

2025 SENATE EDUCATION

SB 2104

2025 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

SB 2104
1/21/2025

Related to review by the superintendent of public instruction of school district compliance with education-related state law and rule.

10:02 a.m. Vice Chairman Beard called the meeting to order.

Members Present: Chairman Beard; Vice-Chairman Lemm; Senators: Axtman, Boschee, Gerhardt, and Wobbema.

Discussion Topics:

- School district duties
- School district compliance
- School superintendent duties

10:02 a.m. Senator Beard, Legislative Assembly, testified in favor and submitted written testimony #30427.

10:05 a.m. Kimberly Hurst, testified in favor and submitted written testimony #30388.

10:11 a.m. Karen Krenz, testified in favor and submitted written testimony #30390.

10:13 a.m. Mark Jorritsma, Executive Director ND Family Alliance Legislative Action, testified in favor and submitted written testimony #30421.

10:24 a.m. Linda Thorson, State Director Concerned Women for America of ND, testified in favor and submitted testimony #29808.

10:29 a.m. Michael Heilman, ND Small Organized Schools, testified in opposition and submitted testimony #30233.

10:40 a.m. Dr. Aimee Copas, Executive Director NDCEL, testified in opposition and submitted testimony #30417.

10:44 a.m. Dr. Jeff Fastnacht, Superintendent Bismarck Public School District, testified in opposition and submitted testimony #30236.

10:59 a.m. Amy De Kok, Executive Director ND School Boards Association, testified in opposition and submitted testimony #30429.

11:02 a.m. Kirsten Baesler, Superintendent ND Department of Public Instruction, testified neutral and submitted testimony #30330.

Additional written testimony:

Judy Vinger submitted written testimony #30341 in favor.

11:16 a.m. Vice Chairman closed the hearing.

Susan Helbling, Committee Clerk

CONCERNED
WOMEN *for* AMERICA
LEGISLATIVE ACTION COMMITTEE

January 21, 2025
Senate Education Committee
Testimony in Support of SB 2104

Chairman Todd Beard and members of the Senate Education Committee, I am Linda Thorson, State Director for Concerned Women for America (CWA) of North Dakota. My background is in education. I served as a speech-language pathologist in the public-school systems for 26 years and received the 2015 Council for Exceptional Children Teacher of the Year Award.

Today, I am testifying for CWA Legislative Action Committee in support of [SB 2104](#). As our state's largest public policy women's organization, we strongly support the provisions in the bill as it meets the goal of providing quality education to a level of excellence in academic achievement.

As you may recall, during the 68th Legislative Session, state lawmakers passed Century Code 15.1-21-28 (NDCC), which impacts middle and high school health education regarding growth and development and human sexuality curriculum.

ND Century Code 15:1-21-28 requires a high-definition ultrasound video, at least three minutes in duration, showing the development of the brain, heart, sex organs, and other organs in early fetal development. The video must contain high-quality, computer-generated rendering or animation showing the process of fertilization and every stage of development in the uterus, noting significant markers in growth and organ development for every week of pregnancy until birth.

The great majority of legislators voted in favor of making scientific technology a requirement for classroom presentations about life in the womb. [Eighty percent or more](#) of both Legislative Bodies voted in favor of [HB 1265](#), which was signed into law by Gov. Doug Burgum in the spring of 2023.

Part of the bill also required "The superintendent of public instruction shall ensure that the requirements of this section are included in the North Dakota health content standards." In compliance with the law, the North Dakota Department of Public Instruction (NDDPI) released comprehensive guidance in the document titled [ND Health Standards Changes](#).

The 2023 bill, HB 1265, did not, however, authorize the North Dakota Department of Public Instruction to collect information or conduct investigations regarding compliance with the new requirements. Therefore, they are not able to do so.

Through personal inquiries, I have found that some health teachers are unaware of the changes made to the Health Standards in 2023. Perhaps the majority of teachers are following the guidelines. However, currently, there is no comprehensive way to know whether or not teachers are aware of the requirement to show a high-definition video of human growth and development in the womb in health class.

In conclusion, on January 8, 2025, [Superintendent of Public Instruction Kirsten Baesler](#) provided the House and Senate Joint Education Committee Members an overview of the Department of Instruction. She said,

“As we kick off this legislative session, we just really want to have you know that we are an extension of the work that you do. However we can help you ...” She added, “Our job is to make sure our students, one hundred and thirty thousand of them, now in K-12th grade age, in the state of ND, (are)experiencing a variety of delivery methods and models of education. That’s the reason we come to the capitol to make sure they can graduate choice-ready and be successful, and that’s the work that you all do.”

SB 2104 is the agent NDDPI needs to be the extension of the work that the legislative body did in the last session. CWA strongly supports lawmakers’ efforts and believes this bill will communicate the priorities of legislators and the governor of North Dakota when the growth and development and human sexuality curriculum bill was signed into law in 2023.

CWA Legislative Action Committee urges a “Do Pass” on SB 2104.



North Dakota Small Organized Schools

Mr. Michael Heilman
Executive Director
3144 Hampton Street
Bismarck, ND 58504
mheilmanndsos@gmail.com
701-527-4621

Mr. Brandt Dick
President
1929 N. Washington Steet. Ste.A
Bismarck, ND 58501
Brandt.Dick@k12.nd.us
701-415-0441

Mr. Steven Heim
Vice-President
PO Box 256
Drake, ND 58736
Steve.heim@k12.nd.us
701-465-3732

1 Testimony in Opposition to SB2104 – Michael Heilman, North Dakota Small Organized Schools

2 Chairman Beard and Members of the Senate Education Committee:

3 I want to begin by emphasizing that neither I nor the organization I represent oppose compliance with
4 state law. While we may not always agree with every law, rule, or regulation, we understand our
5 obligation to comply and strive to honor the intent of all statutes governing education.

6 Our opposition to SB2104 centers on the proposed processes and procedures outlined in the bill, as well
7 as the penalties for non-compliance.

8 Currently, when schools submit reports to the Department of Public Instruction (DPI), any compliance
9 issues are typically addressed through a collaborative process. DPI notifies the school in writing and
10 works to resolve the issue. Similarly, when parents have concerns—whether about instruction,
11 curriculum, disciplinary measures, bullying, or other matters—these concerns are usually resolved at the
12 lowest level possible. That process may involve a teacher, coach, building administrator, principal,
13 superintendent, or school board. Most complaints or concerns are addressed well before they escalate
14 to the district level or reach the school board.

15 Even small schools manage numerous complaints weekly. SB2104 could drastically increase the volume
16 of complaints filed directly with DPI, creating a significant burden. Without a fiscal note to provide
17 additional staffing, it is unclear how DPI would manage this influx. A more effective approach is to
18 maintain the existing processes that allow complainants to follow district-established procedures to
19 resolve concerns at the local level by the officials hired and elected to address them.

20 The proposed penalty of a 2% reduction in state aid payments could have devastating consequences for
21 districts. For example, a district like Bismarck could face a funding reduction of nearly \$3 million, which
22 is equivalent to dozens of teaching positions. Since school budgets are typically 75-80% allocated to
23 salaries, such a penalty would almost certainly lead to staff reductions. While we hope most complaints
24 would be resolved before such penalties are imposed, the potential for financial harm to schools is
25 alarming.

26 Moreover, schools may face circumstances beyond their control that make compliance challenging. For
27 instance, a school losing a counselor mid-year might struggle to find a qualified replacement. Penalizing
28 schools for situations they cannot resolve would be both unreasonable and harmful.

29 As a former school administrator, I have handled numerous complaints and compliance issues each
30 year. These issues, whether initiated by stakeholders or brought to my attention by DPI, were resolved
31 without the need for penalties or state government intervention. Schools already have processes in

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The mission of NDSOS is to provide leadership for the small/rural schools in North Dakota and to support legislation favorable to their philosophy while opposing legislation that is harmful.

place to address complaints effectively. Allowing due process to occur at the local level is a better path forward than imposing state-level penalties.

In summary, while we remain committed to compliance with state laws, we believe SB2104 introduces processes and penalties that could create undue burdens on schools and DPI alike. We urge you to continue to support local resolution mechanisms rather than adopting this bill's provisions.

I will stand for questions.

Mr. Michael Heilman – Executive Director
North Dakota Small Organized Schools
mheilmanndsos@gmail.com
701.527.4621

1 SB 2104 – Powers of the Superintendent – by Dr. Jeff Fastnacht, Superintendent,
2 Bismarck Public School District.

3 I am here today, providing testimony in opposition to SB 2104. This is despite
4 support of the additional duties of the Superintendent outlined in Section 1 of the
5 bill. I agree entirely, similar to my roles and responsibilities as the Superintendent
6 of Bismarck Public Schools, that the Superintendent should provide guidance,
7 ensure compliance, and oversee the implementation of state law and federal
8 regulations.

9 This legislation allows for a complaint to be filed by any state resident, parent or not,
10 via a form as outlined in Section 2, part 5. Then, initiate a review of the school and
11 conduct an investigation without any previous communication or action with the
12 school, see Section 2, part 2. Subsequently in that same section the Superintendent
13 may issue guidance and propose remedial actions again without any procedural
14 requirements to engage the local school.

15 Most concerning is without any due process outlined in law for the parent, student,
16 staff, or school, the Superintendent may then impose a 2% penalty as outlined in
17 Section 2, part 3. That penalty for Bismarck Public School could be \$2,580,000!
18 Now that may seem like a wonderful way to get the Superintendent, me, to take
19 action. But I can assure you a phone call or in person conversation would be equally
20 impactful. A \$2 million dollar penalty, equates to approximately 23 teaching
21 positions in my district. Am I the only one that feels this is a bit excessive?

22 In the final lines of this legislation it then allows the Superintendent of Public
23 Instruction to enforce the rules on BPS personnel. Does this allow the

1 Superintendent to discipline personnel, put a letter in their professional file, or even
2 discharge that employee?

3 I agree wholeheartedly that districts must follow the law. I have personally discussed
4 the Superintendent's frustration with some (a very few) districts that have challenges
5 complying with reporting requirements and other items. There is room for the
6 Superintendent or State Board to meet with local board members to address these
7 needs. There are due process and complaint policies that appear to be cast aside that
8 could be used to address concerns. This bill goes too far!

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

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.

My name is Judy Vinger. I am a resident of Williston, ND

I would like to thank you for the opportunity to render my support of a "Do Pass" of SB 2104

It is very important to me that laws are enforced in my state and country. You as legislators do your "do diligence" to pass laws that make life better for those of us in this state and country, and when those laws are broken or not adhered to there needs to be accountability; even and especially, when they are government run agencies.

SB 2104 would require School Districts to be in compliance with state education-related state law and rule and would attach consequences if the law is broken, or overlooked. This is not just about accountability, but about protection our children in the schools. If you do not attach a penalty for breaking the law, then there is no reason to make the law. Since the law is already in existence, please amend it as stated in SB 2104.

Members of the Education Committee,

My name is Kimberly Hurst and I reside in District 1. I am asking that you please render a do pass on Senate Bill 2104.

A strong and sound framework for public instruction is paramount for academic achievement; and state laws are the vital component of that framework. It should go without saying that state laws are critical for ensuring our education system operates effectively, fairly and in uniform. Without establishing compliance of these laws it weakens the quality of education our students receive. Compliance reinforces accountability and transparency to the public, educators and students; which also fosters trust with our education system.

Two years ago I removed my children from North Dakota public instruction. There are a number of reasons why, one of which are the provisions of this bill, or the lack thereof. When my children were enrolled in public school I had experienced numerous times how ineffective the complaint process is. At no point was my voice heard, nor was there resolution to any of my complaints. This made it challenging to navigate my involvement with my children's education. I was given instructions to follow a 'chain of command' policy, this process would initiate a dodge and deflect response with every chain link I climbed. Multiple times I have called [ND] DPI to speak to higher leadership, but these attempts also resulted in no

resolution. I quickly discovered there is a serious lack of accountability in our education system, which left me no choice but to remove my children and begin homeschool education. To some, I may be just one person with a bad experience but I would like to take a moment to share some facts with you. According to the data DPI provides to the public there are a total of 5,009 students who are currently homeschooling in North Dakota, this is a 28.8% increase from the 2022-2023 school year. There has been consistent growth in the homeschool community for the last three years in the entire state of North Dakota. In my local school district alone, Williston Basin School District#7, there has been a 129.9% growth in homeschool students from 2021-2025, resulting in a current total of 545 homeschool children. In the last two years of becoming a member in the homeschool community and forming relationships with other homeschool families, there seems to be a pattern for the reasons more families are choosing homeschooling over public education; many of these reasons are again, in relation to the provisions of this bill. The current education laws provide no support for parents or the public to file a formal complaint prompting a bona fide investigation into the complaint. The foundation of compliance with any law written would be powerless and ineffective without consequence, therefore the financial accountability attached to this bill delivers a solid foundation of adherence to the laws. In contrast to any argument against the financial component of this bill, I would like to bring attention that it will not be of any

concern as long as the school districts obey the laws of North Dakota. Looking at the homeschool data, it is irrefutable and it distinctly shows there is a drastic need for change in the North Dakota public education system. This change starts with accountability and accountability cannot happen without compliance with consequence.

I am a strong advocate for this bill because it implements effective obedience to the education laws of North Dakota that will fundamentally strengthen our framework for academic excellence. I urge you to support the passing of Senate Bill 2104. Thank you for your consideration on this important matter and for your service to the state of North Dakota. I stand for questions.

Kimberly Hurst

Thank you, members of the Education Committee, for the opportunity to give my testimony. My name is Karen Krenz, I am from District 1 in Williston and a mother of three boys. I was a teacher and counselor for 23 years in ND. I am asking that you render a DO PASS for SB 2104.

Our state has seen how school districts have threatened to violated state century code; most of you are aware of the school district that made headlines for exactly that. Our state must hold school districts to a standard of adhering to century codes that have been passed, otherwise school districts can disobey the law. It is my duty as a citizen of the United States and a citizen of North Dakota to follow the law or pay the consequences. Isn't this also applicable to governmental agencies, such as school districts? Legislators work hard to draft bills and get them to the floor; school districts should be penalized for not complying. Students, teachers, administrators, parents, and in some cases our tax payer funds are all protected by adhering to century code put forth by our representatives.

This bill is beneficial to residents of the state since it gives them the opportunity to have their grievances heard and addressed. If this bill passes North Dakotans will feel valued and listened to by their Department of Instruction and school districts.

I stand for questions.

Karen Krenz



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.



Testimony in Support of Senate Bill 2104

Mark Jorritsma, Executive Director
North Dakota Family Alliance Legislative Action
January 21, 2025

Dear Chairman Beard and honorable members of the Senate Education Committee,

My name is Mark Jorritsma and I am the Executive Director of North Dakota Family Alliance Legislative Action. I am testifying on behalf of our organization in support of Senate Bill 2104 and respectfully request that you render a "DO PASS" on this bill.

There is a problem with our Century Code. Actually, more correctly, there is a problem with schools complying with our Century Code. Over the past few years, it has become quite apparent that schools, either through ignorance, lack of motivation, or willful defiance, do not follow portions of the Century Code that apply to them. This is particularly true for new laws enacted after each legislative session.

Examples of this can be easily found. The most obvious are cases that garner media attention, such as the willful defiance of the Fargo Public School District to follow the provisions of HB 1522, now enacted in §14-02.4-15.2 and §15.1-06-21 of our Century Code. Their school board took a vote and decided to openly defy a law of the State of North Dakota.¹ What was the consequence? Nothing. They did not break the law by simply saying they would break the law. That would be like someone being ticketed for speeding because they state to law enforcement that they intend to drive 100 mph down I-94, but then choose not to do so.

Other examples of educational noncompliance with the Century Code are less about defiance, but simply ignorance of new laws. Through contacts with sex education teachers in various schools over the past couple years, it became apparent that they were completely unaware that their human growth and development curriculum now needed to contain a high-definition ultrasound video and computer-generated rendering/animation showing fetal development, as

¹ <https://katv.com/news/nation-world/north-dakota-school-district-will-conceal-students-gender-identity-from-parents-despite-new-law-fargo-public-schools-transgender-lgbt-governor-doug-burgum>

specified in HB 1265 from last legislative session (§15.1-21-28 NDCC). These teachers had no idea they were breaking the law.

So, why does this happen? It could be lack of knowledge. In other words, the Department of Public Instruction was responsible for communicating this Century Code change to school districts after the session. Did this happen? More importantly, is this occurring for all Century Code changes after each session?

It could be school districts administration or boards deciding that certain laws don't apply to them, out of lack of understanding. Or perhaps, as in the case of the Fargo School District, active defiance of the new law.

Whatever the reason, two things need to happen to ensure this is corrected. 1.) information about the Century Code changes and their implications for schools needs to be pushed down to the entities/individuals responsible for complying with the laws, and 2.) there needs to be confirmation that these entities/individuals understand they must comply with the laws and that they are doing so.

This bill accomplishes both of these elements, so North Dakota Family Alliance Legislative Action is in favor of what it seeks to accomplish. We are not testifying on the specifics of bill implementation or language, but rather that the bill would indeed be a solution to this situation.

I am not a legislator, and I am thankful for that, because you have a far more difficult job than I do. You spend thousands of hours every other year listening to testimony, discussing and debating bills, deciding on the best course of action, voting, interacting with the governor to get his signature, and then seeing bills become part of the Century Code. It is a monumental job, and we thank you for it!

What disturbs me is that many times that work is wasted. This has to stop. The laws you work so hard for are simply not always being implemented. While I may find this unacceptable, I am ultimately not able to do anything definitive about it – you must. The fact that our citizens ignore or defy these laws makes a mockery of the legislative process you undertake, as well as the legislature as a body. Those responsible for educating our children need to understand that laws are not merely suggestions, they are requirements.

As you can tell, we are passionate about this issue, and we hope you are as well. There are 141 of you who have taken a vow to represent North Dakotans by creating laws that improve our quality of life and preserve our values. Let's ensure that happens.

North Dakota Family Alliance Legislative Action strongly requests that you render a “DO PASS” on Senate Bill 2104. Thank you for the opportunity to provide this testimony, and I’d be happy to stand for any questions.

Mark Jorritsma
Executive Director
North Dakota Family Alliance Legislative Action

SB2104

Vice-Chair Lemm and members of the committee. My name is Todd Beard. I am the Senator from District 23 serving the Williston and Trenton area.

The purpose of this bill is to provide guidance and accountability for public schools to follow North Dakota statute and rules designated through the legislative process. Any citizen of North Dakota must follow statute requirements with the potential for penalty should they choose not to follow state laws. All government entities should be required to also follow statutes with the risk of penalty including public schools should they choose not to follow state laws.

Section 1 of the bill defines the duties of the Superintendent of public instruction and includes new requirements under subsection 11 and 12. Subsection 11 requires the Superintendent of public instruction to provide guidance to school districts to promote compliance with statutes, rules and federal law. The Superintendent shall also publish the guidance on the Department of Public Instruction website. Subsection 12 requires the Superintendent of Public Instruction to review a school district to verify compliance with state law and issue guidance or withhold funding under subsection one of Section 2 of this bill.

Section 2 of the bill lays out the procedure for complaints which would initiate an investigation by the Superintendent of public instruction as to statute or rules potentially being violated. Subsection 1 requires the Superintendent to review the school district for compliance should there be a complaint filed with the

department, or a majority of the school board requests a review or if a Superintendent of the school district or county requests a review. Subsection 2 requires the Superintendent of public instruction to notify the school district of review, investigate the matter and no sooner than 10 days and no later than 90 days respond with guidance due to an infraction or close the matter.

Subsection 3 requires that if the Superintendent of public instruction issues guidance more than once the Superintendent shall deduct 2% of the total state payments the school district is entitled to for that school year.

Subsection 4 allows the school district to respond to the notice of the proposed review within 10 days.

Subsection 5 requires the Superintendent of public instruction to provide a form for a citizen to file a complaint of a school district's possible infraction.

Section 3 of the bill requires the Superintendent of the public school to create and enforce rules applicable to personnel to ensure the school district is in compliance with guidance provided by the Superintendent of public instruction.

Thank you for your consideration and ask for a DO PASS recommendation on SB2104. I stand for any questions.



NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

1224 West Owens Avenue
Bismarck ND 58501
1-800-932-8791 • (701)255-4127
www.ndsba.org

SB 2104
Testimony of Amy De Kok
Senate Education
January 21, 2025

Chairman Beard and members of the Senate Education Committee, my name is Amy De Kok. I am the executive director of the North Dakota School Boards Association. NDSBA represents all 168 North Dakota public school districts and their governing boards. I am providing this testimony in opposition to SB 2104.

SB 2104 proposes significant changes to how the Superintendent of Public Instruction oversees compliance with education-related state laws and regulations in school districts. While accountability and adherence to the law are important, this bill introduces concerning mechanisms that may have negative consequences for local school governance, educational autonomy, and financial stability. It also imposes burdens on the Department of Public Instruction (DPI) that current staffing and resources are unlikely to support effectively. Finally, it duplicates existing processes that already provide adequate pathways for addressing compliance issues. I respectfully offer the following reasons for my opposition:

First, local school boards and district superintendents are best positioned to understand and address the unique needs of their students and communities. By granting the Superintendent of Public Instruction expanded authority to initiate compliance reviews, issue multiple guidance letters, and impose financial penalties, this bill undermines local decision-making. Effective governance requires collaboration, not centralized oversight that risks sidelining the voices of local educators and administrators.

Second, SB 2104 authorizes the withholding of 2% of state funding for each compliance guidance letter issued beyond the first. This financial penalty is disproportionate and may have severe consequences for school districts already facing budget constraints. Penalizing schools financially diminishes resources for students and creates an adversarial environment between the Department of Public Instruction and local districts, counteracting efforts toward positive, cooperative improvement.

In addition, the bill allows any state resident to file a complaint, triggering a compliance review. Without clear parameters to prevent frivolous or politically motivated complaints, school districts could

be subjected to undue investigations, wasting administrative time and resources. Adequate safeguards and clear criteria for complaint validity must be established to prevent misuse of the review process.

Moreover, SB 2104 places significant new administrative burdens on the Department of Public Instruction, requiring it to investigate compliance complaints, conduct reviews, issue guidance, and enforce penalties. However, there is no corresponding provision for increased funding or staffing to manage these new responsibilities. DPI would struggle to meet these expanded duties effectively. This risks delays, inefficiency, and decreased support for school districts as DPI reallocates its efforts to enforcement rather than its primary role of providing guidance and educational support.

Next, SB 2104 is unnecessary because robust mechanisms for addressing compliance issues are already in place. School districts are governed by local school boards that establish policies providing clear complaint procedures. These policies enable parents, students, and community members to raise concerns directly and seek resolution. Additionally, the Superintendent of Public Instruction already has authority to guide districts in adhering to state and federal education laws. The existing framework balances local governance with state oversight, making this new legislation redundant and burdensome. Rather than imposing additional layers of bureaucracy, efforts should focus on strengthening and supporting current compliance systems.

Finally, the bill does not adequately define the scope, criteria, or standards for compliance reviews. Vague language may lead to inconsistent enforcement, arbitrary decisions, and uncertainty for school districts attempting to meet legal requirements. Clear, transparent guidelines are essential for fair and equitable application of any compliance policy.

In conclusion, while SB 2104 appears intended to enhance accountability, it creates unnecessary bureaucracy, financial harm, and inefficiency while duplicating processes that already address compliance concerns. It also sets the Department of Public Instruction up for failure by overburdening it without additional resources. I urge the committee to reject SB 2104 and issue a DO NOT PASS recommendation on the bill.

Thank you for your time and consideration of my testimony. I welcome any questions and further discussion.

Chairman Beard and Members of the Committee,

Thank you for the opportunity to speak on SB2104. My name is Leslie Bieber. I am the Superintendent of Alexander School District in Alexander, ND.

As written, this bill raises significant concerns about the separation of powers, overreach, and unintended consequences that could negatively impact school districts and most importantly students and student outcomes.

- **Violation of Separation of Powers:**

- The State Superintendent is an executive role with duties centered on educational leadership, not a judicial position. Assigning investigatory and punitive powers to this office blends the roles of the executive and judicial branches that undermines the principle of checks and balances.

- **Superseding Local Authority:**

- Section 3, Line 5 of the bill directly undermines the autonomy of locally elected school boards by placing their decision-making authority under the State Superintendent. This overreach contradicts the foundational principle of local control in education, where school boards are tasked with addressing the unique needs of their communities.

- **Severe Financial Consequences:**

- The provision to withhold 2% of funding as a punitive measure poses severe risks to districts. These funds are essential for providing resources, staff, and services to students, and withholding them could compromise educational outcomes.

- **Redundancy in Legal Framework:**

- Districts are required to maintain clear policies and procedures for complaints concerning personnel, compliance with laws, and other issues. These processes ensure transparency and accountability at the local level. This established framework allows constituents to voice concerns and seek resolution through proper channels, again, at the local level.
- If a constituent or even someone from the office of the state superintendent feels a district is not complying with state law, such as not showing the ultra sound video required in ND Century Code 15:1-21-28, they already have the option to file a complaint with the **Attorney General**. This existing process provides a neutral, law enforcement-based approach to addressing such concerns.
- Governor Armstrong recently stated in his State of the State Address that he is committed to cleaning up inefficiencies and redundancies in our state system. Unfortunately, this bill, adds to those redundancies rather than addressing them.

- **Unrealistic Administrative Burden**

- The bill allows any individual to file a complaint, triggering an investigation without requiring adherence to the existing protocols. The volume of potential complaints could strain resources and detract from efforts to address educational priorities.
- As a school superintendent in a small town, I navigate complex social dynamics involving families, close-knit relationships, and long-standing generational friendships. Decisions related to personnel or discipline—such as hiring, firing, or expulsions—can ripple through communities. This bill risks amplifying tensions by creating an additional avenue for grievances, exacerbating local disputes rather than resolving them locally.

I ask the committee to oppose SB2104.

2025 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

SB 2104
2/19/2025

Related to review by the superintendent of public instruction of school district compliance with education-related state law and rule.

10:00 a.m. Chairman Beard called the meeting to order.

Members Present: Chairman Beard; Vice-Chairman Lemm; Senators: Axtman, Boschee, Gerhardt, and Wobbema.

Discussion Topics:

- Language changes
- Teacher negotiations
- Payment distributions
- Corrective action

10:02 a.m. Senator Beard presented proposed amendment testimony #38053.

10:11 a.m. Allyson Hicks, General Counsel Attorney General's Office, offered clarification on proposed amendment.

10:20 a.m. Senator Beard recessed the hearing.

10:23 a.m. Senator Beard reconvened the hearing.

10:23 a.m. Allyson Hicks, General Counsel Attorney General's Office, offered continued clarification on proposed amendment.

10:32 a.m. Senator Boschee moved to adopt amendment LC #25.0488.01002.

10:32 a.m. Senator Axtman seconded the motion.

Senators	Vote
Senator Todd Beard	Y
Senator Randy D. Lemm	Y
Senator Michelle Axtman	Y
Senator Josh Boschee	Y
Senator Justin Gerhardt	Y
Senator Mike Wobbema	Y

Motion Passed 6-0-0

10:33 a.m. Senator Axtman moved Do Pass as amended.

10:33 a.m. Senator Wobbema seconded the motion.

Senators	Vote
Senator Todd Beard	Y
Senator Randy D. Lemm	Y
Senator Michelle Axtman	Y
Senator Josh Bosch	Y
Senator Justin Gerhardt	Y
Senator Mike Wobbema	Y

Motion Passed 6-0-0

Senator Beard will carry the bill.

10:38 a.m. Chairman Beard closed the hearing.

Susan Helbling, Committee Clerk

February 19, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2104

Introduced by

Senator Beard

Representative Tveit

HD
2/19/25
Page 1 of 6

1 A BILL for an Act to create and enact a new section to chapter 15.1-02 of the North Dakota
2 Century Code, relating to review by the superintendent of public instruction of school district
3 compliance with education-related state law ~~and rule~~; and to amend and reenact
4 ~~sections~~section 15.1-02-04 ~~and 15.1-14-01~~ of the North Dakota Century Code, relating to
5 school district compliance with education-related law and rule.

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

7 **SECTION 1. AMENDMENT.** Section 15.1-02-04 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **15.1-02-04. Superintendent of public instruction—Duties—Report. (Effective through**
10 **December 31, 2024)**

11 The superintendent of public instruction:

- 12 1. Shall supervise the provision of elementary and secondary education to the students
13 of this state.
- 14 2. Shall supervise the establishment and maintenance of schools and provide advice and
15 counsel regarding the welfare of the schools.
- 16 3. Shall supervise the development of course content standards.
- 17 4. Shall supervise the assessment of students.
- 18 5. Shall serve as an ex officio member of the board of university and school lands.
- 19 6. Shall keep a complete record of all official acts and appeals.
- 20 7. As appropriate, shall determine the outcome of appeals regarding education matters.

- 1 8. ~~Shall direct school district annexation, reorganization, and dissolution and employ and~~
2 ~~compensate personnel necessary to enable the state board of public school education~~
3 ~~to carry out its powers and duties regarding school district annexation, reorganization,~~
4 ~~and dissolution.~~
- 5 9. ~~Shall facilitate a process to review and update annually the statewide prekindergarten~~
6 ~~through grade twelve education strategic vision. The process must include input and~~
7 ~~participation from a steering committee that includes representatives of all state-level~~
8 ~~entities receiving state education funding and education stakeholder groups. Each~~
9 ~~steering committee member entity receiving state education funds shall provide~~
10 ~~components of the entity's strategic plan which are aligned to the statewide strategic~~
11 ~~vision. The steering committee shall prepare a collaborative report of the strategic~~
12 ~~plans of each committee member entity receiving state education funds. The~~
13 ~~superintendent shall provide the collaborative report and any updates to the strategic~~
14 ~~vision to the legislative management during each interim and to a joint meeting of the~~
15 ~~education standing committees during each regular legislative session.~~
- 16 10. ~~Shall facilitate the development and implementation of a North Dakota learning~~
17 ~~continuum in collaboration with the department of career and technical education,~~
18 ~~upon the recommendation of the kindergarten through grade twelve education~~
19 ~~coordination council.~~
- 20 11. ~~Shall appoint a task force in collaboration with the kindergarten through grade twelve~~
21 ~~education coordination council. The task force shall review all statutes in this code~~
22 ~~relating to literacy, dyslexia, and related teacher training and report the findings and~~
23 ~~recommendations of the task force, together with any legislation necessary to~~
24 ~~implement the recommendations, to the sixty-ninth legislative assembly.~~

25 **Superintendent of public instruction - Duties - Report. (Effective after December 31,**
26 **2024)** The superintendent of public instruction:

- 27 1. Shall supervise the provision of elementary and secondary education to the students
28 of this state.
- 29 2. Shall supervise the establishment and maintenance of schools and provide advice and
30 counsel regarding the welfare of the schools.
- 31 3. Shall supervise the development of course content standards.

- 1 4. Shall supervise the assessment of students.
- 2 5. Shall serve as an ex officio member of the board of university and school lands.
- 3 6. Shall keep a complete record of all official acts and appeals.
- 4 7. As appropriate, shall determine the outcome of appeals regarding education matters.
- 5 8. Shall direct school district annexation, reorganization, and dissolution and employ and
- 6 compensate personnel necessary to enable the state board of public school education
- 7 to carry out its powers and duties regarding school district annexation, reorganization,
- 8 and dissolution.
- 9 9. Shall facilitate a process to review and update annually the statewide prekindergarten
- 10 through grade twelve education strategic vision. The process must include input and
- 11 participation from a steering committee that includes representatives of all state-level
- 12 entities receiving state education funding and education stakeholder groups. Each
- 13 steering committee member entity receiving state education funds shall provide
- 14 components of the entity's strategic plan which are aligned to the statewide strategic
- 15 vision. The steering committee shall prepare a collaborative report of the strategic
- 16 plans of each committee member entity receiving state education funds. The
- 17 superintendent shall provide the collaborative report and any updates to the strategic
- 18 vision to the legislative management during each interim and to a joint meeting of the
- 19 education standing committees during each regular legislative session.
- 20 10. Shall facilitate the development and implementation of a North Dakota learning
- 21 continuum in collaboration with the department of career and technical education,
- 22 upon the recommendation of the kindergarten through grade twelve education
- 23 coordination council.
- 24 11. ~~Shall provide guidance to a school district to promote compliance with education-~~
- 25 ~~related state and federal law and the rules and regulations of any applicable state or~~
- 26 ~~federal agency and shall publish the guidance on the department of public instruction's~~
- 27 ~~website.~~
- 28 ~~12.~~ ~~Shall review a school district to verify compliance with education-related state law or~~
- 29 ~~rule or both and may issue guidance or withhold funding if a condition under~~
- 30 ~~subsection 1 of section 2 of this Act occurs a corrective action.~~

SECTION 2. A new section to chapter 15.1-02 of the North Dakota Century Code is created and enacted as follows:

Review for compliance - Procedure - Complaints.

1. As used in this chapter, "education-related state law" means title 15.1, except chapter 15.1-15 and 15.1-16, unless the law has an alternative statutory enforcement mechanism.
2. The superintendent of public instruction shall may conduct a review of a school district to verify compliance with an education-related state law ~~or rule or both~~ upon:
 - a. An exercise of discretion by the superintendent of public instruction, which may be prompted by a ~~complaint~~an allegation of noncompliance submitted under subsection 57.
 - b. Receipt of a resolution passed by a ~~the~~ majority of a board of a school district ~~or the state board of public school education~~alleging noncompliance with an education-related state law.
 - c. ~~Request~~Written request of a county superintendent of schools ~~or school district superintendent~~alleging noncompliance with an education-related state law.
- 2.3. If the superintendent of public instruction determines a review is required under subsection 42, the superintendent of public instruction shall:
 - a. Notify the school district superintendent and the board of that school district of the ~~proposed~~ review, stating the reasons for and the. The notification must include:
 - (1) A description of the alleged noncompliance;
 - (2) A copy of any documentation submitted to the superintendent of public instruction under subsection 2 alleging the noncompliance; and
 - (3) ~~The anticipated scope and estimated timeline of the review no later than ten days after a condition under subsection 1 occurs.~~
 - b. ~~Investigate~~Request information from the school district and review the information as necessary to obtain facts related to the matter.
 - c. No ~~sooner than ten days after and no~~ later than ninety days after the ~~affected party~~school district has been notified of a ~~proposed~~the review:

- 1 (1) Issue ~~guidance~~a corrective action to the school district, including a timeline
2 for compliance and suggested remedial steps to ~~become compliant~~come
3 into compliance; or
4 (2) ~~Close~~Issue a letter of compliance to the school district closing the matter
5 and notify the affected party in writing.
- 6 3-4. If a school district fails to comply with a corrective action, the superintendent of public
7 instruction may issue a written warning to the school district. If the school district is not
8 in compliance within thirty days after the issuance of a written warning, the
9 superintendent of public instruction may impose sanctions pursuant to subsection 5.
- 10 5. If ~~the superintendent of public instruction issues guidance in a school year to a school~~
11 ~~district more than once~~a school district fails to comply with a corrective action within
12 thirty days after the issuance of a written warning, the superintendent of public
13 instruction ~~shall deduct~~may impose sanctions against the school district, including
14 deducting up to two percent of the total state payments to which a school district is
15 entitled for that school year from the subsequent payment distribution under section
16 15.1-27-01 for each ~~guidance letter~~corrective action issued except the first ~~guidance~~
17 letter.
- 18 4-6. The school district may ~~respond to the superintendent of public instruction no later~~
19 ~~than ten days after receipt of the notice of proposed review~~request a hearing before
20 the superintendent of public instruction if a written request is made within ten days
21 after the receipt of the corrective action or sanction. Upon receipt of a proper and
22 timely request for a hearing, the superintendent of public instruction shall conduct an
23 adjudicative proceeding under this section in accordance with chapter 28-32, unless
24 otherwise provided for by law. If the superintendent of public instruction prevails in an
25 adjudicative proceeding under this section, the department may assess the school
26 district for all adjudicative proceeding and hearing costs, including reasonable
27 attorney's fees and costs and expenses of the action.
- 28 5-7. The superintendent of public instruction shall provide a form that a state resident may
29 use to submit ~~a complaint~~information alleging noncompliance with an education-
30 related state law to the superintendent of public instruction regarding ~~a~~the school
31 ~~district's failure to comply with education-related state law or rule~~district where the

1 resident is a qualified elector or the school district where the resident has a child
2 enrolled.

3 8. A school district subject to review by the superintendent of public instruction is
4 required to cooperate with the review to the full extent allowable by law. Failure of the
5 school district to cooperate fully with the review performed by the superintendent of
6 public instruction may be considered noncompliance with an education-related state
7 law under this section.

8 ~~— **SECTION 3. AMENDMENT.** Section 15.1-14-01 of the North Dakota Century Code is~~
9 ~~amended and reenacted as follows:~~

10 ~~— **15.1-14-01. School district superintendent – Duties.**~~

11 ~~— A school district superintendent shall:~~

12 ~~— 1. Supervise the general operation of the school district.~~

13 ~~— 2. Supervise the provision of education to students.~~

14 ~~— 3. Visit the schools of the district.~~

15 ~~— 4. Supervise school personnel.~~

16 ~~— 5. Prepare and deliver reports requested by the board of the district.~~

17 ~~— 6. Perform any other duties requested by the board.~~

18 ~~— 7. Create and enforce rules applicable to personnel to ensure the school district is in~~
19 ~~compliance with the guidance provided by the superintendent of public instruction~~
20 ~~under subsection 11 of section 15.1-02-04.~~

**REPORT OF STANDING COMMITTEE
SB 2104**

Education Committee (Sen. Beard, Chairman) recommends **AMENDMENTS** ([25.0488.01002](#)) and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2104 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

25.0488.01001
Title.

Prepared by the Legislative Council
staff for Senator Beard
February 17, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2104

Introduced by

Senator Beard

Representative Tveit

1 A BILL for an Act to create and enact a new section to chapter 15.1-02 of the North Dakota
2 Century Code, relating to review by the superintendent of public instruction of school district
3 compliance with education-related state law ~~and rule~~; and to amend and reenact
4 ~~sections~~section 15.1-02-04 ~~and 15.1-14-04~~ of the North Dakota Century Code, relating to
5 school district compliance with education-related law and rule.

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

7 **SECTION 1. AMENDMENT.** Section 15.1-02-04 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **15.1-02-04. Superintendent of public instruction – Duties – Report.** ~~(Effective through~~
10 ~~December 31, 2024)~~

11 The superintendent of public instruction:

- 12 1. ~~Shall supervise the provision of elementary and secondary education to the students~~
13 ~~of this state.~~
- 14 2. ~~Shall supervise the establishment and maintenance of schools and provide advice and~~
15 ~~counsel regarding the welfare of the schools.~~
- 16 3. ~~Shall supervise the development of course content standards.~~
- 17 4. ~~Shall supervise the assessment of students.~~
- 18 5. ~~Shall serve as an ex-officio member of the board of university and school lands.~~
- 19 6. ~~Shall keep a complete record of all official acts and appeals.~~
- 20 7. ~~As appropriate, shall determine the outcome of appeals regarding education matters.~~

- 1 8. ~~Shall direct school district annexation, reorganization, and dissolution and employ and~~
2 ~~compensate personnel necessary to enable the state board of public school education~~
3 ~~to carry out its powers and duties regarding school district annexation, reorganization,~~
4 ~~and dissolution.~~
- 5 9. ~~Shall facilitate a process to review and update annually the statewide prekindergarten~~
6 ~~through grade twelve education strategic vision. The process must include input and~~
7 ~~participation from a steering committee that includes representatives of all state-level~~
8 ~~entities receiving state education funding and education stakeholder groups. Each~~
9 ~~steering committee member entity receiving state education funds shall provide~~
10 ~~components of the entity's strategic plan which are aligned to the statewide strategic~~
11 ~~vision. The steering committee shall prepare a collaborative report of the strategic~~
12 ~~plans of each committee member entity receiving state education funds. The~~
13 ~~superintendent shall provide the collaborative report and any updates to the strategic~~
14 ~~vision to the legislative management during each interim and to a joint meeting of the~~
15 ~~education standing committees during each regular legislative session.~~
- 16 10. ~~Shall facilitate the development and implementation of a North Dakota learning~~
17 ~~continuum in collaboration with the department of career and technical education,~~
18 ~~upon the recommendation of the kindergarten through grade twelve education~~
19 ~~coordination council.~~
- 20 11. ~~Shall appoint a task force in collaboration with the kindergarten through grade twelve~~
21 ~~education coordination council. The task force shall review all statutes in this code~~
22 ~~relating to literacy, dyslexia, and related teacher training and report the findings and~~
23 ~~recommendations of the task force, together with any legislation necessary to~~
24 ~~implement the recommendations, to the sixty-ninth legislative assembly.~~

25 **Superintendent of public instruction - Duties - Report.** ~~(Effective after December 31,~~

26 ~~2024)~~ The superintendent of public instruction:

- 27 1. Shall supervise the provision of elementary and secondary education to the students
28 of this state.
- 29 2. Shall supervise the establishment and maintenance of schools and provide advice and
30 counsel regarding the welfare of the schools.
- 31 3. Shall supervise the development of course content standards.

- 1 4. Shall supervise the assessment of students.
- 2 5. Shall serve as an ex officio member of the board of university and school lands.
- 3 6. Shall keep a complete record of all official acts and appeals.
- 4 7. As appropriate, shall determine the outcome of appeals regarding education matters.
- 5 8. Shall direct school district annexation, reorganization, and dissolution and employ and
- 6 compensate personnel necessary to enable the state board of public school education
- 7 to carry out its powers and duties regarding school district annexation, reorganization,
- 8 and dissolution.
- 9 9. Shall facilitate a process to review and update annually the statewide prekindergarten
- 10 through grade twelve education strategic vision. The process must include input and
- 11 participation from a steering committee that includes representatives of all state-level
- 12 entities receiving state education funding and education stakeholder groups. Each
- 13 steering committee member entity receiving state education funds shall provide
- 14 components of the entity's strategic plan which are aligned to the statewide strategic
- 15 vision. The steering committee shall prepare a collaborative report of the strategic
- 16 plans of each committee member entity receiving state education funds. The
- 17 superintendent shall provide the collaborative report and any updates to the strategic
- 18 vision to the legislative management during each interim and to a joint meeting of the
- 19 education standing committees during each regular legislative session.
- 20 10. Shall facilitate the development and implementation of a North Dakota learning
- 21 continuum in collaboration with the department of career and technical education,
- 22 upon the recommendation of the kindergarten through grade twelve education
- 23 coordination council.
- 24 11. ~~Shall provide guidance to a school district to promote compliance with education-~~
- 25 ~~related state and federal law and the rules and regulations of any applicable state or~~
- 26 ~~federal agency and shall publish the guidance on the department of public instruction's~~
- 27 ~~website.~~
- 28 ~~12. Shall review a school district to verify compliance with education-related state law or~~
- 29 ~~rule or both and may issue guidance or withhold funding if a condition under~~
- 30 ~~subsection 1 of section 2 of this Act occurs a corrective action.~~

1 **SECTION 2.** A new section to chapter 15.1-02 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Review for compliance - Procedure - Complaints.**

4 1. As used in this chapter, "education-related state law" means title 15.1, except chapter
5 15.1-15 and 15.1-16, unless the law has an alternative statutory enforcement
6 mechanism.

7 ~~2.~~ The superintendent of public instruction ~~shall~~ may conduct a review of a school district
8 to verify compliance with an education-related state law or rule or both upon:

9 a. An exercise of discretion by the superintendent of public instruction, which may
10 be prompted by a ~~complaint~~ an allegation of noncompliance submitted under
11 subsection ~~5~~ 7.

12 b. Receipt of a resolution passed by a ~~the~~ majority of a board of a school district or
13 the state board of public school education alleging noncompliance with an
14 education-related state law.

15 c. ~~Request~~ Written request of a county superintendent of schools or school district
16 superintendent alleging noncompliance with an education-related state law.

17 ~~2.3.~~ If the superintendent of public instruction determines a review is required under
18 subsection ~~4~~ 2, the superintendent of public instruction shall:

19 a. Notify the school district superintendent and the board of that school district of
20 the ~~proposed~~ review, stating the reasons for and the ~~the~~ The notification must
21 include:

22 (1) A description of the alleged noncompliance;

23 (2) A copy of any documentation submitted to the superintendent of public
24 instruction under subsection 2 alleging the noncompliance; and

25 (3) The anticipated scope and estimated timeline of the review ~~no later than ten~~
26 days after a condition under subsection ~~1~~ occurs.

27 b. ~~Investigate~~ Request information from the school district and review the
28 information as necessary to obtain facts related to the matter.

29 c. ~~No sooner than ten days after and no later than ninety days after the affected~~
30 party school district has been notified of a ~~proposed~~ the review;

(1) Issue guidancea corrective action to the school district, including a timeline for compliance and suggested remedial steps to become compliantcome into compliance; or

(2) CloseIssue a letter of compliance to the school district closing the matter and notify the affected party in writing.

3-4. If a school district fails to comply with a corrective action, the superintendent of public instruction may issue a written warning to the school district. If the school district is not in compliance within thirty days after the issuance of a written warning, the superintendent of public instruction may impose sanctions pursuant to subsection 5.

5. If the superintendent of public instruction issues guidancea corrective action to a school district more than once in a school year, the superintendent of public instruction shall deductmay impose sanctions against the school district, including deducting up to two percent of the total state payments to which a school district is entitled for that school year from the subsequent payment distribution under section 15.1-27-01 for each guidance lettercorrective action issued except the first guidance letter.

4-6. The school district may respond to the superintendent of public instruction no later than ten days after receipt of the notice of proposed reviewrequest a hearing before the superintendent of public instruction if a written request is made within ten days after the receipt of the corrective action or sanction. Upon receipt of a proper and timely request for a hearing, the superintendent of public instruction shall conduct an adjudicative proceeding under this section in accordance with chapter 28-32, unless otherwise provided for by law. If the superintendent of public instruction prevails in an adjudicative proceeding under this section, the department may assess the school district for all adjudicative proceeding and hearing costs, including reasonable attorney's fees and costs and expenses of the action.

5-7. The superintendent of public instruction shall provide a form that a state resident may use to submit a complaintinformation alleging noncompliance with an education-related state law to the superintendent of public instruction regarding athe school district's failure to comply with education-related state law or ruledistrict where the resident is a qualified elector or the school district where the resident has a child enrolled.

1 8. A school district subject to review by the superintendent of public instruction is
2 required to cooperate with the review to the full extent allowable by law. Failure of the
3 school district to cooperate fully with the review performed by the superintendent of
4 public instruction may be considered noncompliance with an education-related state
5 law under this section.

6 ~~SECTION 3. AMENDMENT. Section 15.1-14-01 of the North Dakota Century Code is~~
7 ~~amended and reenacted as follows:~~

8 ~~15.1-14-01. School district superintendent - Duties.~~

9 ~~A school district superintendent shall:~~

- 10 ~~1. Supervise the general operation of the school district.~~
- 11 ~~2. Supervise the provision of education to students.~~
- 12 ~~3. Visit the schools of the district.~~
- 13 ~~4. Supervise school personnel.~~
- 14 ~~5. Prepare and deliver reports requested by the board of the district.~~
- 15 ~~6. Perform any other duties requested by the board.~~
- 16 ~~7. Create and enforce rules applicable to personnel to ensure the school district is in~~
17 ~~compliance with the guidance provided by the superintendent of public instruction~~
18 ~~under subsection 11 of section 15.1-02-04.~~

2025 HOUSE EDUCATION

SB 2104

2025 HOUSE STANDING COMMITTEE MINUTES

Education Committee Coteau AB Room, State Capitol

SB 2104
3/12/2025

Relating to school district compliance with education-related law and rule.

8:59 a.m. Chairman Heinert called the meeting to order.

Members Present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives, Conmy, Hager, Hatlestad, Hauck, Heilman, Jonas, Longmuir, Maki, Marchall, Morton, Novak, Osowski

Discussion Topics:

- Complaint and investigation process
- Compliance with state laws and codes
- Funding cuts
- Communication with new codes and laws
- Employee retention

9:00 a.m. Kristen Baesler, Superintendent, ND Department Public Instruction, NDDPI, introduced the Student Cabinet of ND.

9:05 a.m. Senator Todd Beard, North Dakota Senator for District 23, introduced the bill.

9:30 a.m. Mark Jorritsma, Executive Director, North Dakota Family Alliance Legislative Action, testified in favor and submitted testimony #40784.

9:32 a.m. Linda Thorson, State Director, Concerned Women for America of ND, testified in favor and submitted testimony #40762.

9:36 a.m. Kimberly Hurst, ND Resident, testified in favor and submitted testimony #40857.

9:42 a.m. Sharlet Mohr, ND Resident, testified in favor and submitted testimony #40865.

9:45 a.m. Amy De Kok, Executive Director, ND School Board Association, testified in opposition and submitted testimony #40879.

10:10 a.m. Kirsten Baesler, Superintendent, ND Department Public Instruction, NDDPI, answered questions for the committee and submitted testimony #40976.

10:27 a.m. Kevin Hohertz, Government Lead and Special Projects, ND Council of Educational Leaders, NDCEL, testified in opposition on behalf of Aimee Copas #40745.

10:32 a.m. Paul Stremick, Lobbyist, ND School Study Council, testified in opposition and submitted testimony #40828.

10:33 a.m. Leslie Bieber, Superintendent, Alexander Public Schools, testified in opposition and submitted testimony #40765.

10:37 a.m. Kristen Baesler, Superintendent, ND Department of Public Instruction, NDDPI, answered committee questions.

Additional written testimony:

Representative Bill Tveit, North Dakota Representative for District 33, submitted testimony in favor #39641

Karen Krenz, Williston, North Dakota, submitted testimony in favor #40812

Kristin Nelson, Fargo, North Dakota, submitted testimony in opposition #40250

Catherine Benton, Grand Forks, North Dakota, submitted testimony in opposition #40756

Michael Heilman, North Dakota Small Organized Schools, submitted testimony in opposition #40806.

10:40 a.m. Chairman Heinert closed the hearing.

Wyatt Armstrong for Leah Kuball, Committee Clerk

Representative Bill Tveit
House District 33
Testimony for SB 2104

Chairman Heinert, Vice Chair Schreiber-Beck, House Education Committee Members;

I urge a Do Pass recommendation on SB 2104, following on the strong support for version 25.0488.02000 in the other chamber, I believe the passage of 2104 will be in the best interest of our schools, our teachers and more importantly, our students who are the foundation of our future.

SB 2104, Section 2, is a very well thought out plan of verification, review for compliance, procedure and related complaints regarding educational-related state law and corrective action.

Thank you for your consideration;
Representative Bill Tveit, District 33, Hazen

Kristin Nelson

3/10/25

5409 20th Street South

Fargo, ND

District 46

DO NOT PASS SB 2104

Chair Heinert and members of the House Education Committee:

I write to you today to urge a **DO NOT PASS** recommendation for SB **2104**. This bill puts a great **administrative burden** on DPI potentially requiring them to investigate any complaint made to the department. Any state resident is allowed to submit a complaint about a district which could potentially **tie up precious resources** to the department.

Districts have **processes and policies** to investigate complaints, and **additional grievance procedures** if a complaint has not been investigated in a satisfactory manner. This bill adds **procedural steps and burden** to something that **already exists**.

For those reasons, **DO NOT PASS SB 2104**.

Respectfully submitted:

Kristin Nelson (she/her)



Testimony in Opposition to SB2104 - NDCEL

Overreach of the State Superintendent's Authority

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

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

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

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

Superseding Locally Elected Officials:

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

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

Potential Executive Branch Overreach:

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

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

Punish school districts without legislative involvement, introducing financial penalties without 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.

Chair Heinert and members of the House Education Committee,

I am writing to strongly urge you to recommend a DO NOT PASS stance on SB 2104. This legislation would impose a significant administrative burden on the Department of Public Instruction (DPI), potentially requiring them to investigate every complaint submitted to the department. With any state resident having the ability to file a complaint about a school district, this could drain valuable resources and overwhelm the department.

School districts already have established systems and policies for handling complaints, as well as additional grievance procedures in place for situations where complaints have not been properly addressed. This bill unnecessarily adds more steps and complications to an existing process.

For these reasons, I urge you to vote against SB 2104.

Catherine Benton

clbenton@hotmail.com

701.412.7917

CONCERNED
WOMEN *for* AMERICA
LEGISLATIVE ACTION COMMITTEE

March 12, 2025
House Education Committee
Testimony in Support of SB 2104

Chairman Pat Heinert and members of the House Education Committee, I am Linda Thorson, State Director for Concerned Women for America (CWA) of North Dakota. My background is in education. I served as a speech-language pathologist in the public-school systems for 26 years and received the 2015 Council for Exceptional Children Teacher of the Year Award.

Today, I am testifying for CWA Legislative Action Committee in support of [SB 2104](#). As our state's largest public policy women's organization, we strongly support the provisions in the bill as it meets the goal of providing quality education to a level of excellence in academic achievement.

As you may recall, during the 68th Legislative Session, state lawmakers passed Century Code 15.1-21-28 (NDCC), which impacts middle and high school health education regarding growth and development and human sexuality curriculum.

ND Century Code 15:1-21-28 requires a high-definition ultrasound video, at least three minutes in duration, showing the development of the brain, heart, sex organs, and other organs in early fetal development. The video must contain high-quality, computer-generated rendering or animation showing the process of fertilization and every stage of development in the uterus, noting significant markers in growth and organ development for every week of pregnancy until birth.

The great majority of legislators voted in favor of making scientific technology a requirement for classroom presentations about life in the womb. [Eighty percent or more](#) of both Legislative Bodies voted in favor of [HB 1265](#), which was signed into law by Gov. Doug Burgum in the spring of 2023.

Part of the bill also required "The superintendent of public instruction shall ensure that the requirements of this section are included in the North Dakota health content standards." In compliance with the law, the North Dakota Department of Public Instruction (NDDPI) released comprehensive guidance in the document titled [ND Health Standards Changes](#).

The 2023 bill, HB 1265, did not, however, authorize the North Dakota Department of Public Instruction to collect information or conduct investigations regarding compliance with the new requirements. Therefore, they are not able to do so.

Through personal inquiries, I have found that some health teachers are unaware of the changes made to the Health Standards in 2023. Perhaps the majority of teachers are following the guidelines. However, currently, there is no comprehensive way to know whether or not teachers are aware of the requirement to show a high-definition video of human growth and development in the womb in health class.

It is worth noting that the North Dakota Department of Public Instruction (NDDPI) requires the [Annual Compliance Assurance document](#) to be completed and signed by every public and nonpublic principal and superintendent to certify compliance with all state and federal laws. The document highlights the words, “The Annual Compliance Report is extremely critical. It certifies that your school (public or nonpublic) is approved.” Section 3 of the document entitled, *Curriculum Pre-K-12* states, “The school meets all curricular requirements set forth in Chapter 15.1-21.” By signing, administrators confirm adherence to [NDCC 15.1-21-28](#) and all other education laws.

For school district administrators who provide false statements in violation of the law, [SB 2104](#) ensures NDDPI provides corrective action within thirty days after a written warning, followed by possible sanctions against the school district for that school year from payment distribution. See page 4 of the bill, lines 21-24.

In conclusion, on January 8, 2025, [Superintendent of Public Instruction Kirsten Baesler](#) provided the House and Senate Joint Education Committee Members an overview of the Department of Instruction. She said,

“As we kick off this legislative session, we just really want to have you know that we are an extension of the work that you do. However we can help you ...” She added, “Our job is to make sure our students, one hundred and thirty thousand of them, now in K-12th grade age, in the state of ND, (are) experiencing a variety of delivery methods and models of education. That’s the reason we come to the capitol to make sure they can graduate choice-ready and be successful, and that’s the work that you all do.”

SB 2104 is the agent NDDPI needs to be the extension of the work that the legislative body did in the last session. CWA strongly supports lawmakers’ efforts and believes this bill will communicate the priorities of legislators and the governor of North Dakota when the growth and development and human sexuality curriculum bill was signed into law in 2023.

CWA Legislative Action Committee urges a “Do Pass” on SB 2104.

Chairman Heinart and Members of the Committee,

My name is Leslie Bieber. I am the Superintendent of Alexander School District in Alexander, ND. I am here in opposition of SB2104.

As written, this bill raises concerns about the separation of powers, overreach, and unintended consequences that could negatively impact school districts.

Violation of Separation of Powers:

- The State Superintendent is an executive role with duties centered on educational leadership, not a judicial position. Assigning investigatory and punitive powers to this office blends the roles of the executive and judicial branches that undermines the principle of checks and balances.

• **Redundancy in Legal Framework:**

- Districts are required to maintain clear policies and procedures for complaints concerning personnel, compliance with laws, and other issues. These processes ensure transparency and accountability at the local level. This established framework allows constituents to voice concerns and seek resolution through proper channels at the local level.
- If a constituent or even someone from the office of the state superintendent feels a district is not complying with state law they have the option to file a complaint with the **Attorney General**. This existing process provides a neutral, judicial based approach to addressing such concerns.
- Governor Armstrong stated in his State of the State Address that he is committed to cleaning up inefficiencies and

redundancies in our state system. Unfortunately, this bill, adds to those redundancies rather than addressing them.

- **Unrealistic Administrative Burden**

- As a school superintendent in a small town, I navigate social dynamics involving families, close-knit relationships, and long-standing generational friendships. Decisions related to personnel or discipline, such as hiring, firing, or expulsions, can ripple through communities. This bill risks amplifying tensions by creating an additional avenue for grievances, exacerbating local disputes rather than resolving them locally.

I ask the committee to oppose SB2104. Thank you for your time and consideration.



Testimony in Support of Senate Bill 2104

Mark Jorritsma, Executive Director
 North Dakota Family Alliance Legislative Action
 March 12, 2025

Good morning Chairman Heinert and honorable members of the House Education Committee,

My name is Mark Jorritsma and I am the Executive Director of North Dakota Family Alliance Legislative Action. I am testifying on behalf of our organization in support of Senate Bill 2104 and respectfully request that you render a "DO PASS" on this bill.

There is a problem with our Century Code. Actually, more specifically, there is a problem with schools complying with our Century Code. Over the past few years, it has become quite apparent that schools, either through ignorance, lack of motivation, or willful defiance, do not follow portions of the Century Code that apply to them. This is particularly true for new laws enacted after each legislative session.

Examples of this can be easily found. The most obvious are cases that garner media attention, such as the willful defiance of the Fargo Public School District to follow the provisions of HB 1522, now enacted in §14-02.4-15.2 and §15.1-06-21 of our Century Code. Their Superintendent spoke about their intent to openly defy a law of the State of North Dakota.¹

Other examples of educational noncompliance with the Century Code are less about defiance, but simply ignorance of new laws. Through contacts with sex education teachers in various schools over the past couple years, it has become apparent that they are completely unaware that their human growth and development curriculum now needs to contain a high-definition ultrasound video and computer-generated rendering/animation showing fetal development, as specified in HB 1265 from last legislative session (§15.1-21-28 NDCC). These teachers had no idea they were breaking the law.

¹ <https://katv.com/news/nation-world/north-dakota-school-district-will-conceal-students-gender-identity-from-parents-despite-new-law-fargo-public-schools-transgender-lgbt-governor-doug-burgum>

So, why does this happen? It could be that school district administration or boards genuinely believe that certain laws don't pertain to them. It could be general ignorance of a new law that was passed. Or perhaps, as mentioned, active defiance of the new law.

The fact that our school districts ignore or defy these laws undermines the legislative process as well as the legislature as a body. Those responsible for educating our children need to understand that laws are not merely suggestions, they are requirements.

For the aforementioned reasons, North Dakota Family Alliance Legislative Action requests that you render a "DO PASS" on Senate Bill 2104. Thank you for the opportunity to provide this testimony, and I'd be happy to stand for any questions.



North Dakota Small Organized Schools

Mr. Michael Heilman
Executive Director
3144 Hampton Street
Bismarck, ND 58504
mheilmanndsos@gmail.com
701-527-4621

Mr. Brandt Dick
President
1929 N. Washington Steet. Ste.A
Bismarck, ND 58501
Brandt.Dick@k12.nd.us
701-415-0441

Mr. Steven Heim
Vice-President
PO Box 256
Drake, ND 58736
Steve.heim@k12.nd.us
701-465-3732

1 **Testimony in Opposition to SB2104 – Michael Heilman, North Dakota Small Organized Schools**

2 **Chairman Heinert and Members of the House Education Committee:**

3 I want to begin by emphasizing that neither I nor the organization I represent oppose compliance with
4 state law. While we may not always agree with every law, rule, or regulation, we understand our
5 obligation to comply and strive to honor the intent of all statutes governing education.

6 Our opposition to SB2104 centers on the proposed processes and procedures outlined in the bill, as well
7 as the penalties for non-compliance.

8 Currently, when schools submit reports to the Department of Public Instruction (DPI), any compliance
9 issues are typically addressed through a collaborative process. DPI notifies the school in writing and
10 works to resolve the issue. Similarly, when parents have concerns—whether about instruction,
11 curriculum, disciplinary measures, bullying, or other matters—these concerns are usually resolved at the
12 lowest level possible. That process may involve a teacher, coach, building administrator, principal,
13 superintendent, or school board. Most complaints or concerns are addressed well before they escalate
14 to the district level or reach the school board.

15 Even small schools manage numerous complaints weekly. SB2104 could drastically increase the volume
16 of complaints filed directly with DPI, creating a significant burden. Without a fiscal note to provide
17 additional staffing, it is unclear how DPI would manage this influx. A more effective approach is to
18 maintain the existing processes that allow complainants to follow district-established procedures to
19 resolve concerns at the local level by the officials hired and elected to address them.

20 The proposed penalty of a 2% reduction in state aid payments could have devastating consequences for
21 districts. For example, a district like Bismarck could face a funding reduction of nearly \$3 million, which
22 is equivalent to dozens of teaching positions. Since school budgets are typically 75-80% allocated to
23 salaries, such a penalty would almost certainly lead to staff reductions. While we hope most complaints
24 would be resolved before such penalties are imposed, the potential for financial harm to schools is
25 alarming.

26 Moreover, schools may face circumstances beyond their control that make compliance challenging. For
27 instance, a school losing a counselor mid-year might struggle to find a qualified replacement. Penalizing
28 schools for situations they cannot resolve would be both unreasonable and harmful.

29 As a former school administrator, I have handled numerous complaints and compliance issues each
30 year. These issues, whether initiated by stakeholders or brought to my attention by DPI, were resolved
31 without the need for penalties or state government intervention. Schools already have processes in

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The mission of NDSOS is to provide leadership for the small/rural schools in North Dakota and to support legislation favorable to their philosophy while opposing legislation that is harmful.

32 place to address complaints effectively. Allowing due process to occur at the local level is a better path
33 forward than imposing state-level penalties.

34 In summary, while we remain committed to compliance with state laws, we believe SB2104 introduces
35 processes and penalties that could create undue burdens on schools and DPI alike. We urge you to
36 continue to support local resolution mechanisms rather than adopting this bill's provisions.

37 I will stand for questions.

38 Mr. Michael Heilman – Executive Director
39 North Dakota Small Organized Schools
40 mheilmanndsos@gmail.com
41 701.527.4621
42

Thank you, members of the Education Committee, for the opportunity to give my testimony. My name is Karen Krenz, I am from District 1. I am asking that you render a DO PASS for SB 2104.

Legislators work hard to draft bills and get them to the floor; there should be a process in place to make sure districts are complying to the law. Students, teachers, administrators, parents, and in some cases our tax payer funds are all protected by adhering to century code put forth by our representatives.

This bill is beneficial to residents of the state since it gives them the opportunity to have their grievances heard and addressed. If this bill passes North Dakotans will feel valued and listened to by their Department of Instruction and school districts.

Thank you for your service to the state of North Dakota!

Thank you,

Karen Krenz

1 North Dakota School Study Council Testimony in Opposition SB 2104 –
2 School District Compliance

3
4 Chairman Heinert and Members of the Committee,

5 I am writing to express my opposition to SB 2104, School District
6 Compliance. While we firmly believe that all schools should adhere to all
7 laws, we have significant concerns about certain provisions in the bill that
8 may lead to unintended consequences.

9 First, the bill allows individuals to file a complaint against a school without
10 first exhausting the proper chain of command. It is essential to ensure that
11 all local avenues for resolution are pursued before escalating concerns to
12 higher authorities. Implementing such a requirement would promote
13 fairness and efficiency in handling complaints.

14 Second, the bill currently states that an appeal of the state superintendent's
15 decision would be made to the state superintendent. This creates a clear
16 conflict of interest, as the same individual would be responsible for
17 reviewing their own decision. To ensure impartiality and due process, the
18 appeal process should be handled by an independent entity or a separate
19 official.

20 Finally, we oppose the provision that ties penalties to school resources.
21 Just as fines for speeding remain consistent regardless of a driver's
22 financial status, penalties for non-compliance should be uniform and not
23 dependent on the financial standing of a particular school district.
24 Establishing consistent and equitable penalties ensures fairness and
25 accountability across all schools.

26 For these reasons, we respectfully urge you to oppose SB 2104. Thank you
27 for your time and consideration. I am happy to answer any questions or
28 provide additional information as needed.

29 

30 Dr. Paul Stremick

Members of the Education Committee,

My name is Kimberly Hurst and I reside in District 1. I am asking that you please render a do pass on Senate Bill 2104.

A strong and sound framework for public instruction is paramount for academic achievement; and state laws are the vital component of that framework. It should go without saying that state laws are critical for ensuring our education system operates effectively, fairly and in uniform. Without establishing compliance of these laws it weakens the quality of education our students receive. Compliance reinforces accountability and transparency to the public, educators and students; which also fosters trust with our education system.

Two years ago I removed my children from North Dakota public instruction. There are a number of reasons why, one of which are the provisions of this bill, or the lack thereof. When my children were enrolled in public school I had experienced numerous times how ineffective the complaint process is. At no point was my voice heard, nor was there resolution to any of my complaints. This made it challenging to navigate my involvement with my children's education. I was given instructions to follow a 'chain of command' policy at my local school district, this process would initiate a dodge and deflect response with every chain link I climbed. Multiple times I have called [ND] DPI to speak to higher leadership, but these attempts also resulted in no resolution. I quickly discovered there is a serious lack of accountability in our education system, particularly concerning

the absence of a formal complaint and investigation process. This raises an important question for consideration: What is the purpose of state law if there are no mechanisms to ensure accountability or consequences for violations?

The last time I checked, there are a total of 5,009 students who are currently homeschooling in North Dakota. According to DPI's public data, this is a 28.8% increase from the 2022-2023 school year. There has been consistent growth in the homeschool community for the last three years in the entire state of North Dakota. In my local school district alone, Williston Basin School District#7, there has been a 129.9% growth in homeschool students in the last 4 years, resulting in a current total of 545 homeschool children. After becoming a member in the homeschool community and forming relationships with other homeschool families, there seems to be a pattern for the reasons more families are choosing homeschooling over public education; many of these reasons are again, in relation to the provisions of this bill.

The current education laws provide no support for parents or the public to file a formal complaint prompting a bona fide investigation into the complaint. The foundation of compliance with any law written would be powerless and ineffective without consequence, therefore the financial accountability attached to this bill delivers a solid foundation of adherence to the laws. In contrast to any argument against the financial component of this bill, I would like to bring attention that it will not be of any concern as long as the school districts obey the laws of North Dakota; it's just that simple.

In response to previous opposition, this bill clearly defines the formal complaint process. Specifically, a complaint must demonstrate and substantiate a clear violation of North Dakota state law. The complaint process is not intended for general or unrelated concerns; it is specifically designed to address violations of state law. Complaints falling outside these parameters would not be subject to investigation. Anyone opposing school districts complying with state law raises questions about the underlying intentions. Compliance with state law should not be optional for North Dakota residents, so it stands to reason that it should not be optional for local government entities either.

Looking at the homeschool data, it is irrefutable and it distinctly shows there is a mandate for change in the North Dakota public education system. This change starts with accountability and accountability cannot happen without compliance with consequence. I am a strong advocate for this bill because it implements effective obedience to the education laws of North Dakota that will fundamentally strengthen our framework for academic excellence. I urge you to support the passing of Senate Bill 2104. Thank you for your consideration on this important matter and for your service to the state of North Dakota. I stand for questions.

Kimberly Hurst

This bill strengthens oversight and accountability within North Dakota's education system by empowering the superintendent of public instruction to review school district compliance with state education laws and regulations. The creation of a new section in chapter 15.1-02 establishes a clear mechanism for ensuring adherence to legal standards, while the amendment to section 15.1-02-04 reinforces the superintendent's authority to address noncompliance effectively.

The proposed changes are practical and align with the state's commitment to maintaining a consistent, high-quality education system. By formalizing the superintendent's role in compliance reviews, the bill addresses potential gaps in oversight without imposing undue burdens on school districts. The legislation appears noncontroversial, as it builds on existing frameworks and promotes transparency and uniformity in educational governance.

Given its clarity, focus on accountability, and alignment with state educational priorities, I recommend a "due pass" to expedite its advancement through the legislative process

Thank You,
Sharlet Mohr



NDSBA
**NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION**

1224 West Owens Avenue
Bismarck ND 58501
1-800-932-8791 • (701)255-4127
www.ndsba.org

SB 2104
Testimony of Amy De Kok
House Education Committee
March 12, 2025

Chairman Heinert and members of the House Education Committee, my name is Amy De Kok. I am the executive director of the North Dakota School Boards Association. NDSBA represents all 168 North Dakota public school districts and their governing boards. I am here to express serious concerns about the expansive and unchecked authority this bill would grant to the Superintendent of Public Instruction. SB 2104 fundamentally alters the nature and scope of the Superintendent's and DPI's role, shifting it from an agency that supervises and oversees public education into a regulatory and enforcement body with little to no safeguards against overreach. While ensuring compliance with education-related state laws is important, this bill opens the door to potential abuses of power and politically motivated enforcement.

No Demonstrated Need for This Bill

One of the most troubling aspects of SB 2104 is that it seeks to address a problem that does not exist. There is no evidence of systemic noncompliance with North Dakota state law by public school districts. North Dakota schools have long maintained a strong record of adhering to state educational mandates, working collaboratively with state agencies, and acting in the best interests of students.

This bill appears to be a reactionary measure rather than a response to an actual widespread issue. It is likely being pursued in response to comments made by a superintendent from a single school district following legislation passed during the last legislative session. Legislation should not be crafted as a punitive reaction to isolated incidents, especially when it grants broad and unchecked power that could harm school districts statewide.

By enacting SB 2104, the Legislature would dramatically expand the authority of the Superintendent without any compelling justification, creating unnecessary burdens on schools, increasing the risk of political interference in education, and diverting resources away from student learning. Certainly, we do not have this concern with the current occupant of the office; however, we do not know who may occupy that office in the future and the political motivations of such a future occupant.

Unrestricted Discretion and Risk of Abuse

One of the most alarming aspects of SB 2104 is that it allows the Superintendent to initiate a review of a school district entirely at their discretion, without requiring substantial justification. The bill states that the Superintendent “may conduct a review” based solely on their own determination, with no clearly defined criteria. This provision introduces a dangerous possibility: that school districts could be targeted selectively based on political, ideological, or personal motivations.

Without meaningful constraints, this unchecked authority could result in politically motivated investigations that disrupt school operations, erode trust in educational institutions, and create an atmosphere of fear among educators and administrators. The law should never be a tool for political leverage, yet SB 2104 risks turning the Superintendent’s office into an enforcement agency that could wield its authority arbitrarily.

Lack of Due Process and the Right to Respond

Another fundamental flaw in SB 2104 is that it fails to provide school districts with an opportunity to respond to complaints or allegations before the Superintendent issues a decision. Under the bill, a compliance review can be initiated based on a complaint, but nowhere does it require that the district be given a chance to present evidence, clarify misunderstandings, or defend itself before corrective action is ordered.

This lack of due process violates fundamental principles of fairness and administrative justice. In any regulatory system, those accused of a violation should be given notice of the allegations and an opportunity to respond before a ruling is made. The absence of such a safeguard in SB 2104 means that school districts could face penalties and sanctions without ever having the chance to explain their position.

Further compounding this issue, SB 2104 only provides school districts 10 days after the issuance of a corrective action or sanction to request a hearing. This 10-day window is entirely insufficient for a district to:

1. Gather relevant documentation,
2. Consult legal counsel,
3. Prepare a formal response, and
4. Schedule a fair hearing process.

For a matter as serious as potential state-imposed sanctions, school districts must be given a reasonable timeframe to prepare their case. The current language in the bill does not meet basic standards of due process.

Ambiguous “Full Cooperation” Requirement and Risk of Arbitrary Enforcement

SB 2104 requires that school districts “fully cooperate” with a review by the Superintendent of Public Instruction but fails to define what constitutes full cooperation. The lack of clarity in this requirement raises serious concerns. First, the definition of “full cooperation” is left entirely to the discretion of the Superintendent, meaning school districts will not know what is required of them until after the Superintendent determines they have not complied. In addition, the bill provides no framework for what cooperation entails, leaving districts vulnerable to

arbitrary or excessive demands. Finally, failure to meet this undefined standard of cooperation can lead to sanctions, including financial penalties, without any clear guidance on what constitutes noncompliance.

This provision effectively grants the Superintendent unlimited power to determine whether a district is in violation, even if the district has made a good-faith effort to comply. A vague and subjective requirement for "full cooperation" should not be used as a basis for imposing punitive sanctions.

Sanctions Imposed Without Consideration for the Severity or Nature of the Violation

Another major flaw in SB 2104 is that sanctions may be imposed regardless of the nature of the violation or noncompliance. The bill does not distinguish between minor administrative infractions and significant breaches of state law, yet it grants the Superintendent the authority to issue punitive financial sanctions even in cases where noncompliance is technical or inadvertent.

This lack of proportionality raises serious concerns:

1. Minor infractions could result in disproportionate financial penalties, harming school districts and students rather than addressing meaningful issues.
2. The bill does not include a clear standard for determining when sanctions should be imposed, leaving it entirely up to the discretion of the Superintendent.
3. Even first-time or good-faith compliance issues could result in funding cuts, creating unnecessary financial burdens on schools already operating under tight budgets.

The indiscriminate application of sanctions, without regard to the nature of the alleged violation, is both unfair and harmful to North Dakota's schools.

Infringement on Student Privacy and Federal Protections

SB 2104 also grants the Superintendent access to "any information deemed necessary" for a compliance review. This broad language fails to provide adequate safeguards to ensure that sensitive student information remains protected under federal laws such as:

- The Family Educational Rights and Privacy Act (FERPA), which protects student education records.
- The Individuals with Disabilities Education Act (IDEA), which ensures confidentiality for students receiving special education services.

The bill does not include explicit protections to ensure that compliance reviews do not violate these federal confidentiality requirements, raising serious concerns about potential unauthorized disclosures of student records and other sensitive information. School districts should not be forced into a position where they must choose between complying with an overly broad state review or violating federal privacy laws.

Lack of Expertise and Resources to Exercise Expanded Authority

Beyond the fundamental issues with SB 2104's broad grant of authority, there is also a practical concern regarding DPI's ability to effectively and fairly implement this expansion of power. As indicated by Superintendent Baesler herself before the Senate Education Committee, DPI lacks the staff, expertise, and resources necessary to conduct thorough and appropriate compliance reviews of school districts. Unlike agencies specifically tasked with regulatory enforcement, DPI has historically served as an advisory and oversight body, not an investigative and enforcement agency. Conducting legal and procedural compliance reviews requires personnel with specialized training in education law, administrative investigations, and regulatory enforcement—areas where DPI does not currently have dedicated expertise. Without a clear infrastructure of trained staff, proper review protocols, and sufficient funding, the enforcement of SB 2104's provisions risks being inconsistent, arbitrary, and legally flawed. School districts could face compliance actions from an agency that lacks the necessary qualifications to fairly evaluate alleged violations, further exacerbating concerns about due process and the potential for overreach. If the Legislature were to grant such a sweeping expansion of authority, it would require a significant investment in staff training and resources—something this bill does not provide.

Conclusion

SB 2104 is an unnecessary and reactionary measure that would drastically expand the power of the Superintendent of Public Instruction without sufficient oversight. There is no systemic problem of school district noncompliance that justifies such a broad expansion of authority. Instead, this bill appears to be a response to a single incident, not a well-reasoned policy decision.

The bill's lack of due process, undefined cooperation standards, potential privacy violations, insufficient response time, arbitrary application of sanctions, and punitive financial penalties make it an unacceptable expansion of regulatory authority. For these reasons, I strongly urge the committee to reject SB 2104.

Thank you for your time and consideration. I am happy to answer any questions.

INFORMATION ON SB 2104
HOUSE EDUCATION COMMITTEE
Wednesday, March 12, 2025
By: Kirsten Baesler, State Superintendent
701-328-4570

Chairman Heinert and members of the House Education Committee,

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

I want to begin by acknowledging that no one here disagrees with the intent of this bill. The state **should** have the ability to enforce education laws effectively, ensuring all students and families have a formal avenue to file complaints when concerns arise. At the North Dakota Department of Public Instruction (NDDPI), we, too, have often been frustrated by the lack of enforcement authority when we identify noncompliance with state and federal education laws. SB 2104 attempts to address this gap, and I commend that effort.

However, in order to implement the provisions of this bill in a thorough, fair, and timely manner, the Department must be provided with adequate resources. Without additional staffing and funding, we cannot fulfill the expectations set by this bill.

Workload Considerations

NDDPI currently provides a process to address all complaints we receive through our website's homepage [online complaint and grievance form](#), working with families and school districts to facilitate resolutions.

However, under North Dakota's longstanding tradition of local control, the primary responsibility for resolving patron complaints and grievances falls to local school boards and the chief executives they hire—local superintendents.

In most cases, these disputes are successfully handled at the district level, where board members and administrators are best positioned to address their communities' unique circumstances.

Only a small subset of complaints—those related to students covered under the Individuals with Disabilities Education Act (IDEA), which represents 15% of our student population (~18,000 students)—go through a formal, structured investigation process as required by federal law.

Last year, we received 13 of these formal complaints, which required 710.5 hours of investigative work. Formal complaints and investigations involve detailed documentation, interviews, legal analysis, and mandated corrective action.

Expanding the formal structured investigation process to **all** 120,000 North Dakota public school students, which would increase the number of potential complainants eightfold.

Using historical trends from special education complaints, we estimate that NDDPI will receive approximately 87 formal complaints annually under this expanded system.

With each complaint requiring an average of 54.65 hours of work (based on our past investigations), this new volume will require a total of 4,737 hours annually—the equivalent of more than 2.3 full-time employees dedicated solely to complaint investigations.

Previous Considerations for Local and State Enforcement

Recognizing that perhaps relying on local school districts to self-police and self-determine final decisions about their own compliance with the law may not be best practice but also wanting to keep investigations as local as possible, the Senate engaged in extensive discussions on this bill.

As part of these discussions, there was a concerted effort to maintain the investigation, resolution, and consequence process at the local level. One consideration was to assign county state's attorneys the responsibility of investigating alleged violations of education law, just as they do for violations of other laws.

However, after discussions with state's attorneys, Senators determined that they could not absorb this additional workload.

Additionally, this very committee—the House Education Committee—has previously debated a similar proposal that would have required the Attorney

General's office to investigate violations of state education law. Again, after careful deliberation, it was determined that this would place too great a burden on the Attorney General's investigators, and the bill was ultimately defeated in the House.

Appropriation Request & Final Considerations

I want to be clear: I do not like to grow government. That is not my goal, nor is it my preference. In fact, I am proud that I have done exactly the opposite during my time leading NDDPI.

To be honest, I am not entirely convinced that the Department—whose primary employee background is in teaching and learning, not investigations—is the best entity to take on this responsibility.

However, if the Legislature determines that NDDPI should assume this role, we will execute it to the best of our ability. But to do so effectively, we must have the necessary human resources.

If this bill moves forward, I respectfully request an appropriation to hire **at least two additional full-time employees** to handle this expanded workload. Without these resources, we will be unable to meet the expectations placed upon us.

Conclusion

Chairman Heinert and members of the committee, I appreciate the opportunity to provide this information today. The enforcement authority granted under SB 2104 is a significant change, but enforcement without capacity is ineffective. If we are going

to do this, we must do it **right**—and that means ensuring NDDPI has the **staffing and funding** to uphold the intent of this legislation.

Thank you for your time, and I stand for any questions you may have.

2025 HOUSE STANDING COMMITTEE MINUTES

Education Committee Coteau AB Room, State Capitol

SB 2104
3/24/2025

Relating to school district compliance with education-related law and rule.

2:41 p.m. Chairman Heinert opened the hearing.

Members Present: Chairman Heinert, Vice Chairman Schreiber- Beck, Representatives, Conmy, Hager, Hatlestad, Hauck, Heilman, Jonas, Longmuir, Marchall, Morton, Novak, Osowski

Members Absent: Representative Maki

Discussion Topics:

- Penalties for noncompliance with administrative code
- Committee action

2:45 p.m. Representative Schreiber-Beck moved a Do Not Pass.

2:45 p.m. Representative Jonas seconded the motion.

Representatives	Vote
Representative Pat D. Heinert	Y
Representative Cynthia Schreiber-Beck	Y
Representative Liz Conmy	Y
Representative LaurieBeth Hager	Y
Representative Patrick R. Hatlestad	Y
Representative Dori Hauck	N
Representative Matthew Heilman	N
Representative Jim Jonas	Y
Representative Donald W. Longmuir	Y
Representative Roger A. Maki	A
Representative Andrew Marschall	N
Representative Desiree Morton	N
Representative Anna S. Novak	Y
Representative Doug Osowski	N

2:49 p.m. Motion passed 8-5-1

2:49 p.m. Representative Jonas will carry the bill.

2:52 p.m. Chairman Heinert adjourned the meeting.

Wyatt Armstrong for Leah Kuball, Committee Clerk

**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2104 ([25.0488.02000](#))**

Education Committee (Rep. Heinert, Chairman) recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2104 was placed on the Fourteenth order on the calendar.