

**TESTIMONY ON SB 2104**  
**SENATE EDUCATION COMMITTEE**  
**Tuesday, January 21, 2025**  
**By: Kirsten Baesler, State Superintendent**  
**701-328-4570**

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Chairman Beard and members of the Senate Education Committee,

For the record, my name is Kirsten Baesler, and I serve as the Superintendent of the North Dakota Department of Public Instruction. I appreciate the opportunity to provide information today regarding SB 2104.

As the State Superintendent, I respect the legislative process and the intent behind this bill to improve accountability and compliance with state law and provide real consequences for noncompliance. However, I must bring to your attention several things that make this bill both challenging and misaligned with our shared principles of limited government, conservative policymaking, and fiscal responsibility.

The bill as written places significant implementation responsibilities on the Department of Public Instruction. It would require our agency to write and enforce new guidance that, in effect, acts as law. This raises two concerns:

- 1. Expanding Agency Authority:** This bill would significantly broaden the Department's regulatory power, which I believe conflicts with conservative principles that emphasize legislative, not administrative, authority. Lawmaking should remain the responsibility of this body—the elected representatives of

North Dakotans—not delegated to an agency. I believe it is essential to preserve the balance of power between legislative and executive branches. Delegating this level of authority to an agency to issue guidance risks creating a precedent where agency leaders have the power to impose opinions that carry the weight of law, without the direct accountability that comes from legislative deliberation and public input.

- 2. Complexity of Implementation:** This proposal would create logistical and operational challenges that are difficult, if not impossible, to effectively manage within the current structure and capacity of the department.

### **Beyond the Scope of Expertise**

This bill would require the Department of Public Instruction to step far beyond the scope of its expertise. The employees at the NDDPI are education professionals, trained to support student learning, improve teacher effectiveness, and administer educational programs.

The proposed requirement to conduct investigations, as outlined in this bill, is outside our professional capabilities. Investigations of this nature demand a background and skills that are not part of an education department's core mission.

Implementing the directives in this bill as written would require a significant expansion of the Department's staff and resources. This is contrary to our shared principles of limited government and fiscal responsibility.

To fulfill the mandates of this bill, we would need to:

- Hire additional staff with investigative training and legal expertise.
- Divert resources away from our critical educational programs such as Choice Ready Graduation, Science of Reading, Greater Math in ND, Be Legendary School Board Training, and Teacher Apprenticeship programs.

Such expansions would unnecessarily burden the state budget while pulling focus from our primary role of supporting North Dakota's students and schools.

In fact, I recently made the case in the Washington Times that the federal Department of Education's Office for Civil Rights should not be conducting investigations into civil rights complaints because such work is better suited for the Department of Justice. Education departments should focus on education—not engaged in matters that require the expertise and experience of legal investigators.

### **A Better Solution: Leveraging Law Enforcement Expertise**

Instead of placing investigative responsibilities on the Department of Public Instruction, the legislature might consider empowering and providing clear authority with explicit expectations of conducting investigations with the state's law enforcement agencies to handle such matters. This includes the local county State's Attorneys, where the authority lies now, or the Attorney General's investigative arms. These entities are already trained and resourced by state and local funds to conduct investigations of legal violations. By relying on their existing expertise, North Dakota

can ensure that complaints are handled thoroughly and professionally without growing government unnecessarily.

This approach aligns with the principle of utilizing existing structures and resources, ensuring investigations are conducted by professionals with the appropriate training and authority.

In closing, I urge this committee to carefully consider the implications of this bill. While the intent behind it is commendable, its execution presents significant challenges that could hinder its effectiveness, increase the size and scope of government, and move policy authority away from the Legislature.

I remain committed to working with you and all stakeholders to explore alternative solutions that achieve the same goals without compromising our shared values of accountability, transparency, and fiscal responsibility.

Thank you for your time and attention to this matter. I am happy to answer any questions you may have.