

Sixtieth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2030

Introduced by

Legislative Council

(Education Committee)

1 A BILL for an Act to create and enact chapter 15.1-09.1 of the North Dakota Century Code,  
2 relating to area service providers; to amend and reenact sections 15.1-02-08, 15.1-07-23,  
3 15.1-09-33, 15.1-32-08, and 15.1-33-02 of the North Dakota Century Code, relating to  
4 accounting procedures and school district business managers; to repeal sections 15.1-07-28,  
5 15.1-07-30, and 15.1-27-40 of the North Dakota Century Code, relating to criteria for and  
6 expenditures by educational associations governed by joint powers agreements; and to provide  
7 for a report to the legislative council.

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

9 **SECTION 1. AMENDMENT.** Section 15.1-02-08 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **15.1-02-08. Accounting and reporting system - Uniformity.** The superintendent of  
12 public instruction shall implement a uniform system for the accounting, budgeting, and reporting  
13 of data for all school districts in the state and for all area service providers governed by chapter  
14 15.1-09.1. The superintendent of public instruction shall designate the software standards to  
15 be used by the school districts and by the area service providers in their accounting, budgeting,  
16 and reporting functions.

17 **SECTION 2. AMENDMENT.** Section 15.1-07-23 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **15.1-07-23. School district business manager - Bond.** A Any person serving as a  
20 school district business manager shall furnish to the school board a bond in an amount to be  
21 fixed by the school board and equal to at least twenty-five percent of the maximum amount of  
22 money subject to the business manager's control at any one time. The bond must be  
23 conditioned for the faithful discharge of the business manager's duties, including the

1 maintenance of accurate financial records and the safekeeping and deliverance of all school  
2 district property and funds that come into the business manager's control.

3 **SECTION 3. AMENDMENT.** Section 15.1-09-33 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **15.1-09-33. School board - Powers.** The board of a school district may:

- 6 1. Establish a system of free public schools for all children of legal school age  
7 residing within the district.
- 8 2. Organize, establish, operate, and maintain elementary, middle, and high schools.
- 9 3. Have custody and control of all school district property and, in the case of the  
10 board of education of the city of Fargo, have custody and control of all public  
11 school property within the boundaries of the Fargo public school district and to  
12 manage and control all school matters.
- 13 4. Acquire real property and construct school buildings and other facilities.
- 14 5. Relocate or discontinue schools and liquidate the assets of the district as required  
15 by law; provided no site may be acquired or building constructed, or no school may  
16 be organized, established, operated, maintained, discontinued, or changed in  
17 location without the approval of the state board of public school education if  
18 outside the boundary of the district.
- 19 6. Purchase, sell, exchange, and improve real property.
- 20 7. Lease real property for a maximum of one year except in the case of a career and  
21 technical education facility constructed in whole or in part with financing acquired  
22 under chapter 40-57, which may be leased for up to twenty years.
- 23 8. Exercise the power of eminent domain to acquire real property for school  
24 purposes.
- 25 9. Purchase, sell, exchange, improve, and lease for up to one year, equipment,  
26 furniture, supplies, and textbooks.
- 27 10. Recruit or contract with others to recruit homes and facilities which provide  
28 boarding care for special education students.
- 29 11. Provide dormitories for the boarding care of special education students.
- 30 12. Insure school district property.

Sixtieth  
Legislative Assembly

- 1           13.   Independently or jointly with other school districts, purchase telecommunications
- 2                   equipment or lease a telecommunications system or network.
- 3           14.   Provide for the education of students by another school district.
- 4           15.   Contract with federal officials for the education of students in a federal school.
- 5           16.   Prescribe courses of study in addition to those prescribed by the superintendent of
- 6                   public instruction or by law.
- 7           17.   Adopt rules regarding the instruction of students, including their admission,
- 8                   transfer, organization, grading, and government.
- 9           18.   Join the North Dakota high school activities association and pay membership fees.
- 10          19.   Adopt alternative curricula for high school seniors who require fewer than four
- 11                   academic units.
- 12          20.   Contract with, employ, and compensate school district personnel.
- 13          21.   Contract with and provide reimbursement for the provision of teaching services by
- 14                   an individual certified as an instructor in the areas of North Dakota American
- 15                   Indian languages and culture by the education standards and practices board.
- 16          22.   Suspend school district personnel.
- 17          23.   Dismiss school district personnel.
- 18          24.   Participate in group insurance plans and pay all or part of the insurance premiums.
- 19          25.   Contract for the services of a district superintendent, provided that the contract,
- 20                   which may be renewed, does not exceed a period of three years.
- 21          26.   Contract for the services of a principal.
- 22          27.   Employ a an individual to serve as the school district business manager or contract
- 23                   with any person to perform the duties assigned to a school district business
- 24                   manager by law.
- 25          28.   Suspend or dismiss a school district business manager for cause without prior
- 26                   notice.
- 27          29.   Suspend or dismiss a school district business manager without cause with thirty
- 28                   days' written notice.
- 29          30.   Defray the necessary and contingent expenses of the board.
- 30          31.   Levy a tax upon property in the district for school purposes.
- 31          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 4.** 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, "area service provider" 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. Area service provider - Joint powers agreement - Review by superintendent of public instruction - Criteria.** Before a group of school districts may be designated as an area service provider, 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

1           area service providers and without negatively impacting the ability of other school  
2           districts or area service providers from providing sound educational opportunities  
3           to their students in a fiscally responsible manner. A decision by the superintendent  
4           of public instruction under this subsection may be appealed to the state board of  
5           public school education. A decision by the state board is final.

6           3.   The joint powers agreement requires that the participating school districts maintain  
7           a joint operating fund and share various administrative functions and student  
8           services in accordance with subsection 4.

9           4.   a.   During the first two school years in which an area service provider is  
10           operational, each participating school district shall share in at least two  
11           administrative functions and two student services, selected by the district.  
12           b.   During the third and fourth school years in which an area service provider is  
13           operational, each participating school district shall share in at least three  
14           administrative functions and three student services, selected by the district.  
15           c.   During the fifth school year in which an area service provider is operational,  
16           and each year thereafter, each participating school district shall share at least  
17           five administrative functions and five student services, selected by the district.  
18           d.   For purposes of this subsection:

19           (1)   "Administrative functions" means:

- 20           (a)   Business management;
- 21           (b)   Career and technical education services management;
- 22           (c)   Curriculum mapping or development;
- 23           (d)   Data analysis;
- 24           (e)   Federal program support;
- 25           (f)   Federal title program management;
- 26           (g)   Grant writing;
- 27           (h)   School improvement;
- 28           (i)   School safety and environment management;
- 29           (j)   Special education services management;
- 30           (k)   Staff development;
- 31           (l)   Staff retention and recruitment;

- 1                   (m) Staff sharing;
- 2                   (n) Technology support; and
- 3                   (o) Any other functions approved by the superintendent of public
- 4                         instruction.
- 5               (2) Student services means:
- 6                   (a) Advanced placement classes;
- 7                   (b) Alternative high schools or alternative high school programs;
- 8                   (c) Career and technical education classes;
- 9                   (d) Counseling services;
- 10                  (e) Common elementary curricula;
- 11                  (f) Distance learning classes;
- 12                  (g) Dual credit classes;
- 13                  (h) Foreign language classes;
- 14                  (i) Library and media services;
- 15                  (j) Summer programs;
- 16                  (k) Supplemental instruction programs; and
- 17                  (l) Any other services approved by the superintendent of public
- 18                         instruction.
- 19               e. For purposes of this subsection, if an area service provider became
- 20                         operational before July 1, 2005, the 2005-06 school year must be considered
- 21                         the provider's first year of operation.
- 22               5. The joint powers agreement provides:
- 23                   a. Criteria for the future participation of school districts that were not parties to
- 24                         the original joint powers agreement;
- 25                   b. An application process by which school districts that were not parties to the
- 26                         original joint powers agreement can become participating districts; and
- 27                   c. A process by which school districts that were not parties to the original joint
- 28                         powers agreement and whose application to participate in the agreement was
- 29                         denied can appeal the decision to the superintendent of public instruction.
- 30               6. The joint powers agreement provides for the employment and compensation of
- 31                         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 area service provider shall meet at least quarterly.

9. The joint powers agreement does not permit the area service provider to compensate members of the area service provider board for attending meetings of the board and does not permit the area service provider to reimburse members of the board for any expenses incurred in attending meetings of the area service provider board.

**15.1-09.1-03. Area service providers - Provision of special education and related services - Annual plan.** An area service provider 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. Area service providers - Provision of special education and related services - Powers.** An area service provider 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. Area service providers - Provision of special education and related services - Student transportation - Coordination.** An area service provider 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.

1       **15.1-09.1-06. Joint operating fund - Accounting functions.** The board of an area  
2 service provider may contract with any person, including a school district, for the maintenance  
3 of the provider's joint operating fund and for the performance of any business or accounting  
4 functions required by law or necessary for the provider's operation.

5       **15.1-09.1-07. Area service provider - Report of expenses.**

- 6       1. The board of an area service provider shall submit annually to the superintendent  
7 of public instruction, at the time and in the manner designated by the  
8 superintendent, a report detailing all expenses incurred by the provider and shall  
9 attribute the expenses on a per student basis by participating school district.  
10      2. The board shall deposit any moneys received by or on behalf of the area service  
11 provider into the provider's joint operating fund.

12       **15.1-09.1-08. Compensation - Reimbursement - Extraordinary service.** The board  
13 of an area service provider may provide compensation and reimbursement to any board  
14 member who, at the direction of the board, performs extraordinary service on behalf of the  
15 board. For purposes of this section, "extraordinary service" means duties beyond those  
16 reasonably expected of members of the board and includes travel to and attendance at national  
17 meetings or conventions.

18       **15.1-09.1-09. State aid - Payable to area service provider - Obligation of district.**

- 19      1. The superintendent of public instruction shall forward the portion of a school  
20 district's state aid that is payable by the superintendent as a result of the district's  
21 participation in an area service provider directly to the area service provider of  
22 which the district is a member. The superintendent shall forward the amount  
23 payable under this subsection at the same time and in the same manner as  
24 provided for other state aid payments under section 15.1-27-01.  
25      2. If the superintendent of public instruction determines that a school district failed to  
26 meet any contractual or statutory obligation imposed upon it as a result of the  
27 district's participation in an area service provider, the superintendent shall subtract  
28 the amount for which the district was not eligible from any future distribution of  
29 state aid to the district under section 15.1-27-01.

30       **SECTION 5. AMENDMENT.** Section 15.1-32-08 of the North Dakota Century Code is  
31 amended and reenacted as follows:



1           **15.1-32-08. School districts - Provision of special education.** Each school district  
2 shall provide special education, ~~singly or jointly with other districts, and related services as a~~  
3 ~~single district, as a member of a multidistrict special education unit in accordance with this~~  
4 ~~chapter 15.1-33, or as a member of an area service provider approved by the superintendent of~~  
5 ~~public instruction under chapter 15.1-09.1.~~ Each school district and entity providing special  
6 education shall cooperate with the director of special education and with the institutions of this  
7 state in the provision of special education.

8           **SECTION 6. AMENDMENT.** Section 15.1-33-02 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10          **15.1-33-02. Multidistrict special education units - School district participation.** A  
11 school district may join a multidistrict special education unit or together with other school  
12 districts form a multidistrict special education unit for purposes of planning and delivering  
13 special education and related services. ~~Each school district shall participate in a multidistrict~~  
14 ~~special education unit or have on file with the superintendent of public instruction a plan for~~  
15 ~~providing special education and related services as a single district.~~ If a school district wishes  
16 to join a multidistrict special education unit from which it has been excluded, the school district  
17 may petition the superintendent of public instruction. A school district may appeal a decision of  
18 the superintendent under this section to the state board of public school education.

19          **SECTION 7. REPORT TO LEGISLATIVE COUNCIL - AREA SERVICE PROVIDERS**  
20 **GOVERNED BY JOINT POWERS AGREEMENTS.** At the conclusion of each school year  
21 during the 2007-09 biennium, the superintendent of public instruction shall compile a report  
22 covering the operations of each area service provider governed by chapter 15.1-09.1. The  
23 report must include the administrative functions and student services in which members of each  
24 area service provider participated and the direct and indirect benefits of that participation. The  
25 report must specifically address the impact of area service providers on course offerings,  
26 student achievement, professional development opportunities, and the sharing of administrative  
27 and instructional personnel. The report also must note other resulting benefits or efficiencies.  
28 The superintendent of public instruction shall present the reports to an interim committee  
29 designated by the legislative council.

30          **SECTION 8. REPEAL.** Sections 15.1-07-28, 15.1-07-30, and 15.1-27-40 of the North  
31 Dakota Century Code are repealed.