

Introduced by

Representative Kasper

1 A BILL for an Act to create and enact a new chapter to title 15.1, a new section to chapter  
2 15.1-02, a new section to chapter 15.1-21, and chapter 15.1-21.5 of the North Dakota Century  
3 Code, relating to the authority of the superintendent of public instruction, grading methods, the  
4 development of North Dakota standards and assessments, and student data; to amend and  
5 reenact sections 15.1-02-04, 15.1-21-02.4, 15.1-21-02.5, 15.1-21-12, 15.1-21-13, 15.1-21-14,  
6 and 15.1-21-15 of the North Dakota Century Code, relating to standards, assessments, and  
7 grading methods; to repeal sections 15.1-21-08, 15.1-21-09, 15.1-21-10, and 15.1-21-11 of the  
8 North Dakota Century Code, relating to state assessments; to provide for a legislative  
9 management study; to provide for a contingent transfer; to provide legislative intent; to provide  
10 an effective date; and to declare an emergency.

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

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

14 **15.1-02-04. Superintendent of public instruction - Duties.**

15 The superintendent of public instruction:

- 16 1. Shall supervise the provision of elementary and secondary education to the students  
17 of this state-;
- 18 2. Shall supervise the establishment and maintenance of schools and provide advice and  
19 counsel regarding the welfare of the schools-;
- 20 3. Shall ~~supervise~~participate in the development of ~~course~~ content standards- in  
21 accordance with section 15.1-21.5-02;
- 22 4. Shall supervise the assessment of students-;
- 23 5. Shall serve as an ex officio member of the board of university and school lands-;
- 24 6. Shall keep a complete record of all official acts and appeals-;

- 1           7. As appropriate, shall determine the outcome of appeals regarding education matters-;  
2           and  
3           8. Shall direct school district annexation, reorganization, and dissolution and employ and  
4           compensate personnel necessary to enable the state board of public school education  
5           to carry out its powers and duties regarding school district annexation, reorganization,  
6           and dissolution.

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

9           **Superintendent of public instruction - Authority - Limitation.**

- 10          1. The superintendent of public instruction may not commit this state or any political  
11           subdivision of this state to participate, at any level, in any organization, consortium,  
12           association, or like entity, if the participation requires, will require, or potentially could  
13           require either an expenditure of public funds or changes in the laws of this state.  
14          2. The superintendent of public instruction may not be a signatory to any document that  
15           commits this state or any political subdivision of this state to participate, at any level, in  
16           any organization, consortium, association, or like entity, if the participation requires,  
17           will require, or potentially could require either an expenditure of public funds or  
18           changes in the laws of this state.  
19          3. The provisions of this section do not apply if the superintendent of public instruction:  
20           a. First presents the matter to the legislative management;  
21           b. Holds a public hearing on the matter; and  
22           c. Receives the consent of the legislative assembly or the legislative management,  
23           if the legislative assembly is not in session.

24          **SECTION 3. AMENDMENT.** Section 15.1-21-02.4 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26          **15.1-21-02.4. North Dakota career and technical education scholarship.**

27          Any resident student who graduates from a high school during or after the 2010-11 school  
28 year and any resident student who completes a program of home education supervised in  
29 accordance with chapter 15.1-23 during or after the 2012-13 school year is eligible to receive a  
30 North Dakota career and technical education scholarship provided the student:

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- 1           1. Completed four units of English language arts from a sequence that includes literature,  
2           composition, and speech;
- 3           2. Completed three units of mathematics, including:  
4           a. One unit of algebra II, as defined by the superintendent of public instruction; and  
5           b. Two units of any other mathematics;
- 6           3. Completed three units of science, including:  
7           a. One unit of physical science;  
8           b. One unit of biology; and  
9           c. (1) One unit of any other science; or  
10           (2) Two one-half units of any other science;
- 11          4. Completed three units of social studies, including:  
12          a. One unit of United States history;  
13          b. (1) One-half unit of United States government and one-half unit of economics;  
14             or  
15          (2) One unit of problems of democracy; and  
16          c. One unit or two one-half units of any other social studies, which may include  
17             civics, civilization, geography and history, multicultural studies, North Dakota  
18             studies, psychology, sociology, and world history;
- 19          5. a. Completed one unit of physical education; or  
20             b. One-half unit of physical education and one-half unit of health;
- 21          6. Completed:  
22          a. One unit selected from:  
23             (1) Foreign languages;  
24             (2) Native American languages;  
25             (3) American sign language;  
26             (4) Fine arts; or  
27             (5) Career and technical education courses; and  
28          b. Two units of a coordinated plan of study recommended by the department of  
29             career and technical education and approved by the superintendent of public  
30             instruction;

- 1           7. Completed any five additional units, two of which must be in the area of career and  
2           technical education;
- 3           8. a. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading  
4           scale, as determined by the superintendent of public instruction, based on  
5           all high school units in which the student was enrolled; and  
6           (2) Obtained a grade of at least "~~C~~seventy in each unit or one-half unit; or
- 7           b. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading  
8           scale, as determined by the superintendent of public instruction, based only  
9           on the units required by subsections 1 through 7; and  
10          (2) Obtained a grade of at least "~~C~~seventy in each unit or one-half unit; and
- 11          9. Received:
  - 12           a. A composite score of at least twenty-four on an ACT; or
  - 13           b. A score of at least five on each of three WorkKeys assessments recommended  
14           by the department of career and technical education and approved by the  
15           superintendent of public instruction.

16           **SECTION 4. AMENDMENT.** Section 15.1-21-02.5 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18           **15.1-21-02.5. North Dakota academic scholarship.**

19           Any resident student who graduates from a high school during or after the 2010-11 school  
20 year and any resident student who completes a program of home education supervised in  
21 accordance with chapter 15.1-23 during or after the 2012-13 school year is eligible to receive a  
22 North Dakota academic scholarship provided the student:

- 23          1. Completed four units of English language arts from a sequence that includes literature,  
24          composition, and speech;
- 25          2. Completed three units of mathematics, including:
  - 26           a. One unit of algebra II, as defined by the superintendent of public instruction; and
  - 27           b. One unit of mathematics for which algebra II, as defined by the superintendent of  
28           public instruction, is a prerequisite;
- 29          3. Completed three units of science, including:
  - 30           a. One unit of physical science;
  - 31           b. One unit of biology; and

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- 1 c. (1) One unit of any other science; or
- 2 (2) Two one-half units of any other science;
- 3 4. Completed three units of social studies, including:
- 4 a. One unit of United States history;
- 5 b. (1) One-half unit of United States government and one-half unit of economics;
- 6 or
- 7 (2) One unit of problems of democracy; and
- 8 c. One unit or two one-half units of any other social studies, which may include
- 9 civics, civilization, geography and history, multicultural studies, North Dakota
- 10 studies, psychology, sociology, and world history;
- 11 5. a. Completed one unit of physical education; or
- 12 b. One-half unit of physical education and one-half unit of health;
- 13 6. a. Completed two units of:
- 14 (1) The same foreign language;
- 15 (2) The same native American language;
- 16 (3) American sign language; or
- 17 (4) Career and technical education from a coordinated plan of study
- 18 recommended by the department of career and technical education and
- 19 approved by the superintendent of public instruction; and
- 20 b. One unit selected from:
- 21 (1) Foreign languages;
- 22 (2) Native American languages;
- 23 (3) American sign language;
- 24 (4) Fine arts; or
- 25 (5) Career and technical education;
- 26 7. Completed any five additional units;
- 27 8. a. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading
- 28 scale, as determined by the superintendent of public instruction, based on
- 29 all high school units in which the student was enrolled; and
- 30 (2) Obtained a grade of at least "~~C~~seventy" in each unit or one-half unit; or

- 1           b. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading  
2                           scale, as determined by the superintendent of public instruction, based only  
3                           on the units required by subsections 1 through 7; and  
4           (2) Obtained a grade of at least "~~C~~seventy in each unit or one-half unit;
- 5           9. Received a composite score of at least twenty-four on an ACT; and  
6           10. a. Fulfilled any one unit requirement set forth in subsections 1 through 7 by means  
7                           of an advanced placement course and examination; or  
8           b. Fulfilled any one-half unit requirement set forth in subsections 1 through 7 by  
9                           means of a dual-credit course.

10           **SECTION 5. AMENDMENT.** Section 15.1-21-12 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12           **15.1-21-12. Professional development - Use of available funds.**

- 13           1. On or before October first of each year, each school district shall file a report with the  
14                           superintendent of public instruction indicating:  
15           a. The amount and source of funds that were made available to the district for  
16                           professional development during the preceding school year;  
17           b. The amount and source of funds that were expended by the district for  
18                           professional development during the preceding school year; and  
19           c. A separate list of the professional development activities in which the district  
20                           participated during the preceding school year and the amount of time committed  
21                           to the activities.
- 22           2. The superintendent of public instruction shall compile the information submitted under  
23                           this section to determine how much of the available funding for professional  
24                           development was used by school districts in this state and, ~~beginning with the reports~~  
25                           ~~due on or before October 1, 2002,~~ whether the expenditure correlated with increased  
26                           student achievement on the ~~reading and mathematics tests~~assessments required by  
27                           section ~~15.1-21-08~~15.1-21.5-03.

28           **SECTION 6. AMENDMENT.** Section 15.1-21-13 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1           **15.1-21-13. Content standards - Translation - Curriculum.**

2           Each district shall provide upon request a copy of ~~its~~any state content standards ~~in the~~  
3 ~~areas of reading and mathematics~~, a translation of the ~~district's~~ content standards ~~in the areas~~  
4 ~~of reading and mathematics~~ for individuals who do not have a background in elementary or high  
5 school education, and a copy of the curriculum or syllabus used by each district teacher ~~of~~  
6 ~~reading and mathematics~~when providing instruction in any subject matter for which standards  
7 exist.

8           **SECTION 7. AMENDMENT.** Section 15.1-21-14 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10           **15.1-21-14. Test - Availability for viewing.**

11           ~~Upon request~~With the permission of the commission on North Dakota standards and  
12 assessments, a school district ~~must~~shall allow any individual over the age of twenty to view any  
13 ~~test administered under sections 15.1-21-08 through this section~~assessment developed and  
14 administered in accordance with section 15.1-21.5-03, as soon as the ~~test~~assessment is in the  
15 possession of the school district.

16           **SECTION 8. AMENDMENT.** Section 15.1-21-15 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18           **15.1-21-15. Electronic course delivery - Approval process.**

- 19           1. Before a person may provide elementary or high school courses electronically to a  
20           student, school, or school district in this state, the person must obtain annual approval  
21           from the superintendent of public instruction. The electronic delivery of a course  
22           includes online and technological delivery methods.
- 23           2. Before the superintendent of public instruction may grant approval to a person under  
24           this section, the superintendent shall verify that:
  - 25           a. All courses offered by the person in this state are aligned with the ~~state~~ content  
26           and performance standards, as developed in accordance with section  
27           15.1-21.5-03, and if standards do not exist for a particular course, the criteria  
28           must ensure that the course content is sufficiently challenging for students, given  
29           the grade level at which it is offered;

- 1           b. All teachers involved in the electronic delivery of a course meet or exceed the  
2           qualifications and licensure requirements placed on the teachers by the state in  
3           which the course originates; and  
4           c. All students receiving a course electronically have ongoing contact time with the  
5           teachers of the course.  
6           3. The approval process provided for in this section does not apply to a course provided  
7           electronically between approved schools in this state.

8           **SECTION 9.** A new section to chapter 15.1-21 of the North Dakota Century Code is created  
9 and enacted as follows:

10           **Grading of students - Collective activities.**

- 11           1. Whenever student assignments, assessments, or activities are to be graded, the  
12           results must be presented to the student and the student's parent using a numerical  
13           grading system ranging from zero to one hundred.  
14           2. If students engage in collective efforts, the work or contribution of each student must  
15           be evaluated individually and each student must receive a grade based on that  
16           evaluation.

17           **SECTION 10.** Chapter 15.1-21.5 of the North Dakota Century Code is created and enacted  
18 as follows:

19           **15.1-21.5-01. Commission on North Dakota standards and assessments -**  
20 **Membership.**

- 21           1. The commission on North Dakota standards and assessments consists of the  
22           following members:  
23           a. The governor, who shall serve as the chairman;  
24           b. An individual who holds a doctoral degree in English and is employed as a  
25           full-time faculty member at an accredited institution of higher education;  
26           c. An individual who holds a doctoral degree in mathematics and is employed as a  
27           full-time faculty member at an accredited institution of higher education;  
28           d. An individual who holds a doctoral degree in a science-related field and is  
29           employed as a full-time faculty member at an accredited institution of higher  
30           education;



- 1           e. An individual who has familiarity with the development of standards and  
2           assessments in the area of English language arts and is employed full time as an  
3           elementary or a high school teacher;
- 4           f. An individual who has familiarity with the development of standards and  
5           assessments in the area of mathematics and is employed full time as an  
6           elementary or a high school teacher;
- 7           g. An individual who has familiarity with the development of standards and  
8           assessments in the area of science and is employed full time as an elementary or  
9           a high school teacher;
- 10          h. Two individuals who hold advanced degrees and have familiarity with educational  
11          delivery and administration; and
- 12          i. Two members of the legislative assembly, appointed by the chairman of the  
13          legislative management.

- 14          2. All members of the commission listed in subdivisions b through h of subsection 1 must  
15          be selected by the legislative management, based upon the submission of an  
16          application, together with a curriculum vitae, and one or more interviews.

17          **15.1-21.5-02. Development and implementation of North Dakota standards.**

18          The commission on North Dakota standards and assessments shall develop and oversee  
19          the implementation of standards for each grade from kindergarten through twelve, in the areas  
20          of English language arts, mathematics, and science. The standards must be internationally  
21          benchmarked to ensure that North Dakota students are prepared to achieve and succeed in a  
22          knowledge-based globally competitive society and economy.

23          **15.1-21.5-03. Development and implementation of North Dakota assessments.**

- 24          1. The commission on North Dakota standards and assessments shall develop and  
25          oversee the implementation of student assessments for each grade from three through  
26          twelve, in the areas of English language arts, mathematics, and science.
- 27          2. The assessments must be aligned to the standards developed under section  
28          15.1-21.5-02, to ensure that all students are taught that which they are expected to  
29          learn and assessed on that which they are expected to know.

1        **15.1-21.5-04. Curriculum and instructional materials.**

2        1.    The commission on North Dakota standards and assessments shall maintain an  
3        electronically available list of instructional materials and strategies that the commission  
4        has identified as being aligned to the state standards.

5        2.    The commission shall maintain an electronically available list of instructional materials,  
6        including textbooks or portions thereof, that the commission has reviewed but not  
7        recommended because of content that it found to be not factually supportable.

8        3.    Notwithstanding the provisions of this section, the selection of instructional materials  
9        and decisions regarding teaching strategies are to be made by the board of each  
10       school district.

11       **15.1-21.5-05. Assessments - Schedule - Reporting of results.**

12       1.    The assessments must be given during the month of April to all students in the grades  
13       referenced in section 15.1-21.5-03.

14       2.    a.    On or before May fifteenth, individual student results are to be provided to the  
15       students, their parents, and school district personnel.

16       b.    Individual student results must be presented in numerical fashion, ranging from  
17       zero to one hundred and each student must be ranked in accordance with all  
18       other students in the same grade in the student's school, in the same grade in the  
19       student's school district, and in the same grade statewide.

20       3.    On or before May twentieth, the superintendent of public instruction shall publish on  
21       the department of public instruction's website the results by class, grade, school, and  
22       school district, as well as the statewide results.

23       4.    The format for publication shall readily allow for multiyear comparisons.

24       **15.1-21.5-06. Failure to demonstrate proficiency - Consequences.**

25       1.    a.    If a student fails to demonstrate proficiency on the third grade assessments in the  
26       areas of English language arts, mathematics, and science, the student may not  
27       be promoted until such time as the student demonstrates proficiency.

28       b.    If a student fails to demonstrate proficiency on the eighth grade assessments in  
29       the areas of English language arts, mathematics, and science, the student may  
30       not be promoted until such time as the student demonstrates proficiency.

1           c. If a student fails to demonstrate proficiency on the twelfth grade assessments in  
2           the areas of English language arts, mathematics, and science, the student may  
3           not be awarded a high school diploma until such time as the student  
4           demonstrates proficiency.

5           d. For purposes of this subsection, proficiency is defined as achieving a numerical  
6           grade that is equal to or greater than sixty-five.

7           2. Each school district superintendent shall work with the superintendent of public  
8           instruction to determine the nature and extent of:

9           a. Accommodations required by a student with a disability; and

10          b. Linguistic accommodations required by a student who is an English language  
11          learner.

12           **15.1-21.5-07. Assessment results - State and local interventions - Recommendations**  
13 **to legislative management.**

14          1. The commission on North Dakota standards and assessments shall consider and  
15          prepare recommendations regarding the nature and extent of local and state-level  
16          interventions that are to be applied in the event that a class, school, or school district  
17          remains in the bottom quartile for two consecutive testing cycles.

18          2. The commission shall present its recommendations to the legislative management  
19          during the 2015-16 interim.

20           **15.1-21.5-08. Withdrawal from smarter balanced consortium.**

21          On July 1, 2015, the governor and the superintendent of public instruction shall provide  
22          written notification to the smarter balanced consortium indicating that this state is no longer a  
23          participant in the smarter balanced consortium.

24           **15.1-21.5-09. Interim assessments.**

25          Beginning with the 2015-16 school year and extending until such time as the assessments  
26          required in accordance with section 15.1-21.5-03 have been developed and fully implemented,  
27          school districts shall assess students by using, in whole, in part, or in combination, existing  
28          instruments of assessments approved by the commission on North Dakota standards and  
29          assessments. For purposes of this section, existing instruments of assessment include state  
30          assessments from this and other states, the California achievement test, the comprehensive

1 test of basic skills, the Iowa test of basic skills, the test of academic proficiency, and the  
2 Stanford achievement test.

3 **15.1-21.5-10. Program for international student assessment - Test administration.**

4 1. The superintendent of public instruction shall contact the organization for economic  
5 cooperation and development to arrange for the administration, at the earliest possible  
6 date, of the program for international student assessment-based test, in two of this  
7 state's top performing large schools, two of this state's top-performing medium-sized  
8 schools, and two of this state's top-performing small schools.

9 2. The commission on North Dakota standards and assessments must be provided with  
10 a detailed explanation of the test results and shall ensure that the results are utilized in  
11 order to improve teaching and learning within the participating schools and all other  
12 public schools throughout this state.

13 **SECTION 11.** A new chapter to title 15.1 of the North Dakota Century Code is created and  
14 enacted as follows:

15 **Collection of student data.**

16 1. Beginning with the 2015-16 school year, all data regarding a student is deemed to be  
17 private and confidential.

18 2. Except as provided in this section, a school district official or employee may not obtain  
19 or seek to obtain data regarding a student from any person other than the student's  
20 parent.

21 3. During the first week of school each year and thereafter as a need arises, the school  
22 district shall provide each parent with a written document indicating:

23 a. The data it seeks to obtain regarding a student;

24 b. The purpose for which the data is being sought; and

25 c. The manner in which the data will be handled, used, shared, and stored or  
26 destroyed.

27 4. During the first week of school each year and thereafter as a need arises, the school  
28 district shall provide each parent with a written document indicating that the parent has  
29 the right to withhold any and all data referenced in this section.

30 5. a. If withholding specific data will result in the student being denied access to any  
31 benefit, service, or opportunity, the school district shall provide the parent with a

1                   written document clearly indicating the data requested and the consequence of  
2                   noncompliance.

3           b.   If withholding specific data could result in the student being denied access to any  
4           benefit, service, or opportunity, the school district shall provide the parent with a  
5           written document clearly indicating the data requested and the potential  
6           consequence of noncompliance.

7           c.   For purposes of this section, a "benefit, service, or opportunity" includes after  
8           school programs, assessments, athletic activities, computer access, counseling,  
9           enrollment in specific classes, extracurricular activities, equipment usage and  
10          rentals, field trips, free or reduced lunches, health and wellness screenings,  
11          library access, medical assistance other than emergency care, parking permits,  
12          scholarships, schoolbus transportation, special education services, student loans,  
13          textbook distributions, and tutoring.

14          6.   Neither the student nor the student's parent has a cause of action against this state, a  
15          school district, or an official or employee of either this state or a school district for any  
16          act or omission resulting from the parent's withholding data.

17          7.   When a student reaches the age of eighteen, all rights afforded to the student's parent  
18          in accordance with this section become the rights of the student.

19          **Student data retained by school district - Parental access - Cost.**

20          1.   A school district shall provide to a student's parent, upon written request, access to  
21          any data that the school district compiled prior to July 1, 2015, regarding the student, if  
22          that same data could be withheld in accordance with this chapter.

23          2.   Subsection 1 does not apply to any data that was the basis for rendering a benefit,  
24          service, or opportunity, as defined in this chapter.

25          3.   Any information other than that falling within the provisions of subsection 2 must be  
26          removed by the school district, upon the written request of the student's parent.

27          4.   Any costs incurred by the school district in complying with this section remain the  
28          responsibility of the district.

29          **SECTION 12. LEGISLATIVE INTENT - STUDENT DATA - STATE AND FEDERAL**

30          **CONSTITUTIONS.** It is the intent of the Legislative Assembly that in any litigation involving a  
31          section of this Act, the Constitution of North Dakota and the United States Constitution must be

1 interpreted so as to recognize, in the broadest possible manner, the right of privacy, security,  
2 and confidentiality with respect to a student's personally identifiable information.

3 **SECTION 13. CONTINGENT TRANSFER BY BANK OF NORTH DAKOTA -**

4 **REDUCTIONS IN FEDERAL FUNDS.** If during the biennium beginning July 1, 2015, and  
5 ending June 30, 2017, the superintendent of public instruction determines that, as a result of  
6 any provision in this Act, a school district experiences a reduction in the amount of federal funds  
7 to which the district would otherwise be entitled, the industrial commission shall transfer from  
8 the earnings and accumulated and undivided profits of the Bank of North Dakota the amount  
9 that the superintendent of public instruction certifies is necessary to replace such funds. During  
10 the 2017 legislative session, the superintendent of public instruction shall file for introduction  
11 legislation requesting that the sixty-fifth legislative assembly return any amount transferred  
12 under this section to the Bank of North Dakota.

13 **SECTION 14. LEGISLATIVE MANAGEMENT STUDY - TEACHER PREPARATION**  
14 **PROGRAMS.**

- 15 1. During the 2015-16 interim, the legislative management shall consider studying the  
16 nature and scope of teacher preparation programs in this state. The study should:
- 17 a. Examine admission criteria, academic course content, pedagogical requirements,  
18 and student teaching requirements;
- 19 b. Examine existing options and alternatives for measuring the quality of graduates  
20 from each program; and
- 21 c. Compare the teacher training programs in this state with those in Canada and  
22 selected European and Asian countries.
- 23 2. The legislative management shall report its findings and recommendations, together  
24 with any legislation required to implement the recommendations, to the sixty-fifth  
25 legislative assembly.

26 **SECTION 15. REPEAL.** Sections 15.1-21-08, 15.1-21-09, 15.1-21-10, and 15.1-21-11 of  
27 the North Dakota Century Code are repealed.

28 **SECTION 16. EFFECTIVE DATE.** This Act is effective on July 1, 2015.

29 **SECTION 17. EMERGENCY.** This Act is declared to be an emergency measure.