

Introduced by

1 A BILL for an Act to create and enact two new sections to chapter 15.1-29 of the North Dakota  
2 Century Code, relating to the enrollment and provision of services to nonresident elementary  
3 and high school students; and to amend and reenact section 15.1-29-14 of the North Dakota  
4 Century Code, relating to elementary and high school student residency determinations.

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

6 **SECTION 1. AMENDMENT.** Section 15.1-29-14 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **15.1-29-14. Student placement for noneducational purposes - Residency**  
9 **determination - Payment of tuition.**

10 1. a. ~~For~~ Except as provided in subdivision b, for purposes of applying this chapter,  
11 a student's school district of residence is the district in which the ~~student~~  
12 student's custodial parent or legal guardian resides:

13 ~~a.~~ (1) At the time that a state court, tribal court, juvenile supervisor, or the  
14 division of juvenile services issues an order requiring the student to stay  
15 for a prescribed period at a state-licensed foster home or at a  
16 state-licensed child care home or facility;

17 ~~b.~~ (2) At the time a county or state social service agency places the student,  
18 with the consent of the student's parent or legal guardian, at a  
19 state-licensed foster home or at a state-licensed child care home or  
20 facility;

21 ~~c.~~ (3) At the time the student is initially placed in a state-operated institution,  
22 even if the student is later placed at a state-licensed foster home or at a  
23 state-licensed child care home or facility; ~~or~~

- d- (4) At the time the student is voluntarily admitted to a state-operated institution or to a state-licensed child care home or facility; or
- (5) At the time the student enters a placement facilitated by the division of developmental disabilities.

- b. A determination regarding the student's school district of residence made under subdivision a is valid until the September tenth following the determination. On that date and each September tenth thereafter, the superintendent of public instruction shall determine the district in which the student's custodial parent or legal guardian resides and notify the district that it is deemed to be the student's district of residence for purposes of this chapter.

2. The student's school district of residence is obligated to pay:
  - a. All charges for tuition upon claim of the admitting district; and
  - b. All charges for tutoring services upon claim of an admitting facility, provided that the tutoring services are delivered by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
3. ~~a. If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency in another school district in this state, the school district in which the custodial parent has established residency becomes the student's school district of residence for purposes of paying tuition and tutoring charges under subsection 2.~~
  - ~~b. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for state aid to schools:~~
    - ~~(1) If if, after a student placement is made as provided for under subsection 1, the:~~
  - a. The student's custodial parent or legal guardian establishes residency outside this state; or
    - ~~(2) If a~~
  - b. A court orders a termination of parental rights with respect to the student's parents; or

1           c.   The student's custodial parent becomes deceased.

2           4.   If the student is voluntarily admitted to a state-licensed child care home or facility,  
3           or to a state-operated institution, the student's parent or, if one has been  
4           appointed, the student's legal guardian may appeal a determination under section  
5           15.1-29-05 regarding the payment of tuition by filing a petition with the county  
6           superintendent of schools. Within fifteen days of receiving the petition, the  
7           three-member committee established under section 15.1-29-06 shall consult with  
8           the boards of the affected school districts and with the student's parent or legal  
9           guardian and render a decision regarding responsibility for the payment of tuition  
10          charges.

11          5.   If the student's district of residence does not pay the required tuition, the admitting  
12          district or facility shall notify the superintendent of public instruction. Upon  
13          verification that tuition payments are due and unpaid, the superintendent shall  
14          withhold an amount equal to the unpaid tuition from state aid otherwise payable to  
15          the student's school district of residence until the tuition due has been fully paid.

16          6.   An amount equal to the state average per student elementary or high school cost,  
17          depending on the student's grade of enrollment, is payable to the admitting district  
18          or facility as part of the cost of educating the student for the school year. The  
19          payment may not exceed the actual per student cost incurred by the admitting  
20          district or facility. The remainder of the actual cost of educating the student not  
21          covered by other payments or credits must be paid by the state, within the limits of  
22          legislative appropriations, from funds appropriated for special education in the case  
23          of a student with disabilities or from state aid payments to schools in all other  
24          cases.

25          7.   If a student with disabilities placed in accordance with this section reaches age  
26          eighteen and continues to receive special education and related services, the  
27          student's school district of residence ~~is deemed to be the same as that of the~~  
28          ~~student's custodial parent until the special education services are concluded. If the~~  
29          ~~student's custodial parent establishes residency outside this state, or if a court~~  
30          ~~orders a termination of parental rights with respect to the student's parents, the~~  
31          ~~state shall pay the tuition and tutoring charges under subsection 2 from funds~~

~~appropriated by the legislative assembly for state aid to schools~~ must be determined by the superintendent of public instruction in accordance with subsection 1. The obligations of the student's school district of residence as provided in subsection 2 and the obligations of the state as provided in subsection 3 are applicable to all students described in this subsection.

8. a. The placing agency shall provide ~~written~~ notice regarding an initial placement and all subsequent placements of a student, by electronic mail or registered mail, to the superintendent of the student's school district of residence and to the superintendent of the admitting district:

- (1) Within five working days after a placement is made under court order;
- (2) Within five working days after an emergency placement is made; or
- (3) At least ten working days prior to any other placement.

- b. The ~~written~~ notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.

- c. The placing agency shall afford the student's school district of residence reasonable opportunity to participate in permanency planning for the student.

9. Notwithstanding this section, educational services provided to a student by the youth correctional center are not subject to the payment of tuition by either the student's school district of residence or the superintendent of public instruction.

10. For purposes of this section, "custodial parent" means the parent who has been awarded sole legal and physical custody of the student in a legal proceeding or, if there is currently no operative custody order, the parent with whom the student resides. If the student resides with both parents, then both are custodial parents.

**SECTION 2.** A new section to chapter 15.1-29 of the North Dakota Century Code is created and enacted as follows:

**Provision of services to nonresident student - Contract - Responsibility for tuition and charges.** A school district in this state may not enroll a student who is placed in the district for purposes other than education and whose school district of residence is located in another state, unless:

1           1.   This state and the student's state or school district of residence have entered into a  
2                   contract that addresses responsibility for the payment of all tuition and tutoring  
3                   charges; or

4           2.   Other contractual arrangements exist governing responsibility for the payment of all  
5                   tuition and tutoring charges.

6           **SECTION 3.** A new section to chapter 15.1-29 of the North Dakota Century Code is  
7 created and enacted as follows:

8           **Enrollment of student - Authority to verify residency.** Before a student is enrolled in  
9 a public school without the payment of nonresident tuition, the superintendent of the district may  
10 require that the student's parent or legal guardian provide evidence of residency in the school  
11 district. The evidence may include title to real property in the district, a current lease, rental  
12 payment receipts, utility receipts, a motor vehicle license or registration, or a notarized affidavit  
13 verifying residency.

**NOTE:** Section 1(3)(a) provides that the state shall pay the tuition and tutoring charges if the student's custodial parent establishes residency outside of this state. Section 2 implies that another state or a school district in another state is liable for such charges. Clarification is therefore necessary.