



March 30, 2023

The Honorable Tammy Miller
President of the Senate
North Dakota Senate Chambers
State Capitol
Bismarck, ND

Re: Senate Bill 2231

Dear President Miller:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Senate Bill 2231 and return it to the Senate.

Section 1 of Senate Bill 2231 codifies First Amendment protections against compelled speech, setting state policy addressing pronoun use by state employees. However, vetoing Section 1 changes nothing, because under existing free speech protections, a state employee already cannot be required to use preferred pronouns but may still voluntarily do so. I would have no objections to signing this bill if it contained only Section 1.

Section 2 infringes on local control by unnecessarily injecting the state into rare instances most appropriately handled at the parent, teacher and school district level. This section removes discretion from school boards, schools and teachers in determining how to accommodate the needs of all students in public schools. Further, the First Amendment already prohibits compelled speech and protects teachers from speaking contrary to their beliefs, and courts across the country have upheld these rights.

Ambiguity throughout this bill would invite lawsuits and put teachers in the precarious position of trying to determine how to refer to students without violating law. The teaching profession is challenging enough without the heavy hand of state government forcing teachers to take on the role of pronoun police. Parents, teachers and administrators using compassion, empathy and common sense can address individual and infrequent situations that may arise.

At the end of the day, children are the future of our state, and we have a duty to protect all of them. North Dakota will continue to stand for free speech, local control and freedom from discrimination.

For the reasons stated above, Senate Bill 2231 is vetoed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Burgum". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Doug Burgum
Governor

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2231
(Senators Luick, Meyer)
(Representatives Cory, Karls)

AN ACT to create and enact sections 14-02.4-03.1 and 15.1-06-21 of the North Dakota Century Code, relating to preferred pronoun discriminatory practices and school policies on expressed gender.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 14-02.4-03.1 of the North Dakota Century Code is created and enacted as follows:

14-02.4-03.1. Preferred pronoun - Government entity.

1. Unless required by law, a government entity may not require an employee to:
 - a. Use an individual's preferred pronoun when addressing or mentioning the individual in work-related communications.
 - b. Designate the employee's preferred pronoun in work-related communications.
2. An individual may assert a violation of this section as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 2. Section 15.1-06-21 of the North Dakota Century Code is created and enacted as follows:

15.1-06-21. School policy - Expressed gender.

1. As used in this section:
 - a. "Expressed gender" means a gender identity, whether expressed through behavior, clothing, mannerisms, preferred pronoun, or physical characteristics, which does not conform to the student's sex; and
 - b. "Sex" means the biological state of being male or female, based on sex organs, chromosomes, and endogenous hormone profiles existing at the time of birth.
2. Unless otherwise required by law, a board of a school district, a public school, or a teacher in a public school may not:
 - a. Adopt a policy or practice regarding expressed gender;
 - b. Provide or authorize classroom instruction recognizing expressed gender; or
 - c. Provide or require professional development recognizing expressed gender.
3. When required by federal law, a board of a school district, a public school, or a teacher in a public school may adopt a policy concerning a specific student's expressed gender or preferred pronoun if the policy is made in consultation with, and with the approval of, the student's parents or guardians. Notwithstanding this subsection, unless otherwise required by federal law, a teacher in a public school is not required to use a student's preferred pronoun when referring to the student if the preferred pronoun is inconsistent with the student's sex.

4. This section does not prohibit a public school teacher from using a student's preferred pronoun that is inconsistent with the student's sex if the teacher has consulted with, and received approval from, the student's parent or guardian and the school administrator.

Tanner J. Felt
President of the Senate

Dennis Johnson
Speaker of the House

David Meyer
Secretary of the Senate

Bruce F. Reck
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2231.

Senate Vote: Yeas 34 Nays 12 Absent 1
House Vote: Yeas 60 Nays 32 Absent 2

David Meyer
Secretary of the Senate

Received by the Governor at 2:34 PM. on March 24, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this 24 day of April, 2023,
at 2:56 o'clock P M.

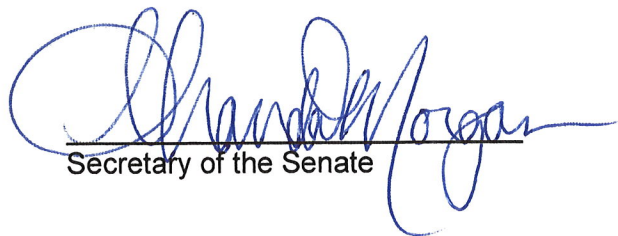
Michael Howe
Secretary of State

Honorable Michael Howe
Secretary of State
Bismarck, North Dakota

I certify this Act, Senate Bill No. 2231, together with the objections of Governor Burgum was returned to the Senate, being the body in which it originated, on March 30, 2023; that the objections of the Governor were read at length on March 30, 2023, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on March 30, 2023, at 4:55 p.m.; and the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	37
	Nays	9
	Absent and not voting	1



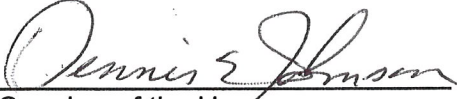
President of the Senate

Secretary of the Senate

Honorable Michael Howe
Secretary of State
Bismarck, North Dakota

I certify this Act, Senate Bill No. 2231, together with the objections of Governor Burgum, was received from the Senate, being the body in which it originated, on March 31, 2023; that the objections of the Governor were read at length on March 31, 2023, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration failed on April 3, 2023, at 1:50 p.m.; and the roll was called and the Bill did failed to pass, with less than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	56
	Nays	36
	Absent and not voting	2


Dennis E. Johnson
Speaker of the House


Buell J. Kerich
Chief Clerk of the House