

**HOUSE BILL NO. 1376**

Introduced by

Representatives Strinden, Meier, Monson, Pyle, Richter, Satrom, Schreiber-Beck

Senators Davison, Meyer

1 A BILL for an Act to amend and reenact sections 15-19-01, 15.1-07-25.4, 15.1-31-01,  
2 15.1-31-06, 15.1-31-07, and 15.1-31-08 of the North Dakota Century Code, relating to virtual  
3 instruction of students and open enrollment.

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

5 **SECTION 1. AMENDMENT.** Section 15-19-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **15-19-01. North Dakota center for distance education courses - Establishment -**  
8 **Enrollment of students - Courses of instruction.**

9 The state shall provide kindergarten through grade twelve courses, comprehensive  
10 educational support, and high school diplomas through the center for distance education under  
11 the following provisions:

- 12 1. A complete curriculum prescribed by state-mandated education accreditation entities  
13 which meets the requirements for digital education the superintendent of public  
14 instruction has determined to be appropriate.
- 15 2. ~~A superintendent or an administrator of a school may deny the enrollment of a student~~  
16 ~~in that district at the center for distance education except as provided in subsection 5.~~
- 17 3. The center for distance education may provide services to persons who are not North  
18 Dakota residents.
- 19 4.3. ~~Center~~A center for distance education ~~students~~student's school district of residence  
20 shall pay fees as may be prescribed by the state board for career and technical  
21 education.
- 22 5.4. Students exempt from the compulsory school attendance laws pursuant to  
23 subdivision e of subsection 1 of section 15.1-20-02 may enroll in distance education  
24 courses offered through the center for distance education. These students may study

1           their center for distance education lessons in their learning environment under the  
2           supervision of a parent.

3           **SECTION 2. AMENDMENT.** Section 15.1-07-25.4 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **15.1-07-25.4. Virtual learning - School district policy - Report to legislative**  
6 **management.**

7           1. The board of a school district or governing board of a nonpublic school that operates a  
8 physical school plant may adopt a policy to allow students to engage in virtual  
9 instruction ~~provided by the school~~through an approved virtual school and in the case  
10 of a school district, qualify for average daily membership in the district. ~~A student who~~  
11 ~~wishes to enroll in a school district other than the school district of residence for~~  
12 ~~purposes of receiving virtual instruction must be permitted to do so.~~A resident school  
13 district may not deny open enrollment to an approved virtual school.

14           2. The superintendent of public instruction shall adopt rules governing policies under this  
15 section. A policy adopted by a school district under this section must comply with the  
16 rules adopted by the superintendent of public instruction.

17           3. The superintendent of public instruction shall provide biennial reports to the legislative  
18 management regarding the academic performance metrics of students participating in  
19 virtual instruction under this section.

20           **SECTION 3. AMENDMENT.** Section 15.1-31-01 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22           **15.1-31-01. Open enrollment - Procedure.**

23           1. By March first of the school year preceding the year of enrollment, a parent who  
24 wishes to enroll a student in a North Dakota school district other than the student's  
25 district of residence shall file an application for approval with the board of the admitting  
26 district and shall file a copy of the application with the student's district of residence.  
27 The superintendent of public instruction shall make the application forms available in  
28 each school district.

29           2. By April first of the school year preceding the year of enrollment, the board of the  
30 admitting district shall approve or deny the application. The board of the admitting

- 1 district shall notify the board of the district of residence and the student's parent of its  
2 decision within five days.
- 3 3. Notice of intent to enroll in the admitting district obligates the student to attend the  
4 admitting district during the following school year unless the school boards of the  
5 resident and the admitting districts agree in writing to allow the student to transfer back  
6 to the resident district or the student's parent relocates to another district.
- 7 4. A parent who wishes to enroll a student in a school district other than the student's  
8 district of residence shall file an application for approval with the board of the admitting  
9 district. All applications must be reviewed in the order ~~they~~ are received.
- 10 ~~5.2.~~ A student whose school district of residence does not offer the grade level in which the  
11 student requires enrollment may not participate in open enrollment. For purposes of  
12 determining whether the grade level in which the student requires enrollment is  
13 offered, the several school districts cooperating with each other for the joint provision  
14 of education services under a plan approved by the superintendent of public  
15 instruction must be considered to be a single district.
- 16 ~~6.3.~~ A child placed for purposes other than education in a group or residential care facility  
17 or in a psychiatric residential treatment facility is not eligible for open enrollment under  
18 this section.
- 19 ~~7.4.~~ The board of a school district of residence and the board of an admitting district shall  
20 waive the application, consideration, and approval dates in this section for any student  
21 who, together with the student's parent, moves from the student's school district of  
22 residence to another school district and who wishes to enroll in a school district other  
23 than the district to which the student moved.
- 24 ~~8.5.~~ The board of a school district of residence and the board of an admitting district shall  
25 waive the application, consideration, and approval dates in this section for any student  
26 who, together with the student's parent, moves into this state from out of state and  
27 who wishes to enroll in a school district other than the district to which the student  
28 moved.

29 **SECTION 4. AMENDMENT.** Section 15.1-31-06 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **15.1-31-06. Open enrollment - School boards - Standards.**

- 2       1. The board of each school district shall set standards for the acceptance and denial of  
3       applications for admittance under open enrollment as provided in section  
4       ~~15.1-31-04~~15.1-31-08. The standards may address the capacity of a **program, class,**  
5       grade level, or school building. The standards may not address previous academic  
6       achievement, participation in extracurricular activities, disabilities, English language  
7       proficiency, or previous disciplinary proceedings.
- 8       2. A board may also determine that applications for admittance under open enrollment, in  
9       accordance with this chapter, will not be considered only if there is a lack of capacity in  
10      a **program, grade level, or school.**
- 11      3. a. A school district participating in an open enrollment program may not give or offer  
12      to give a student remuneration, **or directly exert influence on the student or the**  
13      **student's family, in order** to encourage participation in the open enrollment  
14      program. The actions prohibited under this subdivision do not include providing  
15      informational materials about the program.
- 16      b. ~~For purposes of this subsection, directly exerting influence means providing~~  
17      ~~information about the school district to individuals who are not residents of that~~  
18      ~~district unless the information is requested.~~
- 19      e. If the members of the board of a school district believe that another school district  
20      has violated this subsection, the board may file a complaint with the  
21      superintendent of public instruction. Upon receipt of a complaint alleging a  
22      violation of this subsection, the superintendent of public instruction shall hold a  
23      hearing and accept testimony and evidence regarding the complaint. If the  
24      superintendent finds that a school district has violated this subsection, the  
25      superintendent may withhold some or all of the state aid payments to which the  
26      district would be otherwise entitled for a period of one year from the date of the  
27      finding. A decision by the superintendent under this subsection is appealable to  
28      the state board of public school education. A decision by the state board of public  
29      school education is final.

30       **SECTION 5. AMENDMENT.** Section 15.1-31-07 of the North Dakota Century Code is  
31      amended and reenacted as follows:

1       **15.1-31-07. Students not subject to this chapter.**

2       4. If a student, as a result of a school district dissolution or reorganization, resides in a  
3 district other than the one the student chooses to attend at the time of the dissolution or  
4 reorganization, the student is not subject to this chapter and may attend school in the chosen  
5 school district.

6       2. ~~If a student resides in a district other than the one the student is enrolled in for~~  
7 ~~purposes of receiving virtual instruction, the student is not subject to this chapter~~  
8 ~~unless a cost-sharing agreement is established between the school district of~~  
9 ~~residence and the receiving district.~~

10       **SECTION 6. AMENDMENT.** Section 15.1-31-08 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12       **15.1-31-08. Open enrollment - Transfer of students - Responsibility of district of**  
13 **residence.**

14       1. ~~Notwithstanding the provisions of chapter 15.1-31, a~~ student's parent may apply to a  
15 ~~contiguous~~another school district for admission of the student at any time during the  
16 school year if:

17       a. The student was a victim of violence occurring within the school in which the  
18 student was enrolled and the violence was documented;

19       b. The superintendent of public instruction has declared the school in which the  
20 student was enrolled to be an unsafe school; **or**

21       c. The superintendent of public instruction has identified the school in which the  
22 student was enrolled as one that requires program improvement for six  
23 consecutive years; ~~or~~

24 ~~d. The parent or legal guardian of the student believes the student would be better~~  
25 ~~served by another school, including a virtual school.~~

26       2. The school district receiving an application under subsection 1 shall review the  
27 application to ensure compliance with the provisions of subsection 1 and shall notify  
28 the student's parent and the student's school district of residence of the arrangements  
29 for the student's transfer within five days from the date the application was received.

30       3. The student's school district of residence shall consider the student transferred as of  
31 the date of enrollment by the admitting district.

- 1           4. Upon transfer of a student under this section, the board of the admitting district and  
2           the board of the student's school district of residence shall enter into a tuition  
3           agreement. The student's school district of residence shall reimburse the admitting  
4           district for all costs incurred by the admitting district in providing education for the  
5           student.
- 6           5. The student's school district of residence shall transport the student to school in the  
7           admitting district or shall reimburse the admitting district for all costs incurred in  
8           transporting the student or providing for the transportation of the student to school in  
9           the admitting district. These transportation costs are not reimbursable through state  
10          transportation funds.
- 11          6. ~~The provisions of this~~This section are applicableapplies to a student until the student's  
12          parent or legal guardian decides to enroll the student in another school, or in the case  
13          of a student who has been transferred for the student's safety or due to a school's  
14          improvement status under subsection 1, until the conclusion of the school year in  
15          which the superintendent of public instruction declares that the school in the student's  
16          district of residence is no longer an unsafe school or that the school no longer requires  
17          program improvement.