

Fifty-fifth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1131**

Introduced by

Education Committee

(At the request of the Superintendent of Public Instruction)

1 A BILL for an Act to amend and reenact section 15-27.1-11, subsection 1 of section 15-40.2-01,  
2 sections 15-40.2-09, and 15-40.2-10 of the North Dakota Century Code, relating to attendance  
3 of students in out-of-state schools.

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

5 **SECTION 1. AMENDMENT.** Section 15-27.1-11 of the 1995 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **15-27.1-11. Reorganization or dissolution of school district not operating a**  
8 **school - Transportation.** Any school district that, for a period of one year, does not operate  
9 either an elementary or high school, must become by the end of that year, through the process  
10 of reorganization or dissolution, part of a school district operating an approved elementary or  
11 high school. ~~Any student who resides within a school district which is reorganized with another~~  
12 ~~district or districts pursuant to this section, or dissolved pursuant to this section and section~~  
13 ~~15-27.4-01, whose school district has been sending the students to a school district in a~~  
14 ~~bordering state, county, or district, because of proximity or terrain, shall be permitted to attend~~  
15 ~~or continue to attend school in the district in the bordering state, county, or district, subject to~~  
16 ~~the provisions of section 15-40.2-09.~~ The students residing within a school district that is  
17 reorganized with another district or districts pursuant to this section, or dissolved pursuant to  
18 this section and section 15-27.4-01 must be provided transportation in the same manner  
19 transportation is provided to students in the school district the nonoperating district is attached  
20 to.

21 The county committee of the county encompassing the major portion of any school  
22 district affected by this section, which school district does not reorganize with an operating  
23 school district within the time limit prescribed in this section, shall dissolve and attach the  
24 nonoperating school district to an operating school district in accordance with chapter 15-27.4.

1 This section does not apply to school districts established pursuant to chapter 15-27.5.

2 **SECTION 2. AMENDMENT.** Subsection 1 of section 15-40.2-01 of the 1995  
3 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 4 1. The school board of any district may send kindergarten, elementary, or high school  
5 pupils into another school district or to an accredited institution ~~of another state~~  
6 when, because of shorter distances and other conveniences, it is to the best  
7 interests of the school district to do so, and in such instances the board may pay  
8 the tuition of ~~such the~~ pupils to the district or institution to which they are sent. The  
9 school board may arrange, and when petitioned to do so by a majority of qualified  
10 electors of the district, shall arrange with the school boards of other districts or with  
11 the institutions, to send pupils to ~~such the~~ other districts or institutions who can be  
12 taught conveniently therein, and for the payment of their tuition and for furnishing  
13 and paying for their transportation to and from ~~such the~~ other schools or  
14 institutions.

15 **SECTION 3. AMENDMENT.** Section 15-40.2-09 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **15-40.2-09. Attendance in public schools or institutions of bordering states, when**  
18 **permitted - Continuation of attendance when district annexed or reorganized.**

- 19 1. Students may attend a school in a bordering state in accordance with section  
20 15-40.2-10 under the following circumstances:
- 21 a. A student who lives within forty miles [64.37 kilometers] of another state or in  
22 a county bordering on another state may, with the approval of the school  
23 board, attend a public school or institution in a bordering state, ~~and the school~~  
24 ~~board of the school district within which the student resides may contract with~~  
25 ~~the bordering state for the education of the student.~~
- 26 b. A student who ~~resides within a school district that is annexed to or~~  
27 ~~reorganized with another district or districts, and who has~~ attended a school  
28 district in a bordering state during since, and including, the 1990-91 school  
29 year, must be permitted to ~~attend or~~ continue attending school in the district in  
30 the bordering state.

1 c. A student ~~who resides within a school district that is annexed to or~~  
2 ~~reorganized with another district or districts,~~ and whose sibling attended an  
3 out-of-state school during or before the 1990-91 school year, must be  
4 permitted to attend school in the district the sibling attends in the bordering  
5 state.

- 6 2. If the school board of the district in which the student resides denies a request for  
7 attendance and payment of tuition in another state, an appeal may be made to the  
8 three-member committee ~~referred to~~ in accordance with section 15-40.2-05. If the  
9 three-member committee determines that the student falls within the terms of  
10 subdivision b or c of subsection 1, then the student may attend in the bordering  
11 state and the school district of residence shall pay the tuition. If the three-member  
12 committee determines the student falls within the terms of subdivision a of  
13 subsection 1, then the three-member committee shall make its decision using the  
14 criteria specified in section 15-40.2-05. For kindergarten students, the  
15 three-member committee shall use the criteria specified for elementary students in  
16 section 15-40.2-05. Subsection 3 of section 15-40.2-05 does not apply to an  
17 appeal for out-of-state attendance and payment of tuition. Regardless of the  
18 provisions of this section, if the school district of residence does not provide for the  
19 education of kindergarten students, it may not pay tuition for a kindergarten student  
20 to attend school in a bordering state. The decision of the committee regarding  
21 payment of tuition for high school, elementary, or kindergarten students may be  
22 appealed by the school board, or the parent or guardian of the student, to the state  
23 board of public school education, whose decision is final.
- 24 3. Foundation aid payments for students attending out-of-state schools must be made  
25 to the district of residence. However, the district of the student's residence is  
26 entitled to reduce the tuition payment to an out-of-state school by an amount  
27 commensurate with the tuition costs the district would be entitled to receive as  
28 compensation for a student from the out-of-state district enrolled in its school.  
29 Transportation payments for students attending school in a bordering state must be  
30 determined as provided in section 15-40.1-16.

4. This section does not require the district of residence to provide student transportation, or payments in lieu thereof, for students attending out-of-state schools.

**SECTION 4. AMENDMENT.** Section 15-40.2-10 of the North Dakota Century Code is amended and reenacted as follows:

**15-40.2-10. Reciprocal master agreements for student attendance in other states - School district agreements - Procedure when bordering state does not enter into reciprocal master agreement.**

1. The superintendent of public instruction shall enter into reciprocal master agreements with the appropriate state educational agencies or officers of bordering states in regard to the cost of educating elementary and high school students in the public schools or institutions in such bordering states. A school district may either comply with the terms of the reciprocal master agreement or, upon notification to the superintendent of public instruction, may enter into an agreement with a school district in a bordering state for the education of elementary and high school students. The agreement, which replaces the provisions of the master reciprocal agreement, ~~may~~ must provide for the payment of tuition at an amount agreed upon by the school district of residence and the school district of the bordering state. However, the tuition may not exceed the amount established under the reciprocal master agreement, nor may it be less than the per student foundation aid plus tuition apportionment in the student's school district of residence. For purposes of foundation aid, a student attending school in a bordering state under such an agreement is deemed to be in attendance in the student's school district of residence. The student's school district of residence is liable to the school district in the bordering state for payments as provided in the agreement.
2. If the state educational agency or officer of the bordering state is not authorized to or declines to enter into a reciprocal master agreement with the superintendent of public instruction, a school district may negotiate with a school district of that bordering state an amount of tuition it is willing to pay to that other state's school district for the education of pupils in that state. The school district of residence is liable to the school district in the bordering state for the payments it agrees to make

1           under this subsection. However, if the school district accepts students from that  
2           bordering state, it may not agree to accept those nonresident students for an  
3           amount of tuition less than the foundation aid plus tuition apportionment it would  
4           have received from this state for one of its students in the same grade if its student  
5           had been attending in that bordering state.