

Introduced by

**NORTH DAKOTA CENTURY CODE CHAPTER 15.1-30 -
STUDENT TRANSPORTATION**

Chapter 15.1-30 of the North Dakota Century Code is created and enacted as follows:

15.1-30-01. Transportation or lodging - Options of school board.

1. The board of a school district may:
 - a. Provide for the transportation of a student to school; or
 - b. If acceptable to the student's parent, reimburse the parent for expenses incurred in lodging the student outside the student's home, provided that the reimbursement may not exceed the amount permitted under subsection 4 of section 15.1-27-30.
2. A parent receiving payments under section 15.1-30-02 is not eligible to receive payments under this section.
3. If the board elects to provide for the transportation of students by public conveyance, the board shall establish eligibility criteria based on a minimum distance between a student's residence and the school. Except as otherwise provided by law, the board shall apply the criteria equally to all students in the district.
4. Benefits under this section are available even if a student is transported to another school district in or outside this state, provided the student's attendance meets all other conditions established by law.

NOTE: Present Section 15-34.2-01. Present Section 15-34.2-01 provides, in part, that:

The school board of any school district in the state, in its discretion, may furnish to each family living in the district:

1. Vehicular transportation; or
2. The equivalent of the payments received from the state as determined under subsection 2 of section 15-40.1-16, in lodging at some other public school if the same is acceptable to the family.

The phrase "furnish to each family living in the district vehicular transportation" could be taken to mean that the district is permitted to provide transportation services to each family in the district, regardless of whether or not the family has a student attending the local school. The phrase has consequently been changed to "provide for the transportation of a student."

The reference to the provision of "the equivalent of the payments ... in lodging at some other public school" was also changed to provide parents with reimbursement "for expenses incurred in lodging the student outside the student's home" Lodging is not provided at public schools.

The committee might also wish to examine the use of the word "lodging." Is it the intent that funds be made available to assist with housing expenses but not with meals? If so, is this sufficiently clear?

The language regarding the furnishing of vehicular transportation by public conveyance is found in the current law. The committee might wish to review that terminology to determine if it covers what is intended. "Public conveyance" would appear to cover the use of city bus services by a school district.

15.1-30-02. Transportation payments - Board option.

1. The board of a school district in the state may pay to the parent of each student who resides more than two miles [3.22 kilometers] from the public school which the student attends a reasonable sum per day for each day the student attends the school, provided:
 - a. The student is transported to school by an adult member of the student's family;
 - b. The student's transportation is provided in a vehicle furnished by the student's parent;
 - c. The student's transportation is paid for by the student's parent; or
 - d. The cost of housing the student at a location other than the student's residence is paid for by the student's parent.
2. The board shall calculate the payment provided for in this section according to the distance between the front door of the student's residence and the front door of the school attended by the student, using the most direct public route.

NOTE: Present Section 15-34.2-03. Present Section 15-34.2-03 provides that the payment is conditional and that the student must be "transported by an adult member of the family or by a conveyance furnished or paid for by the family, or ... the family ... [must have paid] for lodging for the child, according to the distance between the home of the family and the school." The committee might wish to consider whether the conditions are still appropriate. The first condition is that the student be transported by an adult member of the family. Under the second condition, the student could be the driver or the student could be transported by one who is not an adult member of the

family, provided the vehicle is furnished by the student's parent. Under the third condition, it is assumed that the present law includes transportation-for-pay arrangements, such as employing a neighbor to transport the student.

1 **15.1-30-03. Transportation payments - Demand - Waiver.** A parent entitled to any
2 payment authorized by a school board under this chapter shall demand the payment before
3 June thirtieth of each school year or the payment is deemed waived. Any payment not made
4 within one year of the demand date is deemed to have been refused and the claim is deemed
5 to have expired.

NOTE: Present Section 15-34.2-04. The committee may wish to determine whether it would be preferable to provide for requests or applications for payment, rather than demands for payment. Is an oral request adequate or should there be a written application for payment?

6 **15.1-30-04. Payment of board and lodging for high school students permitted -**
7 **Levy.** Instead of providing transportation so that an eligible high school student residing in the
8 district can attend school in another district, a school board may pay a reasonable allowance to
9 the student's parent for costs incurred in the provision of board and lodging for the student at a
10 location other than the student's residence. A school district that furnishes either transportation
11 or an allowance for the board and lodging of a student under this section may levy a tax
12 pursuant to subdivision a of subsection 1 of section 57-15-14.2 for this purpose.

NOTE: Present Section 15-34.2-06. The committee may wish to determine whether the phrase "board and lodging" should be replaced with more commonly used terminology, such as "room and board" or "meals and accommodations."

13 **15.1-30-05. Schoolbus transportation services - Optional fee.** The board of a
14 school district that has not been reorganized may charge a fee for the provision of schoolbus
15 transportation service to students. If the service began before July 1, 1981, the total fees
16 charged may not exceed an amount equal to the difference between the state transportation
17 payment and the lesser of the state average cost for transportation or the district's cost during
18 the preceding school year. If the service started on or after July 1, 1981, the total fees charged
19 may not exceed an amount equal to the difference between the state transportation payment
20 and the school district's cost of transportation during the preceding school year. A district that
21 has not previously provided transportation to students shall base its fees on estimated costs
22 during the first year transportation is provided.

NOTE: Present Section 15-34.2-06.1. In establishing the fee that may be set by districts initiating service prior to July 1, 1981, current law provides that the total fees charged "may not exceed an amount equal to the difference between the state

transportation payment and the state average cost for transportation or the local school district's cost, whichever is the lesser amount." The rewrite provides a timeframe for determining these costs, i.e., "during the preceding school year." This is the same timeframe as that found in current law for districts starting transportation services on or after July 1, 1981.

15.1-30-06. Transportation - Bids, contracts, bonds.

1. Before the beginning of each school year, the board of a school district that provides transportation shall contract for the provision of transportation services during the school year. Except as provided in section 15.1-30-11, the board shall provide notice of its intent to contract by publishing the time and place for submission of sealed bids in the official newspaper of the school district at least ten days prior to the required date of submission. The notice must:
 - a. Include the route to be covered by each contract;
 - b. Provide that the board reserves the right to reject any and all bids;
 - c. Provide that each successful bidder must submit in a separate envelope a bond in an amount set by the board, provided that the amount of the bond must be at least five hundred dollars;
 - d. Provide that the bond must be conditioned for the faithful performance of the duties set forth in the contract; and
 - e. Provide that any bids submitted name the individual who will operate the vehicle and describe the vehicle.
2. If the transportation vehicle is privately owned, the duration of the contract may not exceed seven years.

NOTE: Present Section 15-34.2-07. The committee may wish to determine whether a bond in the amount of \$500 is still adequate. That amount has been unchanged since the section was enacted in 1971. Similarly, the committee may wish to determine whether a seven-year contract period is an appropriate length of time, given the fact that one board is binding future boards.

15.1-30-07. Transportation contract - Standard form. The superintendent of public instruction shall prepare a standard transportation contract form and shall provide copies, upon request, to school districts.

NOTE: Present Section 15-34.2-09 contains several provisions that have been segregated into separate sections.

15.1-30-08. Transportation contract - Provisions. A transportation contract must:

1. Provide that no vehicle other than that described in the contract may be used to transport students, unless a change is authorized in writing by the board of the school district.
2. Provide that only the individual named in the contract may operate a vehicle used to transport students, unless a change is authorized in writing by the board.
3. Include the transportation routes that were established by the board and which are to be covered by the transportation provider.
4. Set compensation for the provision of transportation.
5. Describe the process by which an equitable adjustment of compensation will be determined and paid if a change in the established transportation routes becomes necessary.

NOTE: Present Section 15-34.2-09. Present Section 15-34.2-09 begins by requiring that the Superintendent of Public Instruction prepare a standard contract form to be used at the option of school districts. The section then provides that a contract must include several features. Because all contracts for transportation must have the featured provisions, repetitive language in the final paragraph of present Section 15-34.2-09 has been omitted.

At the direction of the 1997-98 interim Education Services Committee, the rewrite also combines the requirement that there be an equitable adjustment of compensation in case of route changes with the provisions of present Section 15-34.2-10 and requires that the contract establish how the adjustment will be determined and paid.

For reasons of clarity, present Section 15-34.2-09 was divided into four sections.

15.1-30-09. Transportation contract - Waiver of provisions. In the case of an emergency or other unforeseen event, the school board president may waive transportation contract provisions requiring that only vehicles described in the contract be used and that the vehicles be operated only by individuals named in the contract. The waiver is valid only until the next regular or special meeting of the board.

NOTE: Present Section 15-34.2-09. Present Section 15-34.2-09 contains several provisions that have been segregated into separate sections.

15.1-30-10. Transportation contract - Assignment. A transportation contract is assignable only upon written authorization by the school board.

NOTE: Present Section 15-34.2-09. Present Section 15-34.2-09 contains several provisions that have been segregated into separate sections in the rewrite.

15.1-30-11. Transportation contracts - Direct negotiation.

1. Notwithstanding sections 15.1-30-06 and 15.1-30-12, a contract for the transportation of students, originally bid by and let to a contractor, may be renewed:
 - a. Through direct negotiation between the board of a school district and the contractor; or
 - b. Upon sealed bids.
2. If a contract is to be renewed through direct negotiation, the school board shall publish notice in the official newspaper of the district, at least thirty days before the date of renewal, and shall request the submission of quotations for the contract. The board shall maintain all quotations received on file for at least one year after their receipt. The quotations are public information.
3. If at least two written quotations are received, the board may directly negotiate a contract, provided:
 - a. The board shall conduct a public meeting regarding the contract;
 - b. The board provides at least seven days' notice of the public meeting regarding the contract by publication in the official newspaper of the district; and
 - c. The public is given an opportunity to appear and comment at the public meeting.
4. All terms of the contract must be negotiated and agreed to in the public meeting.
5. If a contract is to be made upon the receipt of sealed bids, the board shall follow the procedure set forth in section 15.1-30-06 for advertising and awarding the bids.

NOTE: Present Section 15-34.2-07.1. Present Section 15-34.2-07.1 requires a school board to obtain "two or more written quotations ... when possible." Because the phrase "when possible" raises questions concerning enforceability, it was omitted from the rewrite. The present section also requires the board to publish notice of the public meeting at which the contract is to be discussed. The rewrite directs the board to publish the notice "in the official newspaper of the district."

15.1-30-12. Contract for transportation - Conditions.

1. The board of a school district shall let the contract, except as otherwise provided in section 15.1-30-11, to the lowest responsible bidder who:
 - a. Furnishes a bond approved by the board, as provided for in section 15.1-30-06;

b. Agrees to use a vehicle which, in the opinion of the board, meets the standards imposed by the superintendent of public instruction under sections 39-21-27 and 39-21-27.1 and which is safe, comfortable, and suitable for the purpose; and

c. Identifies individuals who, in the opinion of the board, are competent and responsible to serve as drivers.

2. The board may not enter into a contract for transportation with an individual member of the board.

3. An individual member of the board may serve as the driver of a vehicle identified for use in the transportation contract.

NOTE: Present Section 15-34.2-08.

15.1-30-13. Motor vehicle and heating fuel - Purchase. At least once each year, the board of a school district shall publish in the official newspaper of the district information regarding the registration of motor vehicle and heating fuel vendors. The board shall purchase motor vehicle fuel and heating fuel only after seeking written quotes from all vendors who registered with the district for that school year.

NOTE: Present Section 15-34.2-07.2. Present Section 15-34.2-07.2 provides that a school board "may purchase transportation fuel or heating fuel as needed by obtaining written quotes from all vendors who have registered with the school district for that school year." It is unclear whether the section is authorizing boards to purchase fuel or simply giving them an option to obtain written quotes. Similarly, the last sentence provides that school districts "may register interested vendors throughout the year." It is not clear whether registration is required, permitted, or suggested. Subject to committee review, the rewrite therefore requires school boards to publish registration information and directs that fuel be purchased only after written quotes are sought.

15.1-30-14. Transportation of students - Control and discipline. The driver of a vehicle used to transport students under a contract as provided in this chapter is under the supervision and direction of the school board, the school district superintendent, the school principal, and the teachers of the school while the driver is on duty. The disciplinary authority of the school exists while a student is being transported, by or on behalf of the student's school, and the driver of the vehicle is charged with exercising control and discipline during the transportation.

NOTE: Present Section 15-34.2-11.

15.1-30-15. Schoolbus route - Extension into bordering state. The board of a school district may extend its bus route into a bordering state for the purpose of transporting

- 1 students from the bordering state into this state, provided the superintendent of public
2 instruction has entered into a reciprocal contract with the bordering state under section
3 15.1-29-02.

NOTE: Present Section 15-34.2-15. Section 15.1-29-02 authorizes an individual school district to contract with a district in another state for the education of its students, even if the Superintendent of Public Instruction is unable to enter into a reciprocal contract. Perhaps the committee might wish to include such a contingency in this section as well.

4 **15.1-30-16. Transportation services to nonpublic students - Joint provision of**
5 **transportation services.**

- 6 1. If the board of a school district provides transportation services to its students, the
7 board may provide transportation services to students attending nonpublic schools,
8 provided:
- 9 a. The nonpublic school students are transported only along the bus route
10 established for the public school students;
 - 11 b. The nonpublic school students are transported only on the days and at the
12 times that the public school students are transported; and
 - 13 c. The legal passenger capacity of each bus is not exceeded by the
14 transportation of nonpublic school students.
- 15 2. a. The board of a school district that provides transportation to its students may
16 contract with other local, state, or federal government entities for the joint
17 provision and integration of transportation services to the public.
- 18 b. A contract under this section must provide for the observation of all safety
19 requirements otherwise imposed by law on schoolbuses, on school vehicles,
20 and on schoolbus drivers when students are being transported.
 - 21 c. Transportation services to students provided pursuant to this subsection
22 qualify for state transportation aid under chapter 15.1-27. However, no
23 payments may be made from state funds for any costs incurred as a result of
24 a deviation from established schoolbus routes necessitated by a contract
25 pursuant to this subsection.

NOTE: Present Section 15-34.2-16. Present Section 15-34.2-16 refers to constitutional and statutory sections granting authority for joint agreements, as well as statutory sections that contain safety requirements. The rewrite omits the references because the authority for joint agreements already exists and the latter were a repetitive

reference, i.e., "[a]ll safety requirements imposed by law ... including requirements imposed by"