

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1376**

Introduced by

Representatives Strinden, Meier, Monson, Pyle, Richter, Satrom, Schreiber-Beck

Senators Davison, Meyer

1 A BILL for an Act to amend and reenact sections 15-19-01, 15.1-07-25.4, 15.1-31-01,
2 15.1-31-06, 15.1-31-07, and 15.1-31-08 of the North Dakota Century Code, relating to virtual
3 instruction of students and open enrollment.

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

5 **SECTION 1. AMENDMENT.** Section 15-19-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **15-19-01. North Dakota center for distance education courses - Establishment -**
8 **Enrollment of students - Courses of instruction.**

9 The state shall provide kindergarten through grade twelve courses, comprehensive
10 educational support, and high school diplomas through the center for distance education under
11 the following provisions:

- 12 1. A complete curriculum prescribed by state-mandated education accreditation entities
13 which meets the requirements for digital education the superintendent of public
14 instruction has determined to be appropriate.
- 15 2. ~~A superintendent or an administrator of a school may deny the enrollment of a student~~
16 ~~in that district at the center for distance education except as provided in subsection 5.~~
- 17 3. The center for distance education may provide services to persons who are not North
18 Dakota residents.
- 19 4.3. ~~Center~~A center for distance education ~~students~~student's school district of residence
20 shall pay fees as may be prescribed by the state board for career and technical
21 education.
- 22 5.4. Students exempt from the compulsory school attendance laws pursuant to
23 subdivision e of subsection 1 of section 15.1-20-02 may enroll in distance education
24 courses offered through the center for distance education. These students may study

1 their center for distance education lessons in their learning environment under the
2 supervision of a parent.

3 **SECTION 2. AMENDMENT.** Section 15.1-07-25.4 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **15.1-07-25.4. Virtual learning - School district policy - Report to legislative**
6 **management and legislative assembly.**

7 1. The board of a school district or governing board of a nonpublic school that operates a
8 physical school plant may adopt a policy to allow students to engage in virtual
9 instruction and in the case of a school district, qualify for average daily membership in
10 the district. A resident school district may not deny open enrollment to an approved
11 virtual school.

12 2. A student or a student's family member may not receive any item, service, or thing of
13 value not given in exchange for fair market consideration from a vendor providing
14 instruction or support under this section.

15 3. The superintendent of public instruction shall adopt rules governing policies under this
16 section. A policy adopted by a school district under this section must comply with the
17 rules adopted by the superintendent of public instruction.

18 4. The superintendent of public instruction shall provide biennial reportsan annual report
19 to either the legislative management regardingor the legislative assembly. In
20 odd-numbered years, the report must be made to the legislative assembly. In
21 even-numbered years, the report must be made to the legislative management. The
22 annual report must:

23 a. Contain a comparison of the academic performance metries of students
24 participating in virtual instruction against students not participating in virtual
25 instruction under this section; and

26 b. Use the statewide prekindergarten through grade twelve strategic vision
27 framework goals.

28 5. If the superintendent of public instruction does not have access to academic
29 performance reports of a school district's virtual instruction subgroup because of the
30 low group size, the district shall provide the annual report required under this section
31 for the district's comparison data.

1 6. Students enrolled in an approved virtual school do not generate school district sized
2 weighting factors pursuant to section 15.1-27-03.2.

3 **SECTION 3. AMENDMENT.** Section 15.1-31-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **15.1-31-01. Open enrollment - Procedure.**

6 1. By March first of the school year preceding the year of enrollment, a parent who
7 wishes to enroll a student in a North Dakota school district other than the student's
8 district of residence shall file an application for approval with the board of the admitting
9 district and shall file a copy of the application with the student's district of residence.
10 The superintendent of public instruction shall make the application forms available in
11 each school district.

12 2. By April first of the school year preceding the year of enrollment, the board of the
13 admitting district shall approve or deny the application. The board of the admitting
14 district shall notify the board of the district of residence and the student's parent of its
15 decision within five days.

16 3. Notice of intent to enroll in the admitting district obligates the student to attend the
17 admitting district during the following school year unless the school boards of the
18 resident and the admitting districts agree in writing to allow the student to transfer back
19 to the resident district or the student's parent relocates to another district.

20 4. A parent who wishes to enroll a student in a school district other than the student's
21 district of residence shall file an application for approval with the board of the admitting
22 district. All applications must be reviewed in the order ~~they~~ are received.

23 5. A student whose school district of residence does not offer the grade level in which the
24 student requires enrollment may not participate in open enrollment. For purposes of
25 determining whether the grade level in which the student requires enrollment is
26 offered, the several school districts cooperating with each other for the joint provision
27 of education services under a plan approved by the superintendent of public
28 instruction must be considered to be a single district.

29 6. A child placed for purposes other than education in a group or residential care facility
30 or in a psychiatric residential treatment facility is not eligible for open enrollment under
31 this section.

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

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

11 **SECTION 4. AMENDMENT.** Section 15.1-31-06 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **15.1-31-06. Open enrollment - School boards - Standards.**

14 1. The board of each school district shall set standards for the acceptance and denial of
15 applications for admittance under open enrollment as provided in section
16 ~~15.1-31-04~~15.1-31-08. The standards may address the capacity of a program, ~~class,~~
17 grade level, or school building. The standards may not address previous academic
18 achievement, participation in extracurricular activities, disabilities, English language
19 proficiency, or previous disciplinary proceedings.

20 2. A board may ~~also~~ determine that applications for admittance under open enrollment, in
21 accordance with this chapter, will not be considered only if there is a lack of capacity in
22 a program, grade level, or school.

23 3. a. A school district participating in an open enrollment program may not give or offer
24 to give a student remuneration, or directly exert influence on the student or the
25 student's family, in order to encourage participation in the open enrollment
26 program. The actions prohibited under this subdivision do not include providing
27 informational materials about the program.

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 that~~
30 ~~district unless the information is requested.~~

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

12 **SECTION 5. AMENDMENT.** Section 15.1-31-07 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **15.1-31-07. Students not subject to this chapter.**

15 4. If a student, as a result of a school district dissolution or reorganization, resides in a
16 district other than the one the student chooses to attend at the time of the dissolution or
17 reorganization, the student is not subject to this chapter and may attend school in the chosen
18 school district.

19 ~~2. If a student resides in a district other than the one the student is enrolled in for~~
20 ~~purposes of receiving virtual instruction, the student is not subject to this chapter~~
21 ~~unless a cost-sharing agreement is established between the school district of~~
22 ~~residence and the receiving district.~~

23 **SECTION 6. AMENDMENT.** Section 15.1-31-08 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **15.1-31-08. Open enrollment - Transfer of students - Responsibility of district of**
26 **residence.**

27 1. ~~Notwithstanding the provisions of chapter 15.1-31, a~~ student's parent may apply to a
28 contiguous~~another~~ school district for admission of the student at any time during the
29 school year if:

30 a. The student was a victim of violence occurring within the school in which the
31 student was enrolled and the violence was documented;

- 1 b. The superintendent of public instruction has declared the school in which the
2 student was enrolled to be an unsafe school; or
- 3 c. The superintendent of public instruction has identified the school in which the
4 student was enrolled as one that requires program improvement for six
5 consecutive years.
- 6 2. The school district receiving an application under subsection 1 shall review the
7 application to ensure compliance with the provisions of subsection 1 and shall notify
8 the student's parent and the student's school district of residence of the arrangements
9 for the student's transfer within five days from the date the application was received.
- 10 3. The student's school district of residence shall consider the student transferred as of
11 the date of enrollment by the admitting district.
- 12 4. Upon transfer of a student under this section, the board of the admitting district and
13 the board of the student's school district of residence shall enter into a tuition
14 agreement. The student's school district of residence shall reimburse the admitting
15 district for all costs incurred by the admitting district in providing education for the
16 student.
- 17 5. The student's school district of residence shall transport the student to school in the
18 admitting district or shall reimburse the admitting district for all costs incurred in
19 transporting the student or providing for the transportation of the student to school in
20 the admitting district. These transportation costs are not reimbursable through state
21 transportation funds.
- 22 6. ~~The provisions of this~~This section are applicableapplies to a student until the student's
23 parent or legal guardian decides to enroll the student in another school, or in the case
24 of a student who has been transferred for the student's safety or due to a school's
25 improvement status under subsection 1, until the conclusion of the school year in
26 which the superintendent of public instruction declares that the school in the student's
27 district of residence is no longer an unsafe school or that the school no longer requires
28 program improvement.