

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2030
(Legislative Council)
(Education Committee)

AN ACT to create and enact a new section to chapter 15.1-09, chapter 15.1-09.1, and a new section to chapter 15.1-13 of the North Dakota Century Code, relating to authorization for prekindergarten programs, regional education associations, and student teaching requirements; to amend and reenact sections 12.1-06-05, 15.1-02-08, 15.1-07-23, 15.1-09-33, 15.1-32-08, and 15.1-33-02 of the North Dakota Century Code and section 28 of chapter 167 of the 2005 Session Laws, relating to the renouncement of criminal intent, accounting procedures, school district business managers, and contingent distributions of per student payments; to repeal sections 15.1-07-28, 15.1-07-30, 15.1-27-40, and 54-35-21 of the North Dakota Century Code, relating to criteria for and expenditures by educational associations governed by joint powers agreements and the no child left behind statutory committee; to provide for legislative council studies; to provide for a report to the legislative council; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-06-05 of the North Dakota Century Code, as amended by section 1 of Senate Bill No. 2262, as approved by the sixtieth legislative assembly, is amended and reenacted as follows:

12.1-06-05. General provisions.

1. The definition of an offense in sections 12.1-06-01 to 12.1-06-04 does not apply to another offense also defined in sections 12.1-06-01 to 12.1-06-04.
2. Whenever "attempt" or "conspiracy" is made an offense outside this chapter, it means attempt or conspiracy, as the case may be, as defined in this chapter.
3.
 - a. Other than as provided in subsection 4, in a prosecution under section 12.1-06-01, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of criminal intent, the defendant avoided the commission of the crime attempted by abandoning any criminal effort and, if mere abandonment was insufficient to accomplish such avoidance, by taking further and affirmative steps which prevented the commission thereof.
 - b. Other than as provided in subsection 4, in a prosecution under section 12.1-06-03 or 12.1-06-04, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of criminal intent, the defendant prevented the commission of the crime solicited or of the crime or crimes contemplated by the conspiracy.
 - c. A renunciation is not "voluntary and complete" within the meaning of this section if it is motivated in whole or in part by (1) a belief that a circumstance exists which increases the probability of detection or apprehension of the defendant or another participant in the criminal operation, or which makes more difficult the consummation of the crime, or (2) a decision to postpone the criminal conduct until another time or to substitute another victim, or another but similar objective.
4. An individual ~~under the age of twenty-one~~ is immune from prosecution under this chapter if:

- a. The individual voluntarily and completely renounced the individual's criminal intent;
- b. The individual is a student enrolled in an elementary school, middle school, or a high school in this state or is enrolled at an institution of higher education in this state;
- c. The offense would have resulted in:
 - (1) Harm to another student enrolled in an elementary school, middle school, or a high school in this state;
 - (2) Harm to another student enrolled in an institution of higher education in this state;
 - (3) Harm to an employee of a school district or a nonpublic school in this state; ~~or~~
 - ~~(3)~~ (4) Harm to an employee of an institution of higher education in this state; or
 - (5) Damage to a school building or school property of a school district in this state or property of an institution of higher education in this state; and
- d. The renunciation was given to a law enforcement officer ~~or~~, to an administrator of a school or school district in this state, or to an official of an institution of higher education in this state before any harm to others or damage to property occurs.

SECTION 2. AMENDMENT. Section 15.1-02-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-08. Accounting and reporting system - Uniformity. The superintendent of public instruction shall implement a uniform system for the accounting, budgeting, and reporting of data for all school districts in the state and for all regional education associations governed by chapter 15.1-09.1. The superintendent of public instruction shall designate the software standards to be used by the school districts and by the regional education associations in their accounting, budgeting, and reporting functions.

SECTION 3. AMENDMENT. Section 15.1-07-23 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-23. School district business manager - Bond. A Any person serving as a school district business manager shall furnish to the school board a bond in an amount to be fixed by the school board and equal to at least twenty-five percent of the maximum amount of money subject to the business manager's control at any one time. The bond must be conditioned for the faithful discharge of the business manager's duties, including the maintenance of accurate financial records and the safekeeping and deliverance of all school district property and funds that come into the business manager's control.

SECTION 4. AMENDMENT. Section 15.1-09-33 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-33. School board - Powers. The board of a school district may:

- 1. Establish a system of free public schools for all children of legal school age residing within the district.
- 2. Organize, establish, operate, and maintain elementary, middle, and high schools.
- 3. Have custody and control of all school district property and, in the case of the board of education of the city of Fargo, have custody and control of all public school property within the boundaries of the Fargo public school district and to manage and control all school matters.

4. Acquire real property and construct school buildings and other facilities.
5. Relocate or discontinue schools and liquidate the assets of the district as required by law; provided no site may be acquired or building constructed, or no school may be organized, established, operated, maintained, discontinued, or changed in location without the approval of the state board of public school education if outside the boundary of the district.
6. Purchase, sell, exchange, and improve real property.
7. Lease real property for a maximum of one year except in the case of a career and technical education facility constructed in whole or in part with financing acquired under chapter 40-57, which may be leased for up to twenty years.
8. Exercise the power of eminent domain to acquire real property for school purposes.
9. Purchase, sell, exchange, improve, and lease for up to one year, equipment, furniture, supplies, and textbooks.
10. Recruit or contract with others to recruit homes and facilities which provide boarding care for special education students.
11. Provide dormitories for the boarding care of special education students.
12. Insure school district property.
13. Independently or jointly with other school districts, purchase telecommunications equipment or lease a telecommunications system or network.
14. Provide for the education of students by another school district.
15. Contract with federal officials for the education of students in a federal school.
16. Prescribe courses of study in addition to those prescribed by the superintendent of public instruction or by law.
17. Adopt rules regarding the instruction of students, including their admission, transfer, organization, grading, and government.
18. Join the North Dakota high school activities association and pay membership fees.
19. Adopt alternative curricula for high school seniors who require fewer than four academic units.
20. Contract with, employ, and compensate school district personnel.
21. Contract with and provide reimbursement for the provision of teaching services by an individual certified as an instructor in the areas of North Dakota American Indian languages and culture by the education standards and practices board.
22. Suspend school district personnel.
23. Dismiss school district personnel.
24. Participate in group insurance plans and pay all or part of the insurance premiums.
25. Contract for the services of a district superintendent, provided that the contract, which may be renewed, does not exceed a period of three years.
26. Contract for the services of a principal.

27. Employ a an individual to serve as the school district business manager or contract with any person to perform the duties assigned to a school district business manager by law.
28. Suspend or dismiss a school district business manager for cause without prior notice.
29. Suspend or dismiss a school district business manager without cause with thirty days' written notice.
30. Defray the necessary and contingent expenses of the board.
31. Levy a tax upon property in the district for school purposes.
32. Amend and certify budgets and tax levies, as provided in title 57.
33. Pay dues allowing for the board to hold membership in city, county, state, and national organizations and associations.
34. Designate, at its annual meeting, a newspaper of general circulation as the official newspaper of the district.

SECTION 5. A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

Prekindergarten program - Authorization - Support. The board of a school district may establish a prekindergarten program and may receive and expend any state moneys specifically appropriated for the program, any federal funds specifically appropriated or approved for the program, and any gifts, grants, and donations specifically given for the program.

SECTION 6. Chapter 15.1-09.1 of the North Dakota Century Code is created and enacted as follows:

15.1-09.1-01. Definition. For purposes of this chapter, "regional education association" means a group of school districts that have entered a joint powers agreement that has been reviewed by the superintendent of public instruction and verified as meeting the requirements of section 15.1-09.1-02.

15.1-09.1-02. Regional education association - Joint powers agreement - Review by superintendent of public instruction - Criteria. Before a group of school districts may be designated as a regional education association, the superintendent of public instruction shall review the joint powers agreement that the districts have entered and verify that:

1. The school districts:
 - a. Have a combined total land mass of at least five thousand eight hundred square miles [1502193 hectares];
 - b. (1) Have a combined total land mass of at least four thousand five hundred square miles [1165494 hectares]; and
(2) Number at least twelve;
 - c. (1) Have a combined total land mass of at least four thousand square miles [1035995 hectares]; and
(2) Have at least three thousand students in average daily membership; or
 - d. (1) Have a combined total land mass of at least one thousand five hundred square miles [388498 hectares]; and
(2) Have at least seven thousand five hundred students in average daily membership.

2. The school districts are contiguous to each other or, if the districts are not contiguous to each other, the superintendent of public instruction shall verify that the participating districts can provide sound educational opportunities to their students in a fiscally responsible manner without injuring other school districts or regional education associations and without negatively impacting the ability of other school districts or regional education associations to provide sound educational opportunities to their students in a fiscally responsible manner. A decision by the superintendent of public instruction under this subsection may be appealed to the state board of public school education. A decision by the state board is final.
3. The joint powers agreement requires that the participating school districts maintain a joint operating fund and share various administrative functions and student services in accordance with subsection 4.
4.
 - a. During the first two school years in which a regional education association is operational, each participating school district shall share in at least two administrative functions and two student services, selected by the district.
 - b. During the third and fourth school years in which a regional education association is operational, each participating school district shall share in at least three administrative functions and three student services, selected by the district.
 - c. During the fifth school year in which a regional education association is operational, and each year thereafter, each participating school district shall share at least five administrative functions and five student services, selected by the district.
 - d. For purposes of this subsection:
 - (1) "Administrative functions" means:
 - (a) Business management;
 - (b) Career and technical education services management;
 - (c) Curriculum mapping or development;
 - (d) Data analysis;
 - (e) Federal program support;
 - (f) Federal title program management;
 - (g) Grant writing;
 - (h) School improvement;
 - (i) School safety and environment management;
 - (j) Special education services management;
 - (k) Staff development;
 - (l) Staff retention and recruitment;
 - (m) Staff sharing;
 - (n) Technology support; and
 - (o) Any other functions approved by the superintendent of public instruction.

(2) Student services means:

- (a) Advanced placement classes;
- (b) Alternative high schools or alternative high school programs;
- (c) Career and technical education classes;
- (d) Counseling services;
- (e) Common elementary curricula;
- (f) Distance learning classes;
- (g) Dual credit classes;
- (h) Foreign language classes;
- (i) Library and media services;
- (j) Summer programs;
- (k) Supplemental instruction programs; and
- (l) Any other services approved by the superintendent of public instruction.

e. For purposes of this subsection, if a regional education association became operational before July 1, 2005, the 2005-06 school year must be considered the provider's first year of operation.

5. The joint powers agreement provides:

- a. Criteria for the future participation of school districts that were not parties to the original joint powers agreement;
- b. An application process by which school districts that were not parties to the original joint powers agreement can become participating districts; and
- c. A process by which school districts that were not parties to the original joint powers agreement and whose application to participate in the agreement was denied can appeal the decision to the superintendent of public instruction.

6. The joint powers agreement provides for the employment and compensation of staff.

7. The joint powers agreement:

- a. Establishes the number of members on the governing board;
- b. Establishes the manner in which members of the governing board are determined;
- c. Requires all members of the governing board or their designees to be individuals currently serving on the board of a participating school district; and
- d. Allows for the inclusion of ex officio nonvoting members on the governing board.

8. The joint powers agreement provides that the board of the regional education association shall meet at least quarterly.

9. The joint powers agreement does not permit the regional education association to compensate members of the regional education association board for attending meetings

of the board and does not permit the regional education association to reimburse members of the board for any expenses incurred in attending meetings of board.

15.1-09.1-03. Regional education association - Provision of special education and related services - Annual plan. A regional education association may prepare an annual plan regarding the provision of special education and related services on behalf of its members and submit the plan to the superintendent of public instruction for approval.

15.1-09.1-04. Regional education association - Provision of special education and related services - Powers. A regional education association that provides special education and related services may:

1. Receive and expend state and federal moneys for the provision of special education and related services to the students of its member districts;
2. Employ personnel necessary to carry out administrative services, itinerant instruction, coordinative services, and related services; and
3. Receive and expend private and public moneys.

15.1-09.1-05. Regional education association - Provision of special education and related services - Student transportation - Coordination. A regional education association shall plan and coordinate the transportation of students who are enrolled in its member districts and to whom it provides special education and related services.

15.1-09.1-06. Regional education associations - Receipt and use of moneys. The board of a regional education association may receive and expend moneys for the provision of administrative functions, student services, and any other lawful activities.

15.1-09.1-07. Joint operating fund - Accounting functions. The board of a regional education association may contract with any person, including a school district, for the maintenance of the association's joint operating fund and for the performance of any business or accounting functions required by law or necessary for the association's operation.

15.1-09.1-08. Regional education association - Report of expenses.

1. The board of a regional education association shall submit annually to the superintendent of public instruction, at the time and in the manner designated by the superintendent, a report detailing all expenses incurred by the association and shall attribute the expenses on a per student basis by participating school district.
2. The board shall deposit any moneys received by or on behalf of the regional education association into the association's joint operating fund.

15.1-09.1-09. Compensation - Reimbursement - Extraordinary service. The board of a regional education association may provide compensation and reimbursement to any board member who, at the direction of the board, performs extraordinary service on behalf of the board. For purposes of this section, "extraordinary service" means duties beyond those reasonably expected of members of the board and includes travel to and attendance at national meetings or conventions.

15.1-09.1-10. State aid - Payable to a regional education association - Obligation of district.

1. The superintendent of public instruction shall forward the portion of a school district's state aid that is payable by the superintendent as a result of the district's participation a regional education association directly to the association in which the district participates. The superintendent shall forward the amount payable under this subsection at the same time and in the same manner as provided for other state aid payments under section 15.1-27-01.

2. If the superintendent of public instruction determines that a school district failed to meet any contractual or statutory obligation imposed upon it as a result of the district's participation in a regional education association, the superintendent shall subtract the amount for which the district was not eligible from any future distribution of state aid to the district under section 15.1-27-01.

SECTION 7. A new section to chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

Student teaching requirements - Teachers licensed in other states. If an individual who is or was licensed to teach in another state applies for a license to teach in this state, the education standards and practices board may not impose on the individual any student teaching requirements as a condition of licensure. This section is applicable to an individual who graduated from a state-approved regular education program but not to an individual who completed an alternative education program as a condition of licensure.

SECTION 8. AMENDMENT. Section 15.1-32-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-08. School districts - Provision of special education. Each school district shall provide special education, ~~singly or jointly with other districts,~~ and related services as a single district, as a member of a multidistrict special education unit in accordance with this chapter 15.1-33, or as a member of a regional education association approved by the superintendent of public instruction under chapter 15.1-09.1. Each school district and entity providing special education shall cooperate with the director of special education and with the institutions of this state in the provision of special education.

SECTION 9. AMENDMENT. Section 15.1-33-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-33-02. Multidistrict special education units - School district participation. A school district may join a multidistrict special education unit or together with other school districts form a multidistrict special education unit for purposes of planning and delivering special education and related services. ~~Each school district shall participate in a multidistrict special education unit or have on file with the superintendent of public instruction a plan for providing special education and related services as a single district.~~ If a school district wishes to join a multidistrict special education unit from which it has been excluded, the school district may petition the superintendent of public instruction. A school district may appeal a decision of the superintendent under this section to the state board of public school education.

SECTION 10. AMENDMENT. Section 28 of chapter 167 of the 2005 Session Laws is amended and reenacted as follows:

SECTION 28. CONTINGENCY. If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in House Bill No. 1013, as approved by the fifty-ninth legislative assembly, remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2005, and ending June 30, 2007, and after the superintendent of public instruction has fulfilled any directives contained in section 27 of this Act, the superintendent shall distribute the remaining moneys as follows:

1. The superintendent of public instruction shall use the first \$450,000, or so much of that amount as may be necessary, to provide additional payments to school districts serving English language learners in accordance with section 15.1-27-12.
2. The superintendent of public instruction shall use the next \$1,000,000, or so much of that amount as may be necessary, for the purpose of providing additional ~~per student~~ payments to school districts participating in eligible educational associations in accordance with section 32 of this Act.

- a. The superintendent of public instruction shall distribute during the 2007-09 biennium \$45,000, or so much of that amount as may be necessary, as grants in the amount of five thousand dollars each to any educational association that commits to the development and implementation of a teacher mentoring program for first-year, second-year, and third-year teachers employed by school districts participating in the association. If any of this amount remains after meeting the requirements of this subdivision, the superintendent shall distribute those funds as additional per student payments on a prorated basis to school districts participating in educational associations.
 - b. The superintendent of public instruction shall distribute \$955,000, or so much of the sum as may be necessary, as additional per student payments to school districts participating in eligible educational associations as provided in section 32 of chapter 167 of the 2005 Session Laws.
3. The superintendent of public instruction shall use the remainder of the moneys to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district.

SECTION 11. LEGISLATIVE COUNCIL STUDY - HIGH SCHOOL CURRICULA. The legislative council shall consider studying, during the 2007-08 interim, the appropriateness and adequacy of high school curricula, with respect to preparing students for higher education and for the workplace. The study should examine curricular changes implemented in other states and expectations placed on students in other countries. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 12. LEGISLATIVE COUNCIL STUDY - SERVICES TO ENGLISH LANGUAGE LEARNERS. The legislative council shall consider studying, during the 2007-08 interim, the delivery of services to English language learners, including federal requirements, instructional options, assistance from the private sector, and the short-term and long-term budgetary impacts on the school districts and taxpayers of the state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 13. LEGISLATIVE COUNCIL STUDY - REAUTHORIZATION OF THE NO CHILD LEFT BEHIND ACT. The legislative council shall consider studying, during the 2007-08 interim, the reauthorization of the No Child Left Behind Act, including the effect of proposed changes on the students, teachers, and school districts of this state, the manner in which state assessments are conducted, the reporting and utilization of assessment results, and the performance of North Dakota students. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 14. LEGISLATIVE COUNCIL STUDY - AFTERSCHOOL PROGRAMS. The legislative council shall consider studying, during the 2007-08 interim, federally funded afterschool programs being offered to North Dakota students, including the content of the programs, applicable regulations, targeted students, and the direct and indirect costs and benefits of the programs. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 15. LEGISLATIVE COUNCIL STUDY - TEACHER MENTORING. The legislative council shall consider studying, during the 2007-08 interim, the feasibility and desirability of supporting teacher mentoring programs in urban and rural school districts and the most effective and efficient ways teacher mentoring programs could be implemented and delivered, including consideration of the identification and preparation of mentors and the styles, strategies, and professional development needs that would assist novice teachers in surviving, thriving, and ultimately deciding to consider teaching as a lifelong career. The legislative council shall report its findings and recommendations,

together with any legislation required to implement the recommendations to the sixty-first legislative assembly.

SECTION 16. LEGISLATIVE COUNCIL STUDY - REGIONAL EDUCATION ASSOCIATIONS.

The legislative council shall consider studying, during the 2007-08 interim, the short-term and long-term involvement of regional education associations and shall include the feasibility and desirability of regional education associations becoming political subdivisions; whether teachers should be employed directly by regional education associations, and whether that employment should include bargaining rights, contract renewal and nonrenewal provisions, participation in the teachers' fund for retirement, and participation in the state's uniform group insurance program; the impact that allowing regional education associations to hire teachers directly would have on the recruitment and retention of teachers currently employed by school districts and on teacher salary levels; whether teacher employment contracts, if offered by regional education associations, would have to parallel those of participating school districts with respect to common school calendars, annual or personal leave provisions, and other contractual benefits; the conduct of evaluations, if teachers are employed directly by regional education associations, including who will conduct the evaluations, their frequency, and the criteria upon which the evaluations are based; the organizational structure of regional education associations, including the qualifications of administrative or supervisory personnel; the governance structure of regional education associations; and state level oversight. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 17. REPORT TO LEGISLATIVE COUNCIL - REGIONAL EDUCATION ASSOCIATIONS.

At the conclusion of each school year during the 2007-09 biennium, the superintendent of public instruction shall compile a report covering the operations of each regional education association governed by chapter 15.1-09.1. The report must include the administrative functions and student services in which members of each regional education association participated and the direct and indirect benefits of that participation. The report must specifically address the impact of regional education associations on course offerings, student achievement, professional development opportunities, and the sharing of administrative and instructional personnel. The report also must note other resulting benefits or efficiencies. The superintendent of public instruction shall present the reports to an interim committee designated by the legislative council.

SECTION 18. REPEAL. Sections 15.1-07-28, 15.1-07-30, 15.1-27-40, and 54-35-21 of the North Dakota Century Code are repealed.

SECTION 19. EFFECTIVE DATE. Sections 2 through 9 and sections 11 through 18 of this Act become effective on July 1, 2007.

SECTION 20. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2030 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 71 Nays 22 Absent 1

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,
at ____ o'clock _____ M.

Secretary of State