

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1526

Introduced by

Representatives Dyk, Hoverson, Prichard, Rios, Timmons

Senator Beard

1 A BILL for an Act to create and enact a new section to chapter 14-02.4, a new section to chapter
2 15.1-07, and ~~three~~two new sections to chapter 15.1-21 of the North Dakota Century Code,
3 relating to school discrimination, parental rights and involvement in school, curbing of social
4 emotional learning, ~~required curriculum~~, and the review and recommendation of instructional
5 materials; to amend and reenact subsection 6 of section 14-02.4-02 and section 15.1-21-24 of
6 the North Dakota Century Code, relating to the definition of a discriminatory practice and
7 reproductive health education requirements; and to provide a penalty.

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

9 **SECTION 1. AMENDMENT.** Subsection 6 of section 14-02.4-02 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 6. "Discriminatory practice" means ~~an~~a:
12 a. An act or attempted act which because of race, color, religion, sex, national
13 origin, age, physical or mental disability, status with regard to marriage or public
14 assistance, or participation in lawful activity off the employer's premises during
15 nonworking hours which is not in direct conflict with the essential
16 business-related interests of the employer results in the unequal treatment or
17 separation or segregation of any persons, or denies, prevents, limits, or
18 otherwise adversely affects, or if accomplished would deny, prevent, limit, or
19 otherwise adversely affect, the benefit of enjoyment by any person of
20 employment, labor union membership, public accommodations, public services,
21 or credit transactions. The term "discriminate" includes segregate or separate
22 and for purposes of discrimination based on sex, it includes sexual harassment.
23 Sexual harassment includes unwelcome sexual advances, requests for sexual

1 favors, sexually motivated physical conduct or other verbal or physical conduct or
2 communication of a sexual nature when:

- 3 a. (1) Submission to that conduct or communication is made a term or condition,
4 either explicitly or implicitly, of obtaining employment, public
5 accommodations or public services, or education;
6 b. (2) Submission to or rejection of that conduct or communication by an individual
7 is used as a factor in decisions affecting that individual's employment, public
8 accommodations or public services, education, or housing; or
9 e. (3) That conduct or communication has the purpose or effect of substantially
10 interfering with an individual's employment, public accommodations, public
11 services, or educational environment; and in the case of employment, the
12 employer is responsible for its acts and those of its supervisory employees if
13 it knows or should know of the existence of the harassment and fails to take
14 timely and appropriate action.

15 b. A violation of section 2 of this Act.

16 **SECTION 2.** A new section to chapter 14-02.4 of the North Dakota Century Code is created
17 and enacted as follows:

18 **Discriminatory practices - State education system.**

19 1. As used in this section:

- 20 a. "Bodily contact sports" means sports including wrestling, boxing, rugby,
21 ice hockey, football, and basketball, in which the purpose or major activity
22 involves bodily contact.
23 b. "Sex" means the biological state of being female or male, based on the
24 individual's nonambiguous sex organs, chromosomes, and endogenous hormone
25 profiles at birth and acknowledged accordingly on the individual's original birth
26 certificate.
27 ~~c. "State education system" means a school district under the purview of the~~
28 ~~superintendent of public instruction, including a student or employee of the~~
29 ~~school district, and an institution of higher education under the control of the state~~
30 ~~board of higher education, including a student or employee of the institution.~~

2. An individual may not be excluded from participation in, be denied the benefits of, or be subjected to discrimination as an employment condition or practice conducted by a ~~state education system institution that receives or benefits from federal or state financial assistance~~ school district.
3. Admission to a class may not be based on race, color, national origin, sex, disability, religion, or marital status.
4. A class must be available to a student regardless of race, color, national origin, sex, disability, religion, or marital status. This subsection may not be interpreted as prohibiting meeting the needs of a student with limited proficiency in English, a gifted student, or a student with disabilities or a program tailored to a student with a specialized talent or skill.
5. A student may be separated by sex for any portion of a class that deals with human reproduction.
6. Guidance services, counseling services, and financial assistance services in the state education system must be available to a student regardless of race, color, national origin, sex, disability, religion, or marital status.
7. ~~The state education system~~ A school district may operate or sponsor separate teams for members of each sex if the selection for such teams is based upon competitive skill or the activity involved is a bodily contact sport.
8. This section does not prohibit grouping students in a physical education class or activity by ability assessed by objective standards of individual performance developed and applied regardless of sex. However, when use of a single standard of measuring skill or progress in a physical education class has an adverse effect on an individual of one sex, the educational institution shall use appropriate standards which do not have that effect.
9. A ~~state education system institution~~ school district that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for an individual regardless of sex.
 - a. ~~The state board of higher education shall determine whether an institution it administers provides equal opportunities.~~

- 1 ~~_____ b.~~ The superintendent of public instruction shall determine whether school districts
2 provide equal opportunities. Factors to consider in making this determination
3 include:
4 (1) Whether the selection of sports and competition levels effectively
5 accommodate the interests and abilities of an individual regardless of sex;
6 (2) Access to equipment and supplies;
7 (3) Scheduling of games and practice times;
8 (4) Travel and per diem allowance;
9 (5) An opportunity for an individual to receive coaching and academic tutoring;
10 (6) Assignment and compensation of coaches and tutors;
11 (7) Access to locker rooms and practice or competitive facilities;
12 (8) Access to medical or training facilities and services;
13 (9) Provision of housing or dining facilities and services; and
14 (10) Publicity.
- 15 ~~e.b.~~ An unequal aggregate expenditure for individuals of one sex or for single-gender
16 teams in a state education system sponsoring separate teams, does not
17 constitute a violation of this subsection, but the superintendent of public
18 instruction and the state board of higher education shall consider the failure to
19 provide necessary funds for a single-gender team in assessing equality of
20 opportunity for individuals of each sex.
- 21 10. Subjecting a student or employee to training or instruction that espouses, promotes,
22 advances, inculcates, or compels such student or employee to believe any of the
23 following concepts is a discriminatory practice:
24 a. An individual of one race, color, sex, or national origin:
25 (1) Is morally superior to an individual of another race, color, sex, or national
26 origin.
27 (2) Is required to treat another individual differently based on race, color, sex, or
28 national origin.
29 b. An individual, by virtue of the individual's race, color, sex, or national origin:
30 (1) Is inherently marginalized, supremacist, racist, sexist, or oppressive,
31 whether consciously or unconsciously.

(2) Bears responsibility for, or should be discriminated against or receive adverse treatment because of, an action committed in the past by an individual of the same race, color, sex, or national origin.

(3) Should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion or should be the benefactor of wealth redistribution in order to achieve equality.

(4) Bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of an action, in which the individual played no part, committed in the past by an individual of the same race, color, sex, or national origin.

c. An individual's moral character or status as either privileged or oppressed is necessarily determined by the individual's race, color, sex, or national origin.

d. A virtue, including merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness, is racist or sexist, was created by an individual of a particular race, color, sex, or national origin to oppress an individual of another race, color, sex, or national origin, or that wealth redistribution would improve the United States.

11. This section may not be construed to prohibit discussion of a concept listed in subsection 10 as part of a course of training or instruction, provided the training or instruction is given in an objective manner without endorsement of the concept.

12. The superintendent of public instruction ~~and the state board of higher education~~ shall develop and implement a method or strategy to increase the participation of a student of a particular race, color, national origin, sex, disability, or marital status in a program or course in which students of that particular race, color, national origin, sex, disability, or marital status have been traditionally underrepresented, including mathematics, science, computer technology, electronics, communications technology, engineering, and career education. The superintendent of public instruction shall study the effectiveness of the method or strategy, including performing followup monitoring.

SECTION 3. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

1 **Academic progress - Information for parents.**

2 A school district shall provide a parent of a public school student with accurate and timely
3 information regarding the student's academic progress and strategies for a parent to help a
4 parent's student succeed in school.

5 **SECTION 4. AMENDMENT.** Section 15.1-21-24 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **15.1-21-24. Health curriculum - Content.**

- 8 1. Beginning July 1, 2012, each school district and nonpublic school shall ensure that the
9 portion of its health curriculum which is related to sexual health includes instruction
10 pertaining to the risks associated with adolescent sexual activity and the social,
11 psychological, and physical health gains to be realized by abstaining from sexual
12 activity before and outside of marriage.
- 13 2. Instructional materials used to teach reproductive health or any disease, including
14 human immunodeficiency virus infection and acquired immunodeficiency syndrome, its
15 symptoms, development, and treatment, must be approved annually by the board of a
16 school district in an open public meeting.
- 17 3. A public school student must be exempted from the teaching of reproductive health or
18 any disease, including human immunodeficiency virus infection and acquired
19 immunodeficiency syndrome, if the student's parent makes a written request to the
20 school principal. A school district shall provide notice of this right and the process to
21 request an exemption on a school district's website homepage. A school district
22 homepage must include a link for a student's parent to access and review the
23 instructional materials used to teach the curriculum.

24 ~~**SECTION 5. A new section to chapter 15.1-21 of the North Dakota Century Code is created**~~
25 ~~**and enacted as follows:**~~

26 ~~**Required instruction - Noncompliance - State aid withholding.**~~

- 27 ~~1. A member of the instructional staff of a public school subject to the rules of the~~
28 ~~superintendent of public instruction and board of a school district, shall efficiently and~~
29 ~~faithfully teach the following, using the required books and materials meeting the~~
30 ~~highest standards for professionalism and historical accuracy, following the prescribed~~
31 ~~courses of study, and employing approved methods of instruction:~~

- 1 ~~a. The history and content of the Declaration of Independence, including national~~

2 ~~sovereignty, natural law, self-evident truth, equality of all persons, limited~~

3 ~~government, popular sovereignty, and the inalienable rights of life, liberty, and~~

4 ~~property, and how they form the philosophical foundation of our government.~~
- 5 ~~b. The history, meaning, significance, and effect of the Constitution of the United~~

6 ~~States and amendments thereto, with emphasis on each of the ten amendments~~

7 ~~that make up the Bill of Rights and how the Constitution provides the structure of~~

8 ~~our government.~~
- 9 ~~c. Arguments in support of adopting our republican form of government, as~~

10 ~~embodied in the Federalist Papers.~~
- 11 ~~d. Flag education, including proper flag display and flag salute.~~
- 12 ~~e. Elements of civil government, including the primary functions of and~~

13 ~~interrelationships between the federal government, the state, and its counties,~~

14 ~~municipalities, school districts, and special districts.~~
- 15 ~~f. The history of the United States, including the period of discovery, early colonies,~~

16 ~~the War for Independence, the Civil War, the expansion of the United States to its~~

17 ~~present boundaries, the world wars, and the civil rights movement to the present.~~

18 ~~American history must be viewed as factual, not as constructed, must be viewed~~

19 ~~as knowable, teachable, and testable, and must be defined as the creation of a~~

20 ~~new nation based largely on the universal principles stated in the Declaration of~~

21 ~~Independence.~~
- 22 ~~g. The history of the Holocaust from 1933 to 1945, the systematic, planned~~

23 ~~annihilation of European Jews and other groups by Nazi Germany, a watershed~~

24 ~~event in the history of humanity, to be taught in a manner that leads to an~~

25 ~~investigation of human behavior, an understanding of the ramifications of~~

26 ~~prejudice, racism, and stereotyping, and an examination of what it means to be a~~

27 ~~responsible and respectful individual, for the purposes of encouraging tolerance~~

28 ~~of diversity in a pluralistic society and for nurturing and protecting democratic~~

29 ~~values and institutions, including the policy, definition, and historical and current~~

30 ~~examples of antisemitism, and the prevention of antisemitism. Each school~~

31 ~~district shall certify annually and provide evidence to the superintendent of public~~

1 ~~instruction, in a manner prescribed by the superintendent, that the requirements~~
2 ~~of this subdivision are met. The superintendent shall prepare and offer standards~~
3 ~~and curriculum for the instruction required by this subdivision and may seek input~~
4 ~~from a state or nationally recognized Holocaust educational organization. The~~
5 ~~superintendent may contract with a state or nationally recognized Holocaust~~
6 ~~educational organization to develop training for instructional personnel and~~
7 ~~grade-appropriate classroom resources to support the developed curriculum. The~~
8 ~~second week in November is designated "Holocaust Education Week" in this~~
9 ~~state in recognition that November is the anniversary of Kristallnacht, widely~~
10 ~~recognized as a precipitating event that led to the Holocaust.~~

11 ~~h. The history of African Americans, including the history of African peoples before~~
12 ~~the political conflicts that led to the development of slavery, the passage to~~
13 ~~America, the enslavement experience, abolition, and the history and contributions~~
14 ~~of Americans of the African diaspora to society. A public school student shall~~
15 ~~develop an understanding of the ramifications of prejudice, racism, and~~
16 ~~stereotyping, and of individual freedoms, and examine what it means to be a~~
17 ~~responsible and respectful individual, to encourage tolerance of diversity in a~~
18 ~~pluralistic society, and to nurture and protect democratic values and institutions.~~
19 ~~Instruction must include the roles and contributions of individuals from all walks of~~
20 ~~life and their endeavors to learn and thrive throughout history as artists,~~
21 ~~scientists, educators, businesspeople, influential thinkers, members of the faith~~
22 ~~community, and political and governmental leaders, and the courageous steps~~
23 ~~they took to fulfill the promise of democracy and unite the nation. Instructional~~
24 ~~materials must include the vital contributions of African Americans to build and~~
25 ~~strengthen American society and celebrate the inspirational stories of African~~
26 ~~Americans who prospered, even in the most difficult circumstances. Instructional~~
27 ~~personnel may facilitate discussions and use curricula to address, in an~~
28 ~~age-appropriate manner, how slavery, racial oppression, racial segregation, and~~
29 ~~racial discrimination infringed on individual freedoms, as well as topics relating to~~
30 ~~the enactment and enforcement of laws resulting in racial oppression, racial~~
31 ~~segregation, and racial discrimination and how recognition of individual freedoms~~

~~overturned unjust laws. Classroom instruction and curriculum may not be used to
indoctrinate or persuade students to take a particular viewpoint inconsistent with
the principles enumerated in subsection 2 or the state content standards. The
superintendent of public instruction shall prepare and offer standards and
curriculum for the instruction required by this subdivision.~~

~~i. Elementary principles of agriculture.~~

~~j. Effects of all alcoholic and intoxicating liquors and beverages and narcotics on
the human body and mind.~~

~~k. Kindness to animals.~~

~~l. State history of North Dakota.~~

~~m. Natural resource conservation.~~

~~n. Comprehensive age-appropriate and developmentally appropriate instruction:~~

~~(1) On health education addressing concepts of community health, consumer
health, environmental health, and family life, including:~~

~~(a) Injury prevention and safety;~~

~~(b) Internet safety;~~

~~(c) Nutrition;~~

~~(d) Personal health;~~

~~(e) Prevention and control of disease;~~

~~(f) Substance use and abuse; and~~

~~(g) Prevention of child sexual abuse, exploitation, and human trafficking.~~

~~(2) For students in grades seven through twelve, on teen dating violence and
abuse. This component shall include the definition of dating violence and
abuse, the warning signs of dating violence and abusive behavior, the
characteristics of healthy relationships, measures to prevent and stop dating
violence and abuse, and community resources available to a victim of dating
violence and abuse.~~

~~(3) For students in grades six through twelve, on the benefits of sexual
abstinence as the expected standard and the consequences of teenage
pregnancy.~~

~~(4) On life skills that build confidence, support mental and emotional health, and enable students to overcome challenges, including:~~

~~(a) Self-awareness and self-management;~~

~~(b) Responsible decisionmaking;~~

~~(c) Resiliency;~~

~~(d) Relationship skills and conflict resolution;~~

~~(e) Understanding and respecting other viewpoints and backgrounds; and~~

~~(f) For students in grades nine through twelve:~~

~~[1] Developing leadership skills, interpersonal skills, organization skills, and research skills;~~

~~[2] Creating a resume, including a digital resume, developing and practicing the skills necessary for employment interviews, workplace ethics, and workplace law;~~

~~[3] Exploring career pathways and using state career planning resources; and~~

~~[4] Managing stress and expectations, and self-motivation.~~

~~e. Curriculum as prescribed by law, the superintendent of public instruction, or a board of a school district.~~

~~p. Hispanic contributions to the United States.~~

~~q. Women's contributions to the United States.~~

~~r. The nature and importance of free enterprise to the United States economy.~~

~~s. Civic and character education on the qualities and responsibilities of patriotism and citizenship, including:~~

~~(1) Kindness, honesty, cooperation, and charity;~~

~~(2) Respect for authority, life, liberty, and personal property;~~

~~(3) Racial, ethnic, and religious tolerance; and~~

~~(4) For grades eleven and twelve, voting using a ballot.~~

~~t. To encourage patriotism, the sacrifices that veterans and medal of honor recipients have made in serving our country and protecting democratic values worldwide. This instruction must occur on or before Vietnam veterans' day, patriots' day, memorial day, and veterans' day. An instructional staff member may~~

1 ~~use the assistance of local veterans and medal of honor recipients when~~
2 ~~practicable. The superintendent of public instruction may adopt standards and~~
3 ~~pursue assessment of the requirements of this subdivision.~~

4 ~~2. Instructional personnel may facilitate discussions and use curricula to address, in an~~
5 ~~age-appropriate manner, how the freedoms of individuals have been infringed by~~
6 ~~sexism, slavery, racial oppression, racial segregation, and racial discrimination,~~
7 ~~including topics relating to the enactment and enforcement of laws resulting in sexism,~~
8 ~~racial oppression, racial segregation, and racial discrimination, including how~~
9 ~~recognition of these freedoms have overturned unjust laws. Classroom instruction and~~
10 ~~curriculum may not be used to indoctrinate or persuade a student to take a particular~~
11 ~~viewpoint inconsistent with the principles of this subsection or state content standards.~~
12 ~~Instruction and supporting materials on a topic enumerated in this section must be~~
13 ~~consistent with the following principles of individual freedom:~~

- 14 ~~a. An individual is not inherently racist, sexist, or oppressive, whether consciously or~~
15 ~~unconsciously, solely by virtue of his or her race or sex.~~
- 16 ~~b. A race is not inherently superior to another race.~~
- 17 ~~c. An individual should not be discriminated against or receive adverse treatment on~~
18 ~~the basis of race, color, national origin, religion, disability, or sex.~~
- 19 ~~d. Meritocracy or traits including a strong work ethic are not racist but fundamental~~
20 ~~to the right to pursue happiness and be rewarded for industry.~~
- 21 ~~e. An individual, by virtue of an individual's race or sex, does not bear responsibility~~
22 ~~for actions committed in the past by others of the same race or sex.~~
- 23 ~~f. An individual should not feel guilt, anguish, or other forms of psychological~~
24 ~~distress for actions, in which an individual played no part, committed in the past~~
25 ~~by other members of the same race or sex.~~

26 ~~3. The superintendent of public instruction shall develop or adopt a curriculum to inspire~~
27 ~~future generations through motivating stories of American history that demonstrate the~~
28 ~~life skills and principle of individual freedom that enabled individuals to prosper even in~~
29 ~~the most difficult circumstances. This curriculum must be known as "Stories of~~
30 ~~Inspiration" and must be made available to schools to implement the requirements of~~
31 ~~subsection 2.~~

~~4. An alleged violation of this section must be reported to the instructional materials reviewer in accordance with section 6 of this Act. After an investigation conducted under section 6 of this Act, the superintendent of public instruction shall withhold state aid payments under chapter 15.1-27 or impose a penalty recommended by the instructional materials reviewer for a school district found to have violated the requirement of this section.~~

SECTION 5. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

Evaluation of instructional materials.

~~1. The board of a school district is responsible for the content of instructional materials used in a classroom or otherwise made available to a student and shall obtain parental approval for all instructional materials. The board of a school district shall adopt rules and each school district superintendent shall implement procedures that provide a process for:~~

~~a. Public review of, public comment on, and the adoption of instructional materials, including instructional materials used to teach reproductive health or any disease, including human immunodeficiency virus infection and acquired immunodeficiency syndrome, in compliance with section 4 of this Act; and~~

~~b. Reporting a violation of section 5 of this Act.~~

~~2. The instructional materials reviewer shall:~~

~~a. Recommend for adoption only:~~

~~(1) Instructional materials aligned with the state content standards;~~

~~(2) Accurate, objective, balanced, noninflammatory, current instructional materials;~~

~~(3) Instructional materials free of pornography; and~~

~~(4) Instructional materials suited to student needs and ability to comprehend the material presented;~~

~~b. Consider for recommendation for adoption instructional materials developed for academically talented students, including students enrolled in advanced placement courses;~~

- ~~c. Require, when appropriate for student comprehension, instructional materials for a social science, history, or civics class to include the Declaration of Independence and the Constitution of the United States; and~~
- ~~d. Refrain from recommending instructional materials unfairly portraying an individual because of race, color, creed, national origin, ancestry, gender, religion, disability, socioeconomic status, or occupation or otherwise contradicting the principles enumerated under sections 4 and 5 of this Act.~~
- ~~e. Upon receiving a report of an alleged violation of section 5 of this Act, conduct an investigation and determine whether a violation occurred.~~
- ~~f. Upon determining a violation of section 5 of this Act has occurred, make a recommendation to the superintendent of public instruction to impose a penalty on the school district that violated the requirements of section 5 of this Act.~~
- ~~3. The board of a school district shall adopt rules and each school district superintendent shall implement procedures to acquire parental consent for all instructional materials.~~

SECTION 6. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

Curriculum - Social emotional learning - Prohibited.

1. A teacher may not:

- a. Address the emotional problems of a student but shall refer a student with emotional problems to the appropriate counseling services provided by the school;
- b. Inform a student's worldview based on emotions;
- c. Measure the mental health of a student, including administering ongoing evaluations or surveys;
- d. Influence a student to adopt religious views different from a student's parent's religious views;
- e. Teach a student that the student's inner feelings are capable of guiding the student's life; or
- f. Turn a student who is seeking help away without directing the student to the proper school counselor, parent, or guardian.

2. A teacher may:

- 1 a. Teach transcendent and universal moral truths; and
- 2 b. Teach and encourage a student to seek moral and emotional help from the
- 3 student's family, religious institution, and other civil organizations.