



1 Testimony in Opposition to SB2104 - NDCEL

2 **Overreach of the State Superintendent's Authority**

3 This provision places substantial authority in the hands of a single state official, effectively
4 allowing the state superintendent to act as both an investigator and an enforcer, potentially
5 superseding the autonomy of locally elected school boards. This bill is truly the legislative
6 branch offering to the executive branch and a single position has more power than the governor
7 or even the entire legislative body at any given time over a school district.

8 The discretion granted to the state superintendent to initiate reviews based on complaints (even
9 without clear criteria for validity) could result in subjective or politically motivated
10 interventions.

11 Financial penalties imposed on districts for noncompliance could disproportionately affect
12 smaller or underfunded districts, leading to inequitable outcomes. But when you start talking
13 about what 2% is in a big district, it is millions. This is inappropriate.

14 School districts have existing policies in place for all manner of concerns (curriculum, personnel
15 complaints, patron complaints, etc). Concerns are best addressed the closest to those concerns
16 and these policies already exist as recourse for concerns. 2104 would circumvent these policies
17 and pull the issue further away from the local entities hired/elected to address them.

18 **Superseding Locally Elected Officials:**

19 Direct compliance actions that locally elected school boards and superintendents must follow.
20 The state superintendent having authority over elected school boards is not appropriate. This
21 undermines the principle of local control, which is a foundational aspect of public education
22 governance in North Dakota.

23 The requirement that school district superintendents enforce compliance with state guidance
24 places them in a difficult position between state and local governance, potentially straining local
25 relationships.

26 **Potential Executive Branch Overreach:**

27 A large concern is now that this role is able to **legislate through rule-making** by issuing
28 guidance that could have the force of law.

29 **Bypass legislative intent**, creating rules and enforcement mechanisms that may go beyond what
30 the legislature originally intended.

31 **Punish school districts without legislative involvement**, introducing financial penalties without
32 input from lawmakers or an appeals process that could ultimately create more damage to



1 students, schools, and their employees than ever the reason for the alleged complaint every
2 might've. This has created a loss of the natural checks and balances of state government.

3 The constitutionally intended role of the state superintendent is to supervise and support
4 education, not to create punitive measures that function as de facto laws.

5 Process and laws are already in place to handle local complaints – shifting that from managing
6 the chain of command and dealing with issues at the local level and jumping to the state
7 superintendent for resolution not only isn't appropriate, but wouldn't be a job that any one
8 person could handle or want – the natural next step would need to be the hiring or contracting
9 with multiple people or agencies to manage investigations which should result in this having a
10 significant fiscal note as well.

11 **Conclusion:**

12 This bill represents a significant shift in authority from locally elected officials to the state
13 superintendent, potentially creating an imbalance that could undermine local governance. The
14 potential for executive overreach is evident in the superintendent's expanded ability to create and
15 enforce guidance that may go beyond legislative intent. Given the constitutional framework of
16 the position, this would not be what our forefathers would've intended.

17 We are asking for a NO vote on SB2104.