



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.

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

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

12 **Superseding Locally Elected Officials:**

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

17 Elected school boards, who are directly accountable to their communities, could see their  
18 authority diminished in favor of top-down state oversight and the determination of a single  
19 individual becomes more powerful than all school boards.

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

23 **Potential Executive Branch Overreach:**

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

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

28 **Punish school districts without legislative involvement**, introducing financial penalties without  
29 input from lawmakers or an appeals process that could ultimately create more damage to  
30 students, schools, and their employees than ever the reason for the alleged complaint every  
31 might've. This has created a loss of the natural checks and balances of state government.



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

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

9 **Conclusion:**

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

15 We are asking for a NO vote on SB2104.