

2025 SENATE STATE AND LOCAL GOVERNMENT

SB 2180

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee Room JW216, State Capitol

SB 2180
1/24/2025

Relating to the opportunity to provide public comment at a meeting of a public entity.

9:02 a.m. Chair Roers called the meeting to order.

Members Present: Chair Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

Discussion Topics:

- Access to public meetings
- Purpose of open meeting laws
- Standards of transparency

9:02 a.m. Senator Paulson, District 3, testified in favor and submitted testimony #31281.

9:14 a.m. Kory Peterson, Lobbyist, League of Cities, testified in favor.

9:16 a.m. KrisAnn Norby-Jahner, In-House legal counsel ND School Boards Association, testified in opposition and submitted testimony #30551.

9:30 a.m. Dr. Paul Stremick, ND School Study Council, testified in opposition and submitted testimony #31216.

9:42 a.m. Sheri Haugen- Hoffart, Commissioner Public Service Commission, testified in opposition and submitted testimony #31152.

9:47 a.m. Leslie Bieber, Superintendent Alexander Public School, testified in opposition and submitted testimony #31160.

9:56 a.m. Annique Lockard, Assistant Attorney General ND Supreme Court, testified neutral.

Additional written testimony:

Karen Krenz, citizen, submitted testimony in favor #30978.

Crystal Hendrickson, citizen, submitted testimony in favor #31083.

Michael Connelly, citizen, submitted testimony in favor #31245.

Cameron Wahlstrom, ND School Study Council, submitted testimony in opposition #31205.

Senate State and Local Government Committee

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Rebecca Pitkin, Education Standards and Practice Board, submitted testimony in opposition #31080.

Aimee Copas, Executive Director ND CEL, submitted testimony in opposition #31270.

9:59 a.m. Chair Roers closed the hearing.

Susan Helbling, Committee Clerk



NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

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

SB 2180
Testimony of KrisAn Norby-Jahner
Senate State and Local Government
January 24, 2025

Chair Roers and members of the Senate State and Local Government Committee, for the record my name is KrisAnn Norby-Jahner. I am in-house legal counsel for the North Dakota School Boards Association. The NDSBA represents all 168 North Dakota public school districts and their boards. I am here today in opposition to SB 2180.

This Bill would require public entities, which includes school districts, to allow the opportunity for individuals in attendance at board meetings “to provide public comment,” without “approval by the public entity” and without any rules governing the public comment period other than time limits per speaker. This proposed law is too broad and would create a nearly unlimited open public forum allowing for public comment at any time, on any topic, and in any manner.

Public board meetings are not “public meetings,” but rather they are “meetings held in public.” When a school board holds a meeting, its purpose is to conduct the business of the board as it relates to school policies, programs, budget, and operations. The purpose of open meetings law is to give members of the public access to the meetings of a governing board of a public entity, but that access does not give members of the public the right to participate or speak at the public meeting. *See, e.g.,* Attorney General Opinions – N.D.A.G. 2003-O-07; N.D.A.G. 99-O-07; N.D.A.G. 98-F-11. In the 1980s, the U.S. Supreme Court began using a categorical approach known as the “public forum doctrine” to analyze restrictions on private speech and other forms of expression on governmental property. Federal courts have delineated four general types of public forums, each requiring a different analysis to determine the scope of the public’s right to speech and the governmental body’s ability to regulate that speech: (1) traditional public/ open forum; (2) nonpublic/ closed forum; (3) designated public forum; (4) limited public forum. When a school board chooses to allow public comment at board meetings, then the policy, rules, and procedures the board creates determines what kind of forum it is establishing, most typically a “designated” or “limited” public forum in order to maintain the efficient and orderly operation of the board meeting.

Once a school board allows public comment and creates a designated or limited public forum, it is already limited in its ability to restrict public speech. Legally, in these types of forums that public boards create, restrictions on public comment must be reasonable in light of the forum's purpose and must be viewpoint neutral – i.e., the school board cannot discriminate or censor the speech on the basis of the speaker's point of view. Public bodies, including school boards, should maintain the ability to *choose* whether and at what times public comment periods during board meetings should be allowed. This allows for a careful balance between public comment periods and periods reserved to accomplish the board's primary purpose in conducting necessary public business. SB 2180 would require public bodies to include public comment periods at every board meeting on any topic without restriction, thus creating an open public forum, leaving boards little to no ability to control their boardrooms and to ensure public business is effectively conducted and accomplished.

The majority of school boards with which the NDSBA works already handle public comment periods appropriately at the local level under carefully-drafted policies that set the rules and limitations on the public forums the boards are creating. If this Committee were to issue a do-pass recommendation, we would respectfully request amendments to ensure that an entirely open public forum is not inadvertently created in our public boardrooms across the state. We would request that a meeting of a public entity “may” (not “must”) include an opportunity for a public comment period and “may” develop a policy with rules and regulations, including, but not limited to the following: (a) public entity controls the types of meetings at which public comments will be allowed, including regular versus special meetings; (b) public comments may be limited to agenda items only; (c) no individual public commenter may speak more than once; (d) public comment periods may be limited by time as an agenda item; (e) public comments may be limited by time per speaker; (f) topics for comment may be limited when the topic is prohibited from discussion in open meeting is prohibited from being brought before the public body, or is governed by another policy that dictates an alternative procedure for bringing the topic before the public body; and (g) undue interruption or other interference with the orderly conduct of board business may be prohibited, including, but not limited to, defamatory, abusive, harassing, or unlawful public comments. These types of rules are best left to local control under a policy that will ensure the public forum created in the board room remains a limited and not entirely open public forum.

There a number of circumstances whereby public comments may even be unlawful, which furthers the need to allow public bodies the ability to put proper restrictions and rules in place. For example, student educational records are protected under the Family Educational Rights and Privacy Act (FERPA) and cannot be discussed in open meetings, nor can FERPA-protected records typically be disclosed to school board members. Personnel complaints against certified employees in a school district (e.g., teachers and administrators) cannot

be brought before a school board in an open meeting in the event that the school board needs to sit in an impartial, unbiased capacity in a future contract nonrenewal or discharge hearing occurring in executive session where that employee has to be provided due process and an opportunity to a fair an impartial hearing.

Based on the foregoing reasons, the NDSBA asks this Committee to issue a do not pass recommendation on SB 2180. Thank you for your time.

Thank you, Senate State and Local Government Committee, for the opportunity to give my testimony. My name is Karen Krenz, I am from District 1 in Williston and a mother of three boys. I was a teacher and counselor for 23 years in ND. I am asking that you render a DO PASS for SB 2180.

There have been many times at our school board public meetings that we have been silenced for talking about topic that have not been on the agenda. It is vitally important that public has the opportunity to make public comment at a meeting that is of public entity. Public participation ensures transparency and accountability in decision-making processes. It allows community members to voice their concerns, provide input, and influence decisions that affect their lives. Engaging the public fosters trust and collaboration between the community and the governing bodies. As taxpayers, we should have the opportunity to contribute our input during public meetings. When public input is limited, decisions may not fully reflect the needs and priorities of the community, leading to policies that are out of touch with public sentiment. This can result in a lack of trust and increased frustration among community members, as they feel their voices are not being heard. Ultimately, the absence of diverse perspectives and feedback can hinder effective governance and lead to misguided initiatives.

Although they state that the public can submit topics to be included on the agenda, the multiple times I submitted topics, I was rejected. It left me feeling frustrated, as if my voice and concerns were not valued or heard. Despite the opportunity for public comment, it seemed like a mere formality rather than a genuine opportunity for engagement.

Thank you for your consideration on this important issue and for your service to the state of North Dakota.

Karen Krenz

SB 2180**Senate State and Local Government**

January 24, 2025

Rebecca Pitkin

Chair Roers and members of the Senate State and Local Government Committee, my name is Rebecca Pitkin, and I am the executive director of the Education Standards and Practices Board (ESPB). ESPB issues teaching licenses and handles professional practices and complaints regarding an individual with a teaching license. I am here today in opposition to SB 1280.

The bill would require public entities, which includes ESPB, to provide the opportunity for individuals in attendance at Board meetings to “provide public comment” without “approval by the public entity”. The language of the law allows for anyone to comment on any topic during a meeting. Many of the items on the ESPB agenda are cases involving teachers and students, the latter of who are minors. Great care is taken by the Board to protect the names of minors in Board materials and information is redacted as well as password protected on a secure site. Opportunity for any individual to speak on a case could remove this layer of protection and result in a Family Educational Rights and Privacy Act (FERPA) violation. Allowing public comment erodes our ability to ensure that confidential or protected information is not disseminated inappropriately. Our Board has a complaint process for violations of North Dakota Century Code § 15.1-13-24, and within this process is an opportunity for the individual making the complaint to lay out their facts and arguments associated with the complaint. The potential for any individual to provide public comments against a licensed individual whose case the Board dismisses, provides opportunity for defamation of character, opportunity for disruption of the Board’s business (“derailing”), and possible intimidation or harassment of the Board members. In addition, as a fee funded occupational board, the Board streamlines meetings to address the agenda issues, established in advanced. Board members are practitioners working as teachers, administrators, professors, and school board members and have other responsibilities, directly serving their students. Their time spent on Board matters and meetings is streamlined to minimize time spent away from their classrooms and responsibilities with their students. Allowing for public comments not subject to prior approval by the entity (in this case the Board) and only allowing for limitations by time per speaker is not conducive to the streamlined approached to meetings that the Board has built, and any additional time taken up by extended meetings is time taken away from Board members in their classrooms or with their students. In addition, if a FERPA violation

were to occur because of public comments, there is potential for additional time to be required of Board members as a part of the FERPA complaint process.

A meeting with potential ongoing comments is not effective use of public monies nor the time of the educators and has the potential to be far outside the scope of Board duties as found in North Dakota Century Code § 15.1-13-08.

The Board asks for a do not pass recommendation on SB 2180. This concludes my testimony.

Rebecca Pitkin, PhD

rpitkin@nd.gov

701.328.9646

Dear ND Legislature,

I urge a **DO PASS** for SB 1280. Several boards across this state do not allow public comment periods. In many cases, the contact information for board members is not made available to the public, so people are not able to contact their local government board members via phone or email. The best way to contact these board members is to address the whole board at a public meeting.

It is my observation that many board and committee members do not wish to engage with the constituents, hear opposing viewpoints, or explain their decisions.

I am aware of numerous times when a person has tried to be added to a public agenda, and the chairman refuses to add them. Not because the topic is confidential, but simply because the chairman doesn't agree with the person wishing to speak, or doesn't want to have the topic discussed. A public comment period, enshrined in Century Code, would be very helpful to ensure diversity of opinions may be expressed in any public meeting.

Thank you for the opportunity to provide feedback on this bill.

Crystal Hendrickson
Minot, ND
701-389-0355

Senate Bill No. 2180

Presented by: Sheri Haugen-Hoffart, Commissioner
Public Service Commission

Before: Senate State and Local Government Committee
The Honorable Kristin Roers, Chair

Date: January 24, 2025

TESTIMONY

Chair Roers and committee members, I'm Commissioner Sheri Haugen-Hoffart here to testify in opposition to SB 2180.

The Commission strongly values public participation as a cornerstone of good governance. We go to great lengths to ensure the public has ample opportunity to provide input in all our proceedings. For example, in rate cases, we hold public comment sessions both in-person and remotely in all affected areas. When siting energy infrastructure, the Commission travels to each impacted region to gather local feedback. Additionally, our robust public comment system allows individuals to submit their input in various formats, ensuring every voice is recorded and considered. To date, no one has ever been turned away from participating in these processes.

While the intent of SB 2180 may be well-meaning, the legislation presents significant practical and legal challenges. From a practical standpoint, the Public Service Commission does not operate like a traditional board or local political subdivision with periodic meetings. Under Chapter 44-04, any gathering of two or more commissioners discussing public matters is considered a "meeting,"

regardless of context. This includes legal evidentiary hearings, work sessions, committee appearances, and even informal events like employee retirement celebrations. If public comment were required at all such gatherings, the Commission could face disruptions, with multiple comment periods potentially stacked throughout a single day.

From a legal perspective, the Commission's work is primarily governed by the Administrative Practices Act (Chapter 28-32), which strictly prohibits agency heads from engaging in direct or indirect communication about pending proceedings without full notice and opportunity for all parties to participate. From the agency's experience, requiring public comment in such scenarios will likely create conflicts with these statutory obligations. It is these requirements, in addition to managing and establishing an evidentiary record, that the Commission goes to great lengths to provide structure and opportunity to the public to provide comment and input.

In summary, while the Commission is deeply committed to public engagement, SB 2180 would impose impractical burdens and risk violating legal safeguards inherent to our quasi-judicial role.

Chair Roers, thank you for your time and consideration. I am happy to answer any questions.

Testimony in Opposition to HB 2180

Madam Chairman Roers and Members of the Committee,

Thank you for the opportunity to address you regarding HB 2180, which mandates public comment at all meetings of public entities. As a superintendent of a rural school district, I feel compelled to share my concerns regarding this bill's potential impact on school board meetings and the ability of school districts to function effectively and fairly.

Risk to Due Process and Legal Exposure

A school board functions as a jury in matters of personnel and other sensitive issues. Allowing unrestricted public comment at meetings opens the door for individuals to discuss topics that could prejudice the board's impartiality. For example, if a community member were to bring forward comments about personnel issues, it could jeopardize the due process rights of the individuals involved. This interference would not only undermine the integrity of the board's decision-making but could also result in lawsuits against the district for failing to ensure a fair hearing. The financial consequences of such litigation could be devastating for school districts with negative impacts on student outcomes.

Existing Procedures for Public Input

Our district, like many others, already has procedures to ensure that community members can engage with their elected officials. Per our board policy, the superintendent, in consultation with the board president, prepares the meeting agenda. Anyone wishing to address the board may request to be included in the agenda by contacting the superintendent or board president at least 24 hours prior to the meeting. This process ensures that comments are relevant and that discussions occur in an organized manner.

Additionally, constituents often have direct communication with board members and the superintendent. Our emails are all available on our website but needless to say in a small town, people know how to contact one another. The public has opportunities to engage without the risks associated with unrestricted public comment.

Amplifying Community Tensions

In small, tight-knit communities like ours, school board decisions often have far-reaching social implications. Personnel decisions, disciplinary actions, and even issues like student athletics are deeply personal to many families. This bill risks turning public meetings into platforms for airing grievances, which could escalate tensions rather than resolve them. Proper channels exist to address such concerns, and bypassing these channels undermines our ability to maintain civility and focus on student needs. Often, relationships are built in a positive manner when protocols are followed because there is two-way communication handled at the lowest level.

Upholding the Purpose of Public Meetings

Public meetings are designed to conduct the business of the public entity, not to serve as open forums for any topic. The agenda ensures discussions remain focused and productive. I urge you to consider how this would impact your own committee meetings if public comment were allowed on any subject, rather than limited to the topic at hand.

As a school superintendent in a small town, I navigate complex social dynamics involving families, close-knit relationships, and long-standing generational friendships. Decisions related to personnel or discipline—such as hiring, firing, or expulsions—can ripple through communities. This bill risks amplifying tensions by creating an additional avenue for grievances, exacerbating local disputes rather than resolving them locally.

Conclusion

Our system of governance provides mechanisms for public accountability. If community members are dissatisfied with their elected school board's policies or actions, they have the right to vote for change. HB 2180 threatens to disrupt the functions of school boards, increase legal and financial risks for districts, and create environments of conflict rather than collaboration.

I respectfully urge you to oppose HB 2180 and instead support existing frameworks that balance public engagement with the need for effective governance.

Thank you for your time and consideration. Leslie Bieber

Testimony to the Legislative House Education Committee in Opposition to HB 2180

Madam Chairman Roers and Members of the Committee,

Thank you for allowing me the opportunity to address you today. My name is Cameron Wahlstrom and I am the President of the Alexander Public School Board. I am providing testimony in strong opposition to HB 2180.

As a lifelong member of the Alexander community, I am deeply committed to ensuring the success of our schools and the well-being of our students and staff. I grew up here, and I actively participate in school events, from cheering at games to supporting fundraisers. I am accessible to our community members—I answer emails, return phone calls, and meet face-to-face with constituents to hear their concerns. When issues arise, I host public forums to provide additional opportunities for dialogue and collaboration.

Protocols Are in Place for Public Engagement

Our school district has established clear and accessible protocols for public engagement. Community members who wish to address the board may contact me or the superintendent in advance to be placed on the agenda. This process ensures that all voices can be heard in an organized and fair manner. If someone prefers not to use the formal agenda process, they can reach out to me directly—I always take the time to explain the protocol, listen to their concerns, and address their issues appropriately.

The Risks of Unrestricted Public Comment

HB 2180 would fundamentally undermine the structure and purpose of school board meetings. These are business meetings, and like any effective business meeting, they require order and structure to address the agenda and make sound decisions. Allowing unrestricted public comment on any topic at these meetings would create chaos, disrupt the flow of necessary discussions, and distract from the business at hand.

Furthermore, as a school board, we are often tasked with making decisions that require impartiality, particularly regarding personnel and student matters. As board president, I can inform the public that such topics are off-limits for discussion during meetings. However, that does not guarantee compliance. If someone chooses to ignore this directive and speaks about personnel or students, the damage is done. Once something is said, it cannot be taken back. This compromises the impartiality of the board members, jeopardizes due process, and exposes the district to legal challenges.

Amplifying Tensions Rather Than Resolving Them

As someone who has navigated countless challenging situations as board president, I know how passionate our community members are about our school. That passion can be a tremendous asset, but it can also create challenges. Without proper structure, public comment periods risk becoming forums for grievances that inflame tensions rather than resolve them. This bill would

give those with personal agendas an avenue to bypass established processes, potentially leading to conflict and division within our communities.

Protecting the Integrity of Business Meetings

Public meetings are not town halls—they are business meetings. Our board is elected to represent the community, to uphold the district's policies, and to make decisions in the best interests of our students and staff. This requires focus, structure, and adherence to an agenda. Allowing open public comment without limitations of the subject undermines the very purpose of these meetings and hampers our ability to serve our schools effectively.

Conclusion

As school board president, I take my role as a representative of the community seriously. I value the input of our constituents and work tirelessly to ensure their concerns are heard. However, HB 2180 threatens to disrupt the effectiveness of school boards, create legal risks, and diminish the ability of our elected officials to govern responsibly.

I urge you to oppose HB 2180 and to protect the integrity of our school board meetings so that we can continue to serve our schools and communities effectively.

Thank you for your time and consideration.

1 North Dakota School Study Council Testimony in Opposition to SB 2180 –
2 Public Comment

3 Chair Roers and Members of the Committee,

4 Thank you for the opportunity to provide testimony on SB 2180. The
5 schools I represent are opposed to this bill in its current form. Most schools
6 have a policy on public comment.

7 School Boards are required to prepare and post an agenda, so the public
8 knows what is being discussed. Often times, people try to engage school
9 board members in a conversation during public comment. Discussing
10 items not on the agenda is frowned upon and can be a violation of the open
11 meeting laws.

12 Public comment at school board meetings should be limited to items on the
13 agenda. When the public testifies in legislative committees, they need to
14 stick to the topic. It is not a free, open mic. In fact, there are times when
15 neutral testimony is not accepted. There needs to be a time limit and
16 restrictions on repeating what's already been stated.

17 To limit lawsuits for libel and slander, comments about individuals (coaches,
18 teachers, etc...) should be prohibited. If there truly are issues with
19 personnel (teachers and/or administrators) which would move to non-
20 renewal, the school board is the judge and jury and they should not be
21 prejudiced by hearing accusations about individuals prior to the non-
22 renewal hearing.

23 We ask for a "Do Not Pass" on SB 2180. Thank you for your consideration!

24 

25 Dr. Paul Stremick

I was delighted to learn of the introduction of a bill like 2180, and would encourage you forward with a DO PASS recommendation. I have done a significant amount of research regarding public comment within the open meeting structure of how the open meeting law strives to meet the standards of transparency and efficient governance.

We have all seen how just relying on Roberts Rules of Order, with agenda-based leadership (at best) or shooting from the hip leadership (at worst) has either made our governance less representative, or chaotic and charged with negative energy that produces little by way of progress. It is also why I think what you all have signed on for sponsorship here is a great start. My requested suggestion would be to take it a bit further with the following justifications to back it up:

1. Line 10 on page two: set a limit of up to, but no less than 5 uninterrupted minutes allowed per speaker

>>>Reasoning: The reason why middle schoolers are recommended to write 1.5-page essays is that it is a ballpark of 600 words which has been studied to be the minimum number of words to either state a concept with reasonable understanding or as a base by which actions can be built. The average speaker does so with a proficiency of between 100 and 300 words per minute. To allow accommodation for individuals that may struggle with expressions, if a person were to speak at a rate of 120 words per minute for 5 minutes, they would reach the goal of 600 words.

2. Add a line 11 on page 2: For anyone not able to make it to a public comment opportunity, they should be allowed to submit a notice of public record that upon request via a link can be accessed by the public, whether it be through a letter, an email, video, recording, etc and as long as it is respectfully in good taste.

If you would like to talk to me, please, feel free to call me 701-400-1839 or email me at this email address.

Sincerely,

Mike Connelly

Bismarck Citizen

Bismarck City Commissioner (the above email is my own opinion and not a statement on behalf of Bismarck, an entity, or an organization)



SB 2180 – Public Comment @ Meetings
 Testimony requesting an amendment.
 Amendment Requested:

5. A meeting of a public entity must include an opportunity for an individual in attendance to provide public comment. A public comment:

- a. May not be subject to approval by the public entity.
- b. Only may be limited by time per speaker
- c. Must be related to an item on the agenda
- d. Comments about individuals, staff, or personnel of the school district are prohibited.

Rationale (c.)

- Because of open meeting laws in North Dakota, school boards are required to prepare and post an agenda, so the public knows what is being discussed.
- Allowing comments on issues outside of the agenda can violate the open meeting laws.

Rationale (d.)

- To limit lawsuits for libel and slander, comments about individuals (coaches, teachers, administrators, etc.) should be prohibited.
- The school board is the judge and jury should an employee ever move toward non-renewal and should not be prejudiced by hearing accusations about individuals before a non-renewal hearing.

If someone were to make negative comments about a specific staff member during a public meeting, those statements could potentially lead to legal concerns regarding defamation, specifically libel or slander, depending on the circumstances. Here's how that works in the context of a public meeting...especially a board meeting where there is a law for the minutes to be published in the local newspaper AND where most all of the meetings are recorded and the comments are part of the public record.

If the person making the statement presents false and damaging information, the individual being targeted could potentially take legal action against the speaker and even, in some cases, against the governing body if it fails to properly manage the public comment period. The school board or governing body could face liability risks if they knowingly allow defamatory comments to be included in the official record without addressing them.

To mitigate these risks, school boards often have policies that require public comments to avoid personal attacks and focus on agenda items. They provide warnings or cut off speakers if they engage in defamatory speech. They use discretion in including detailed public comments in the meeting minutes

It is inappropriate to go straight to the board without following the grievance policy. This typically mitigates 99% of the issues and if it rises to the board level, then it should be on the agenda and discussed appropriately to protect all parties.

25.0269.01001
Title.

Prepared by the Legislative Council
staff for Senator Paulson
January 23, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2180

Introduced by

Senators Paulson, Luick, Weston

Representatives Louser, D. Ruby, D. Johnston

1 A BILL for an Act to ~~amend and reenact section 44-04-19~~create and enact a new section to
2 chapter 44-04 of the North Dakota Century Code, relating to the opportunity to provide public
3 comment at a meeting of a public entity.

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

5 ~~SECTION 1. AMENDMENT. Section 44-04-19 of the North Dakota Century Code is~~
6 ~~amended and reenacted as follows:~~

7 ~~44-04-19. Access to public meetings.~~

8 ~~Except as otherwise specifically provided by law, all meetings of a public entity must be~~
9 ~~open to the public. That portion of a meeting of the governing body of a public entity as defined~~
10 ~~in subdivision c of subsection 13 of section 44-04-17.1 which does not regard public business is~~
11 ~~not required to be open under this section.~~

12 ~~1. This section is violated when any person~~an individual~~is denied access to a meeting~~
13 ~~under this section, unless such refusal, implicitly or explicitly communicated, is due to~~
14 ~~a lack of physical space in the meeting room for the persons~~individual~~seeking access~~
15 ~~or lack of electronic capacity to allow public viewing of the meeting through electronic~~
16 ~~means.~~

17 ~~2. For purposes of this section, if the meeting is held in person, the meeting room must~~
18 ~~be accessible to, and the size of the room must accommodate, the number of~~
19 ~~persons~~individuals~~reasonably expected to attend the meeting. If the meeting is held~~

1 by electronic means, the electronic capacity must accommodate the number of
2 persons individuals reasonably expected to attend the meeting remotely.

3 ~~3. The right of a person an individual to attend a meeting under this section includes the~~
4 ~~right to photograph, to record on audiotape or videotape, and to broadcast live on~~
5 ~~radio or television the portion of the meeting that is not held in executive session,~~
6 ~~provided there is no active interference with the conduct of the meeting. The exercise~~
7 ~~of this right may not be dependent upon the prior approval of the governing body.~~
8 ~~However, the governing body may impose reasonable limitations on recording activity~~
9 ~~to minimize the possibility of disruption of the meeting.~~

10 ~~4. For meetings subject to this section, if the meeting is held through any electronic~~
11 ~~means, the information necessary to join or view the meeting electronically must be~~
12 ~~included in the notice issued under section 44-04-20.~~

13 ~~5. A meeting of a public entity must include an opportunity for an individual in attendance~~
14 ~~to provide public comment. A public comment:~~

15 ~~a. May not be subject to approval by the public entity.~~

16 ~~b. Only may be limited by time per speaker.~~

17 **SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is created
18 and enacted as follows:

19 **Public comment - Regular meetings of political subdivisions.**

20 1. A regular meeting of a political subdivision must include an opportunity for an
21 individual in attendance to provide public comment. For a political subdivision meeting
22 more frequently than once per month, this section applies to at least one regular
23 meeting.

24 2. An individual providing comment at a meeting shall provide to the political subdivision
25 in writing the individual's name and address.

26 3. A political subdivision may:

27 a. Not limit the topic of a public comment to the topics on the agenda for the
28 meeting.

29 b. Limit a public comment by time per speaker, total time for public comment, or
30 both.

- 1 c. Develop a policy regarding public comment rules for regular meetings. The policy
- 2 may provide that a public comment:
- 3 (1) Must be pertinent to the political subdivision.
- 4 (2) May not interfere with the orderly conduct of the regular meeting.
- 5 (3) May not be defamatory, abusive, harassing, or unlawful.
- 6 (4) May be prohibited if an alternative procedure exists to bring that particular
- 7 type of public comment before the political subdivision; the public comment
- 8 includes confidential or exempt information, or the public comment is
- 9 otherwise prohibited by law.
- 10 (5) Must be limited in frequency to one comment per individual per meeting.

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

SB 2180
1/24/2025

Relating to the opportunity to provide public comment at a meeting of a public entity.

10:45 a.m. Chair Roers called the meeting to order.

Members Present: Chair Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

Discussion Topics:

- Student Records
- Protected Personnel

10:45 a.m. Chair Roers led the Committee in discussion of the bill.

11:00 a.m. Chair Roers closed the hearing.

Susan Helbling, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

SB 2180
1/31/2025

Relating to the opportunity to provide public comment at a meeting of a public entity.

9:33 a.m. Chair Roers called the meeting to order.

Members Present: Chair Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

Discussion Topics:

- Entities policy requirement
- Public vs nonpublic meeting
- Variety of meetings

9:33 a.m. Chair Roers began committee discussion on probable amendments.

9:45 a.m. Chair Roers closed the hearing.

Susan Helbling, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee Room JW216, State Capitol

SB 2180
2/13/2025

Relating to the opportunity to provide public comment at a meeting of a public entity.

2:36 p.m. Chair Roers called the meeting to order.

Members Present: Chair Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

Discussion Topics:

- Public signs in
- Limit speaker time
- Limit topics

2:36 p.m. Vice Chairman Castaneda proposed an amendment and submitted testimony #37903.

2:50 p.m. Senator Walen moved to adopt amendment LC #25.0269.01003.

2:50 p.m. Senator Lee seconded the motion.

Senators	Vote
Senator Kristin Roers	AB
Senator Jose L. Castaneda	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	N
Senator Judy Lee	Y
Senator Chuck Walen	Y

Motion Passed 4-1-1

2:52 p.m. Senator Barta moved a Do Pass as amended.

2:52 p.m. Senator Walen seconded the motion.

Senators	Vote
Senator Kristin Roers	AB
Senator Jose L. Castaneda	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Judy Lee	Y
Senator Chuck Walen	Y

Motion Passed 5-0-1

Senator Castaneda will carry the bill.

2:55 p.m. Vice Chairman Castaneda closed the hearing.

Susan Helbling, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2180

Introduced by

Senators Paulson, Luick, Weston

Representatives Louser, D. Ruby, D. Johnston

HD
2/13/25
Page 1 of 3

1 A BILL ~~for an Act to amend and reenact section 44-04-19 of the North Dakota Century Code,~~
2 ~~relating to the opportunity to provide public comment at a meeting of a public entity.~~ for an Act to
3 create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to
4 the opportunity to provide public comment at a meeting of a public entity.

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

6 ~~— SECTION 1. AMENDMENT. Section 44-04-19 of the North Dakota Century Code is~~
7 ~~amended and reenacted as follows:~~
8 ~~— 44-04-19. Access to public meetings.~~
9 ~~— Except as otherwise specifically provided by law, all meetings of a public entity must be~~
10 ~~open to the public. That portion of a meeting of the governing body of a public entity as defined~~
11 ~~in subdivision c of subsection 13 of section 44-04-17.1 which does not regard public business is~~
12 ~~not required to be open under this section.~~
13 ~~— 1. This section is violated when any person~~ an individual ~~is denied access to a meeting~~
14 ~~under this section, unless such refusal, implicitly or explicitly communicated, is due to~~
15 ~~a lack of physical space in the meeting room for the persons~~ individual ~~seeking access~~
16 ~~or lack of electronic capacity to allow public viewing of the meeting through electronic~~
17 ~~means.~~
18 ~~— 2. For purposes of this section, if the meeting is held in person, the meeting room must~~
19 ~~be accessible to, and the size of the room must accommodate, the number of~~
20 ~~persons~~ individuals ~~reasonably expected to attend the meeting. If the meeting is held~~

1 by electronic means, the electronic capacity must accommodate the number of
2 persons ~~individuals~~ reasonably expected to attend the meeting remotely.

3 ~~3. The right of a person an individual to attend a meeting under this section includes the~~
4 ~~right to photograph, to record on audiotape or videotape, and to broadcast live on~~
5 ~~radio or television the portion of the meeting that is not held in executive session,~~
6 ~~provided there is no active interference with the conduct of the meeting. The exercise~~
7 ~~of this right may not be dependent upon the prior approval of the governing body.~~
8 ~~However, the governing body may impose reasonable limitations on recording activity~~
9 ~~to minimize the possibility of disruption of the meeting.~~

10 ~~4. For meetings subject to this section, if the meeting is held through any electronic~~
11 ~~means, the information necessary to join or view the meeting electronically must be~~
12 ~~included in the notice issued under section 44-04-20.~~

13 ~~5. A meeting of a public entity must include an opportunity for an individual in attendance~~
14 ~~to provide public comment. A public comment:~~

15 ~~a. May not be subject to approval by the public entity.~~

16 ~~b. Only may be limited by time per speaker.~~

17 **SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is created
18 and enacted as follows:

19 **Public comment - Regular meetings of political subdivisions.**

20 1. At least one-fourth of the publicly noticed regular meetings of a political subdivision
21 held per year must include an opportunity for an individual in attendance to provide
22 public comment.

23 2. An individual providing comment at a meeting shall provide to the political subdivision
24 in writing the individual's name and address.

25 3. A political subdivision may:

26 a. Limit a public comment by time per speaker, total time for public comment, or
27 both.

28 b. Develop a policy regarding public comment rules for regular meetings. The policy
29 may provide a public comment:

30 (1) Must be pertinent to the political subdivision.

31 (2) May not interfere with the orderly conduct of the regular meeting.

- 1 (3) May not be defamatory, abusive, harassing, or unlawful.
- 2 (4) May be prohibited if an alternative procedure exists to bring that particular
- 3 type of public comment before the political subdivision, the public comment
- 4 includes confidential or exempt information, or the public comment is
- 5 otherwise prohibited by law.

**REPORT OF STANDING COMMITTEE
SB 2180**

State and Local Government Committee (Sen. Roers, Chairman) recommends **AMENDMENTS** ([25.0269.01003](#)) and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2180 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

BILL NO.

Legislative Assembly
of North Dakota

Introduced by

Senator Larson

Representative Heinert

1 A BILL for an Act to create and enact a new chapter to title 54 of the North Dakota Century
2 Code, relating to a state alert notice system; and to repeal sections 39-03-13.2 and 54-12-32 of
3 the North Dakota Century Code, relating to the state's silver and blue alert notice systems.

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

5 SECTION 1. A new chapter to title 54 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Definitions.**

8 As used in this chapter:

9 1. "Amber alert notice" means an urgent bulletin using the emergency alert system to air
10 a description of a child who has been abducted.

11 2. "Blue alert notice" means an urgent bulletin using the emergency alert system to air a
12 description of an individual or an individual's vehicle to aid in the apprehension of an
13 individual who has threatened a law enforcement officer with a deadly weapon, used a
14 deadly weapon against a law enforcement officer, caused a law enforcement officer to
15 suffer serious bodily injury or death, abducted a law enforcement officer, or caused a
16 law enforcement officer to go missing while on duty, and the individual has left the
17 scene of the offense.

18 3.4. "Silver alert notice" means an urgent bulletin using the emergency alert system to
19 air a description of a missing individual to aid in the location of that individual.

20 43. "Missing ~~endangered~~ individual" means:

21 a. An ~~endangered~~ disabled adult or elderly vulnerable adult as defined in section
22 50-25.2-01 who has disappeared and whose disappearance has been reported
23 to law enforcement;

b. An ~~endangered individual minor~~ who has a developmental disability as defined in section 25-01.2-01 who has disappeared and whose disappearance has been reported to law enforcement; or

c. An ~~endangered~~ elderly adult who has disappeared, whose disappearance has been reported to law enforcement and the disappearance:

(1) ~~May pose an imminent risk of personal injury to the adult or others~~Indicates the individual is believed to be in grave danger of serious bodily harm or death, as determined by a law enforcement agency and the highway patrol or bureau of criminal investigation, based on a report received from the missing adult's family member or an individual who has significant frequent contact with the missing adult, which contains sufficient evidence of the imminent risk;

~~(2) Poses a threat to the health and safety of the adult due to the environment or severe winter, cold, or windy weather conditions, as determined by a law enforcement agency based on a report received from the missing adult's family member which contains sufficient evidence of the threat to health or safety; or~~

(3) Warrants a silver alert notice activation due to the particular circumstances or duration of the disappearance, as determined by a law enforcement agency and the highway patrol or bureau of criminal investigation based on a report received from the missing adult's family member or an individual who has significant frequent contact with the missing adult, which contains sufficient evidence that the particular circumstances or duration warrant a silver alert notice activation.

~~4. "Silver alert notice" means an urgent bulletin using the emergency alert system to air a description of a missing individual to aid in the location of that individual.~~

Alert notice system activation.

1. A law enforcement agency may request the bureau of criminal investigation or the superintendent of the highway patrol to activate an amber alert notice, a blue alert notice, or a silver alert notice.

2. The bureau of criminal investigation, in cooperation with the highway patrol, shall prepare an operational plan to prepare for and respond to requests for activation of an

amber alert notice, a blue alert notice, or a silver alert notice. The plan must include the role and requirements of the division of state radio of the department of emergency services in broadcasting an alert to the public.

Minimum requirements for activating an amber or blue alert notice.

1. An amber alert notice may not be activated unless:

- a. The abduction involves a child seventeen years of age or younger;**
- b. The law enforcement agency investigating the abduction has confirmed the child is believed to be in grave danger of serious bodily harm or death; and**
- c. The bureau of criminal investigation or the superintendent of the highway patrol determines sufficient descriptive information has been provided about the child, the abductor, or the abductor's motor vehicle to:**
 - (1) Assist with the safe recovery of the child;**
 - (2) Assist with the apprehension of the abductor; and**
 - (3) Believe an immediate broadcast alert will assist in the search for and safe return of the child.**

2. A blue alert notice may not be activated unless:

- a. An individual who is a suspect in an offense has threatened a law enforcement officer with a deadly weapon, used a deadly weapon against a law enforcement officer, caused a law enforcement officer to suffer serious bodily injury or death, abducted a law enforcement officer, or caused a law enforcement officer to go missing while on duty;**
- b. The individual has fled the scene of the offense and a description of the individual or the individual's vehicle is available for broadcast;**
- c. The law enforcement agency investigating the offense has determined the individual poses a threat to the public or other law enforcement personnel; and**
- d. Dissemination of available information to the public may help avert further harm or assist in the apprehension of the suspect.**

SECTION 2. **REPEAL.** Sections 39-03-13.2 and 54-12-32 of the North Dakota Century Code are repealed.

2025 HOUSE POLITICAL SUBDIVISIONS

SB 2180

2025 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

SB 2180
3/20/2025

A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to the opportunity to provide public comment at a meeting of a public entity.

2:59 p.m. Chairman Longmuir opened the hearing.

Members Present: Chairman Longmuir, Vice-Chairman Fegley, Vice-Chairman Jonas, Representatives Bolinske, Davis, Hager, Hatlestad, Heilman, Klemin, Motschenbacher, Ostlie, Toman, Warrey

Discussion Topics:

- Requirements for providing public comments at meetings
- Content of comments made at public meetings

2:59 p.m. Senator Bob Paulson, North Dakota Senator for District 3, introduced the bill and provided testimony #43305.

3:06 p.m. KrisAnn Norby-Jahner, In-House Legal Counsel for the North Dakota School Boards Association, testified in opposition and provided testimony #43240.

3:11 p.m. Kevin Hoherz, North Dakota Council of Educational Leaders, testified in opposition and provided testimony #43193.

Additional written testimony:

Connie Samuelson, Minot, North Dakota, submitted testimony in favor #43266.

3:15 p.m. Chairman Longmuir closed the hearing.

Wyatt Armstrong, Committee Clerk



SB 2180 – Public Comment @ Meetings
 Testimony requesting an amendment.
 Amendment Requested:

5. A meeting of a public entity must include an opportunity for an individual in attendance to provide public comment. A public comment:

- a. May not be subject to approval by the public entity.
- b. Only may be limited by time per speaker
- c. Must be related to an item on the agenda
- d. Comments about individuals, staff, or personnel of the school district are prohibited.

Rationale (c.)

- Because of open meeting laws in North Dakota, school boards are required to prepare and post an agenda, so the public knows what is being discussed.
- Allowing comments on issues outside of the agenda can violate the open meeting laws.

Rationale (d.)

- To limit lawsuits for libel and slander, comments about individuals (coaches, teachers, administrators, etc.) should be prohibited.
- The school board is the judge and jury should an employee ever move toward non-renewal and should not be prejudiced by hearing accusations about individuals before a non-renewal hearing.

If someone were to make negative comments about a specific staff member during a public meeting, those statements could potentially lead to legal concerns regarding defamation, specifically libel or slander, depending on the circumstances. Here's how that works in the context of a public meeting...especially a board meeting where there is a law for the minutes to be published in the local newspaper AND where most all of the meetings are recorded and the comments are part of the public record.

If the person making the statement presents false and damaging information, the individual being targeted could potentially take legal action against the speaker and even, in some cases, against the governing body if it fails to properly manage the public comment period. The school board or governing body could face liability risks if they knowingly allow defamatory comments to be included in the official record without addressing them.

To mitigate these risks, school boards often have policies that require public comments to avoid personal attacks and focus on agenda items. They provide warnings or cut off speakers if they engage in defamatory speech. They use discretion in including detailed public comments in the meeting minutes

It is inappropriate to go straight to the board without following the grievance policy. This typically mitigates 99% of the issues and if it rises to the board level, then it should be on the agenda and discussed appropriately to protect all parties.



NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

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

[SB 2180](#)

Testimony of KrisAn Norby-Jahner
House Political Subdivisions
March 20, 2025

Chair Longmuir and members of the House Political Subdivisions Committee, for the record my name is KrisAnn Norby-Jahner. I am in-house legal counsel for the North Dakota School Boards Association. The NDSBA represents all 168 North Dakota public school districts and their boards. I am here today in opposition to SB 2180 as currently drafted and ask the Committee to do additional work on the bill.

This bill would require political subdivisions, which includes school districts, to allow the opportunity for individuals in attendance at board meetings “to provide public comment” at one-fourth of the publicly noticed regular meetings with certain allowable limitations. We are supportive of the limitations that are listed in this current version of 2180, including the option for political subdivisions to create a policy that places time limits on public comments and requirements that comments be pertinent to the political subdivision; may not interfere with orderly conduct of the meeting; may not be defamatory, abusive, harassing, or unlawful; and may be prohibited if an alternative procedure exists to bring that particular type of public comment before the political subdivision, the public comment includes confidential or exempt information, or the public comment is otherwise prohibited by law. These are the exact type of limitations that already exist in a long-standing recommended template policy the NDSBA offers to member school districts to use when allowing public comments at board meetings. These limitations ensure that proper decorum, respect, and lawfulness is maintained in the board room where school district business and student-driven initiatives have to be the focus of the meeting. Additional policies exist within school districts that further define these types of decorum-related expectations on all school property and school-sponsored events. The school board room should be no exception.

However, one important allowable limitation in policy is absent from SB 2180: **a requirement that public comment pertains to an item on the agenda.**

Currently, the NDSBA's long-standing recommended policy that many school districts in the state have already adopted allows public comments at board meetings in two ways:

1. Specific agenda items: "Members of the public who wish to make formal presentations before the Board shall make requests in advance in accordance with the board's agenda setting policy"; and
2. Public comment period: "The Board may allot a time for general public comment on the regular meeting agenda."

Our recommended policy contains the same safeguards as identified in the current version of SB 2180 to ensure that the business of the school district is accomplished in a respectful and orderly manner. However, to ensure the continuance of this goal, it is important that there be an allowable policy that provides school boards the *option* to limit the "public comment period" to agenda items only. If a member of the public wants to address a separate topic, current policy directs them through the agenda-setting process. This ensures that a school board is prepared to discuss the topic at hand, and any relevant materials are included in the board packet, which is an open record and available to members of the public. It also ensures that open meeting procedures are properly followed in accordance with N.D.C.C. ch. 44-04 so that all topics brought forth during a board meeting are properly noticed. SB 2180 only indicates that comment "must be pertinent to the political subdivision." We are hesitant to conclude that an agenda item as general as "public comment period" would be in compliance with state law when commenters may bring up topics not listed on the agenda and may present information or documents that were not included in the open record board packet.

Without providing political subdivisions the option to limit public comment periods to agenda items, school boards are also being forced to create a public forum under the U.S. Constitution that may not align with board policies, rules, and the type of limited public forum our political subdivisions boards want to create (and have the ability to create under the Constitution as discussed in our [previous testimony](#)). We cannot emphasize enough that **public board meetings are not "public meetings," but rather they are "meetings held in public."** When a school board holds a meeting, its purpose is to conduct the business of the board as it relates to school policies, programs, budget, and operations. The purpose of open meetings law is to give members of the public access to the meetings of a governing board of a public entity, but that access does not give members of the public the right to participate or speak at the public meeting. See, e.g., Attorney General Opinions – N.D.A.G. 2003-O-07; N.D.A.G. 99-O-07; N.D.A.G. 98-F-11.

Based on the foregoing reasons, the NDSBA is opposed to the current version of SB 2180 and asks the Committee to remove the requirement that public comment be allowed at "at least one-fourth of the

publicly noticed regular meetings” and also include amendment that will allow political subdivisions the option to limit public comments to agenda items. Thank you for your time.

In Favor of HB2180

Mr. Chairman and members of the Committee,

I am writing in support of providing the opportunity to provide public comment at a meeting of a public entity.

You, our NDSLAs allow public comments on each and every bill you have before you. This is offered because public input is necessary and should be taken into consideration for all decisions made. Therefore, it is only right that the citizens of their respective communities be offered this same consideration. I have attended many, many public meetings and forums and only a few times have I witnessed any type of animosity from a speaker. But even those were projected out of concern or frustration directed at infringement of rights taken away from the parent, citizen or resident related.

I am noticing a lot of opposition from school associations. If they are afraid to allow public input, that tells me they have bigger problems than public comments at their meetings and should be directing their attention to correcting those issues.

Please give a DO PASS on HB1280.

Thank you,
Connie Samuelson, Minot (D3)

Good afternoon Chairman Longmuir and members of the House Political Subdivisions Committee. For the record, my name is Senator Bob Paulson, and I'm from District 3 in Minot.

This afternoon I bring to you SB 2180, a bill to allow for public comment at public meetings. The ability of a citizen to redress their government and be heard is a bedrock principle of our nation and our state. Frustration with the inability to do so was one of the main reasons we fought the Revolutionary war and established our independence as a nation. And similar frustration exists in North Dakota today.

Consider a Mom who desires to address the school board whose members she helped elect and whose tax dollars enable it to function. She contacts the school administration and finds out that public comment is only allowed once a year and her remarks have to be submitted beforehand for approval to be put on the agenda. Imagine if she would have found this out just after that annual meeting and was told she had to wait almost another year to redress them and be heard.

Or, consider another Mom in a different city who hears about an issue that was just discussed at a recent school board meeting that affects her and her children. She decides she needs to make her voice heard, so she checks the web site, learns that public comment is allowed, clears her calendar and arranges child care for her children, travels to the school board meeting to redress the school board members she helped elect, only to be told that her comments are out of order because she is addressing an item that is not on the agenda. It was on the agenda at the last meeting, but it is not on the agenda for the current meeting.

Or another scenario where a political subdivision that happens to be a cooperative, at its annual meeting where several hundred of its members are gathered, finds public comment out of order. These are true stories and are currently happening in North Dakota, and I believe it is incumbent upon us as legislators to protect our constituent's ability to redress their government at all levels of our state. It is my desire to address these scenarios in this bill.

The bill was significantly amended on the Senate side to address concerns of those in opposition, however, there was one amendment that I believe was inadvertently missed. I have provided a copy to you.

I will speak to that amendment as I go through the bill.

The reason that the amendment allows the current agenda and the previous two agendas, is because often members of the public are motivated to speak at a public meeting because of something that was discussed at a meeting that has already occurred. Limiting public comment to only the current agenda will likely preclude their opportunity to redress their governing authorities on an issue they heard about following the meeting. This is something that is currently affecting North Dakota citizens.

So Chairman Longmuir and members of the committee, with that I thank you for what you do and for allowing me to present this bill. That concludes my testimony and I would be happy to stand for any questions.

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2180

Introduced by

Senators Paulson, Luick, Weston

Representatives Louser, D. Ruby, D. Johnston

- 1 A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota
2 Century Code, relating to the opportunity to provide public comment at a meeting of a ~~public-~~
3 ~~entity~~ political subdivision.

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

- 5 **SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Public comment - Regular meetings of political subdivisions.**

- 8 1. At least one-fourth of the publicly noticed regular meetings of a political subdivision
9 held per year must include an opportunity for an individual in attendance to provide
10 public comment.
11 2. An individual providing comment at a meeting shall provide to the political subdivision
12 in writing the individual's name and address.
13 3. A political subdivision may:
14 a. Limit a public comment ~~by:~~
15 (1) By time per speaker, total time for public comment, or both; and
16 (2) To the topics on the agenda for the current and two immediately preceding
17 meetings.
18 b. Develop a policy regarding public comment rules for regular meetings. The policy
19 may provide a public comment:
20 (1) Must be pertinent to the political subdivision.

Sixty-ninth
Legislative Assembly

- 1 (2) May not interfere with the orderly conduct of the regular meeting.
- 2 (3) May not be defamatory, abusive, harassing, or unlawful.
- 3 (4) May be prohibited if an alternative procedure exists to bring that particular
- 4 type of public comment before the political subdivision, the public comment
- 5 includes confidential or exempt information, or the public comment is
- 6 otherwise prohibited by law.

2025 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

SB 2180
3/27/2025

A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to the opportunity to provide public comment at a meeting of a public entity.

9:17 a.m. Chairman Longmuir opened the hearing.

Members Present: Chairman Longmuir, Vice-Chairman Fegley, Representatives Bolinske, Hager, Hatlestad, Heilman Klemin, Motschenbacher, Ostlie, Warrey

Members Absent: Vice-Chairman Jonas, Representatives Davis, Toman

Discussion Topics:

- Legal definition of political subdivision
- North Dakota township meeting process

9:19 a.m. Mary Kelsch, Assistant Attorney General at the North Dakota Attorney Generals Office, proposed an Amendment, testimony #44295.

9:42 a.m. Representative Klemin moved to adopt the Amendment proposed in testimony #44295 and replace "political subdivisions" with "public entities" on line 7, replace "political subdivision" with "public entity" on lines 18, and 22, strike "or water resource district" from line 16, add "may" to the start of line 17, and insert "shall" before "develop" on line 19.

9:42 a.m. Representative Hatlestad seconded the motion.

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jim Jonas	A
Representative Macy Bolinske	Y
Representative Jayme Davis	A
Representative LaurieBeth Hager	Y
Representative Patrick R. Hatlestad	Y
Representative Matthew Heilman	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	Y
Representative Nathan Toman	A
Representative Jonathan Warrey	Y

9:44 a.m. Motion passed 10-0-3

9:45 am. Representative Klemin moved a Do Pass as Amended.

9:45 a.m. Representative Ostlie seconded the motion.

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jim Jonas	A
Representative Macy Bolinske	Y
Representative Jayme Davis	A
Representative LaurieBeth Hager	Y
Representative Patrick R. Hatlestad	Y
Representative Matthew Heilman	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	Y
Representative Nathan Toman	A
Representative Jonathan Warrey	N

9:50 a.m. Motion passed 9-1-3

9:50 a.m. Representative Bolinske will carry the bill.

9:50 a.m. Chairman Longmuir closed the hearing.

Wyatt Armstrong, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

3/27/25 VC
1 of 2

ENGROSSED SENATE BILL NO. 2180

Introduced by

Senators Paulson, Luick, Weston

Representatives Louser, D. Ruby, D. Johnston

- 1 A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota
2 Century Code, relating to the opportunity to provide public comment at a meeting of a public
3 entity.

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

- 5 **SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Public comment - Regular meetings of ~~political subdivisions~~a public entity.**

- 8 1. ~~At least one-fourth of the publicly noticed~~Every regular ~~meetings~~meeting of a ~~political~~
9 ~~subdivision held per year~~governing body of a city, county, township, school district,
10 ~~park district, or water resource district~~ must include an opportunity for an individual ~~in~~
11 ~~attendance~~ to provide public comment.
12 2. An individual providing comment at a meeting shall provide to the ~~political~~
13 ~~subdivision~~governing body in writing the individual's name and address. ~~The~~
14 ~~individual's address is an exempt record as defined in subsection 5 of section~~
15 ~~44-04-17.1.~~
16 3. ~~A political subdivision may~~governing body of a city, county, township, school district,
17 ~~park district, or water resource district:~~
18 a. ~~Limit~~May limit a public comment by time per speaker, total time for public
19 ~~comment, or both.~~

- 1 b. ~~Develop~~ ~~Shall develop~~ a policy regarding public comment rules for regular
2 meetings. The policy may provide a public comment:
3 (1) Must be pertinent to the ~~political subdivision~~ ~~public entity~~.
4 (2) May not interfere with the orderly conduct of the regular meeting.
5 (3) May not be defamatory, abusive, harassing, or unlawful.
6 (4) May be prohibited if an alternative procedure exists to bring that particular
7 type of public comment before the ~~political subdivision~~ ~~public entity~~, the
8 public comment includes confidential or exempt information, or the public
9 comment is otherwise prohibited by law.

**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2180**

Political Subdivisions Committee (Rep. Longmuir, Chairman) recommends **AMENDMENTS** ([25.0269.02002](#)) and when so amended, recommends **DO PASS** (9 YEAS, 1 NAY, 3 ABSENT OR EXCUSED AND NOT VOTING). SB 2180 was placed on the Sixth order on the calendar.

25.0269.02000 – with Proposed AG Amendment

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2180

Introduced by

Senators Paulson, Luick, Weston

Representatives Louser, D. Ruby, D. Johnston

- 1 A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota
- 2 Century Code, relating to the opportunity to provide public comment at a meeting of a public
- 3 entity.

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

- 5 **SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is created
- 6 and enacted as follows:

7 **Public comment - Regular meetings of political subdivisions.**

- 8 1. ~~At least one fourth of the publicly noticed~~Every regular ~~meetings~~meeting of a ~~political~~
- 9 ~~subdivision~~ governing body of a city, county, township, school district,
- 10 ~~park district, or water resource district held per year~~ must include an
- 11 opportunity for an individual ~~in attendance~~ to provide public comment.
- 12 2. An individual providing comment at a meeting shall provide to the ~~political subdivision~~
- 13 ~~governing body~~ in writing the individual's name and address. ~~The individual's address is~~
- 14 ~~an exempt record.~~
- 15 3. A ~~political subdivision~~ governing body of a city, county, township, school district, park
- 16 ~~district, or water resource district~~ may:
- 17 a. Limit a public comment by time per speaker, total time for public comment, or
- 18 both.
- 19 b. Develop a policy regarding public comment rules for regular meetings. The policy
- 17 may provide a public comment:
- 18 (1) Must be pertinent to the political subdivision.
- 19 (2) May not interfere with the orderly conduct of the regular meeting.

- 20 (3) May not be defamatory, abusive, harassing, or unlawful.
- 21 (4) May be prohibited if an alternative procedure exists to bring that particular
- 22 type of public comment before the political subdivision, the public comment
- 23 includes confidential or exempt information, or the public comment is otherwise
- 24 prohibited by law.

2025 CONFERENCE COMMITTEE

SB 2180

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

SB 2180
4/16/2025
Conference Committee

Relating to the opportunity to provide public comment at a meeting of a public entity.

3:30 p.m. Chairman Castaneda called the hearing to order.

Members Present: Chairman Castaneda; Senators: Walen; Chairman Fegley;
Representatives: Ostlie and Warrey

Members Absent: Senator Barta

Discussion Topics:

- Language addition regarding agenda topic
- Policy on public comment

3:30 p.m. Chairman Castaneda opened the hearing up for discussion.

3:37p.m. Representative Warrey moved Amendment LC #25.0269.02003.

3:36 p.m. Senator Walen seconded the motion.

3:37 p.m. Roll call vote - motion carried 5-0-1.

3:40 p.m. Representative Warrey moved in place of the House Amendment LC #25.0269.02002 adopted by the House, the bill is amended by the conference committee Amendment LC #25.0269.02003.

3:40 p.m. Senator Walen seconded the motion.

3:40 p.m. Roll call vote - motion carried 5-0-1.

3:41 p.m. Representative Ostlie is the House bill carrier.

3:41 p.m. Senator Castaneda is the Senate bill carrier.

3:41 p.m. Chairman Castaneda closed the hearing.

Susan Helbling, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

VC 4/16/25
1052

ENGROSSED SENATE BILL NO. 2180

Introduced by

Senators Paulson, Luick, Weston

Representatives Louser, D. Ruby, D. Johnston

In place of the amendments (25.0269.02002) adopted by the House, Senate Bill No. 2180 is amended by amendment (25.0269.02003) as follows:

- 1 A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota
2 Century Code, relating to the opportunity to provide public comment at a meeting of a public
3 entity.

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

- 5 **SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Public comment - Regular meetings of ~~political subdivisions~~a public entity.**

- 8 1. ~~At least one fourth of the publicly noticed~~Every regular ~~meetings~~meeting of a ~~political~~
9 ~~subdivision held per year~~governing body of a city, county, township, school district,
10 ~~park district, or water resource district~~ must include an opportunity for an individual ~~in~~
11 ~~attendance~~ to provide public comment.
- 12 2. An individual providing comment at a meeting shall provide to the ~~political~~
13 ~~subdivision~~governing body in writing the individual's name and address. ~~The~~
14 ~~individual's address is an exempt record.~~
- 15 3. ~~A political subdivision may~~governing body of a city, county, township, school district,
16 ~~park district, or water resource district:~~
- 17 a. ~~Limit~~May limit a public comment ~~by time~~only as follows, except as provided in
18 ~~subdivision b:~~
- 19 (1) ~~By time~~ per speaker, total time for public comment, or both.

1 (2) By agenda topic, to the agendas of the current and at least one preceding
2 meeting.

3 b. ~~Develop~~ Shall develop a policy regarding public comment rules for regular
4 meetings. The policy may provide a public comment:

5 (1) Must be pertinent to the ~~political subdivision~~ public entity.

6 (2) May not interfere with the orderly conduct of the regular meeting.

7 (3) May not be defamatory, abusive, harassing, or unlawful.

8 (4) May be prohibited if an alternative procedure exists to bring that particular
9 type of public comment before the ~~political subdivision~~ public entity, the
10 public comment includes confidential or exempt information, or the public
11 comment is otherwise prohibited by law.

SB 2180 041625 1538 PM Roll Call Vote

Amendment

SB 2180

Date Submitted: April 16, 2025, 3:38 p.m.

Action: Passed

Amendment LC #: 25.0269.02003

Description of Amendment: N/A

Motioned By: Warrey, Jonathan

Seconded By: Walen, Chuck

Emergency Clause: None

Vote Results: 5 - 0 - 1

Sen. Castaneda, Jose	Yea
Sen. Barta, Jeff	Absent
Sen. Walen, Chuck	Yea
Rep. Fegley, Clayton	Yea
Rep. Ostlie, Mitch	Yea
Rep. Warrey, Jonathan	Yea

SB 2180 041625 1540 PM Roll Call Vote

Final Recommendation

SB 2180

Date Submitted: April 16, 2025, 3:40 p.m.

Recommendation: In Place Of

Amendment LC #: 25.0269.02003

Engrossed LC #: N/A

Description:

Motioned By: Warrey, Jonathan

Seconded By: Walen, Chuck

House Carrier: Ostlie, Mitch

Senate Carrier: Castaneda, Jose

Emergency Clause: None

Vote Results: 5 - 0 - 1

Sen. Castaneda, Jose	Yea
Sen. Barta, Jeff	Absent
Sen. Walen, Chuck	Yea
Rep. Fegley, Clayton	Yea
Rep. Ostlie, Mitch	Yea
Rep. Warrey, Jonathan	Yea

**REPORT OF CONFERENCE COMMITTEE
ENGROSSED SB 2180**

Your conference committee (Sens. Castaneda, Barta, Walen and Reps. Fegley, Ostlie, Warrey) recommends that in place of amendment [25.0269.02002](#) adopted by the House, Engrossed SB 2180 is amended by amendment [25.0269.02003](#).

Engrossed SB 2180 was placed on the Seventh order of business on the calendar.