during the annexation hearing with the state board.

There is precedence currently in NDCC for the involvement of property owners to be noticed and or sign a petition when property rights or contemplated to be impacted.

The first is in NDCC 15.1-12 regarding the Annexation, Reorganization, and Dissolution of school districts. 15.1-12-07.1 Subsection 2c regarding the voluntary transfer of property to a school district mentioned earlier.

Secondly in NDCC 40-22-08 regarding City Improvements by Special Assessment a city may declare the necessity of the improvements when “a petition signed by owners of a majority of the area of property included within the district has been received”. Further it states that if the governing body was solely responsible for the declaration of the necessity of improvements and there are protests then, “If protests received contain names of the owners of a majority of the area of property within the improvement district, the protest is a bar against proceeding further with the improvement project.” NDCC 40-22-18

In terms of property owner rights and there is a real similarity of issues when considering both a petition for annexation to a school district and a petition for or against a special assessment.

Please contact me for further questions or clarification.

I STRONGLY URGE A DO PASS ON SB2351

Respectfully,

Travis Zabloutney

Minot, ND

quadtracmagic@gmail.com

701-721-2188

25.1342.01001  
Title.

Sixty-ninth  
Legislative Assembly  
of North Dakota

Prepared by the Legislative Council  
staff for Senator Beard

January 24, 2025

**PROPOSED AMENDMENTS TO**

*PROPOSED  
VERSION 2*

**SENATE BILL NO. 2351**

Introduced by

Senator Beard

1 A BILL ~~for an Act to amend and reenact subsection 1 of section 15.1-12-05 of the North Dakota~~  
2 ~~Century Code, relating to providing notice to affected property owners of a petition for the~~  
3 ~~annexation of property to a school district.~~ for an act to amend and reenact sections 15.1-12-03  
4 and 15.1-12-05 of the North Dakota Century Code, relating to providing notice and petition rights  
5 to affected property owners of an annexation of property to a school district.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 ~~SECTION 1. AMENDMENT. Subsection 1 of section 15.1-12-05 of the North Dakota~~  
8 ~~Century Code is amended and reenacted as follows:~~

9 ~~1. Upon receiving a petition for the annexation of property to a school district, the county~~  
10 ~~superintendent shall schedule:~~

11 ~~a. Schedule and give notice of a public hearing regarding the annexation; and~~

12 ~~b. Provide by certified mail notice regarding the annexation to each owner of~~  
13 ~~real property affected by the petition.~~

14 **SECTION 1. AMENDMENT.** Section 15.1-12-03 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **15.1-12-03. Annexation of property to school district - Eligibility.**

17 Real property may be annexed to a school district provided:

18 1. The property to be annexed constitutes a single area that is contiguous to the school  
19 district;

20 2. The property to be annexed does not constitute an entire school district;



1 3. The annexation petition is signed by two-thirds of the ~~qualified electors residing on~~  
2 ~~the~~ owners of the parcels of real property to be annexed;

3 4. The annexation petition is filed with the county superintendent of schools whose  
4 jurisdiction includes the administrative headquarters of the district;

5 5. A public hearing is held by the county committee or the county committees, as  
6 required in section 15.1-12-05; and

7 6. The annexation petition is approved by the state board.

8 **SECTION 2. AMENDMENT.** Section 15.1-12-05 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **15.1-12-05. Annexation of property to school district - Hearing.**

11 1. Upon receiving a petition for the annexation of property to a school district, the county  
12 superintendent shall ~~schedule~~;

13 a. Schedule and give notice of a public hearing regarding the annexation; and

14 b. Provide by first class mail notice at least 21 days prior to the public hearing  
15 regarding the annexation to each owner of real property affected by the petition.

16 2. The county superintendent shall publish notice of the public hearing in the official  
17 newspaper of the county in which the major portion of each affected school district's  
18 real property is situated, at least fourteen days before the date of the hearing. If no  
19 newspaper is published in the county, the county superintendent shall publish the  
20 notice in a newspaper in an adjoining county in this state.

21 3. Before the hearing, the county committee shall:

22 a. Determine the number of ~~qualified electors residing~~ owners of the parcels of real  
23 property ~~on the property~~ to be annexed;

24 b. Ensure that two-thirds of ~~such qualified electors~~ the owners of the parcels of real  
25 property have signed the petition;

26 and

27 c. Ensure that all other statutory requirements regarding the petition have been met.

28 4. At the hearing, the county committee shall accept testimony and documentary  
29 evidence regarding:

30 a. The value and amount of property held by each affected school district;

31

- 1           b. The amount of all outstanding bonded and other indebtedness of each affected  
2           district;
- 3           c. The levies for bonded indebtedness to which the property will be subjected or  
4           from which the property will be exempted, as provided for in section 15.1-12-08;
- 5           d. The taxable valuation of each affected district and the taxable valuation under the  
6           proposed annexation;
- 7           e. The size, geographical features, and boundaries of each affected district;
- 8           f. The number of students enrolled in each affected district;
- 9           g. Each school in the district, including its name, location, condition, the grade  
10          levels it offers, and the distance that students living in the petitioned area would  
11          have to travel to attend school;
- 12          h. The location and condition of roads, highways, and natural barriers in each  
13          affected district;
- 14          i. Conditions affecting the welfare of students residing on the property to be  
15          annexed;
- 16          j. The boundaries of other governmental entities;
- 17          k. The educational needs of communities in each affected district;
- 18          l. Potential savings in school district transportation and administrative services;
- 19          m. The potential for a reduction in per student valuation disparity between the  
20          affected districts;
- 21          n. The potential to equalize or increase the educational opportunities for students in  
22          each affected district; and
- 23          o. All other relevant factors.
- 24      5. Following consideration of the testimony and documentary evidence presented at the  
25      hearing, the committee shall make specific findings of fact and approve or deny the  
26      annexation. If the annexation is approved, the county superintendent shall forward all  
27      minutes, records, documentary evidence, and other information regarding the  
28      proceeding and the county committee's decision to the state board for final approval of  
29      the annexation.
- 30      6. a. Except as provided in this subsection, the state board shall conduct a hearing  
31          after publication of a notice in the manner required in subsection 2, accept and



- 1 consider testimony and documentary evidence regarding the proposed  
2 annexation, make specific findings, and approve or deny the annexation.
- 3 b. If no opposition is presented to the county committee at the hearing and the  
4 county committee approves the annexation, the state board may review the  
5 record of the county committee and give final approval to the annexation without  
6 holding its own hearing.
- 7 7. If the school districts involved in a proposed annexation include property in more than  
8 one county, but the major portion of each district's property is in the same county, the  
9 county committee of that county shall consider the annexation petition.
- 10 8. If the school districts involved in a proposed annexation are situated in more than one  
11 county and the major portion of each district's property is not in the same county, the  
12 county committees of those counties encompassing the major portion of each school  
13 district shall jointly consider the annexation petition. The county committees shall vote  
14 separately on whether to approve the annexation.
- 15 9. If the state board denies the annexation, another petition involving any of the same  
16 property may not be submitted to the county committee for a period of three months  
17 after the state board's denial. A petition involving any of the same property cited in the  
18 original petition may not be considered by the state board more than twice in a  
19 twelve-month period.
- 20 10. Regardless of how many county committees consider the annexation, the decision  
21 may be appealed to the state board.
- 22 11. Each annexation must receive final approval from the state board.
- 23 12. The county superintendent with whom the petition has been filed shall forward all  
24 minutes, records, documentary evidence, and other information regarding the  
25 annexation, and the county committee's decision to the state board for final approval  
26 or for consideration of an appeal.
- 27 13. A decision of the state board with respect to an annexation petition may be appealed  
28 to the district court of the judicial district in which the property to be annexed is  
29 located.



Tyranny thru ignorance <quadtracmagic@gmail.com>

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## SB2351

1 message

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**Tyranny thru ignorance** <quadtracmagic@gmail.com>  
To: "Beard, Todd" <tbeard@ndlegis.gov>

Fri, Feb 7, 2025 at 11:02 AM

Todd,

Erika White is the SOS office just called me and her comments were this:

"HB2351 Will not affect the SOS Office in any way."

"The amendment (to include property owners in the petition for school annexation) doesn't affect elections only annexation. These are distinctly different."

In essence she told me the SOS office does not have any interest or concern in this bill.

Travis





Tyranny thru ignorance &lt;quadtracmagic@gmail.com&gt;

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**RE: SB2351**

1 message

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**Hicks, Allyson M.** <ahicks@nd.gov>  
To: Tyranny thru ignorance <quadtracmagic@gmail.com>

Mon, Feb 10, 2025 at 9:13 AM

Good morning,

I forwarded the amendments to my board and have not received any input. I do not have any additional questions besides those I relayed to you. Again, I don't take a position on policy, but rather just seek to ensure that the statute works in the context of 15.1-12 as a whole.

Thanks,

Allyson M. Hicks

Assistant Attorney General

General Counsel Division

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**From:** Tyranny thru ignorance <quadtracmagic@gmail.com>**Sent:** Friday, February 7, 2025 3:26 PM**To:** Hicks, Allyson M. <ahicks@nd.gov>**Subject:** Re: SB2351