

**2019 SENATE JUDICIARY**

**SB 2230**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2230  
1/21/2019  
#31084 (40:06)

☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Meghan Pegel
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## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24, and a new section to chapter 15.1-09 of the North Dakota Century Code, relating to criminal history background checks and prohibiting felons from attaining membership on a school board.

## Minutes:

5 Attachments
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**Chair Larson** opens the hearing on SB 2230.

**Nicole Poolman, District 7 Senator, testifies in favor of the bill (see attachment #1).**

### (3:17) Jim Silrum, Deputy Secretary of State

**Deputy Silrum:** 15.1-09-08 says that the deadline for filing for candidates is the 64<sup>th</sup> day before an election. When would this background check need to be done, prior to the filing or after?

**Senator Poolman:** It is certainly something we discussed and maybe it needs to be reflected in the bill. The intent is that they would have to have that prior to filing because they wouldn't be able to appear on the ballot if they didn't pass that background check.

### (4:38) Scott Davis, Executive Director of ND Indian Affairs Commission, testifies in favor (see attachment #2)

**Scott Davis:** I would say probably 99% of our school systems in the state are very effective with felonies not serving on school boards, but those who have felons on school boards, we are seeing day to day with phone calls and numerous emails the behavior of these felons and how they govern school systems. It is shocking and it irritates me.

Two sessions ago former Governor Dalrymple formulated a high property tax bill buy down with school funding to that package. In that bill there were formulations for school funding and what was not in that was formulation for schools like Turtle Mountain Community, where I'm an alma mater from. There's no mill levies or tax base there, but it's a public school. So we had to create a separate funding mechanism for that school and other tribal schools like Minot Air Force Base. When we did that, it came out to be a very fruitful budget for the school, and it seemed like a great win. Within that 4 years it's turned quite the opposite to

where I question financials. I'm thankful for the community up there; they launched their own audit by petition. These are the things we fight very hard during this time of year to make sure everybody has a chance to get a good education and have enough money to serve those kids that maybe have challenges at home. Sometimes schools are the safest place these kids know. We looked at every law and angle to see what else we can do. Thank god for the testimonies here today and the petition that has been going around for that forensic audit by statute. Again, focusing heavily on felony charges is what we're after today. Serving our most vulnerable populations in the state is what we do in North Dakota. We need to protect them, allow good education and jobs and be safe about it.

**Vice Chairman Dwyer:** Senator Poolman said we might want to narrow down the theft portion. The embezzlement section of the law has both felonies and misdemeanors in it. You'd want to narrow it down to say "the felony portion of the embezzlement section"?

**Director Davis:** Yes. We're not talking about misdemeanors and petty theft. We want to focus on the felony part of embezzlement.

**(13:48) Nathan Davis, Turtle Mountain Council Representative, testifies in favor (see attachment #3)**

**Nathan Davis:** We are having some serious issues with our current school board. Our school board should be held to a higher standard as elected officials. State and Local government are held to that same standard. The individuals that sit on the school board oversee our kids, our greatest resource. They are our future and without proper education that future goes right out the window. We have a letter of support submitted to the Governor's office with signatures from our chairman and all 8 council members in support of what's happening here today in regards to this bill and the audits and suspensions. Me speaking on behalf of this bill is not an attack on any person's past transgressions. It's just to uphold that higher standard.

**(15:35) Lana DeCoteau, Belcourt Superintendent, testifies in favor**

**Superintendent DeCoteau:** I'm probably the one who has made the most phone calls to Scott Davis' office about things going on in our district. These are our children, this our future. When I have a teacher I want to hire in a district, that teacher has to go through local, state and federal background. When our board members get elected, there's no background checks. I have 3 sitting board members who are felons, I did have 4, out of a 7-member board. Their decisions are not always in the best interest of our students. Their interests are for themselves and their friends; they manipulate the agendas to suit themselves and their friends. Several times I've been in the news because they threaten to suspend me because I don't listen to what they tell me that I should be doing. I'm a very ethical person, and they are not. I have a hard time being governed by someone who has spent time in prison, beaten people, abuse wives and ingest meth. As Nathan Davis said, our tribal council is in full support of this. They also have a resolution that states felons cannot sit on boards.

**Senator Myrdal:** To your knowledge, will the voters who voted these members in aware of these felony charges?

**Superintendent DeCoteau:** Yes, some of them. Our community is so poor. I'm saying this not out of knowledge but out of hearsay, that they may go up and tell you "I will give you \$10 and drive you to the polls if you vote for me". I'm assuming from what others have told me that this has happened.

**Senator Bakke:** It's possible to declare an emergency in this bill which means it goes into effect immediately rather than having to wait.

**Superintendent DeCoteau:** I would appreciate that very much.

**(19:57) Kirsten Baesler, Superintendent for NDDPI, testifies in favor**

**Superintendent Baesler:** At this point in time the budget for the 2017-19 biennium for school districts for my department was \$2.3B. The suggested appropriation for the Department of Public Instruction for this biennium is \$2.5B. The large majority of that \$2.3B is delivered directly to our school districts which is then governed by local school board leaders. In addition to being in the Bismarck school system for 24 years as a classroom teacher and as an administrator at a local elementary school, I served for 9 years on the Mandan public school board. You are all very familiar with the understanding that as a school board member you have 4 primary duties: hiring your superintendent, your business manager, setting the budget and approving the curriculum. When I first was on the board in Mandan in the early 2000s, the state covered approximately 40% of the cost to educate a student. My time when ended and took this role as the state superintendent, the state is covering approximately 80% of the cost to educate a student. A lot of state dollars that are directly delivered to our school districts through our office for this position is at the discretion of the local school board. One thing I've learned and has been reaffirmed and proven, there isn't a single case of a school district improving their students' achievement without good leadership. That leadership begins with the board. You can have a dynamite staff of teachers and a caring community, but there isn't a single case in the nation that has been able to raise their student achievement without good leadership.

**Chair Larson:** I was curious about a fiscal note. Background checks do cost money. Who pays for these?

**Superintendent Baesler:** That was a concern that I had as well and would ask the committee to further explore that. There are times where an employer will pay for the background check if it's a requirement for the job. The department stands ready to do whatever the committee determines is necessary for us to do to assist in carrying out your wishes. If the department would be responsible for the costs of that, I would ask that we would be provided some appropriation for that. However, it is not uncommon for that person who would like to be employed by a school district to pay for that background check themselves.

**Vice Chairman Dwyer:** Do the per pupil payments go directly to all the Native American schools just the same as other public schools?

**Superintendent Baesler:** The per pupil payments are delivered directly to our public schools that are on the reservations. We have 5 Bureau of Indian Education schools in the state that do not receive per pupil payments.

**Senator Osland:** Are you familiar with the governor's powers? Have you looked into the possibility for him to remove school board members?

**Superintendent Baesler:** Yes, the Governor does have the authority in some situations but as is the case that is currently going on, it was a petition that was presented to the Governor and the Governor has now requested the fiscal audit to be done. I am aware of one other situation where the governor had removed an elected sheriff while the investigation was ongoing.

**(26:10) Dr. Amy Kopas, NDCEL Executive Director, in favor (see attachment #4)**

**(27:35) Craig Lunday, Turtle Mountain member, testifies in favor of the bill**

**Lunday:** I realize that some felons will make better choices after convicted of their felony, but to sit on a school board that gives them the access and authority to the hiring and firing, the school's checkbook, creating jobs not needed, giving contracts to friends and family, is not fair to our community, faculty and children. We have 3 felons on our school board with felonies that consist of embezzlement, violence and drugs. One was sent to the penitentiary for embezzlement when he was a tribal councilman a few years ago and shortly after that he was convicted of assault with result of serious bodily injury. We shouldn't have that type of person sitting on our school board around children or anyone in the school system. There's another one who is currently awaiting trial for an assault charge that took place in September of last year. He was recently charged for terrorizing in Mandan. If convicted, we'll have 4 felons that sit on our board. Nothing good can come from that. What kind of message is this to our children of all schools? Please pass this bill.

**--Testimony in Opposition--**

**(31:58) Alexis Baxley, NDSBA Executive Director, testifies in opposition to the bill (see attachment #5)**

**Chair Larson:** If felons on school boards are rare, then this law wouldn't apply to very many people. Does the School Board Association resist this minimum standard, that they cannot be felons?

**Baxley:** Our concerns lie in the fact that we are singling school board members out. School board members, if they're behaving well should not be in the school building during the day. The bulk of their work takes place outside of school hours, not in contact with children. Superintendent Baesler spoke to the funding aspect. We would argue that cities and counties and townships receive state funding as well. It's troublesome for us that certain convictions would prohibit you from running for the school board, but you would still be able to sit on the state legislature for example.

**Vice Chairman Dwyer:** there is one specific section that talks about embezzlement that deals with both misdemeanors and felonies, but if you said "a felony" under that section, would you be comfortable with that?

**Baxley:** Certainly it would be more palatable to us. At the end of the day we don't believe that school board members should be singled out to be any different from county commissioners, city commissioners and the like.

**Vice Chairman Dwyer:** Whether the members are in the school or not, they're still responsible for and have access to these students. Would you object to school board members having to go through a background check?

**Baxley:** If it were a background check for information purposes, I don't think we would have a problem with that.

**Chair Larson closes the hearing on SB 2230.**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2230  
1/21/2019  
#31098 (5:00)

☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Meghan Pegel
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## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24, and a new section to chapter 15.1-09 of the North Dakota Century Code, relating to criminal history background checks and prohibiting felons from attaining membership on a school board.

## Minutes:

No Attachments
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## Chair Larson calls the committee to order to discuss SB 2230.

**Vice Chairman Dwyer:** The testimony concentrated on felonies. Line 12 after the first comma we could say "a felony crime against a child" then at the end of line 12, say "a felony offense under" and change it to "section 12.1-23-07" which is the embezzlement section. We would have addressed the concerns that the school board executive director talked about in the second page of her testimony and stay consistent with what the sponsors of the bill said they wanted which is to concentrate on felonies.

**Chair Larson:** I think that what they were looking for is a felony and any crime against a child. If it was a crime against a child, that would be a separate one rather than just making it a felony. I think they wanted that comma in there. That's my opinion.

**Senator Luick:** If we do that, then we're trying to piecemeal this back together again. Do we just want to look at the felony convictions across the board?

**Senator Bakke:** I would recommend declaring it an emergency. In their particular case, these people are taking over their school and making it quite difficult at this time.

**Senator Osland:** We all understand their problem. We're probably not going to fix it in a bill. I'm not sure if the Governor has the power to include or exclude school board members, but they have the power to do that with sheriffs. We have a school district with a problem and we're going to attach a situation to make everybody else comply. Most of the population don't carry guns on airplanes but we're all checked, an inconvenience and expensive too. I'm sympathetic, but is this the right correction?

**Chair Larson:** We will bring back amendments and discuss this further. Anyone who wants to bring an amendment please do it tomorrow.

## Chair Larson ends the discussion on SB 2230.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2230  
1/22/2019  
#31220 (13:20)

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature: Meghan Pegel
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## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24, and a new section to chapter 15.1-09 of the North Dakota Century Code, relating to criminal history background checks and prohibiting felons from attaining membership on a school board.

## Minutes:

No Attachments
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**Chair Larson** calls the committee to order to discuss SB 2230.

**Senator Myrdal:** There is a bill in the House that addresses some of the grievances that may occur in this. Though I understand the frustration of the parties that testified, it talked about a specific incident. There are very clear roadways and avenues through which you can petition to have somebody removed or investigated as a school board member. Secondly I'm concerned that we're taking the power away from the people. As we sit here I don't think we can control who the people are and how educated they are in each of the school districts. That is not our job and I wonder if this legislation is too specific to that.

**Chair Larson:** I received an email from Jim Silrum who said that this doesn't address a write-in candidate. He suggested that if we wanted to address that then we would also need to put something additional in there. Joe, please explain this.

## Joseph Jensen, UND Law Intern, neutral party

**(3:10) Jensen:** From what I understand, he's saying the change in language would make it so that you don't have to go through the background check to get elected, but once you are in office you have to pass one to stay in office. Write-in candidates, since they're not part of the actual process, they wouldn't be subject to this until after the election. So it would keep everyone on an even footing.

**Senator Myrdal:** So you're elected, then you go through a background check and fail to pass it- now what do we do? In this particular case, 3 of the school board members are disqualified and the election is over. Now what process do you go through to fill those seats?

**Senator Bakke:** They do have a recourse. They can file a complaint with the Attorney General. The school board members are immediately put on suspension. They do the investigation and if it's founded, they are removed by the Governor. There is a process and in talking with Senator Marcellais who comes from this district, he said he would check to see why they hadn't. One of the things he thought might be a reason is retaliation, that a lot of them are afraid if they take these people through this process and they're removed, that then they're going to find their property damaged or worse. We have a unique situation here and I feel like we're writing a piece of legislation for one situation because everybody else has used the process and it's been successful. However, I totally understand if you've got 3 people that are felons and 2 others that are about to be all on your school board, you're going to be a little nervous about saying much about it because of the retaliation.

**Senator Osland:** The House Education Committee is hearing a similar bill. The Governor can do all of these things as we know, but they're passing a law which will allow the Governor to take those people out of office and substitute other members to be on the board, then do the auditing and stuff like that after the fact. That's my understanding.

**(7:05) Alexis Baxley, School Boards Association**

**Baxley:** Senator Osland is correct. House Education is currently debating HB 1501. The way the process currently works that Senator Bakke spoke to is the constituents would file a petition with the Attorney General and the Attorney General has 30 days to complete an investigation and make a recommendation to the Governor. If the recommendation is to initiate a removal proceeding, the Governor can at that point remove the board member during the proceeding. HB 1501 would move the point of suspension or removal up to the point where the petition is filed and the investigation begins. It would eliminate keeping that suspected board member in office for the potential of 30 days while the investigation is taking place.

**Senator Luick:** Do you think that is a better vehicle than what we have here?

**Baxley:** Yes, we support that bill. We believe that protects the district, the board members and the students.

**Senator Bakke:** What is the point of this one?

**Chair Larson:** This is just to say if you're a felon, you cannot serve on a school board. This isn't about removing anyone; this is about their eligibility to begin with.

**Baxley:** Yes. There was some trouble in getting the community to use the process that existed, so this idea was brought forward. In the meantime, the folks that were looking to use the process that already exist realize that by signing the petition, those names aren't public. They were able to gather double the number of signatures they needed to initiate that petition process.

**Senator Bakke:** Have they filed that petition?

**Baxley:** Yes, I believe a couple of weeks ago. The process is moving forward.

**(9:40) Senator Luick:** This bill sidelines any felon no matter what their consequence was during that time. I don't think that's the way we should look at things. People have the opportunity to change. This type of legislation basically sidelines them for the rest of their lives on a lot of different things, so I can't support this.



**Senator Myrdal: Do Not Pass**  
**Senator Osland: Seconds**

**Senator Bakke:** I agree, but I'm wondering if we want to attach these amendments in case it does pass on the floor and put the bill in its best form.

**Senator Myrdal:** For the record, none of us here want a felon who has done gross sexual imposition or severe embezzlement or violent crime on a school board nor do I want anyone like that on the legislature. But I do concur with Senator Luick that sometimes you make mistakes, but you should have the opportunity to be restored. A Do Not Pass does not reflect certainly my rejection to those violent felons being on any schoolboard, but I think we should let the House go forward with their bill and see what comes from them.

**A Roll Call Vote Was Taken: 5 yeas, 1 nay, 0 absent. Motion carries.**

**Chair Larson:** I don't plan to get up and speak against this, but I don't see a problem with having a minimum standard for a schoolboard member. Nor do I see a problem if some jurisdiction has a problem that they don't feel they can resolve, using a legislative fix. Although I agree with your comments, I was not wanting to be a deciding vote, but that was the reason for my No Vote on the recommendation.

**Senator Myrdal will carry.**

**2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2230**

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass    ☒ Do Not Pass    ☐ Without Committee Recommendation  
☐ As Amended    ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider    ☐ \_\_\_\_\_

Motion Made By Senator Myrdal Seconded By Senator Osland

Senators	Yes	No	Senators	Yes	No
Chair Larson		X	Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Myrdal

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2230: Judiciary Committee (Sen. D. Larson, Chairman)** recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2230 was placed on the Eleventh order on the calendar.

**2019 HOUSE JUDICIARY**

**SB 2230**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Judiciary Committee Prairie Room, State Capitol

SB 2230  
3/11/2019  
33535

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: DeLores D. Shimek
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### Explanation or reason for introduction of bill/resolution:

Relating to criminal history background checks and prohibiting felons from attaining membership on a school board.

1-13
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**Chairman Koppelman:** Opened the hearing on SB 2230.

**Senator Marcellais:** Introduced the bill. Passed out Senator Poolman testimony. (Attachments #1&#2) Went through testimony.

**Rep. Paur:** Are there any similar restrictions on elected officials.

**Senator Marcellais:** I don't know.

**Chairman K. Koppelman:** The only restrict to run for office is that you be an eligible voter and live in the area you vote in for thirty days or more.

**Rep. Hanson:** We have 178 school districts in ND. Has the Dept. of Public Instruction shall reveal the background checks for all the school board candidates. Has Dept. of Public Instruction weighed in on how much capacity it would require to review the background checks of all the candidates for 178 school district every year.

**Senator Marcellais:** I can't answer that question. You would have to ask the Dept. of Public Instruction.

**Rep. Magrum:** Does the bill just cover felonies against children or any felony?

**Senator Marcellais:** It is all felonies.

**Rep. Satrom:** Does this apply to anyone. What if someone did something stupid when they were 18 and now 48 years old. Does it apply to anyone who is a felon regardless of those kind of situations?

**Senator Marcellais:** Mike not on.

**Chairman K. Koppelman:** Could you give us a little background as to where this bill came from?

**Senator Marcellais:** Several months ago I got calls from the local school boards who asked me to have a bill like this submitted. There were concerns that District 7 school board was having problems with waste, fraud and abuse by this school board and it affects our children and students. It could be happening in other communities and it affects our children and students.

**Chairman K. Koppelman:** This would be a big change in ND. There are some states where felons lose their right to vote altogether. In ND we have not done that. We have said if you have paid your debt to society we want you to become a productive member of society again. They still have difficulty getting jobs, but the question that is on a lot of legislatures mind in respect to this bill is does this work, where we balance this concern without throwing the baby out with the bath water?

**Senator Marcellais:** I realize we do have felon's in the state of ND. If they were convicted once and start doing this waste, fraud and abuse again something has got to be done.

**Chairman K. Koppelman:** Have you considered other approaches to that. Maybe better ways to deal with the waste, fraud and abuse as it may come up or stricter consequences for people who have been felons and who then repeat.

**Senator Marcellais:** Starting April 1 there will be an auditor done by the state auditor asking for an audit for any fraud, waste or abuse and that was requested by a petition from my constitutions to the governor asking for an audit of these records. The auditor can't prosecute; it has to be the Attorney General to do the investigation for any fraud, waste or abuse.

**Chairman K. Koppelman:** Didn't we pass another bill this session that gives the superintendent of public instruction some authority with respect to members of a school board?

**Senator Marcellais:** Yes. We are looking at that now in our committee.

**Rep. McWilliams:** How does this bill address this problem now. If it doesn't take effect until their name is on the ballot; if this is a big problem, they will not get elected again and this bill won't be needed for the present situation.

**Senator Marcellais:** The way we are addressing this; we have an audit going on and there may have been some school members picked up. How do we keep them from running again? Maybe putting an emergency clause on this. There is an election coming up in June.

**Rep. McWilliams:** With the elections coming up again potentially they will be out of office then in June.

**Senator Marcellais:** In June need to put an emergency clause.

**Chairman K. Koppelman:** Do you not believe the voters would turn those people out if they are known to be bad actors?

**Senator Marcellais:** There is a way of politicking up there and it is called hauling votes. We have school board members, tribal council members, that have large families and they go to the local housing authorities; find some drunk and say hey, would you come and vote for me; I will give you a pack of cigarettes. That is the way they operate on the reservation.

**Scott Davis, Executive Director, ND Indian Affairs Commission:** (Attachment #3) Went over testimony. Discussed the terrible problems with felons back home. We need some intervention here for our tribe. There is a homeless issue back where we come from back home. At the same time, we are building a \$5 million wrestling room. School boards do not run or own the school. It is a team of administration and superintendents and school boards. I worked with the school board association and how they are supposed to govern. I am all for second chances, but when they start stealing from kids then I will stand up for them. I do it all with respect. It is tough enough our children have enough issues back home. The safest institutions we have on our reservations is our schools. In this case it is not behaving as such. We have to govern effectively. Discussed the passage of the bill to fund tribal schools and how happy I was when that passed last session. If I sign my name to the registration, and people know I signed it; particularly this school board member, they are going to come after me; my job and family. So no I don't want to sign it. You have a very scared group of people back home and I don't like that. We should never have a fear of signing something that; somebody is going to see my name and I am going to lose my job and it is going to come against my family. That is what is happening back home. That is the felony behavior I can't stand. It is affecting the student body. Two school board members have been arrested during their tenor ship in the last few months. If that happened where you came from that would be a front page story. Nothing happens in this case. They continue the way it is. Discussed many issues on the reservation. We looked at the Class A felony for this. I am not perfect, but I believe in second chances. What you did at 18 or 25 and let's go through the process of doing that so you can get it off your record so you can be a strong tax paying citizen and be on the school board and run for tribal counsel and be a leader. I have been through nine months of this. We have to govern effectively.

**Rep. Paur:** Are we having the AG's office testify? Indian law is the most complicated laws we have. If that audit etc. finds misdeeds, is the Attorney General going to prosecute Indians on an Indian reservation. Have you contacted the BIA or local and federal authorities?

**Scott Davis:** Yes. We have looked at the laws. I think it is up to the Attorney General to process. Eighth circuit court proved that public schools on the reservation governed and funded by the public school is under the jurisdiction of the state.

**Rep. Rick Becker:** With regard to \$25 million going to the school; it was appropriated six years ago. So six years ago the legislature threw \$25 million at the school, but the problem we are addressing sounds like it has only been in place for nine months. How do you correlate the issues that you are trying to rectify with this bill versus what you indicated in your testimony as being one of the significant concerns for fraud, cohesion and waste?

**Scott Davis:** It has been longer than nine months. It has been years. People decided to speak up recently. Throwing money at it; restructuring the government with checks and balances and restricting the school board for the association to look at your policies and procedures, separations of powers' focusing on the children and the curriculum and teaching language and our culture; it is those things as a school board member you should really be looking at. There is plenty of money there, we just need better government.

**Rep. McWilliams:** Are we tackling the right problem with this bill? Maybe we should be looking at the election process versus something that would have broad statewide consequences?

**Scott David:** That is a good question. We looked into that with BCI and the FBI when you are hauling votes. The FBI said that is voter fraud and we worked closely with the Secretary of State on absentee ballots.

**Rep. McWilliams:** In your testimony you said there use to be four individuals in this particular instance and now there is two. Is that an example of the process working itself out and we are down to two and there is an election coming up?

**Scott Davis:** We had an election this summer and one that was on decided not to run. People were tired of it and they stepped down.

**Rep. McWilliams:** How many school board members serve on a school board?

**Scott Davis:** We have nine. I am a huge local control guy. With public money we need to look at this money. I think this is turning around since people are getting elected out. I think when it is public money we need to look at how it is being spent.

**Chairman K. Koppelman:** Who administrators the school board election at a public school on the reservation?

**Scott Davis:** They have their local election board like everyone else.

**Chairman K. Koppelman:** We hope not to treat anyone differently. Is this something that the problem seems to be unique and isolated to the areas you are speaking of?

**Scott Davis:** Yes. I don't want to single out tribal schools only. I think it happens statewide. This could easily happen in your backyard too. If you had two felons on your school board; should they really be on the school board? Would you think twice?

**Chairman K. Koppelman:** Chances are if that was public knowledge; chances are those people would not be elected again. When you are dealing with illegal voting procedures and other issues like that where there are violations of the law already that aren't being enforced; that is the breath of the problem we are trying to address here.

**Rep. Magrum:** How many school boards have felon's serving in the school boards now throughout the whole state?



**Scott Davis:** Two I think; Twin Buttes and Belcourt. In the bill it does state to prevent this you have to do your own background check prior to getting on the ballot. Then that goes to the local election committee.

**Rep. Jones:** Part of the election process is they do get a background check. The Dept. of Public Instruction is in charge of the election process. We are going to look at somebody who did something at 18 or 20 years old that really doesn't have any bearing and they are responsible citizen. They are going to be able to determine that they did indeed pass the background check. Is that what you intended to do?

**Scott Davis:** Yes sir. That goes back to the Class A felonies on that and we worked with the school board association.

**Rep. Roers Jones:** I wasn't planning on testifying on this. My constituent asked me to draft a bill similar on this who is not from these two school districts that we are referring to. Everyone who interacts with our students; whether it is a teacher, school lunch or a parent volunteer has to pass a background test. The school board member is actually the only person who interacts with students or has excess to the school on an ongoing basis who does not currently pass a background check. Her request was to require background checks for everybody. I like this bill because this bill with Senator Poolman's amendments. We are not saying every person who has had a felony; we are saying this specific list of particularly egregious felonies are the people who we are going to say do not qualify for running for school board and having excess to our students. The process includes the person who is running for the school board; as part of that process they need to submit the information and have the background check run; if they fall under one of those categories, they may not assume the position for which they were elected or appointed. I think this is an important step in the right direction. The people we are talking about; they had these felony convictions before they were elected and they were elected anyway. This is an issue where people are choosing to put them in office anyway. It is not entirely democratic.

**Rep. Hanson:** Would you foresee HB 1256 which relates to sealing records is passed; would that enable a person with one of these convictions to be able to successfully be on the ballot for schoolboard and take that seat?

**Rep. Roers Jones:** It is possible. The bill would allow of sealing criminal records after a period of time for misdemeanors after three years and non-violent non-sex felonies after five years so a number of these would not qualify for non-violent non-sex offense felonies, but any of the others that do would be sealed so if a background check was done after five years then those people would not be prohibited from running for the school board.

**Rep. McWilliams:** How long would that background check be good for? Also, who pays for the background check?

**Rep. Roers Jones:** I would have to read more carefully, but I believe they would have to submit each time they ran for office. The language states the candidate would have to pay for their own background check.

**Rep. McWilliams:** How long is that term?

**Rep. Roers Jones:** It appears to be three years.

**Rep. Rick Becker:** In regards to your sealing of records the background check which is a criminal history record check is as per in Century Code 20-60-24; wouldn't that fall under the one that is more expansive that the state conducts and would still show those records?

**Rep. Roers Jones:** I believe there is a list of institutions that qualify for the more expansive background check. I can verify that information. There is a list of institutions that qualify for the more expansive background check. School boards probably would not be included in that list for the expanded background check but I can verify that information.

**Marchetta Bercler, Rep. Turtle Mountain Community High School Student Council:**  
(Attachment 4) Read testimony.

**Joe Kolosky, Deputy Director, Office of School Approval & Opportunity, DPI:**  
(Attachment #5) Read testimony.

**Rep. Rick Becker:** We are looking at two things; the children and sex offenses. Why not the school board members? At what point are we concerned about school board members interacting with kids. Are you aware of issues where school board members have had offenses and trying to deal with them?

**Joe Kolosky:** School board members are encouraged to get into the schools they are supervising. Every district I have worked in we have invited our school board members there. You have to have the right mind set to be a school board president and understand what you are doing for those students is you would want priorities to keep them safe, balances budget and curriculum which all work together.

**Rep. Hanson:** Your testimony is primarily about the financial responsibility of the school board members. Other elected officials also have financial responsibilities including us as legislatures, city commissioners, park board members and statewide officials as well. If this is one of the primary arguments; the financial responsibility, why not all elected officials go through a background check?

**Joe Kolosky:** I do believe we hold our schools at higher standards. When the work you do directly impacts children every day, I think those people working for those children should be held at a high level.

**Rep. Hanson:** The second concern was contact with children. We often ask parents to volunteer in the schools as well. Do we provide any check on parent's background?

**Joe Kolosky:** Yes, there are checks in place for parents. In public schools you cannot be by yourself with a student. If the background checks and felon requirement is at the fore front it would eliminate some of those parents, which would elevate some administrative work for the school.

**Chairman K. Koppelman:** Your testimony indicates you are the deputy director of the office of school approval and opportunity with the Dept. of Public Instruction. What does your office do?

**Joe Kolosky:** We do everything. I deal with current school law; technical assistance to the field and parents; I am with the complaint department, home education; we work with teacher effectiveness; and we also have a federal grant with the twenty first learning center program. The school approval processes is every year the schools must submit an annual compliance report and with that report the superintendents are saying they are meeting the rules of the century code.

**Chairman K. Koppelman:** If you are the deputy director of that office; who is the director?

**Joe Kolosky:** Gail Shower is the Director.

**Chairman K. Koppelman:** I understand the movement toward background checks with people are going to be working with children. If someone been convicted of a felony is there a lifetime ban against them ever becoming a teacher or ever working in a school?

**Joe Kolosky:** To get your teachers license you have to have a background check.

**Chairman K. Koppelman:** Does that vary from school district to school district or do we have a statewide standard on?

**Joe Kolosky:** I would have to get back to you.

**Rep. McWilliams:** If that is a case by case scenario this law would mean it is not handled as a case by case scenario. Of all the background checks been done, have we been successful in keeping those people out of schools? If so at what rates. We are spending a lot of money and time doing this?

**Joe Kolosky:** When we run a background check we receive the results; we contact the school and it is up to them what they do with that information. I can look up what is a hireable felony.

Recessed.

**Robin Poitra: Senior at Turtle Mountain High School:** (Attachment #6) Read testimony.

**Rep. Rick Becker:** Did the people in the community as they board members were campaigning and going to be elected that these board members had felonies or did the knowledge of the felonies come up after they were elected? Do you know?

**Robin Poitra:** I think they knew before.

**Jeryn Marcellais, Junior at Turtle Mountain Community High School in Belcourt;** (Attachment #7) Read testimony.

**Tucker Bercier, Turtle Mountain High School Student Council:** (Attachment #8) Read testimony.

**Erin Keplin, Student Counsel Senior Class Vice President:** (Attachment #9)

**Chairman K. Koppelman:** Is it primarily mismanagement of money that you heard about; what else?

**Erin Keplin:** It is mismanagement of money but it is also other things like being disrespectful; not doing for our students. It is just because they are doing stuff for themselves.

**Nevaeh David, Senior and Student Council Vice President of Turtle Mountain Community High School of Belcourt: Student:** (Attachment #10)

**Aiyana Jollie-Trottier, Student Council President, Turtle Mountain Community High School:** (Attachment #11) (stopped 1:23:43)

**Vice Chairman Karls:** I want to compliment your teacher? Whoever helped you with your testimony. It is very well done. Did you give similar testimony on the Senate side and did you feel any retaliation back home?

**Aiyana Jollie-Trottier:** We did not speak in the Senate side. We were just asked to speak on the House side. Yes, we did have retaliation from the board members and we are a little nervous but the adults were not willing to set up so we decided we had to take the action.

**Rep. Paur:** That was the Senate's loss.

**Chairman K. Koppelman:** It does take courage and I want to commend you. This is one state that does allow everyone to speak. Thank you so much for being here today and having the courage to speak up.

**Ella Davis, Parent, Community and tribal member:** I work as a disabilities advocate for PA. We started out with a petition because this has been an ongoing issue for a few years. I don't work for the school so I didn't have a fear to step forward because I kept getting approached by so many people expressing low morale and concerns about voter fraud; people voting that weren't a part of that district; hauling votes, paying people to go and vote. Explained how that hauling votes worked and the voter fraud happening. We had three or four felons on the school board. I did the research and we had on that had felonious assault charge on him in 1996, which was reduced to a misdemeanor b simple assault. Went into detail on the problems on the reservation and the meetings in the school board. (1:29:00) Discussed the tribal members and how they are now having more family members on a tract of land and then they are operating as a syndicate. I have spoken to people who have come from out of state and came to some of our rural school district and expressed frustration with the alliances that are made among school members in rural school districts. I don't know if they were felons or not. I urge you to support this bill.

**Rep. Satrom:** The more I listen to this the more concerned I am. I don't know if there is anything we can do?

**Chairman K. Koppelman:** We are in a public meeting and anything said here is public. That is one of the good things about having a sunshine laws in our state. When things are sensitive issues it does create fear for people to come forward.

**Ella Davis:** I have been harassed by these same school board members.

**Rep. Jones:** The things that concerns me is you are asking for It is an unusual situation to think about limiting who can be candidates for the school board. I know people who have done things bad as youth and now are teaching other youth and effective because of their past experiences. I can see the situation that you are facing. I am hoping we can give the superintendent some leeway to deal with this.

**Ella Davis:** I understanding giving someone a second chance. These are public office positions and this is specific to school board positions. The students came here today, but they don't get to vote. If we are setting standards for students, staff and administration we need to be setting standards for these elected positions specific to school board. Regardless of whatever the felon rates are; I think they deserve a second chance to turn their life around. I think we need to value our children first.

**Chairman K. Koppelman:** Do you think only convicted felons are part of the problem you are describing?

**Ella Davis:** Yes there are other issues with alliances and things like that. I have heard from parents from other school districts who have a problem with the alliances made among school board members and how they feel there is no recourse.

**Chairman K. Koppelman:** I think everyone understands there are serious problems that need solutions. I am hearing about a lot of illegal activity. Voter fraud, abuse of power and financial fraud. Is it an enforcement issue in regard to some of those violations maybe that would be a more effective way to do this versus just saying no felon that has had it on their record can run for school board in ND?

**Ella Davis:** Who enforces anything over the school boards?

**Chairman K. Koppelman:** Are you familiar with the other bill that gives the Superintendent of Public Instruction some authority to do some of those things?

**Rep. Buffalo:** I understand from the testimonies provided that the school district; the state has jurisdiction. What is the stance of the tribal government on this? A lot of our IRA tribes are a microcosm of the federal government and all of these systemic issues are in place from years and years of historical trauma and these systems are very much alive and well today within the exterior boundaries of our Indian reservations. It is dangerous on the future of law makers trying to introduce legislation that will get rid of Indian reservations.

**Ella Davis:** Our tribal council wrote letters of support for the audit. We need to keep in mind this is a school district issue. Even though it is located within the reservation, it is a school district issue so the state has jurisdiction and is responsible for addressing this issue, not the tribe

**Rep. Rick Becker:** How do you respond to the following statement? The school board has nine members and two are currently felon's. Those two by themselves have no power by themselves have no power whatsoever. They would require another three to be working in concert with them to affect any power what so ever so therefore; if this bill were to take effect, that are part of the problem and the families that are so powerful and are hauling votes can now haul votes for someone who doesn't have a felony and you have the bill that is now passed and you haven't addressed any of the underlining concerns?

**Ella Davis:** We have all thought about that. Board members do make alliances. There has been no accountability up to this point. Now we are doing an audit and if this legislation passes with both of these bills it is sending a clear message, the state legislature and the state of ND is concerned about this. If there is more fraud and racketeering and laundering they are going to take a look at it and there might be more future legislation.

**Chairman K. Koppelman:** What we are seeing develop this legislative session not only through this bill, but the others that have been referenced in the legislature is taking a look at this and recognizing there is an issue that needs to be dealt with. Wouldn't it be more effective to have swift consequences for someone who begins act inappropriately who is a school board member. What the bill does it you are saying anybody who has ever committed a felony can't run for the school board. You might have people who committed a felony 20 years ago who have turned their life around but you are barring it not only on the reservation, but anywhere in the state for ever serving on a school board versus someone who might never have committed a felony that would be doing some of the same things you are objecting to.

**Ella Davis:** Think about the message you are sending right now. Went over the problems this action is sending to other people right now.

**Chairman K. Koppelman:** Maybe zero tolerance for the school board members. Same facts. Rather than looking at their past; instead saying zero tolerance if you do; then you might lose your office if you are elected to the school board.

**Ella Davis:** Look at our school board members right now. You are talking about overhauling the justice system and that is an entirely different system.

**Chairman K. Koppelman:** So this wouldn't solve that at all.

**Ella Davis:** I don't know if it would or not. That would have to be an entirely different issue and an entirely different debate.

**Daniel Beam, Student Counsel Sponsor:** I think this is about them; the children. Regarding your last point, I don't think it is an either or. The concerns you raised are real. I taught here about three years. These kids are the future. Their testimony was all them. What they said to me in the meeting was they don't to see this change; but they want to see the whole system that produced this change. If the young people on the student council stay in the community, this problem will be solved. What you guys are doing is pushing the future.

**Rep. McWilliams:** If you have a car that is broken and you find out it is the alternator; do you change the alternator or the engine or just trade in the whole car?

**Daniel Beam:** I would try to see what the problem is and get it fixed; if you didn't solve the problem I would go to the next one and I might just trade the whole thing in.

Opposition:

**Alexis Baxley, Executive Director, ND School Boards Association:** (Attachment #12) Went over testimony. (1:56:18) We talked about penalties that are already in code for school board members. The first would be a petition for recall. This can happen anytime outside of within one of year of that board member's election. In order to do that a voting person in that district would file a petition and it would include the reason for recall and it would require a number of signatures equal to 25% of the number of voters in the most recent election. This bill is important in relationship with school board funding. Upon certification of those signatures a special election must be held between 95 and 105 days from the date of certification. This process is used frequently. Most recently it was used in Richland County, Parshall, Barnes County North and most recently in Twin Buttes last fall. The second process provides for an investigation by the Attorney General and potential removal by the Governor. That petition requires 20% signatures equaling the number of people in the district. We are here today in opposition to this bill. It seems we are creating a solution for issues in one to two districts. In the original bill we included a large range of protection in our code not for school board members. School board members should not have excess to students any more than any other individual. They should not be in the building except for a meeting. There are penalties already in place. Anyone can report those violations to the Attorney General. Then the Attorney General investigates. This bill is important to funding. It is absolutely the responsibility of the school board to safeguard taxpayer dollars. Went over the page 4 of my testimony. There is no way for a school board member to steal or embezzle money without the assistance of the business manager or an administrator. A board could certainly allocate dollars to priorities that are not the priorities of the district or not in the best interest of the district which sounds like what we are hearing today. Those decisions have to be made in public meetings. Those minutes and bills are posted publically. There should be an opportunity by the community to have input on those types of expenditures. There should not exist these sort of shady closed door business deals taking place. School board members should not have excess to the building any more than any other member of society. I worry about proposing a solution that is not effective. I think this district needs help, but I do not want to do something that effects all boards across the state.

**Rep. Bob Paulson:** You mentioned in your testimony there are somethings being talked about here today that can't happen specifically in reference to your fourth page. These things can't happen by law, but aren't we talking about people who are not following the law?

**Alexis Baxley:** Yes absolutely. Rather than creating a code that works for 90% of the law, lets punish people who are breaking the law.

**Rep. Bob Paulson:** You talked about dispelling a myth of school board members having excess to the children. You talked about training and things of that nature. Is it not possible that school board members are ignoring that training and having excess to students anyway?

**Alexis Baxley:** Absolutely. Let's talk about what those specific things are and there are so many ways in code to get rid of bad board members. There are other options out there that are more effective.

**Rep. McWilliams:** In these cases where school board members are not doing what they should be doing; is there any disciplinary actions taken or available to the rest of the board other than just a recall?

**Alexis Baxley:** Yes but it varies. Districts include their own policies.

**Rep. Roers Jones:** Whether it is best practices or not; you said they do have excess to students. That was one of my concerns. Who hires the business manager?

**Alexis Baxley:** The school board hires the business manager, but the business manager does complete the background check and they are held to a higher standard in century code where they are criminally responsible if funds are stolen. It is very rare to see a business manager who is in cohorts.

**Rep. Roers Jones:** If don't have felons who are in charge of making these decisions, then the likelihood of hiring a business manager that would be willing to be in cohorts is greatly reduced.

**Alexis Baxley:** I would say it takes 5, 7 or 9 board members to make that hiring decision unless you have the same felons on the board it is hard for me to agree with that point.

**Vice Chairman Karls:** When you see some bad actors in your profession, as we have seen examples of today; does your organization do any sanctioning. Is there any kind of disciplinary action you can bring or is it totally up to the school children to get a petition going to do something?

**Alexis Baxley:** We are not a regulatory agent. We have no authority to do any sanctioning or disciplining. We make them aware of the penalties out there. We were receiving phone calls about this issue in the district. We do our best to give them options.

**Representative Simons:** How many people would it take to call for a recall on Twin Butte's.

**Alexis Baxley:** I would be happy to do that math later for you when I have a reference. Off the top of my head I couldn't answer that question.

**Rep. McWilliams:** How many school board members are there throughout the state?

**Alexis Baxley:** About 1200.

**Chairman K. Koppelman:** You talked about getting calls at this school district. Has anyone filled out a form at the Attorney General's website to ask for an investigation of criminal activity?

**Alexis Baxley:** Yes, they obtained the required number of signatures and it was filed because most of the concerns were monetary the Attorney General handed that investigation over to the State Auditor. The Attorney General would investigate and makes a



recommendation to the Governor. They have 30 or 60 days and upon completion. The governor has the option to temporarily remove the board member upon receiving the petition. The they would make a final decision after the hearing on that board member who is allowed some due process.

**Chairman K. Koppelman:** If the Attorney General has referred this to the auditor's office how will that work? The idea is my understanding of school board operations typically those meetings are held in the evenings after hours in a business office. I don't see the school board members having a lot of access to the kids that the public wouldn't have. Apparently that is not the case in the district we are talking about.

**Alexis Baxley:** Yes certainly that would be uncommon.

**Chairman K. Koppelman:** The school board meetings typically were held after hours. I don't see the school board members having much excess to the students.

**Alexis Baxley:** Would staff be able to prohibit that? Yes, you would have to be buzzed in.

**Chairman K. Koppelman:** You talked about open meetings violations as being criminal. My understanding is the penalty for breaking open meeting laws is embarrassment. Typically, the AG's office says yes he broke the open meeting law and don't do it again.

**Alexis Baxley:** Just because penalties are options in code doesn't mean we always use them.

Neutral:

**Jim Silrum, Deputy of Secretary of State:** I am here to speak to you about the committee take a look at the Christmas tree version of the amendment that was proposed so that it is readable for you. This doesn't change what happens. It still prevents school board formally acquired and convicted felons from serving on school boards. What it does is makes the background check be done upon election; and if they are found to be former felons then they would not be allowed to serve and a vacancy statute would come into play there. The reason that is important is because for a lot of school boards the candidates' names do not actually get printed on the ballot because a lot of people get elected to school boards because of write in votes. Therefore, under the existing bill how would you regulate those write in candidates who would elected to office? We should do this through the election process so they can administer backgrounds where it makes sense; only to those who are going to serve, rather than those who may serve.

**Chairman K. Koppelman:** Are you suggesting that amendment?

**Jim Silrum:** That should be in the proposed amendment. I think it will be more clear to you if you can see it in the context of the bill itself.

**Rep. Hanson:** Does the process of registering as a write in candidate apply to school board candidates and if so can you describe that process.

**Jim Silrum:** For school board members no write in certification is necessary for that at all. Therefore, if you are a qualified elector in that school district and you receive the most number of votes or enough to be elected you are then indeed elected.

**Chairman K. Koppelman:** This is the question that came to my mind. I am concerned about the issues that have been mentioned today. This bill changes that drastically. As a voter, my concern is if we are going to take a look at that; where does that stop. A lot of states say if you are a convicted felon you cannot vote. In our state we have taken a different approach and said once you served your time; you are a voter again. In the voting process we have said you are good to go.

**Jim Silrum:** Yes I had this many times before. You folks are the policy makers. The trend across the US is that more states are moving where we are with restoring rights to former felons because they have served their time; therefore, their rights are restored. Recently the House of Representative in Washington DC approved an HR 1 which is a 622-page comprehension election reform bill that would essentially federalize elections and we don't think it is going to go anywhere because it is likely the Senate will not address that. In that it would make it so all states were like us with regard to the restoration to felons after serving.

**Chairman K. Koppelman:** I am very concerned about what is going on in this school district. Are you hearing about problems of felon's in other elected bodies? We do not hear of that. I deeply sympathize with the problems they have in Rolette County. This may be putting items in a tool chest that allows people to work in many different ways. Do you hear about that?

**Jim Silrum:** No we do not hear of that. I deeply sympathize with the problems that they have experienced in the school District #7. This may be putting items in a tool chest that allows people to work in many different ways. That already exists in law and would exist if this bill were to pass.

**Rep. Vetter:** For enforcement for election type of violations; are those things that are enforced by the Secretary of State's office or are they always enforced by the Attorney General?

**Jim Silrum:** It isn't necessarily enforced by the Attorney General's office. Sometimes it is the more local states attorney or city attorney as the case may be for handling things of that nature. Vote Hauling has any number of definitions. We need to define what that is. Generally, the prosecutorial authority falls to the local jurisdiction. The Attorney General acts in consult to them.

**Chairman K. Koppelman:** If the school district is on a reservation; would that be adjudicated in the tribal courts or would it be the county state's attorney?

**Jim Silrum:** For purely tribal school districts they would be handled within tribal court. The one in question today is a state school system so therefore the state has jurisdiction.

**Rep. Paur:** Somebody said there is an election in June?

**Senator Marcellais:** Yes that is correct and that is just a June election every three years and they rotate the board members.

**Rep. Paur:** You mentioned an emergency clause on this so if an emergency clause was on here it would take effect by that election?

**Chairman K. Koppelman:** When do the people elected in that election take office?

**Senator Marcellais:** It is the following meeting in July. That is the reason for those amendments.

**Chairman K. Koppelman:** The emergency clause would still be important to bar them from taking office.

**Rep. Bob Paulson:** Why you think those options haven't been taken or exercised?

**Senator Marcellais:** I have reported this to the Attorney General in back in April. I sent them an email. How long do we have to prolong this to get something done?

**Rep. Bob Paulson:** Sounds like both those options for removal require signatures from the people to be presented. If it has been going on for nine months, I am wondering why those signatures haven't been presented to have those school board members removed?

**Senator Marcellais:** These kids were scared to come here today. They thought those felons were going to come and testify. They want something done. We went through the process and started the petition, but it all takes time.

**Rep. McWilliams:** Do you have good candidates to run in opposition?

**Senator Marcellais:** One of these felon school board members wanted me to run. I told them I can't run because I am a state senator. They are like the mafia. These checks she talked about are automatically generated. The business manager has been out of work for three months. I bet his signature is still on the checks because they are automatically computerized. The president of the board and the business manager's names are on those checks. The felon is even investigating me because if have storage units back home that I have been renting to him for ten years. Discussed problems with this?

**Rep. Magrum:** So if we do pass this law what is to prevent these people from retaliating anyway?

**Senator Marcellais:** At least we got them off the board and they can't abuse the system anymore.

**Chairman K. Koppelman:** Do you know what the auditor's review do?

**Scott Davis:** Yes regarding the audit; he was very clear this morning he is relaying on what is reported and my talking with every school board member including administration if you feel something is wrong here is your time to speak your piece.

**Chairman K. Koppelman:** What is your sense now? Is there going to be fear for people to come forward?

**Scott Davis:** It feels like a mafia setting. We are talking about hard core felon's here. We have tried every legal means to do this.

**Chairman K. Koppelman:** What does retaliation look like?

**Scott Davis:** Lose my job and physical violence. There are pending investigations now out there. Individuals ear chewed off. Chocking your wife. It is ingestion of meth and domestic violence. How do you locally control that?

**Chairman K. Koppelman:** When you talk about retaliation? Maybe we need enhanced penalties. Would that be a tribal court issue or state court? What you are describing would be criminal activities. Would that be a tribal court issue?

**Scott Davis:** They are both because of where the nature of the school is located at. We have discussed this with the States Attorney. This is your jurisdiction because of where the school is located. They respond it is a tribal thing and I don't want to go there. I think the local States Attorney is moving forward on some of this stuff.

**Chairman K. Koppelman:** Thank you all for coming. Thank you for your courage in coming forward and we are very proud of you.

Hearing closed.

Email: Craig Lunday, Resident (Attachment #13)

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Judiciary Committee Prairie Room, State Capitol

SB 2230  
3/20/2019  
34047

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

### Explanation or reason for introduction of bill/resolution:

Relating to criminal history background checks and prohibiting felons from attaining membership on a school board.

### Minutes:

1

**Chairman Koppelman:** Opened the meeting on SB 2230. (Passed out proposed amendment #1) Went over the amendment. We had concerns about creating a blanket standard across the whole state based upon problems what are pretty narrowly confined in certain areas. It might bring up a discussion on why felons serve on mayor, county commissioners or whatever. As you read the amendment; Mr. Davis indicated that on the reservation they already have requirements for people running for candidates for public office and they already have tribal laws that already say people who are convicted felons can't run for those positions. What we decided to do in this amendment was let's respect that and look at what tribal government does and if we have a school district that is on tribal land; let's have the same restrictions for that school district. That is what the amendment does.

### Motion Made to move the amendment 19.0522.03006 by Rep. Vetter; Seconded by Rep. Satrom

Discussion:

**Rep. McWilliams:** I stopped by the Office of Elections and I had them pool how many elected positions do we have in the state. When you combine all these offices, it is more than 4200.

**Chairman K. Koppelman:** I visited with the Chief Justice about this. I spoke on two occasions with the Superintendent of Public Instruction and she indicated she likes this amendment. If the bill passes in this form she will encourage the Senate to concur with the House version of the bill.

**Rep. Paur:** This appears to be a hog house and would become the bill.

**Rep. Rick Becker:** I support the amendment and bill. Before I would not have supported the bill. I would have thought the bill would not pass on the floor of the house.

**Vice Chairman Karls:** How easy is it to change the tribal probation on this or will it happen again?

**Chairman K. Koppelman:** Here we are recognizing the tribal sovereignty of the tribe to do what they want to do on tribal land. If a tribe did do that and we will no longer have this probation of felons running for office on the reservation; then this bill would not require that either. Again it puts the decision making on the court of the tribe and all provisions of state law would apply, but it couldn't be any less restrictive than what happens on tribal land.

**Representative Simons:** I support this amendment. Young people that showed themselves here that day the future of that school district looks very bright. I think this is something that will be addressed. When you educate those kind of young people that have the bravery to come here and speak under great leadership that is how this is fixed.

**Rep. Vetter:** In talking to Mr. Davis he indicated the law came into being by the people on the reservation.

**Rep. Jones:** I was concerned about the enforcement. This is going to go back to the tribe to enforce.

**Chairman K. Koppelman:** I appreciate your kind comments, but I drafted this in the name of the committee because you all helped me with it.

**Jim Silrum:** The situation in question was a public school that happens to be on private land.

**Chairman K. Koppelman:** Reiterated earlier statement.

**Silrum:** I know in this particular school district happens to have the same boundaries as the reservation has itself. That also happens to be a precinct within a particular county. I see it is in 15.1 so that would apply to schools. I had to ask.

**Chairman K. Koppelman:** We were working with others and came up with this solution so I apologize for not keeping you in the loop.

**Voice Vote Carried.**

**Chairman K. Koppelman:** I know there has been a desire to have the emergency clause on the bill so we could do that verbally.

**Motion Made to amend the bill to add the emergency clause by Rep. Satrom; Seconded by Rep. McWilliams**

Discussion:

**Voice vote carried.**

**Do Pass Motion as Amended Motion Made by Rep. McWilliams; Seconded by Rep. Satrom**

Discussion:

**Rep. Vetter:** There is nothing in the bill that would be retroactive.

**Chairman K. Koppelman:** There is nothing in the language of the bill that would be retroactive; however, if the emergency clause carries and the bill becomes law quickly, then that will make it law at that point, but there is also another bill that deals with the Superintendent of Public Instruction's ability to remove school board members so there may be some ability to deal with that at that level.

**Rep. Paur:** I would imagine the tribal government could make that retroactive if they wanted the probation. This just gives them the authority.

**Chairman K. Koppelman:** It would not apply to office in the past.

**Roll Call Vote: 13 Yes 0 No 1 Absent Carrier: Chairman K. Koppelman**

Closed.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2230

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to public school board membership in a school district located on tribal land.

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

**SECTION 1.** A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

**School board membership - Prohibition.**

If a tribal government has prescribed by tribal law or resolution qualifications for eligibility for candidates for public office which are more restrictive than the laws of this state, the qualifications of candidates for eligibility for membership of a public school board of a school district located on tribal land may not be less restrictive than the qualifications for eligibility prescribed by tribal law or resolution for public office. For purposes of this section, "tribal land" means that portion of the land within the exterior boundaries of an Indian reservation which is located in the state."

Renumber accordingly



March 20, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2230

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to public school board membership in a school district located on tribal land; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

**School board membership - Prohibition.**

If a tribal government has prescribed by tribal law or resolution qualifications for eligibility for candidates for public office which are more restrictive than the laws of this state, the qualifications of candidates for eligibility for membership of a public school board of a school district located on tribal land may not be less restrictive than the qualifications for eligibility prescribed by tribal law or resolution for public office. For purposes of this section, "tribal land" means that portion of the land within the exterior boundaries of an Indian reservation which is located in the state.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
SB 2230**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 19.0522.0300<sup>6</sup>

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Vetter Seconded By Rep. Satrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Voice vote carried.

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
SB 2230**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Add Emergency Clause

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Satrom Seconded By Rep. McWilliams

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Voice vote carried.

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
SB 2230**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. McWilliams Seconded By Rep. Satrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo	X	
Vice Chairman Karls	X		Rep. Karla Rose Hanson	X	
Rep. Becker	X				
Rep. Terry Jones	X				
Rep. Magrum	X				
Rep. McWilliams	X				
Rep. B. Paulson	X				
Rep. Paur	X				
Rep. Roers Jones	----				
Rep. Satrom	X				
Rep. Simons	X				
Rep. Vetter	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Koppelman

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2230: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2230 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to public school board membership in a school district located on tribal land; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

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**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**2019 TESTIMONY**

**SB 2230**

#1  
SB 2230  
1/16

Nicole Poolman

Testimony on SB 2230

Judiciary Committee

January 21, 2019

Good morning, Chair Larson and members of the Judiciary committee, my name is Nicole Poolman, state senator from District 7 representing Bismarck and Lincoln. I am here today to introduce SB 2230, a bill to prevent felons from serving on school boards.

There are two reasons why I ask you to consider this legislation:

First and foremost, everyone who works for the school district must submit to a background check, and school board members are routinely in schools and classrooms with unlimited access to our students. They should be required to meet the same standards the rest of the staff must meet in order to keep children safe.

Second, with the State of North Dakota now paying 75% of the cost of public education, we - as stewards of taxpayer dollars - have an obligation to ensure these taxpayer funds are not in jeopardy. School boards are different from city or county commissions because they are directly responsible for the allocation of state tax dollars.

You will hear today about adults who are not acting in the best interest of the children they have been elected to serve. I hope you will listen carefully to the stories of egregious behavior because this is one of those moments when truth is stranger than fiction.

I also want you to listen carefully to whether people are here advocating for the best interests of adults, or the best interests of students. I expect you'll hear from some folks who will be advocating for adults rather than children and taxpayers.

I do want to draw your attention to one portion of the bill. The section we had intended to refer to embezzlement actually refers to the entire chapter on theft, so no matter what you decide on this issue, you'll most likely want to narrow that reference down to the large-scale theft we intended to include.

Thank you for time and attention to what has become a very serious issue.

**Testimony of Executive Director Scott Davis, North Dakota Indian Affairs Commission**  
Hearing in Support of SB 2230 – Relating to criminal history background checks and prohibiting  
felons from attaining membership on a school board  
Senate Judiciary Committee  
Madam Chair, Senator Diane Larson  
January 21, 2019

Madam Chair Diane Larson and fellow members of the Committee,

Thank you for the opportunity to testify today. My name is Scott Davis and I am the Executive Director of North Dakota Indian Affairs Commission. In this role, I serve as a liaison between the leadership, people, and governments of North Dakota's State and Tribal governments. In this capacity, my role is to address issues ranging from education, economic development, law enforcement, social services, transportation, and healthcare issues, among a long list of various other issues.

I come here before you all today in support of SB 2230, and to implore this honorable Committee to give this Bill a do pass, as it relates to the protection of our most vulnerable population--our youth--and those who effectively govern over precious public dollars used to support the education of our students. I want to thank Senator Poolman for all of her efforts, her time and energy, and her careful listening and important dialogues as this Bill's Lead Sponsor—along her Co-Sponsors.

As it stands in North Dakota Century Code presently, felons are not prohibited from serving on North Dakota Public School District School Board. After many conversations with those in and around the education field, many of us were shocked by this revelation that



someone with a history of fiscal mismanagement or serious conduct issues with minors would be allowed to expend public dollars targeted to support young people.

It is our hope with the intent of SB 2230 to narrowly define felony charges that would preclude one from serving on a Public School Board. We are open to and support amendments that would more narrowly exclude individuals who have been convicted of felony charges related to crimes against children, such as gross sexual imposition, continuous sexual abuse of a child, human trafficking of someone under the age of 18, treason, felonious restraints and other felonies related to domestic violence, perjury, luring of a child to engage in sexual conduct, and felony theft offenses, embezzlement, financial crimes related to how one, effectively, while handling the State of North Dakota's monies for public education, can serve in a high and respectful capacity.

I support SB 2230. Our children deserve School Boards who are accountable, have been held to the highest ethical standards and have distinguished themselves as leaders of our most vulnerable and valuable population, our children.

This concludes my testimony. Thank you, Madam Chair and members of the Committee. I will stand for any further questions.

# 3

SB 2230

1/16 page 1

Senate Judiciary Committee

State Capitol

600 East Boulevard

Bismarck ND, 5805-0360

RE: Senate Bill 2230

66<sup>th</sup> Assembly (2019)

Dear Chairman and Committee members,

The Turtle Mountain Band of Chippewa Indians support Senate Bill 2230 and have drafted this letter for future reference of support. Members of a school board are elected officials and should be held to a higher standard. These individuals oversee our greatest resource, our children. This bill should not be seen as an attack against any individual, instead it should be seen as a safeguard to protect our children. The elected officials that make decisions that will affect the education of future generations, should be held to that higher standard.

Sincerely,

Nathan A. Davis

Council Representative

Turtle Mountain Band of Chippewa Indians

Madam Chair and Bill Sponsors, I want to thank you for spear heading change in policy as to who can serve on school boards and also thank you for moving forward with an audit of the school/board. The results of such an audit should be used as an administrative tool.

It is so very important that our elected school board members are able to pass a background check. This background check should be completed before an individual is allowed to sign up to run for office.

It makes no sense that all school personnel must pass a background check, but our school board (our leadership) is made up of felons and in some cases have multiple felonies. It makes no sense when people with teacher credentials, masters degrees, doctors degrees, and other school professionals have to ask a felon for a job. What message does this send to our students, our community and the State of North Dakota.

The following is just a short list of what our school has to put up with when felons are in charge and no one wants to say anything for fear of their jobs

1. Employees and students feel ashamed of our school board because of the felons serving. They feel disgusted because these felons go on weekend retreats with school funds and there is no funding for dual credit students and other school activities.
2. The local education community and community at large are embarrassed and discouraged when the School board overrules the Administration in order to hire unqualified relatives and friends, and when they see nothing wrong with harassing school personnel.
3. Ethics in our education system in some cases are laid back due to felons in leadership. There is no longer such a thing as write or wrong as long as there are no consequences.
4. It's ok to buy fuel to heat the school from only one vendor instead of taking bids, not good, another spin off of felons in charge..
5. School board using school credit cards, not only for themselves and school business but for their friends. Equipment stolen from the school, school board member suspected, but no one dares to say anything, again not good.
6. The Belcourt School Board is elected by a small group of their friends and relatives and not from across all four districts of our reservation. They are not a good representation of our local education system and leadership.

I am recommending your self Scott along with the Governor's Office, use your emergency powers, to remove immediately any felon currently serving on the Belcourt School Board.

Please use this email as testimony for change. Get rid of the felons. Get them off our school board.

Sincerely

Emil LaRocque  
For Scholarship Director/now retired.

19.0522.03000

Sixty-sixth  
Legislative Assembly  
Of North Dakota

Attention: The House Education committee,

I am writing a letter in support of Senator Poolmans Bill. It is the first Bill about not having felons serve on the school board. I feel that any member running for or serving on the school board should have to follow the same hiring process as an employee of the school district. They should have to pass a background check. School board members do receive funds for meetings and receive payment, thus they should have to pass a background check.

I am aware of current and past school board members who do have a felony, which deals with either embezzlement/ misappropriation of funding. These types of people should not be in charge of making any financial decisions for a school system. Along with these felons, there also violent felons who cannot pass background checks to work in our school system, but yet they serve our school board. These violent felons could include those that have been charged or facing charges of assault or domestic abuse. It is very embarrassing seeing a member of our school board make news headlines for being caught with drugs and pending domestic abuse chargers within a months' time, while still attending school board meetings. This is a bad image for our school district and community, setting a bad example for our current, and future students.

Respectfully,

Jacob DeCoteau

January 2019

RE: 2230 Bill - Prohibition of felons on school boards. Introduced by Senators Poolman, Marcellais Representatives Monson, Roers Jones

My name is Craig Lunday and a member of the Turtle Mountain Band of Chippewa and reside in Rolette County, ND and am requesting your support on Senator Poolman's bill that will disallow felons from attaining membership on a school board. I do realize that some felons will make better choices after convicted of their felony. But to sit on a school board that gives them access and the authority to the hiring and firing, access to the school checkbook, access to creating jobs not needed, access to giving contracts such as teaching, management, maintenance, construction, drug testing and other contracts to friends and family, that is not fair to our community and to our school children and faculty.

Our Belcourt School District #7 board consists of 7 members and we have 3 of them who are convicted felons. The charges affiliated with those who have been on or currently sit on our school board are for embezzlement, violence and drugs.

Current BSD #7 school board member, Doug Delorme first sat in the penitentiary for embezzlement when he was a tribal councilman and his 2<sup>nd</sup> time he was incarcerated in the penitentiary was for a violent crime. It was an assault charge that resulted in serious bodily injury.

Another school board member, Jeremy Laducer is currently awaiting trial for an assault charge that took place in September 2018 and was recently charged for terrorizing and another assault charge that took place in a Mandan hotel at the end of 2018. He was also recently in the news for meth ingestion. If convicted, our school board will have 4 felons. Nothing good could come from that. What kind of message and example is this for children in all schools?

And to my knowledge, other current school board members that are convicted felons for charges of embezzlement are Bruce Morin and Teri Lafountain.

Please find it in your hearts to ban together and pass this act that was brought forth by Senator Poolman/Senator Marcellais and representatives Monson and Roers Jones to prohibit felons from sitting on any school board. I can't thank them enough for introducing this bill

If passed and if it is possible, can you somehow expedite the process to implement ASAP.

Again, Thank you

Sincerely,

Craig Lunday



#4  
SB 2230  
1/16

NDCEL

Testimony in Support of Senate Bill 2230 –

Good Day – I am here representing North Dakota Council of Educational Leaders which is the organization that serves our school Superintendents, Principals, CTE Directors, Technology Directors, AD's, County Superintendents, Business Officials and truly every school leader with the exception of teachers and school board members. - We are here testifying in support of SB 2230.

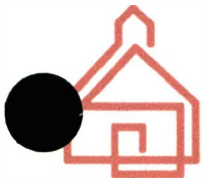
Our schools charged with and are expected to maintain role model role within our communities. We are charged with finding the best teachers and staff possible. We are charged with providing for our students a rigorous yet safe environment. One of the ways that we do that is through mandatory criminal background checks. One of the things we are looking for is to take serious caution before bringing an individual with a criminal record into our schools. Our communities would by-in-large find it unacceptable to knowingly bring adults who have a felony record in to work with their children.

It seems completely reasonable to those in our profession to expect the same level of professionalism and ability to be a role model in act and deed from our school board members. This past year, we've had a number of experiences in our state whereby if this law was in place, it would've eliminated extraordinary struggles that were experienced.

This area of code would restrict felons such as sex offenders, and those who have committed crimes against children that rise to the level of felony, those who have committed subsequent (two or more) convicted domestic violence attacks, as well as those who have committed Class A, B, or C Felonies of theft. Because of the lower level crimes that may not rise to the level of concern in code 14-07.1-06 we'd support this area of code to include a Class A or B felony. (Example being a 20-year-old who makes a bad decision in their youth to use someone else's ID or "steal" their ID which, if convicted, could qualify as a Class C felony).

If we believe that our schools are a place for the highest level of professional since they work with our most precious resource (our children), then it would seem reasonable to expect that the elected officials who are charged with leading our school boards maintain that level of professionalism as well.

We respectfully support a Do Pass Recommendation of SB 2230.



# NDSBA

NORTH DAKOTA SCHOOL  
BOARDS ASSOCIATION

P.O. Box 7128  
Bismarck ND 58507-7128  
1-800-932-8791 • (701)255-4127  
[www.ndsba.org](http://www.ndsba.org)

# 5  
SB 2230  
1/16

## SB 2230

### Testimony of Alexis Baxley Senate Education Committee January 21, 2019

Chairman Schaible and members of the Senate Education Committee, my name is Alexis Baxley. I am the executive director of the North Dakota School Boards Association. NDSBA represents all 178 operating North Dakota school districts and their boards. I am here today in opposition to SB 2230.

The citizens of North Dakota have two processes available to them to remove sitting school board members if they are dissatisfied with their performance. The first, a petition for recall is provided for in NDCC 44-08-21. In order to initiate a recall election, a petition with a number of signatures equal to 25 percent of the number of voters in the most recent election must be submitted to the district's business manager. Upon certification of the signatures, an election must be held between 95 and 105 days from the date of certification. A number of communities have used this process in recent years – Richland County, Parshall, Barnes County North, and probably most infamously – Twin Buttes. It's a very accessible process. In fact, the recall petition in Twin Buttes required only 35 signatures. The second process provides for an investigation by the attorney general and removal by the governor. All it requires to initiate this process is a petition signed by 20, 15 or 25 percent of the qualified electors of the district. We could even say there is a third option – every regularly scheduled election.

Which brings me to my next point – how far do we want to go in protecting voters from themselves? We believe this legislation is a reaction to some very unfortunate circumstances in just a handful of communities. But these communities have the same tools the others have. The bill's proponents have argued that school board members should be subject to these provisions due to the state funding received by public schools. But cities, counties, and townships all receive state dollars. If these prohibitions are good for one political subdivision, they should be good for all.

They'll also argue that board members are different because of their proximity to children, but the reality is that most board members don't come into any more contact with students – unless they are parents – than any other elected official good. The work of a board does not take place during school hours or in the classroom.

Finally, and most concerning, is the incredible list of offenses included in this bill. In early discussions, it sounded as though the bill would focus only on specific felony convictions. The result is much different, however. Let me list the number of offenses that would keep a North Dakotan from running for their local schoolboard if SB 2230 passes:

1. ANY felony conviction;
2. Crimes against a child as defined under 12.1-32-15, almost all of which are felonies;
3. Violations of a domestic protection order – a first violation is a class A misdemeanor; subsequent violations are felonies. This can be common, especially in divorce cases; and here is where it gets interesting;
4. Theft and related offense under NDCC 12.1-23, which includes felonies and class A and B misdemeanors like duplication of keys, shoplifting, using a fake ID, and theft of a keg.

That's right, using a fake ID. I could make a joke here about eliminating 50% of North Dakotans with the fake ID and theft of a keg alone, but the fact of the matter is it's really hard to find board members in some communities. With the passage of SB 2230 we will limit the pool even further. SB 2230 does not place any time threshold for convictions to be applicable. Meaning, that time you got caught using a fake ID to get into a bar in college? Forget it. It doesn't matter that you're now a responsible member of society. At 40, 50 or even 60 years old, you're still prohibited from serving on your school board. But don't worry – you can still serve in your state legislature! This legislation is a stark contrast to the messaging from the Governor's office and other state leaders surrounding recovery and reinvention. In the eyes of SB 2230 – once a felon, always a felon.

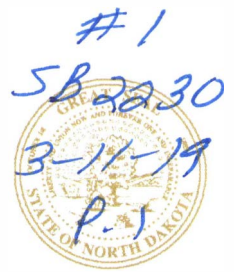
I am not advocating for morally questionable school board members. But I do believe that's a choice that should be left up to the electors of the district, and school board members should not be singled out from other elected officials. Changing the law for one or two communities is not good practice, and I believe this bill will do more damage than good. I urge you to give SB 2230 a do not pass, and I would be happy to answer any questions.





## NORTH DAKOTA SENATE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



### Senator Richard Marcellais

District 9  
301 Laite Loop NE  
Belcourt, ND 58316-3877

R: 701-477-8985  
B: 701-477-8985  
C: 701-278-0632  
F: 701-477-8985  
[rmarcellais@nd.gov](mailto:rmarcellais@nd.gov)

### COMMITTEES:

Education  
Government and Veterans Affairs

March 11, 2019

*Good Afternoon Chairman Koppleman and members of the House Judiciary Committee. For the record, my name is Richard Marcellais, Senator from District 9, Rolette County I am here today to support Senate Bill 2230.*

*Senate Bill 2230 relating to criminal history background checks and prohibiting felons from attaining membership on a school board.*

*Mr. Chairman members of the House Judiciary Committee several states require the following qualifications:*

- a. A School Board candidate must be a registered voter.*
- b. A School Board candidate must be a resident of the school district.*
- c. A School Board candidate must have been awarded a minimum of a high school diploma or a certificate of high school equivalency.*
- d. A School Board candidate cannot have been convicted of a felony.*
- e. A School Board candidate cannot be a current employee of the district and/or be related to a current employee in that district.*

*Thank You very much for the opportunity to appear in support of SB 2230 and don't forget our students. If there are any questions, I will try and answer them.*

#2  
SB 2230  
3-11-19  
P. 1

Nicole Poolman

Testimony on SB 2230

House Judiciary Committee

March 11, 2019 2:30 pm

Good afternoon, Chair Koppleman and members of the Judiciary committee, my name is Nicole Poolman, state senator from District 7 representing Bismarck and Lincoln. I am here today to introduce SB 2230, a bill to prevent felons from serving on school boards.

There are two reasons why I ask you to consider this legislation:

First and foremost, everyone who works for the school district must submit to a background check, and school board members are routinely in schools and classrooms with unlimited access to our students. They should be required to meet the same standards the rest of the staff must meet in order to keep children safe.

Second, with the State of North Dakota now paying 75% of the cost of public education, we - as stewards of taxpayer dollars - have an obligation to ensure these taxpayer funds are not in jeopardy. School boards are different from city or county commissions because they are directly responsible for the allocation of state tax dollars.

You will hear today about adults who are not acting in the best interest of the children or the taxpayers they have been elected to serve. I hope you will listen carefully to the stories of egregious behavior because this is one of those moments when truth is stranger than fiction.

I have included an amendment because when the bill was initially drafted, it was too broad and applied to more crimes than we intended. The amendment limits the crimes that would disqualify a candidate. I am so sorry to miss the hearing, but unfortunately, I scheduled a subcommittee hearing at the exact same time. Thank you for time and attention to what has become a very serious issue. Please feel free to reach out if you have any questions.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2230

Page 1, line 3, replace "felons" with "individuals who have been convicted of certain felonies"

Page 1, line 3, after "a" insert "public"

Page 1, after line 10, insert:

"1."

Page 1, line 12, replace "a" with "for any of the following offenses may not hold office as an elected or appointed member of a public school board, including as a write-in candidate:

a. A"

Page 1, line 12, replace ", an" with ";

b. A racketeering"

Page 1, line 13, replace "chapter 12.1-23, a violation of a protection order under section 14-07.1-06, or an" with "sections 12.1-06-02 or 12.1-06-03;

c. Tampering with public records under section 12.1-11-05;

d. Murder under section 12.1-16-01;

e. Assault under section 12.1-17-01.1;

f. Kidnapping or restraint under sections 12.1-18-01 or 12.1-18-02;

g. A sex offense under sections 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-07, or 12.1-20-11;

h. Class A felony robbery offenses under section 12.1-22-01;

i. Class A felony theft offenses under sections 12.1-23-02, 12.1-23-03, or 12.1-23-04;

j. Class A felony sexual performances by children offenses under chapter 12.1-27.2;

k. Class A felony human trafficking offenses under chapter 12.1-41;

l. Abuse or neglect of a child under sections 14-09-22 or 14-09-22.1;

m. Delivery of drug paraphernalia to a minor under section 19-03.4-05;

n. Class A felony controlled substances offenses under chapter 19-03.1;  
or

o. An"

Page 1, line 14, remove ", may not be placed on the"

Page 1, line 15, replace "ballot for," with ";

#2  
SB2230  
P.3  
3-11-19

2. Before taking office, an individual"

Page 1, line 15, after the second "a" insert "public"

Page 1, line 15, remove ". When a candidate files under"

Page 1, remove line 16

Page 1, line 17, remove "vacancy on a school board, the individual"

Page 1, line 18, after "check" insert ", paid for by the individual. If the criminal history record check determines the individual has pled guilty to or has been convicted of an offense under subsection 1, the individual may not assume the position for which the individual was elected or appointed, and the position must be filled in accordance with section 15.1-09-05"

Renumber accordingly

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**Testimony of Executive Director Scott Davis, North Dakota Indian Affairs Commission**  
Hearing in Support of SB 2230 – Relating to criminal history background checks and prohibiting  
felons from attaining membership on a school board  
House Judiciary Committee  
Chairman, Kim Koppelman  
March 11<sup>th</sup>, 2019

Chairman Koppelman and fellow members of the Committee,

Thank you for the opportunity to testify today. My name is Scott Davis and I am the Executive Director of North Dakota Indian Affairs Commission. In this role, I serve as a liaison between the leadership, people, and governments of North Dakota's State and Tribal governments. In this capacity, my role is to address issues ranging from education, economic development, law enforcement, social services, transportation, and healthcare issues, among a long list of various other issues.

I come here before you all today in support of SB 2230, and to implore this honorable Committee to give this Bill a do pass, as it relates to the protection of our most vulnerable population--our youth--and those who effectively govern over precious public dollars used to support the education of our students. I want to thank Senator Poolman for all of her efforts, her time and energy, and her careful listening and important dialogues as this Bill's Lead Sponsor—along her Co-Sponsors.

As it stands in North Dakota Century Code presently, felons are not prohibited from serving on North Dakota Public School District School Board. After many conversations with those in and around the education field, many of us were shocked by this revelation that

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someone with a history of fiscal mismanagement or serious conduct issues with minors would be allowed to expend public dollars targeted to support young people.

We have worked in good faith with the North Dakota School Board Association of the intent of SB 2230 to narrowly define felony charges that would preclude one from serving on a Public School Board. We have worked in defining and narrowly exclude individuals who have been convicted of specific felony charges which include the following: a felonious crime against a child as defined under section 12.1-32-15; offenses under sections 12.1-06.1-02 to 12.1-06.1-03, racketeering; section 12.1-11-05 falsification; 12.1-16-01 murder; 12.1-17-01.1 assault; 12.1-18-01 and 12.1-18-02 kidnapping; sex offenses under section 12.1-20-03.1 to 12.1-20-5.1, 12.1-20-07, and 12.1-20-11; section 12.1-22-01 robbery, Class A offenses only, theft under sections 12.1-23-02 to 12.1-23-04, class a offenses only; Class A offenses only under 12.-1-27.2 sexual performances by children; Class A offenses only under 12.1-41 Uniform Act on Prevention of and Remedies for Human Trafficking; sections 14-09-22 and 14-09-22.1 child abuse; section 19.03.4-05 unlawful delivery of drug paraphernalia to a minor; and Class A offenses only under 19-03.1 Uniform Controlled Substances Act. We believe outlining these particular felonious crimes are related to how one can effectively govern a Public School District, while handling the State of North Dakota's monies for public education, and can serve in a high and respectful capacity.

I support SB 2230. Our children deserve School Boards who are accountable, have been held to the highest ethical standards and have distinguished themselves as leaders of our most vulnerable and valuable population, our children.

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This concludes my testimony. Thank you, Madam Chair and members of the Committee. I will stand for any further questions.

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North Dakota State Legislature, Bismarck, North Dakota

## Testimony of Marchetta Bercier

Representative, Turtle Mountain Community High School Student Council

Monday, March 11, 2019

Good afternoon Chairman Koppelman, Vice Chair Karls, and members of the North Dakota House Judiciary Committee. Hello my name is Marchetta Bercier. I am a representative of the Turtle Mountain Community High School Student Council speaking on behalf of my peers and teachers. As you may know, today's discussion will be on felons and their role in our schools. Bill 2230 should definitely be voted yes on. Why? Because we are having to deal with the backlash of our leaders that we have no say in. Also any parent who doesn't live in the school district, does not have a say in the election process.

That is why you see me here today, in this room, facing my fears and being a voice for not only my community, but the entire state. Please put into consideration voting yes, not only because of the Turtle Mountains but also for all of the North Dakota schools. Your decision will not only affect my generation but also future generations.

Everyone knows a community that has their own flaws and problems. However how many people also know communities trying to solve those exact flaws and create solutions to the problems? I hope you put that into consideration towards voting yes on this bill because this is exactly why I'm up here on this podium taking a stand. This is my way way of showing you that I'm a part of a movement that wants a change with solutions, not distractions.

Thank you so much for taking the time and patience towards my statements. It truly means a lot to not only myself but for those in North Dakota who are in the same dilemma as us in Belcourt.



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**TESTIMONY ON SB 2230**  
**House Judiciary Committee**  
**3/11/19**

**By: Joe Kolosky, Deputy Director**  
**701-328-2295**

**North Dakota Department of Public Instruction**

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Mr. Chairman and Members of the Committee:

My name is Joe Kolosky and I am the Deputy Director of the Office of School Approval & Opportunity with the Department of Public Instruction. I am here to speak in favor of Senate Bill 2230 which prohibits felons from attaining memberships on school boards and having school board members pass a background check.

First, I would like to speak about the fiscal responsibility of school board members. At this point in time the budget for the 2017-19 biennium for school districts for the department is \$2.3 billion. The suggested appropriation for the Department of Public Instruction for the upcoming biennium is \$2.5 billion. A large majority of the current amount of \$2.3 billion is delivered directly to our school districts which is then governed by local school board leaders.

In the early 2000s, the state covered approximately 40% of the cost to educate a student. By 2012 the state was covering approximately 80% of the cost to educate a student. A lot of state dollars are directly delivered to our school districts through our office, and the fiscal decision-making is at the discretion of the local school board. This fiscal decision making has a significant impact on everyone living and working in that district, and these decisions should be made with logic and moral conscience. Having people do not pass a background check, or convicted felons on the board, especially ones convicted of violence, embezzlement or gross sexual imposition, may inhibit this important decision making.

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Along with fiscal decisions, school board members must make significant leadership decisions. You are all very familiar with the understanding that as a school board member you have four primary duties: 1) Hiring your superintendent, 2) Hiring your business manager, 3) Setting the budget, and 4) Approving the curriculum. The decisions that school board members are required to make regarding these duties hold a tremendous amount of responsibility. School board members' high-level decisions directly impact every student, parent, employee of the district, and the community at large.

I have worked in education at all levels: Pre-K, elementary school, middle school, and high school. I also have served as administrator and teacher. Throughout my experience there is one thing that I have learned, and I am certain. Research has reaffirmed and proven this as well. What I have learned is school districts succeed, and students achieve, with good leadership. The base of this good leadership begins with the school board. You can have a dynamite staff of teachers and a caring community, but there isn't a single case in the nation where a district has been able to raise their student achievement without good leadership. Success, achievement, positive school culture, and working relationships all start at the top and filter down throughout that district and schools. The board must set this example and lead with ethics and integrity.

Chairman Koppelman and Members of the Committee, that concludes my prepared testimony and I will stand for any questions you may have.

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Good afternoon Chairman Koppelman, Vice Chair Karls, and members of the North Dakota House Judiciary Committee, I come before you today in support of Bill 2230. Boozhoo, hello, my name is Robin Poitra. I am a senior at Turtle Mountain High School and a senior representative on the student council.

Senate bill 2230 is personal to me because my school board actually has three felons serving on it. This brings a lot of tension into my community and school. Parents and several community members feel that because of certain members, the board cannot be trusted with how the money is being spent. Parents and community members are constantly worried about money being spent wrongly and being spent on things that do not relate to school ideas, and have a feeling of that money not going to our children's education, my education.

Our education is invaluable. We are the future leaders of our community; the next teachers, doctors, politicians, etc. Not only our parents but our families only want what's best for us and our education, but they do not control our education, the school board does. This scares the students at the Turtle Mountain Community High School because the school board has the power to do anything. People are scared to stand up against them, for they think the board will do something to their families. But we are not scared, we want a change for our school system, and for the entire state of North Dakota. We don't want another school or community to go through what our school and community is currently going through. We are standing up for what needs to be done.

We need change in our community, in our school, in our state, and we need it now. I believe that this is common sense, that a person who has proven themselves untrustworthy by intentionally breaking the law should not be responsible for a school systems finances. I am held accountable for my actions, so why shouldn't they? Actions have consequences. So, in voting do pass on Senate bill 2230, you will be helping out not only my school system but other schools who may one day have a felon running or even serving on their school board.

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# Bill 2230

North Dakota State Legislature, Bismarck, North Dakota

**Testimony of Jeryn Marcellais**  
**Treasurer, Turtle Mountain Community High School Student Council**  
**Monday, March 11, 2019**

Boozhoo (hello) Chairman Koppelman, Vice Chair Karls, and members of the North Dakota House Judiciary Committee. For the record, my name is Jeryn Marcellais. I am a Junior at Turtle Mountain Community High School in Belcourt. I am the treasurer of the Student Council at my school. Today, I stand before you urging you to support Bill 2230 and vote do pass.

As you all know, this bill would prevent felons from running for school board positions. This bill would not only help members of my community, but all North Dakotans from having to go through what my community is going through currently.

Members of the Committee, I'm going to give you the following scenario. A student is caught fighting another student in school. These students are suspended and kicked out of all extra curricular activities. If these students are 18, they could possibly face criminal charges depending on the severity of the fight. If our students are being held to this standard, shouldn't our officials be too? By allowing felons to run and serve on a school board, what are you teaching the younger generation? That doing criminal activities is okay and will even help you make more money? At the present time, my school board has felons on it, and, although I believe that everyone deserves a second chance, running for such a prestigious role like a school board position should not be one of them. If these people truly wanted to help our school and students, there are several other ways to do so.

On March 5th, 2019, I attended a school board meeting and left the meeting early. I was in the meeting for about an hour. As I sat there and watched some of the board members argue and go back and forth with one another, I felt embarrassed. I felt embarrassed because I realized that when other people outside of our community think of my school, they think of these arguments. They don't think about our rich history, the bravery of our ancestors, or our hardworking students and the bright futures they all have. I felt scared because I realized that these were the people who controlled the funding in my school. These are the people who are supposed to be highly respected role models in my community. These are the people who are supposed to represent my school when going outside of the community. These are people who are elected to guide our school administrators and not interrogate or disrespect them. Also,

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during this meeting, I noticed that the lack of the word student being used. I don't think one member of the board used this word while I was in attendance. Now, I understand my school board has many issues going on right now. But ultimately, they're here for the students. They aren't supposed to be in this position for themselves. They're supposed to be here for our future doctors, lawyers, teachers, politicians, and leaders.

As a student, I feel like my educational needs are neglected by my school board. I feel our teachers are too. Instead of spending money on things like new microscopes or textbooks for the students and teachers to utilize, money is being spent on things like trips to out of town athletic events for school board members.

This board has so much power over my community. Most community members are working in the school system, or knows someone, or is related to someone who works in the school system. Many community members are scared of speaking out against the school board in fear of what they might or could do. As someone who has several family members working in the school and attend the school myself, I can honestly say that I was afraid to speak today. But I feel it is time for change. I feel that the students in my school elected me to be on the student council to be their voice and if I did not speak today- I would be failing my duties as a student council representative.

This issue truly affects the morale of our students and teachers. This issue is the topic of many conversations, and it shouldn't be. We should be talking about how proud we are of our school, how proud we are of our people, and how bright our futures are going to be. With that being said, I hope that you vote do pass on this bill and not allow felons to run for school board positions. Thank you.

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# Bill 2230

North Dakota State Legislature, Bismarck, North Dakota

## Testimony of Tucker Bercier

Secretary, Turtle Mountain Community High School Student Council

Monday, March 11, 2019

Good afternoon Chairman Koppelman, Vice Chair Karls, and members of the North Dakota House Judiciary Committee, I come before you today in support of Bill 2230. For the record, my name is Tucker Bercier. I am an enrolled student at the Turtle Mountain Community High School up in Belcourt and I am the Student Council Secretary.

2230 has a special meaning to myself and school district. As you may have seen in local media outlets, three of our current board members are convicted felons. This bill may be a simple one, but contains a big impact that would align with the morals and values that us North Dakotans so pride ourselves of.

To begin, according to the North Dakota Century Code 15.1-06-06, all school employees are required to undergo a criminal history record check. This is a responsibility of the school board according to the North Dakota School Board Association Handbook. The question remains in this, how does a school board have the right to check the criminal history of school employees, when they do not so have to themselves? Simply put, the governing body should be held to the same standards as its employees, therefore setting a precedent.

As the state of North Dakota is responsible for distributing most of the funding to the schools, they also retain the right to control how funding is handled. This includes to ensure that taxpayer dollars do not end up into the wrong hands, such as someone who has been previously charged with embezzlement.



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I am a firm believer in knowing the significant difference between right and wrong. Those persons with past convictions, created poor situations which put a mark on their past. I believe in second chances, but in this capacity, I am not willing to take another chance.

My fellow North Dakotans, I know intrust in you that the motto, "one sows for the benefit of another age," shall reign true. Please give 2230 a do pass.

# Bill 2230

North Dakota State Legislature, Bismarck, North Dakota

## Testimony of Erin Keplin

Representative, Turtle Mountain Community High School Student Council

Monday, March 11, 2019

Hello Chairman Koppelman, Vice Chair Karls, and members of the North Dakota House Judiciary Committee. My name is Erin Keplin. I am Student Council Senior Class Representative and Senior Class Vice President at Turtle Mountain Community High School. I come before you today in support of Bill 2230.

I'm standing here in front of you today to express some important issues that have been happening in my community; some issues that have been disrupting the peace; some issues that I'm sure you may have heard of so I don't need to address. The things going on are wrong and unjust, clearly.

Throughout preschool on up, we hear every day that the youth is the future and how our students are very sacred to our leaders. It wasn't until now that I began to question how much our future leaders mean to our current "leaders." It is very saddening to see what these events are doing to our children, teachers, and also our administrators. These issues have been weighing heavy on our people. My community is built on the ideas of strong, indigenous peoples. What is even more disheartening is that issues relative to ours, affect schools nationwide.

In order to keep our youth on the right path in and out of the classroom, we need more notable role models for our schools and you can help us make this happen. Miigwech. Thank you.

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# Bill 2230

North Dakota State Legislature, Bismarck, North Dakota

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## Testimony of Nevaeh Davis

**Vice President, Turtle Mountain Community High School Student Council**

**Monday, March 11, 2019**

Good Afternoon Chairman Koppelman, Vice Chair Karls, and members of the North Dakota House Judiciary Committee. My name is Nevaeh Davis, senior and Student Council Vice President of the Turtle Mountain Community High School of Belcourt, North Dakota. I have come here today in support of HB #2230.

As some of you may or may not be aware of, many communities throughout the state have been dealing with the problem that this bill would be combatting if passed. Many do not realize how widespread this problem is across our state, and even our nation. This bill would set a great example for states who do not have any policies similar to this one in place.

Many have said that this bill would be unfair or unjust towards these people who have made mistakes in their life and that people who have committed felonies deserve a second chance. I do indeed believe that felons may deserve a second chance, but I do not believe that they should be given another chance with a position of such high power over a child's educational environment. These children look up to these people who hold these positions and

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personally, I do not believe that a felon is a good role model for a child of any age, no matter the circumstances.

Over the past year, our community has developed a certain reputation due to the negative aspects that arise from situations involving the school board. Students, staff and parents of the school systems are caught in the middle and take majority of the flame. We deal with it on a day-to-day basis and essentially, it affects the performance and productivity of our schools. This may seem that we, as students of the Turtle Mountain Community High School, are directly referring to our current situation, but that does not mean that it couldn't happen anywhere else. This may seem like a small issue to some, but to me and my fellow student council members, the gravity of the situation is strongly concerning and we want to do everything we can to bring prosperity and change to communities to this state and across the nation.

I would like to thank Chairman Koppelman and the members of the committee for listening to my thoughts and I strongly suggest to please recommend a "Do Pass" on HB #2230. Thank you.

# Bill 2230

North Dakota State Legislature, Bismarck, North Dakota

**Testimony of Aiyana Jollie-Trottier**

**President, Turtle Mountain Community High School Student Council**

**Monday, March 11, 2019**

Good afternoon Chairman Koppelman, Vice Chair Karls, and members of the North Dakota House judiciary committee. I am here today in support of Bill 2230. My name is Aiyana Jollie-Trottier, I am the student council president and today I am speaking on behalf of the students at Turtle Mountain Community High School. I am proud to be apart of this school because I know of my peers' academic success, their intelligence, and their stamina. I take part in the efforts made by our youth to keep our culture alive. I get to watch and listen to our amazing pep band and see the beautiful artwork made by the talented artists we have. I know of our sports teams' hard work, and hear the compliments our athletes receive about their respectfulness as they travel the state. These are the accomplishments that bring me pride when I think of my school, but sadly, these are not often the things I hear in the media and in the mouths of others.

I hear the negative actions of our school board, the conspiracies of how money is being spent, and how they are corrupted by power. These are the thoughts that seem to come up when someone hears the words "Turtle Mountain Community High School." These are the things that make me ashamed to be associated with this school, and I would never want anybody else to feel this kind of embarrassment. I should not have to feel this way, and neither should my peers.

We should not wonder whether the money that is for our education, is actually being put towards that. We should not sit in two hour board meetings and hear the word student come up three times. We should not feel intimidated by the people who claim to serve us and have our best interests at heart. We want to trust the adults who

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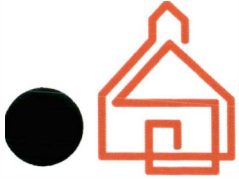
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are in charge of our education. We need leaders who are positive role models and let our voices beheard, but this is currently not the situation at my school.

I say currently to point out that you can change this, you have the power to prevent this before it happens to other students in this state. School board members are voted inby the people, but in a small town relatives and friends can swing an election. By passing this bill, you will prevent untrustworthy adults from running and possibly getting in a position of power they most likely do not deserve. You are not taking away their second chance, their many other occupations that do not involve having control of a school's finances. You will not be preventing them from helping the school, because there are many ways they can make valuable contributions without being on the board. These are ways they can turn their image around and truly have a positive impact on our school. Thank you for your time and attention and please vote this bill as "do pass."



**NDSBA**  
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**SB 2230**

**Testimony of Alexis Baxley  
House Judiciary Committee  
March 11, 2019**

Chairman Koppelman and members of the House Judiciary Committee, my name is Alexis Baxley. I am the executive director of the North Dakota School Boards Association. NDSBA represents all operating North Dakota school districts and their boards. I am here today in opposition to SB 2230.

The citizens of North Dakota have two processes available to them to remove sitting school board members if they are dissatisfied with their performance. The first, a petition for recall is provided for in NDCC 44-08-21. In order to initiate a recall election, a petition with a number of signatures equal to 25 percent of the number of voters in the most recent election must be submitted to the district's business manager. Upon certification of the signatures, an election must be held between 95 and 105 days from the date of certification. A number of communities have used this process in recent years – Richland County, Parshall, Barnes County North, and probably most recently and infamously – Twin Buttes. It's a very accessible process. In fact, the recall petition in Twin Buttes last fall required only 35 signatures. The second process provides for an investigation by the attorney general and removal by the governor. All it requires to initiate this process is a petition signed by 20, 15 or 25 percent of the qualified electors of the district. We could even say there is a third option – every regularly scheduled election.

Which mandates the question: how far do we want to go in protecting voters from themselves? We believe this legislation is a reaction to some very unfortunate circumstances in just a handful of communities. But these communities have the same tools the others have. There has been some discussion about fear of retaliation discouraging some patrons from using these processes. While I am sympathetic to that, these processes can be anonymous. In fact, during the Senate hearing on this bill we heard that after couple unsuccessful attempts to get a petition going in the Belcourt area citizens were informed that their names did not need to be public. They then were able to collect more than double the number of signatures needed.

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The bill's proponents have argued that school board members should be subject to these provisions due to the state funding received by public schools. But cities, counties, and townships all receive state dollars. If these prohibitions are good for one political subdivision, they should be good for all. In addition, there are a number of provisions in state law that protect school district funds. I'm not going to go through them all with you, but there is an attachment to my testimony titled "Follow the Money" that describes the protections and controls in place. In summary of that document, school board members are unable to access or spend funds without the participation of the school business manager or administrator. They cannot embezzle funds on their own.

They'll also argue that board members are different because of their proximity to children, but the reality is that most board members don't come into any more contact with students – unless they are parents – than any other elected official would. The work of a board does not take place during school hours or in the classroom.

Finally, and most concerning, is the incredible list of offenses included in this bill as currently written. Let me list the number of offenses that would keep a North Dakotan from running for their local schoolboard if SB 2230 passes:

1. ANY felony conviction;
2. Crimes against a child as defined under 12.1-32-15, almost all of which are felonies;
3. Violations of a domestic protection order – a first violation is a class A misdemeanor; subsequent violations are felonies. This can be common, especially in divorce cases; and here is where it gets interesting;
4. Theft and related offense under NDCC 12.1-23, which includes felonies and class A and B misdemeanors like duplication of keys, shoplifting, using a fake ID, and theft of a keg.

That's right, using a fake ID. I could make a joke here about how many of us would be rendered ineligible by fake ID and theft of a keg alone, but the fact of the matter is it's really hard to find board members in some communities. With the passage of SB 2230 we will limit the pool even further. SB 2230 does not place any time threshold for convictions to be applicable. Meaning, that time you got caught using a fake ID to get into a bar in college? Forget it. It doesn't matter that you're now a responsible member of society. At 40, 50 or even 60 years old, you're still prohibited from serving on your school board. But don't worry – you can still serve in your state legislature! This legislation is a stark contrast to the messaging from the Governor's office and other state leaders surrounding recovery and reinvention. In the eyes of SB 2230 – once a felon, always a felon.

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I am not advocating for morally questionable school board members. But I do believe that's a choice that should be left up to the electors of the district, and school board members should not be singled out from other elected officials. Changing the law for one or two communities is not good practice, and I believe this bill will do more damage than good. I urge you to give SB 2230 a do not pass, and I would be happy to answer any questions.



## FOLLOW THE MONEY

NDCC ensures that school board members would not have access to school funds unless Business Manager or Superintendent/Administrators (who are background checked and bonded) are in agreement with this access. NDCC reduces the chances for fraud and misuse of public funds. If there is a misuse of funds, the Business Manager and/or the Superintendent/Administrator would have to be involved as well.

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**NDCC 15.1-07-12 Negotiable Instruments— Disbursement of Moneys by Business Manager** (checks, bonds, CDs, and currency) states:

"The Board of a school district may adopt policies governing the disbursement of school district moneys by the Business Manager. The policies adopted under subdivision a may include:

- (1) The authorization, creation, and approval of negotiable instruments;
- (2) The use of credit or debit cards;
- (3) The payment of invoices;
- (4) The use of petty cash;
- (5) The use of electronic payments; and
- (6) The use of facsimile signatures (signature stamps).

The policies adopted under subdivision a must include **internal controls** to safeguard school district moneys. If the Board of a school district hasn't adopted policies to govern the disbursement of school district moneys by the business manager, the Business Manager may disburse moneys only by issuance of a negotiable instrument upon presentation of a bill or invoice, the payment of which has been authorized by the President of the School Board, and only if there are sufficient moneys available for the disbursement. Upon issuing a negotiable instrument, the Business Manager shall make a record of the instrument."

**NDCC 15.1-07-21 School District Business Manager Duties** states in part that the Business Manager prepares all negotiable instruments as directed by the Board, keeps a true and accurate financial records, maintains custody of all district moneys coming into the business manager's hands, pays out district moneys under the business manager's control as directed by the Board, and receives and maintains custody of all moneys to which the District or the Board is entitled. **NDCC 15.1-07-24** states that the Business Manager is responsible for the safekeeping of all school district funds and shall keep an account of the district's receipts, expenditures, and itemized accounts for each class of receipts and expenditures.

Internal controls should mandated that all staff with direct access to district funds have had background checks and are bonded through the ND State Bonding Fund which covers public employees for theft of money and property by them. Internal controls should spell out how cash, checks, ACH, and credit card transactions are handled. This includes receipts, deposits, purchases by the District, payroll time card and benefits entries, sports/activity ticket and concession sales, and accounting entries/practices. District policies should provide for procedures for conflicts of interest board members and district employees.

School District internal controls ensure a minimal number of bonded, background checked staff have access to funds in lock boxes or the safe. Generally this is the Business Manager, the Superintendent, an office secretary or principal that may receipt incoming cash or checks. The safe combination should be in the hands of the Superintendent, office secretary, and possibly the principal. The internal controls should include steps ensuring that receipts are immediately issued for all incoming funds and signed for by the person submitting the funds. The person submitting funds should receive a copy of the signed receipt. The incoming funds are immediately placed in a lock box and/or safe until the daily deposit is processed by the Business Manager. The Business Manager compares the daily receipts to the cash/checks in the lock box and/or safe prior to the daily deposit.

If a cash box is prepared for sports events, school activities, or the concession stand, two people should count and initial for the funds in the cash box before and after the event and sign a form testifying that they agree with the tally. Two people should always be selling event tickets and concessions. The Business Manager should never be selling tickets, or be around the cash box at these kinds of events. If more funds are needed from the safe during events, the Superintendent and one other bonded staff member should go to the safe, note the additional funds on the tally sheet, and lock the safe before putting the cash in the cash box. The goal is to never have a cash box attended by only one person and reduce the opportunity for fraud.

All district checks must be board approved and contain two signatures. Ideally, one of those signatures should be the manual signature of the Business Manager. The other signature is the board authorized individual (generally the Board President for the General Fund, Special Reserve Fund, Building Fund, and Sinking and Interest Fund). **NDCC 21-03.1-03** requires at least one signature of an authorized officer or other person required or permitted to be placed on a certificated registered public obligation must be a manual signature. The other could be a facsimile signature (signature stamp). Internal controls should ensure that the Business Manager should never have the facsimile signature stamp in their possession.

The Business Manager is also charged in law with preparing and submitting financial reports to the School Board and recording the list of checks approved by the board for payment in the official board minutes. If the voters have approved the publication of the School Board Minutes, the list of approved checks are also published.

Based on this, unless a board member had physical access to an unlocked cash box or safe, or if the board member or members were in cahoots with the Business Manager, Superintendent, or Administrator, it would be impossible for them to steal money from the District.



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March 2019

**RE: 2230 Bill** - Prohibition of felons on school boards. Introduced by Senator Poolman & Marcellais and Representatives Monson, Roers Jones

My name is Craig Lunday and a member of the Turtle Mountain Band of Chippewa and reside in Rolette County, ND and am requesting your support on Senator Poolman's bill that will disallow felons from attaining membership on a school board. I do realize that some felons will make better choices after convicted of their felony. But to sit on a school board that gives them access and the authority to the hiring and firing, access to the school checkbook, access to creating jobs not needed, access to giving contracts such as teaching, management, maintenance, construction, drug testing and other contracts to friends and family, that is not fair to our community and to our school children and faculty.

Our Belcourt School District #7 board consists of 7 members and we have 3 of them who are convicted felons. The charges affiliated with those who have been on or currently sit on our school board are for embezzlement, violence and drugs.

Ex Tribal Councilman and Current BSD #7 school board member, Douglas Delorme first sat in the penitentiary for being convicted of embezzlement from the tribe, witness tampering and subornation of perjury in 2003 and his 2<sup>nd</sup> time he was incarcerated in the penitentiary was in 2007 for a violent crime. It was an assault charge that resulted in serious bodily injury of the personnel director of the TMBCI

Another school board member, Jeremy Laducer is currently awaiting trial for an assault charge that took place in September 2018 and was recently charged for terrorizing and another assault charge that took place in a Mandan hotel at the end of 2018. He was also recently in the news for meth ingestion. If he gets convicted of those charges, our school board will have 4 felons. Nothing good could come from that. What kind of message and example is this for children in all schools throughout North Dakota?

And to my knowledge, other current school board members that are convicted felons for charges of embezzlement are Bruce Morin and Teri Lafountain.

I did give testimony when this bill was brought forward to the Senators. At the time there were numerous people in support of the bill and one opposition. I did listen to the reason the person opposed it. Their reason was "to not hold a person who decides to use a fake ID when they were younger to the same standards as the felons that commit more serious crimes, basically" They said that would take that persons chance at running for school board in the future. I did investigate this and found out that the 1<sup>st</sup> offense of using a fake ID is a misdemeanor. The 2<sup>nd</sup> time is still a misdemeanor. However, if a person commits the same crime of using a fake ID a 3<sup>rd</sup> time...It will then be a felony. If a person doesn't learn to follow the rules and laws that are created to make our communities safer and happen to get convicted 3X for the same offense? In my opinion, their chances of recidivism would be astronomical.

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### **National Statistics on recidivism of felons**

- Within three years of release, about two-thirds (67.8 percent) of released prisoners were rearrested.
- Within five years of release, about three-quarters (76.6 percent) of released prisoners were rearrested.
- Of those prisoners who were rearrested, more than half (56.7 percent) were arrested by the end of the first year.
- Property offenders (burglary, theft, vandalism) were the most likely to be rearrested, with 82.1 percent of released property offenders arrested for a new crime compared with 76.9 percent of drug offenders, 73.6 percent of public order offenders and 71.3 percent of violent offenders.

Please find it in your hearts to ban together and pass this act that was brought forth by Senator Poolman, Senator Marcellais and representatives Monson and Roers Jones to prohibit felons from sitting on any school board. I can't thank them enough for introducing this bill

If passed and if it is possible, can you somehow expedite the process to implement ASAP.

Again, Thank you

Sincerely,

Craig Lunday

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2230

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to public school board membership in a school district located on tribal land.

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

**SECTION 1.** A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

**School board membership - Prohibition.**

If a tribal government has prescribed by tribal law or resolution qualifications for eligibility for candidates for public office which are more restrictive than the laws of this state, the qualifications of candidates for eligibility for membership of a public school board of a school district located on tribal land may not be less restrictive than the qualifications for eligibility prescribed by tribal law or resolution for public office. For purposes of this section, "tribal land" means that portion of the land within the exterior boundaries of an Indian reservation which is located in the state."

Renumber accordingly