

Fifty-ninth
Legislative Assembly
of North Dakota

REENGROSSED HOUSE BILL NO. 1038

Introduced by

Legislative Council

(No Child Left Behind Committee)

1 A BILL for an Act to establish an advisory commission on the No Child Left Behind Act; to
2 amend and reenact section 54-35-21 of the North Dakota Century Code, relating to the interim
3 no child left behind committee; and to declare an emergency.

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

5 **SECTION 1. Advisory commission on the No Child Left Behind Act - Membership**
6 **- Terms - Meetings.**

- 7 1. The advisory commission on the No Child Left Behind Act of 2001 consists of the
8 following members:
- 9 a. One individual appointed by the North Dakota council of educational leaders;
 - 10 b. One individual appointed by the North Dakota education association;
 - 11 c. One individual appointed by the North Dakota school boards association;
 - 12 d. One individual appointed by the state superintendent of public instruction;
 - 13 e. One individual appointed by the North Dakota Indian affairs commission;
 - 14 f. One individual appointed by the education standards and practices board;
 - 15 g. One individual appointed by the governor; and
 - 16 h. Six legislators appointed by the legislative council.
- 17 2. The legislative council shall designate the chairman and vice chairman of the
18 commission.
- 19 3. If any member of the commission resigns or ceases to be a member of the class
20 the member represents, that individual's membership on the commission ceases
21 immediately and the appropriate appointing authority shall appoint a new member
22 to complete the remainder of the term.
- 23 4. The commission shall meet at least semiannually.

1 **SECTION 2. Commission functions and duties.** The advisory commission on the
2 No Child Left Behind Act shall:

- 3 1. a. Examine the nature and scope of assessments permissible under the No
4 Child Left Behind Act [Pub. L. 107-110; 115 Stat. 1425; 20 U.S.C. 6301
5 et seq.] in determining the adequate yearly progress of special education
6 students and English language learners and in determining the adequate
7 yearly progress of students in other subgroups, if applicable.
- 8 b. Review issues of cost, staff training, and communication to the field of known
9 assessment alternatives.
- 10 c. Explore the use of instructional level assessments and the use of exemptions
11 from assessment.
- 12 d. Collect and analyze data regarding the percentage of students who are
13 eligible to be assessed by alternative means and determine the effects that
14 would result from any increases in the current percentage cap on eligible
15 students.
- 16 2. Determine the feasibility and desirability of using status testing rather than cohort
17 testing to determine adequate yearly progress.
- 18 3. a. Examine the manner in which student achievement proficiency ratings are
19 established, including the selection and qualifications of individuals involved
20 in determining the ratings.
- 21 b. Examine alternate means of establishing student achievement proficiency
22 ratings and address matters of public policy with respect to the objectivity of
23 the ratings.
- 24 4. a. Examine the efficacy of the binomial distribution formula in terms of its ability
25 to provide a full and complete accounting of the adequate yearly progress of
26 schools and school districts and its ability to segregate, separate, or shelter
27 schools having small or identifiable populations of students.
- 28 b. Compare the identification of schools under the binomial distribution formula
29 against the identifications that would occur under other measurements,
30 including measurements requiring subgroups of at least thirty students in
31 regular education and forty-five students in special education.

1 c. Examine from a policy perspective the impacts of increasing and the impacts
2 of decreasing the identification of schools not meeting adequate yearly
3 progress.

4 d. Determine the feasibility and desirability of assessing students in the seven
5 subgroups and reporting the results of their assessments while precluding
6 any punitive actions stemming from the results of the subgroups'
7 assessments.

8 5. a. Review the provisions of the No Child Left Behind Act governing the right of
9 students to transfer from a school that is not making adequate yearly
10 progress.

11 b. Monitor the number of students who have requested transfers in accordance
12 with the No Child Left Behind Act.

13 c. Determine the feasibility and desirability of implementing a reporting system
14 that allows school districts to be informed about the location to which a
15 student is transferring and the reasons for such transfer.

16 d. Determine the feasibility and desirability of recommending to the Congress of
17 the United States an amendment to the No Child Left Behind Act which would
18 allow only those individual students who did not meet established proficiency
19 levels to obtain transfers.

20 6. Study the effect of the No Child Left Behind Act on the availability of teachers for
21 all grade levels throughout the state and determine whether greater flexibility in
22 teacher preparation or qualifications would affect teacher availability.

23 7. a. Establish a mechanism whereby school districts can account for all costs
24 incurred as a result of the No Child Left Behind Act and determine which of
25 the costs would have been incurred regardless of enactment of the No Child
26 Left Behind Act.

27 b. Establish a system to ensure that the cost data submitted is valid and reliable
28 and reported in a fashion that allows for accurate comparisons from year to
29 year and for comparisons by and among schools and school districts.

30 **SECTION 3. Staff services.** The advisory commission on the No Child Left Behind
31 Act may request provision of appropriate staff services from the legislative council.

SECTION 4. Finances - Compensation.

1. The advisory commission on the No Child Left Behind Act may apply for, contract for, receive, and expend for its purposes any appropriation or grant from any public or private source.
2. A member of the commission who is a member of the legislative assembly is entitled to receive, from funds available to the legislative council, compensation for each day spent in attendance at commission meetings in the same amount as provided for members of the legislative council and reimbursement for travel and other expenses incurred in the performance of official duties as provided by law for other state officers. Members of the commission who are appointed by entities other than the legislative council may be reimbursed for attendance at commission meetings by their appointing authorities.

SECTION 5. Reports. The advisory commission on the No Child Left Behind Act shall present a written report regarding its findings and recommendations to the interim no child left behind committee.

SECTION 6. AMENDMENT. Section 54-35-21 of the North Dakota Century Code is amended and reenacted as follows:

54-35-21. No Child Left Behind Act of 2001 - ~~Select Committee~~ Interim committee - Appointment - Duties.

1. The legislative council shall appoint ~~a select~~ an interim committee consisting of five members of the senate and six members of the house of representatives ~~for the purpose of investigating the adoption of.~~ The committee shall study the No Child Left Behind Act of 2001 [Pub. L. 107-110; 115 Stat. 1425; 20 U.S.C. 6301 et seq.], its rationale, the promulgation of any federal regulations implementing the No Child Left Behind Act of 2001, the direct and indirect impact of the Act and its regulations on the school districts of this state, and the financial impact of the Act and its regulations on the budget of this state and on the taxpayers of this state.
2. The legislative council shall designate the chairman and vice chairman of the committee.
3. The committee shall operate under the rules applicable to other legislative council committees, except the committee has the power to communicate directly with the

1 United States secretary of education, employees of the United States department
2 of education, and any other federal officials, both elected and appointed, regarding
3 implementation of the No Child Left Behind Act of 2001.

- 4 4. ~~When~~ If during the interim an agency files a notice of proposed rulemaking with the
5 office of the legislative council under subsection 1 of section 28-32-10 on any
6 matter governed by the No Child Left Behind Act of 2001, the agency shall provide
7 a copy of the notice to the chairman of the committee. The chairman shall
8 convene the committee within sixty days of receiving the notice, or as soon
9 thereafter as practicable, for the purpose of receiving a presentation by the agency
10 regarding the nature and scope of the proposed rules and for the purpose of
11 receiving presentations by members of the public regarding the nature and scope
12 of the proposed rules.

- 13 5. The committee shall report its findings and recommendations, together with any
14 legislation required to implement the recommendations, to the ~~fifty-ninth~~ sixtieth
15 legislative assembly ~~if the committee determines the state is not in compliance with~~
16 ~~any requirement of the No Child Left Behind Act of 2001.~~

17 **SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.