

**FIRST ENGROSSMENT  
with Conference Committee Amendments****ENGROSSED SENATE BILL NO. 2106**

Introduced by

Education Committee

(At the request of the Superintendent of Public Instruction)

1 A BILL for an Act to amend and reenact sections 15-40.3-01, 15-40.3-06, and 15-40.3-07 of the  
2 North Dakota Century Code or in the alternative to amend and reenact sections 15.1-31-01,  
3 15.1-31-06, and 15.1-31-07 of the North Dakota Century Code, relating to open enrollment  
4 between school districts.

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

6 **SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become effective, section  
7 15-40.3-01 of the 1999 Supplement to the North Dakota Century Code is amended and  
8 reenacted as follows:

9 **15-40.3-01. Open enrollment - Procedure.** A student's parent or legal guardian who  
10 wishes to enroll the student in a North Dakota school district other than the student's district of  
11 residence shall, not later than February first of the school year preceding the year of  
12 enrollment, apply to the school board of the student's district of residence, on forms provided by  
13 the superintendent of public instruction, for approval to enroll the student in a district other than  
14 the student's district of residence. By March first of the school year preceding the year of  
15 enrollment, the school board of the district of residence shall act on the application, notify the  
16 parent or legal guardian of the board's decision within five days, and if the application is  
17 approved, immediately transmit the application to the admitting district. By April first, the board  
18 of the admitting district shall approve or disapprove the application. The board of the admitting  
19 district shall notify the board of the district of residence and the student's parent or legal  
20 guardian within five days regarding its decision. Notice of intent to enroll in the admitting district  
21 obligates the student to attend the admitting district during the following school year, unless the  
22 school boards of the resident and the admitting districts agree in writing to allow the student to  
23 transfer back to the resident district, or the student's parents or guardians change residence to  
24 another district. All applications must be reviewed in the order that they are received. A

1 student whose school district of residence does not offer the grade level in which the student  
2 requires enrollment may not participate in open enrollment. For purposes of determining  
3 whether the grade level in which a student requires enrollment is offered, the several school  
4 districts cooperating with each other for the joint provision of educational services under a plan  
5 approved by the superintendent of public instruction must be considered to be a single district.  
6 A child placed at a group or residential care facility or a residential treatment center in  
7 accordance with section 15-40.2-08 is not eligible for open enrollment under this section. The  
8 school board of a school district of residence and of an admitting district shall waive the  
9 application, consideration, and approval dates in this section for any student who, together with  
10 the student's parent or legal guardian, moves from the student's school district of residence to  
11 another school district and who wishes to enroll in a school district, other than the district to  
12 which the student moved. The school board of a school district of residence and of an  
13 admitting district shall waive the application, consideration, and approval dates in this section  
14 for any student who, together with the student's parent or legal guardian, moves into this state  
15 from out of state and who wishes to enroll in a school district other than the district to which the  
16 student moved.

17 **SECTION 2. AMENDMENT.** If House Bill No. 1045 does not become effective, section  
18 15-40.3-06 of the North Dakota Century Code is amended and reenacted as follows:

19 **15-40.3-06. Local school boards - Standards.**

- 20 1. Each school board shall adopt standards for the acceptance and rejection of  
21 applications for open enrollment as provided in section 15-40.3-01. The standards  
22 may include the capacity of a program, class, grade level, or school building. The  
23 standards may not include previous academic achievement, participation in  
24 extracurricular activities, disabilities, English language proficiency, or previous  
25 disciplinary proceedings.
- 26 2. The school board of the admitting district may determine that the district may not  
27 accept applications for open enrollment under this chapter.
- 28 3. a. A school district participating in an open enrollment program may not give or  
29 offer to give a student remuneration, or directly ~~or indirectly~~ exert influence  
30 upon the student or the student's family, in order to encourage participation in  
31 the open enrollment program ~~for the purpose of having the student participate~~

1 ~~in varsity athletic activities. However, any student who participated in varsity~~  
2 ~~athletic activities during the 1992-93 school year, at a school in a district other~~  
3 ~~than the student's district of residence or at a school outside the boundary~~  
4 ~~within which the student would normally attend school may continue to~~  
5 ~~participate in varsity athletics at that school for the duration of the student's~~  
6 ~~high school career.~~

7 b. For purposes of this subsection, directly exerting influence means providing  
8 information about the school district to individuals who are not residents of  
9 that district unless the information is requested.

10 c. If the members of the board of a school district believe that another school  
11 district has violated this subsection, the board may file a complaint with the  
12 superintendent of public instruction. Upon receipt of a complaint alleging a  
13 violation of this subsection, the superintendent of public instruction shall hold  
14 a hearing and accept testimony and evidence regarding the complaint. If the  
15 superintendent finds that a school district has violated this subsection, the  
16 superintendent may withhold some or all of the transportation aid payments to  
17 which the district would be otherwise entitled for a period of one year from the  
18 date of the finding. A decision by the superintendent under this subsection is  
19 appealable to the state board of public school education. A decision by the  
20 state board of public school education is final.

21 **SECTION 3. AMENDMENT.** If House Bill No. 1045 does not become effective, section  
22 15-40.3-07 of the 1999 Supplement to the North Dakota Century Code is amended and  
23 reenacted as follows:

24 **15-40.3-07. Students not subject to this chapter.** A student, who, as the result of  
25 dissolution or reorganization, resides in a district other than the one the student chooses to  
26 attend at the time of the dissolution or reorganization, is not subject to the provisions of this  
27 chapter and may attend school in the chosen school district if that district participates in open  
28 enrollment. The student may not be considered a student in average daily membership in the  
29 student's school district of residence for purposes of section 15-40.3-02.

1           **SECTION 4. AMENDMENT.** Section 15.1-31-01 of the North Dakota Century Code as  
2 created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is  
3 amended and reenacted as follows:

4           **15.1-31-01. Open enrollment - Procedure.**

- 5           1. By February first of the school year preceding the year of enrollment, a parent who  
6 wishes to enroll a student in a North Dakota school district other than the student's  
7 district of residence shall file an application for approval with the board of the  
8 student's district of residence. The superintendent of public instruction shall make  
9 the application forms available in each school district.
- 10          2. By March first of the school year preceding the year of enrollment, the school  
11 board of the student's district of residence shall act on the application, notify the  
12 parent of the board's decision within five days, and if the application is approved,  
13 immediately transmit the application to the admitting district.
- 14          3. By April first of the school year preceding the year of enrollment, the board of the  
15 admitting district shall approve or deny the application. The board of the admitting  
16 district shall notify the board of the district of residence and the student's parent of  
17 its decision within five days.
- 18          4. Notice of intent to enroll in the admitting district obligates the student to attend the  
19 admitting district during the following school year unless the school boards of the  
20 resident and the admitting districts agree in writing to allow the student to transfer  
21 back to the resident district or the student's parent relocates to another district.
- 22          5. All applications must be reviewed in the order they are received.
- 23          6. A student whose school district of residence does not offer the grade level in which  
24 the student requires enrollment may not participate in open enrollment. For  
25 purposes of determining whether the grade level in which the student requires  
26 enrollment is offered, the several school districts cooperating with each other for  
27 the joint provision of education services under a plan approved by the  
28 superintendent of public instruction must be considered to be a single district.
- 29          7. A child placed for purposes other than education in a group or residential care  
30 facility or in a residential treatment center is not eligible for open enrollment under  
31 this section.

8. The board of a school district of residence and the board 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, moves from the student's school district of residence to another school district and who wishes to enroll in a school district other than the district to which the student moved.

9. The board of a school district of residence and the board 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, moves into this state from out of state and who wishes to enroll in a school district other than the district to which the student moved.

**SECTION 5. AMENDMENT.** Section 15.1-31-06 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

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

1. The board of each school district shall set standards for the acceptance and denial of applications for admittance under open enrollment as provided in section 15.1-31-01. The standards may address the capacity of a program, class, grade level, or school building. The standards may not address previous academic achievement, participation in extracurricular activities, disabilities, English language proficiency, or previous disciplinary proceedings.

2. A board may also determine that applications for admittance under open enrollment, in accordance with this chapter, will not be considered.

3. a. A school district participating in an open enrollment program may not give or offer to give a student remuneration, or directly ~~or indirectly~~ exert influence on the student or the student's family, in order to encourage participation in the open enrollment program ~~for the purpose of having the student participate in varsity athletic activities.~~

b. For purposes of this subsection, directly exerting influence means providing information about the school district to individuals who are not residents of that district unless the information is requested.

1           c. If the members of the board of a school district believe that another school  
2           district 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  
5           a 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 transportation aid payments to  
8           which the district would be otherwise entitled for a period of one year from the  
9           date of the finding. A decision by the superintendent under this subsection is  
10          appealable to the state board of public school education. A decision by the  
11          state board of public school education is final.

12           **SECTION 6. AMENDMENT.** Section 15.1-31-07 of the North Dakota Century Code as  
13   created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is  
14   amended and reenacted as follows:

15           **15.1-31-07. Students not subject to this chapter.** If a student, as a result of a school  
16   district dissolution or reorganization, resides in a district other than the one the student chooses  
17   to attend at the time of the dissolution or reorganization, the student is not subject to the  
18   provisions of this chapter and may attend school in the chosen school district. The student may  
19   not be considered a student in average daily membership in the student's school district of  
20   residence for purposes of section 15.1-31-02.