

**FIRST ENGROSSMENT
with House Amendments**

ENGROSSED SENATE BILL NO. 2106

Introduced by

Education Committee

(At the request of the Superintendent of Public Instruction)

1 A BILL for an Act to amend and reenact sections 15-40.3-01, 15-40.3-06, and 15-40.3-07 of the
2 North Dakota Century Code or in the alternative to amend and reenact sections 15.1-31-01,
3 15.1-31-06, and 15.1-31-07 of the North Dakota Century Code, relating to open enrollment
4 between school districts; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section
7 15-40.3-01 of the 1999 Supplement to the North Dakota Century Code is amended and
8 reenacted as follows:

9 **15-40.3-01. Open enrollment - Procedure.** A student's parent or legal guardian who
10 wishes to enroll the student in a North Dakota school district other than the student's district of
11 residence shall, not later than February first of the school year preceding the year of
12 enrollment, apply to the school board of the student's district of residence, on forms provided by
13 the superintendent of public instruction, for approval to enroll the student in a district other than
14 the student's district of residence. By March first of the school year preceding the year of
15 enrollment, the school board of the district of residence shall act on the application, notify the
16 parent or legal guardian of the board's decision within five days, and if the application is
17 approved, immediately transmit the application to the admitting district. By April first, the board
18 of the admitting district shall approve or disapprove the application. The board of the admitting
19 district shall notify the board of the district of residence and the student's parent or legal
20 guardian within five days regarding its decision. Notice of intent to enroll in the admitting district
21 obligates the student to attend the admitting district during the following school year, unless the
22 school boards of the resident and the admitting districts agree in writing to allow the student to
23 transfer back to the resident district, or the student's parents or guardians change residence to
24 another district. All applications must be reviewed in the order that they are received. A

1 student whose school district of residence does not offer the grade level in which the student
2 requires enrollment may not participate in open enrollment. For purposes of determining
3 whether the grade level in which a student requires enrollment is offered, the several school
4 districts cooperating with each other for the joint provision of educational services under a plan
5 approved by the superintendent of public instruction must be considered to be a single district.
6 A child placed at a group or residential care facility or a residential treatment center in
7 accordance with section 15-40.2-08 is not eligible for open enrollment under this section. The
8 school board of a school district of residence and of an admitting district shall waive the
9 application, consideration, and approval dates in this section for any student who, together with
10 the student's parent or legal guardian, moves from the student's school district of residence to
11 another school district and who wishes to enroll in a school district, other than the district to
12 which the student moved. The school board of a school district of residence and of an
13 admitting district shall waive the application, consideration, and approval dates in this section
14 for any student who, together with the student's parent or legal guardian, moves into this state
15 from out of state and who wishes to enroll in a school district other than the district to which the
16 student moved.

17 **SECTION 2. AMENDMENT.** If House Bill No. 1045 does not become effective, section
18 15-40.3-06 of the North Dakota Century Code is amended and reenacted as follows:

19 **15-40.3-06. Local school boards - Standards.**

20 1. Each school board shall adopt standards for the acceptance and rejection of
21 applications for open enrollment as provided in section 15-40.3-01. The standards
22 may include the capacity of a program, class, grade level, or school building. The
23 standards may not include previous academic achievement, participation in
24 extracurricular activities, disabilities, English language proficiency, or previous
25 disciplinary proceedings.

26 2. The school board of the admitting district may determine that the district may not
27 accept applications for open enrollment under this chapter.

28 3. a. A school district participating in an open enrollment program may not give or
29 offer to give a student remuneration, or directly ~~or indirectly~~ exert influence
30 upon the student or the student's family, in order to encourage participation in
31 the open enrollment program ~~for the purpose of having the student participate~~

1 ~~in varsity athletic activities. However, any student who participated in varsity~~
2 ~~athletic activities during the 1992-93 school year, at a school in a district other~~
3 ~~than the student's district of residence or at a school outside the boundary~~
4 ~~within which the student would normally attend school may continue to~~
5 ~~participate in varsity athletics at that school for the duration of the student's~~
6 ~~high school career.~~

7 b. For purposes of this subsection, directly exerting influence means providing
8 information about the school district to individuals who are not residents of
9 that district unless the information is requested.

10 c. If any person believes that a school district has violated this subsection, the
11 person may file a complaint with the superintendent of public instruction.
12 Upon receipt of a complaint alleging a violation of this subsection, the
13 superintendent of public instruction shall hold a hearing and accept testimony
14 and evidence regarding the complaint. If the superintendent finds that a
15 school district has violated this subsection, the superintendent may withhold
16 some or all of the transportation aid payments to which the district would be
17 otherwise entitled for a period of one year from the date of the finding. A
18 decision by the superintendent under this subsection is appealable to the
19 state board of public school education. A decision by the state board of
20 public school education is final.

21 **SECTION 3. AMENDMENT.** If House Bill No. 1045 does not become effective, section
22 15-40.3-07 of the 1999 Supplement to the North Dakota Century Code is amended and
23 reenacted as follows:

24 **15-40.3-07. Students not subject to this chapter.** A student, who, as the result of
25 dissolution or reorganization, resides in a district other than the one the student chooses to
26 attend at the time of the dissolution or reorganization, is not subject to the provisions of this
27 chapter and may attend school in the chosen school district if that district participates in open
28 enrollment. The student may not be considered a student in average daily membership in the
29 student's school district of residence for purposes of section 15-40.3-02.

1 **SECTION 4. AMENDMENT.** Section 15.1-31-01 of the North Dakota Century Code as
2 created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is
3 amended and reenacted as follows:

4 **15.1-31-01. Open enrollment - Procedure.**

- 5 1. By February first of the school year preceding the year of enrollment, a parent who
6 wishes to enroll a student in a North Dakota school district other than the student's
7 district of residence shall file an application for approval with the board of the
8 student's district of residence. The superintendent of public instruction shall make
9 the application forms available in each school district.
- 10 2. By March first of the school year preceding the year of enrollment, the school
11 board of the student's district of residence shall act on the application, notify the
12 parent of the board's decision within five days, and if the application is approved,
13 immediately transmit the application to the admitting district.
- 14 3. By April first of the school year preceding the year of enrollment, the board of the
15 admitting district shall approve or deny the application. The board of the admitting
16 district shall notify the board of the district of residence and the student's parent of
17 its decision within five days.
- 18 4. Notice of intent to enroll in the admitting district obligates the student to attend the
19 admitting district during the following school year unless the school boards of the
20 resident and the admitting districts agree in writing to allow the student to transfer
21 back to the resident district or the student's parent relocates to another district.
- 22 5. All applications must be reviewed in the order they are received.
- 23 6. A student whose school district of residence does not offer the grade level in which
24 the student requires enrollment may not participate in open enrollment. For
25 purposes of determining whether the grade level in which the student requires
26 enrollment is offered, the several school districts cooperating with each other for
27 the joint provision of education services under a plan approved by the
28 superintendent of public instruction must be considered to be a single district.
- 29 7. A child placed for purposes other than education in a group or residential care
30 facility or in a residential treatment center is not eligible for open enrollment under
31 this section.

1 8. The board of a school district of residence and the board of an admitting district
2 shall waive the application, consideration, and approval dates in this section for
3 any student who, together with the student's parent, moves from the student's
4 school district of residence to another school district and who wishes to enroll in a
5 school district other than the district to which the student moved.

6 9. The board of a school district of residence and the board of an admitting district
7 shall waive the application, consideration, and approval dates in this section for
8 any student who, together with the student's parent, moves into this state from out
9 of state and who wishes to enroll in a school district other than the district to which
10 the student moved.

11 **SECTION 5. AMENDMENT.** Section 15.1-31-06 of the North Dakota Century Code as
12 created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is
13 amended and reenacted as follows:

14 **15.1-31-06. Open enrollment - School boards - Standards.**

15 1. The board of each school district shall set standards for the acceptance and denial
16 of applications for admittance under open enrollment as provided in section
17 15.1-31-01. The standards may address the capacity of a program, class, grade
18 level, or school building. The standards may not address previous academic
19 achievement, participation in extracurricular activities, disabilities, English
20 language proficiency, or previous disciplinary proceedings.

21 2. A board may also determine that applications for admittance under open
22 enrollment, in accordance with this chapter, will not be considered.

23 3. a. A school district participating in an open enrollment program may not give or
24 offer to give a student remuneration, or directly ~~or indirectly~~ exert influence on
25 the student or the student's family, in order to encourage participation in the
26 open enrollment program ~~for the purpose of having the student participate in~~
27 ~~varsity athletic activities.~~

28 b. For purposes of this subsection, directly exerting influence means providing
29 information about the school district to individuals who are not residents of
30 that district unless the information is requested.

1 c. If any person believes that a school district has violated this subsection, the
2 person may file a complaint with the superintendent of public instruction.
3 Upon receipt of a complaint alleging a violation of this subsection, the
4 superintendent of public instruction shall hold a hearing and accept testimony
5 and evidence regarding the complaint. If the superintendent finds that a
6 school district has violated this subsection, the superintendent may withhold
7 some or all of the transportation aid payments to which the district would be
8 otherwise entitled for a period of one year from the date of the finding. A
9 decision by the superintendent under this subsection is appealable to the
10 state board of public school education. A decision by the state board of
11 public school education is final.

12 **SECTION 6. AMENDMENT.** Section 15.1-31-07 of the North Dakota Century Code as
13 created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is
14 amended and reenacted as follows:

15 **15.1-31-07. Students not subject to this chapter.** If a student, as a result of a school
16 district dissolution or reorganization, resides in a district other than the one the student chooses
17 to attend at the time of the dissolution or reorganization, the student is not subject to the
18 provisions of this chapter and may attend school in the chosen school district. The student may
19 not be considered a student in average daily membership in the student's school district of
20 residence for purposes of section 15.1-31-02.

21 **SECTION 7. EMERGENCY.** Sections 3 and 6 of this Act are declared to be an
22 emergency measure.