

**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. 1146  
(Education Committee)  
(At the request of the Superintendent of Public Instruction)

AN ACT to amend and reenact sections 15-40.1-07.3, 15-40.1-07.4, 15-40.2-01, 15-40.2-04, 15-40.3-01, 57-15-13, and 57-15-14.5 of the North Dakota Century Code and section 2 of chapter 701 of the 1989 Session Laws of North Dakota, as amended by section 1 of chapter 656 of the 1991 Session Laws of North Dakota and by section 26 of chapter 3 of the 1993 Session Laws of North Dakota, relating to per student payments for cooperating and reorganized school districts, open enrollment procedures, school district tax levies, education technology supervisors, and special reserve fund withdrawals; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 15-40.1-07.3 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-07.3. ~~High-school per~~ Per student payments - Reorganization of school districts.**

1. If any school district receiving per student payments calculated under section 15-40.1-07 reorganizes with another school district under chapter 15-27.3 or 15-27.6 before August 1, 1997, the school district resulting from the reorganization is entitled to receive the same ~~per-pupil~~ per student payments for each high school ~~pupil~~ student as each separate school district received for each high school ~~pupil~~ student prior to the reorganization, for a period of four years.
2. If any school district receiving per student payments calculated under this chapter reorganizes with another school district under chapter 15-27.3 or 15-27.6 after July 31, 1997, the school district resulting from the reorganization is entitled to receive the same per student payments for each high school and elementary student as each separate school district received for each high school and elementary student prior to the reorganization, for a period of four years.
3. The weighting factor for each district will be adjusted proportionately over a period of two years, following the period of time provided in subsection 1 or 2, until the adjusted weighting factor equals the weighting factor for the combined enrollment resulting from the reorganization.

**SECTION 2. AMENDMENT.** Section 15-40.1-07.4 of the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-07.4. ~~High-school per~~ Per student payments - Cooperating districts.**

1. If any school district receiving payments under section 15-40.1-07 cooperates with another school district for the joint provision of education services under a plan approved by the superintendent of public instruction and effective before July 1, 1997, each cooperating district is entitled to receive, for a period of four years, at least the same per student payment for each high school student as the district received prior to initiation of the cooperative plan.
2. If, on or after July 1, 1997, any school district receiving payments under this chapter cooperates with another school district for the joint provision of education services under a plan approved by the superintendent of public instruction, each cooperating district is entitled to receive, for a period of four years, at least the same per student payment for

each high school and elementary student as the district received prior to initiation of the cooperative plan.

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

**15-40.2-01. Transfer of ~~pupils~~ students to other districts or institutions - Tuition agreements - Student discretion upon cessation of educational services.**

1. The school board of any district may send kindergarten, elementary, or high school ~~pupils~~ students 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 pupils~~ the students 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~~ students to such 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 other schools or institutions.
2. If a school district does not provide educational services to an entire grade level, the students in that grade level may attend school at a public school of their choice, outside their district of residence without going through the procedures outlined in section 15-40.2-05. The school district of residence shall pay tuition to the admitting school district. ~~A student may exercise the provisions of this subsection whether the school district of residence ceased to provide the required grade level before or after August 1, 1995.~~ For purposes of determining whether educational services are provided to an entire grade level, the several school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district.

**SECTION 4. AMENDMENT.** Section 15-40.2-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.2-04. Nonresident tuition payments mandatory - Payments are exclusive.**

1. a. Except as provided in this subsection, any school district that admits nonresident students to its schools, as provided by this chapter, shall charge tuition for those students. School districts have the option of charging tuition for nonresident students enrolled in an approved alternative education program. The whole amount of the tuition must be paid by the district from which the student is admitted, in accordance with section 15-40.2-03, or by the student's parent or guardian, in accordance with section 15-40.2-06.
- b. Except as otherwise provided, any school district that fails to charge and collect tuition for nonresident students as provided for in section 15-40.2-03 and this section shall forfeit foundation payments for those nonresident students for whom tuition is not paid. A school district may accept a nonresident student from another school district in this state which offers the same grade level as that in which the student is enrolled, without a charge and collection of tuition if a written agreement is made between the sending and receiving districts. For purposes of determining whether the same grade level is offered, the several school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district. The written agreement must specify whether transportation is to be provided and if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student. No written agreement is necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged. A school district may accept a nonresident student

described in section 15-40.3-07 from another school district in this state without a charge and collection of tuition and without a written agreement.

- c. No school district may charge or collect from any nonresident student, parent or guardian of a nonresident student, or the district of the student's residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident students.
2. For purposes of subsection 1 and all statutory provisions relating to open enrollment, the member districts of a consortium must be treated as a single school district.

**SECTION 5. AMENDMENT.** Section 15-40.3-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.3-01. Open enrollment - Procedure.** A student's parent or legal guardian who wishes to enroll the student in a North Dakota school district other than the student's district of residence shall, not later than February first of the school year preceding the year of enrollment, apply to the school board of the student's district of residence, on forms provided by the superintendent of public instruction, for approval to enroll the student in a district other than the student's district of residence. By March first of the school year preceding the year of enrollment, the school board of the district of residence shall act on the application, notify the parent or legal guardian of the board's decision within five days, and if the application is approved, immediately transmit the application to the admitting district. By April first, the board of the admitting district shall approve or disapprove the application. The board of the admitting district shall notify the board of the district of residence and the student's parent or legal guardian within five days regarding its decision. Notice of intent to enroll in the admitting district obligates the student to attend the admitting district during the following school year, unless the school boards of the resident and the admitting districts agree in writing to allow the student to transfer back to the resident district, or the student's parents or guardians change residence to another district. All applications must be reviewed in the order that they are received. A student whose school district of residence does not offer the grade level in which the student requires enrollment may not participate in open enrollment. For purposes of determining whether the grade level in which a student requires enrollment is offered, the several school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district. A child placed at a group or residential care facility or a residential treatment center in accordance with section 15-40.2-08 is not eligible for open enrollment under this section. The school board of a school district of residence and of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together with the student's parent or legal guardian, moves from the student's school district of residence to another school district ~~after February first~~ and who wishes to enroll in a school district, other than the district to which the student moved, ~~for the following year.~~

**SECTION 6. AMENDMENT.** Section 57-15-13 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-13. School district tax levies.** School district taxes must be levied by the governing body of each school district on or before the ~~last fifteenth~~ day of ~~July~~ August of each year. The governing body of the school district may amend its tax levy and budget for the current fiscal year on or before the tenth day of October of each year but the certification must be filed with the county auditor within the time limitations under section 57-15-31.1. Taxes for school district purposes must be based upon an itemized budget statement which must show the complete expenditure program of the district for the current fiscal year and the sources of the revenue from which it is to be financed. The school board of each public school district, in levying taxes, is limited by the amount necessary to be raised for the purpose of meeting the appropriations included in the school budget of the current fiscal year, and the sum necessary to be provided as an interim fund, together with a tax sufficient in amount to pay the interest on the bonded debt of the district and to provide a sinking fund to pay and discharge the principal thereof at maturity.

**SECTION 7. AMENDMENT.** Section 57-15-14.5 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-15-14.5. Long-distance learning and educational technology levy - Voter approval.**

1. The school board of a public school district may, upon approval by a majority vote of the electors of the school district at any regular or special election, dedicate a tax levy for purposes of this section not to exceed five mills on the dollar of taxable valuation of property within the district.
2. All revenue accruing from the levy under this section must be used only for purposes of establishing and maintaining long-distance learning and purchasing and maintaining educational technology. For purposes of this section, educational technology includes computer software, computers and computer networks, ~~and~~ other computerized equipment, which must be used for student instruction, and the salary of a staff person to supervise the use and maintenance of educational technology.
3. If the need for the fund terminates, the governing board of the public school district shall order the termination of the levy and shall transfer the remaining balance to the general fund of the school district.

**SECTION 8. AMENDMENT.** Section 2 of chapter 701 of the 1989 Session Laws of North Dakota, as amended by section 1 of chapter 656 of the 1991 Session Laws of North Dakota and by section 26 of chapter 3 of the 1993 Session Laws of North Dakota, is amended and reenacted as follows:

**SECTION 2. EXPIRATION DATE.** This Act is effective through June 30, ~~1997~~ 2001, and after that date is ineffective.

**SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
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. 1146 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas          84              Nays          9              Absent          4

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas          45              Nays          0              Absent          4

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

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