

Fifty-fifth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1221

Introduced by

Representative Grosz

1 A BILL for an Act to amend and reenact section 15-47-38.2 of the North Dakota Century Code,  
2 relating to the employment and dismissal of school district superintendents.

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

4 **SECTION 1. AMENDMENT.** Section 15-47-38.2 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **15-47-38.2. ~~Evaluation, renewal, or discharge of superintendents of school~~**  
7 **~~districts~~ School district superintendents - Employment - Dismissal.**

- 8 1. ~~The term "superintendent" as used in this section includes district~~ School district  
9 ~~superintendents of schools and,~~ chief administrators of multidistrict special  
10 ~~education units, and~~ chief administrators of multidistrict vocational education  
11 ~~centers are at-will employees and may be dismissed by majority vote of their~~  
12 ~~respective school boards at any time.~~
- 13 2. ~~At least once before December fifteenth, the school board of each school district~~  
14 ~~shall conduct a formative evaluation of the performance of the superintendent~~  
15 ~~employed by the district. The board shall also conduct a formal and written~~  
16 ~~evaluation of the performance of the superintendent by March fifteenth and provide~~  
17 ~~a copy to the superintendent. The written evaluation of a superintendent's~~  
18 ~~performance must include recommendations with respect to all subject areas within~~  
19 ~~which the school board considers the performance to be unsatisfactory. The~~  
20 ~~school board must provide in reasonable detail the basis for its assessment of the~~  
21 ~~unsatisfactory performance.~~
- 22 3. ~~The superintendent, upon receipt of an evaluation, may respond in writing to the~~  
23 ~~substance and content of the evaluation, and the response must become a~~

- 1 permanent attachment to the superintendent's personnel file. The school board  
2 shall meet with the superintendent to discuss the evaluation.
- 3 4. Throughout the term of a contract between a school district and a superintendent,  
4 the superintendent is subject to discharge for good and just causes as described in  
5 subsection 3 of section 15-47-38. However, the school board may not arbitrarily or  
6 capriciously require the superintendent's dismissal.
- 7 5. If a school district governing body intends to discharge a superintendent, the  
8 superintendent must be served with a detailed and written description of the  
9 reasons given by the school board for the proposed dismissal. Following service of  
10 the written description, the superintendent must be granted a hearing before the  
11 governing body for which reasonable advance notice is required. If a  
12 superintendent chooses to be accompanied by an attorney, the legal expenses  
13 attributable to that representation must be incurred by the superintendent.
- 14 6. The superintendent may produce necessary witnesses to refute charges made by  
15 the board against the superintendent or reasons given by the board for its proposal  
16 to discharge the superintendent. The witnesses are subject to cross examination.
- 17 7. All procedures relative to evidence, subpoena of witnesses, oaths, records of  
18 testimony, decisions, rehearings, appeals, certification of records, scope and  
19 procedures for appeals, and appeals to the supreme court must be conducted in  
20 accordance with the provisions of chapter 28-32. The meeting must be conducted  
21 in an executive session of the board, unless both the school board and the  
22 superintendent agree that the meeting be open to the public.
- 23 8. The superintendent may be represented at the meeting by two persons chosen by  
24 the superintendent. The superintendent's spouse or one other family member,  
25 may also attend the meeting.
- 26 9. In addition to board members and the business manager of the school district, the  
27 school board may be represented by two persons chosen by the school board.
- 28 10. If the superintendent requests, the superintendent must be granted a continuance  
29 by the board not to exceed seven days, unless good cause for a longer  
30 continuance is shown.

- 1        11. ~~No claim for relief for libel or slander may accrue from any statement expressed~~  
2        ~~orally or in writing at an executive session of the school board held for the~~  
3        ~~purposes provided in this section.~~
- 4        12. ~~A school board dismissing a superintendent for cause shall report the dismissal to~~  
5        ~~the teachers' professional practices commission. The school board by unanimous~~  
6        ~~vote may suspend the superintendent from regular duty if such action is deemed~~  
7        ~~desirable during the dismissal process. If the superintendent is dismissed, the~~  
8        ~~board may determine the superintendent's salary or compensation as of the date of~~  
9        ~~suspension. If the final decision is favorable to the superintendent, there may be~~  
10       ~~no abatement of salary or compensation.~~
- 11       13. ~~The school board of a school district contemplating the contract nonrenewal of a~~  
12       ~~superintendent who has been employed in the school district as a superintendent~~  
13       ~~for at least two consecutive years, shall notify the superintendent in writing of the~~  
14       ~~contemplated nonrenewal no later than April fifteenth. The school board shall~~  
15       ~~inform the superintendent in writing of the time, which may not be later than April~~  
16       ~~twenty-first, and the place of a special school board meeting for the purpose of~~  
17       ~~discussing and acting upon the contemplated nonrenewal. The school board shall~~  
18       ~~inform the superintendent in writing of the reasons for nonrenewal. The reasons~~  
19       ~~may not be frivolous or arbitrary, must be related to the ability, competence, or~~  
20       ~~qualifications of the superintendent, must be sufficient to justify the contemplated~~  
21       ~~action of the board, and must be drawn from specific and documented findings~~  
22       ~~arising from the formal and written evaluations of the superintendent's performance~~  
23       ~~as required in subsection 2, except when the nonrenewal results from a necessary~~  
24       ~~reduction in staff. At the board meeting, the superintendent may produce evidence~~  
25       ~~necessary to evaluate the reasons for nonrenewal, and either party may produce~~  
26       ~~witnesses to confirm or refute the reasons. The school board shall substantiate the~~  
27       ~~reasons or cause the reasons to be substantiated with written or oral evidence~~  
28       ~~presented at the meeting. All witnesses are subject to questioning for purposes of~~  
29       ~~clarification. The superintendent may be represented at the meeting by two~~  
30       ~~persons chosen by the superintendent. The superintendent's spouse or one other~~  
31       ~~family member may also attend the meeting. If the superintendent chooses to be~~

1 ~~accompanied by an attorney, the legal expenses attributable to that representation~~  
2 ~~must be incurred by the superintendent. In addition to the board members and the~~  
3 ~~business manager of the school district, the school board may be represented by~~  
4 ~~two persons chosen by the board. If the superintendent requests, the board shall~~  
5 ~~grant the superintendent a continuance not to exceed seven days. No claim for~~  
6 ~~relief for libel or slander accrues from any statement expressed orally or in writing~~  
7 ~~at an executive session of the school board held for the purposes provided in this~~  
8 ~~section. The school board shall give the superintendent final notice of the~~  
9 ~~determination not to renew a contract by May first.~~

10 14. ~~If a school district fails to provide notification to a superintendent in writing between~~  
11 ~~March first and April fifteenth of each year that the school board intends to~~  
12 ~~contemplate the nonrenewal of the superintendent's contract, and the~~  
13 ~~superintendent has not resigned in writing before June first, the district and the~~  
14 ~~superintendent are deemed to have renewed the contract for a period of one year~~  
15 ~~extending from the termination date set forth in the existing contract. If a school~~  
16 ~~district provides notification to a superintendent who has not been employed in that~~  
17 ~~school district as a superintendent for at least two years in writing before May first~~  
18 ~~of its intent not to renew the superintendent's contract, the school board shall meet~~  
19 ~~with the superintendent to convey the reason or reasons for the nonrenewal if the~~  
20 ~~superintendent requests such a meeting.~~