

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1131
(Education Committee)
(At the request of the Superintendent of Public Instruction)

AN ACT to amend and reenact section 15-27.1-11, subsection 1 of section 15-40.2-01, sections 15-40.2-09, and 15-40.2-10 of the North Dakota Century Code, relating to attendance of students in out-of-state schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

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

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

15-40.2-09. Attendance in public schools or institutions of bordering states, when permitted - Continuation of attendance ~~when district annexed or reorganized~~ under certain circumstances.

1. Students may attend a school in a bordering state in accordance with section 15-40.2-10 under the following circumstances:
 - a. A student who lives within forty miles [64.37 kilometers] of another state or in a county bordering on another state may, with the approval of the school board, attend a public school or institution in a bordering state, ~~and the school board of the school district within which the student resides may contract with the bordering state for the education of the student.~~
 - b. A student who ~~resides within a school district that is annexed to or reorganized with another district or districts, and who~~ has attended a school district in a bordering state during since, and including, the 1990-91 school year, must be permitted to ~~attend or~~ continue attending school in the district in the bordering state.
 - c. A student ~~who resides within a school district that is annexed to or reorganized with another district or districts, and~~ whose sibling attended an out-of-state school during or before the 1990-91 school year, must be permitted to attend school in the district the sibling attends in the bordering state.
2. If the school board of the district in which the student resides denies a request for attendance and payment of tuition in another state, an appeal may be made to the three-member committee ~~referred to~~ in accordance with section 15-40.2-05. If the three-member committee determines that the student falls within the terms of subdivision b or c of subsection 1, then the student may attend in the bordering state and the school district of residence shall pay the tuition. If the three-member committee determines the student falls within the terms of subdivision a of subsection 1, then the three-member committee shall make its decision using the criteria specified in section 15-40.2-05. For kindergarten students, the three-member committee shall use the criteria specified for elementary students in section 15-40.2-05. Subsection 3 of section 15-40.2-05 does not apply to an appeal for out-of-state attendance and payment of tuition. Regardless of the provisions of this section, if the school district of residence does not provide for the education of kindergarten students, it may not pay tuition for a kindergarten student to attend school in a bordering state. The decision of the committee regarding payment of tuition for high school, elementary, or kindergarten students may be appealed by the school board, or the parent or guardian of the student, to the state board of public school education, whose decision is final.
3. Foundation aid payments for students attending out-of-state schools must be made to the district of residence. However, the district of the student's residence is entitled to reduce the tuition payment to an out-of-state school by an amount commensurate with the tuition costs the district would be entitled to receive as compensation for a student from the out-of-state district enrolled in its school. Transportation payments for students attending school in a bordering state must be 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 under this subsection. However, if the school district accepts students from that bordering state, it may not agree to accept those nonresident students for an amount of tuition less than the foundation aid plus tuition apportionment it would have received from this state for one of its students in the same grade if its student had been attending in that bordering state.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1131.

House Vote: Yeas 91 Nays 0 Absent 7

Senate Vote: Yeas 46 Nays 1 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,
at _____ o'clock _____ M.

Secretary of State