

**2023 HOUSE EDUCATION**

**HB 1376**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Education Committee Coteau AB Room, State Capitol

HB 1376  
2/1/2023

Relating to virtual instruction of students and open enrollment

10:30 AM

Chairman Heinert opened the hearing. Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Hauck, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

### Discussion Topics:

- Reading and math proficiency rates
- ELA proficiency
- Online courses
- Home school enrollment
- School choice-freedom to chose
- Open enrollment
- Parental choice
- Career and distance education
- Virtual academy and programming
- Tech Trep
- K-8 virtual public Yellowstone School District
- Center for Distance Education
- ND virtual academies

### Testimony in favor:

Rep Michelle Strinden, District 41, South Fargo, introduced HB 1376, Testimony 18396, 21119  
Lisa Feldner, Testimony 18373, 18374, 18417  
Heidi Pope, District 47, Bismarck, Testimony 18404  
Jennifer Connall, oral testimony  
Mikayla Butts, Bismarck, homeschool and Yellowstone Virtual Academy, oral testimony  
Amanda Crane, Bismarck, Testimony 18407  
Jared Crane, Bismarck, testimony 21097  
Derek Gackle, administrator, Yellowstone School District serving East Fairview School and Yellowstone Virtual Academy, Testimony 18281

### Testimony in opposition:

Dr. Aimee Copas, Executive Director, NDCEL, oral testimony  
Michael Heilmann, Executive Director, Small School Association, oral testimony  
Alexis Baxley, Executive Director NDSBA, Testimony 18421  
James Uppgren, Assistant Director of School and Approval and Opportunity, DPI, answered questions and provided Testimony 18399

House Education Committee

HB 1376

2/1/23

Page 2

**Additional written testimony:**

Christine Zenzen, mother of 4, military spouse and pharmacist, Testimony 17660

Chris, Eslinger, Dist 34, father, husband, and property owner, Testimony 18303

Joanna Kleymann, Testimony 18420

12:17 PM Chairman Heinert closed the hearing.

*Kathleen Davis, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Education Committee Coteau AB Room, State Capitol

HB 1376  
2/13/2023

Relating to virtual instruction of students and open enrollment

3:47 PM

Chairman Heinert opened the meeting. Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Hauck, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

### Discussion Topics:

- Virtual academics
- Face to face education
- Transportation
- Open enrollment
- Virtual decision date
- Resident school district denials
- Busing payment
- Date of enrollment deadline

Adam Tescher, School Finance Officer, DPI, was called forward to answer questions.

Rep Timmons moved to adopt Amendment 23.0426.02006, seconded by Rep Hauck.  
**Voice vote, motion carried.**

Rep Timmons moved a Do Pass as Amended, seconded by Rep Heilman.

Representatives	Vote
Representative Pat D. Heinert	Y
Representative Cynthia Schreiber-Beck	Y
Representative Liz Conmy	Y
Representative Scott Dyk	Y
Representative LaurieBeth Hager	N
Representative Dori Hauck	Y
Representative Matt Heilman	Y
Representative Jeff A. Hoverson	Y
Representative Jim Jonas	N
Representative Donald W. Longmuir	Y
Representative Andrew Marschall	Y
Representative Eric James Murphy	Y
Representative Anna S. Novak	Y
Representative Kelby Timmons	Y

**12-2-0 Motion carried. Rep Hauck is carrier.**

House Education Committee

HB 1376

2/13/23

Page 2

**Additional written testimony:**

Rep Schreiber Beck, Testimony 20513, 20514

Rep. Kelby Timmons, Testimony 19653

4:13 PM Chairman Heinert closed the meeting.

*Kathleen Davis, Committee Clerk*

2-13-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1376

- Page 2, line 9, replace "provided by the school" with "through an approved virtual school"
- Page 2, line 10, remove "A student who wishes to enroll in a school"
- Page 2, replace lines 11 and 12 with "A resident school district may not deny open enrollment to an approved virtual school."
- Page 2, line 22, remove the overstrike over "~~By March first of the school year preceding the year of enrollment, a parent who~~"
- Page 2, remove the overstrike over lines 23 through 31
- Page 3, remove the overstrike over lines 1 through 4
- Page 3, line 5, remove the overstrike over "4."
- Page 3, line 8, remove the overstrike over "5."
- Page 3, line 8, remove "2."
- Page 3, line 14, remove the overstrike over "6."
- Page 3, line 14, remove "3."
- Page 3, line 17, remove the overstrike over "7."
- Page 3, line 17, remove "4."
- Page 3, line 22, remove the overstrike over "8."
- Page 3, line 22, remove "5."
- Page 4, line 1, remove the overstrike over "~~program,~~"
- Page 4, line 2, remove the overstrike over the overstruck comma
- Page 4, line 7, after "a" insert "program."
- Page 4, line 7, after "level" insert an underscored comma
- Page 4, line 9, remove the overstrike over "~~, or directly exert influence on the student or the~~"
- Page 4, line 10, remove the overstrike over "~~student's family, in order~~"
- Page 4, line 11, after the period insert "The actions prohibited under this subdivision do not include providing informational materials about the program."
- Page 5, line 17, remove the overstrike over "or"
- Page 5, line 20, remove "; or"
- Page 5, remove line 21
- Page 5, line 22, remove "served by another school, including a virtual school"

Page 6, line 3, remove the overstrike over "~~The student's school district of residence shall transport the student to school in the~~"

Page 6, remove the overstrike over lines 4 through 7

Page 6, line 8, remove the overstrike over "6."

Renumber accordingly

2A  
2-13-23

**REPORT OF STANDING COMMITTEE**

**HB 1376: Education Committee (Rep. Heinert, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1376 was placed on the Sixth order on the calendar.

Page 2, line 9, replace "provided by the school" with "through an approved virtual school"

Page 2, line 10, remove "A student who wishes to enroll in a school"

Page 2, replace lines 11 and 12 with "A resident school district may not deny open enrollment to an approved virtual school."

Page 2, line 22, remove the overstrike over "~~By March first of the school year preceding the year of enrollment, a parent who~~"

Page 2, remove the overstrike over lines 23 through 31

Page 3, remove the overstrike over lines 1 through 4

Page 3, line 5, remove the overstrike over "4."

Page 3, line 8, remove the overstrike over "5."

Page 3, line 8, remove "2."

Page 3, line 14, remove the overstrike over "6."

Page 3, line 14, remove "3."

Page 3, line 17, remove the overstrike over "7."

Page 3, line 17, remove "4."

Page 3, line 22, remove the overstrike over "8."

Page 3, line 22, remove "5."

Page 4, line 1, remove the overstrike over "~~program,~~"

Page 4, line 2, remove the overstrike over the overstruck comma

Page 4, line 7, after "a" insert "program."

Page 4, line 7, after "level" insert an underscored comma

Page 4, line 9, remove the overstrike over "~~, or directly exert influence on the student or the~~"

Page 4, line 10, remove the overstrike over "~~student's family, in order~~"

Page 4, line 11, after the period insert "The actions prohibited under this subdivision do not include providing informational materials about the program."

Page 5, line 17, remove the overstrike over "~~or~~"

Page 5, line 20, remove ": or"

Page 5, remove line 21

Page 5, line 22, remove "served by another school, including a virtual school"



Page 6, line 3, remove the overstrike over "~~The student's school district of residence shall transport the student to school in the~~"

Page 6, remove the overstrike over lines 4 through 7

Page 6, line 8, remove the overstrike over "6:"

Renumber accordingly

**2023 SENATE EDUCATION**

**HB 1376**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Room JW216, State Capitol

HB 1376  
3/7/2023

Relating to virtual instruction of students and open enrollment.

3:21 PM Chair Elkin opened the hearing. Present: Chair Elkin, Vice Chair Beard, Sen Axtman, Sen Conley, Sen Lemm, and Sen Wobbema.

## **Discussion Topics:**

- School choice movement
- Healthy competition for public schools
- Flexibility needed
- On time payment provision

Rep Strinden, Dist 41, bill sponsor testified in support #22743

Derek Gackle, Yellowstone School Dist testified via TEAMS in support #22660.

Jennifer Connell, New Salem, ND, testified via TEAMS in support #22683.

Mike Bitz, Supt Mandan Schools, testified in support #22756.

Miquela Butz, Bismarck, ND testified in support #22478.

Heidi Pope, Bismarck, ND, testified in support #22671.

Jered Crane, Bismarck, ND testified in support with no written testimony.

Lisa Feldner introduced Andrew Yates.

Andrew Yates, Yes, Every Kid, Spartanburg, SC, testified in support #22682.

Mike Heilman, ND Small Organized Schools, testified in support with no written testimony.

Amy De Kok, ND School Boards Assoc. attorney, testified opposed. #22771.

Joe Kolosky, ND Dept Public Instruction, testified neutral #22672.

Adam Tescher, Finance Officer, Dept Public Instruction defined virtual enrollment. No written testimony.

Dr. Alyssa Martin, ND Center Distant Education testified neutral #22569.

**Additional written testimony:**

Amanda Crane, Bismarck, ND in support #22489.

Nicole McFarland, Grand Forks, ND in support #22576.

Sarah Lucio-Stockwell, Grand Forks Air Base, in support #22681.

Christine Zenzen, Grand Forks Air Base in support #22428.

Aimee Copas, #22499

4:30 PM Chair Elkin closed the hearing.

*Pam Dever, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Room JW216, State Capitol

HB 1376  
3/22/2023

Relating to virtual instruction of students and open enrollment.

10:04 AM Chair Elkin opened committee work. Present: Chair Elkin, Vice Chair Beard, Sen Axtman, Sen Conley, Sen Lemm, and Sen Wobbema.

### Discussion Topics:

- Amendment
- Committee action
- Fiscal note

Sen Axtman explained amendment 23.0426.03000. #26338.

Joe Kolosky, Dept Public Instruction, answered a question.

Jim Upgren Dept Public Instruction, answered questions.

Adam Tescher, Dept Public Instruction, answered a question.

Sen Axtman moved amendment LC 23.0426.03001.

Sen Wobbema seconded the motion.

Senators	Vote
Senator Jay Elkin	Y
Senator Todd Beard	Y
Senator Michelle Axtman	Y
Senator Cole Conley	Y
Senator Randy D. Lemm	Y
Senator Michael A. Wobbema	Y

VOTE: YES – 6 NO – 0 Absent – 0 Motion PASSED

Sen Wobbema moves DO PASS as Amended. Senator Beard seconded.

Committee discussed.

11:05 AM Chair Elkin adjourned the meeting.

*Pam Dever, Committee Clerk*

March 22, 2023

DR  
171  
3-22-23

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1376

Page 2, line 6, after "**management**" insert "**and legislative assembly**"

Page 2, line 9, remove "through an approved virtual school"

Page 2, line 12, after "2." insert "A student or a student's family member may not receive any item, service, or thing of value not given in exchange for fair market consideration from a vendor providing instruction or support under this section."

3."

Page 2, line 15, replace "3." with "4."

Page 2, line 15, overstrike "biennial reports" and insert immediately thereafter "an annual report"

Page 2, line 15, after "to" insert "either"

Page 2, line 16, overstrike "regarding" and insert immediately thereafter "or the legislative assembly. In odd-numbered years, the report must be made to the legislative assembly. In even-numbered years, the report must be made to the legislative management. The annual report must:"

a. Contain a comparison of"

Page 2, line 16, overstrike "metrics"

Page 2, line 17, after "instruction" insert "against students not participating in virtual instruction"

Page 2, line 17, after "section" insert "; and"

b. Use the statewide prekindergarten through grade twelve strategic vision framework goals.

5. If the superintendent of public instruction does not have access to academic performance reports of a school district's virtual instruction subgroup because of the low group size, the district shall provide the annual report required under this section for the district's comparison data.

6. Students enrolled in an approved virtual school do not generate school district sized weighting factors pursuant to section 15.1-27-03.2"

Renumber accordingly

# 2023 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Room JW216, State Capitol

HB 1376  
3/22/2023

Relating to virtual instruction of students and open enrollment.

3:07 PM Chair Elkin opened committee work. Present: Chair Elkin, Vice Chair Beard, Sen Axtman, Sen Conley, Sen Lemm, and Sen Wobbema.

### Discussion Topics:

- Committee action

Sen Wobbema moved to withdraw his motion from the morning meeting (3/22/23).  
Sen Beard withdrew his second.

Sen Wobbema moved a DO PASS as Amended and Referrer to Appropriations.  
Sen Beard seconded.

Roll call vote.

Senators	Vote
Senator Jay Elkin	N
Senator Todd Beard	Y
Senator Michelle Axtman	Y
Senator Cole Conley	N
Senator Randy D. Lemm	N
Senator Michael A. Wobbema	Y

VOTE: YES – 3 NO – 3 Absent – 0 Motion FAILED

Sen Conley moved a DO NOT PASS.  
Sen Lemm seconded.

Roll call vote.

Senators	Vote
Senator Jay Elkin	Y
Senator Todd Beard	N
Senator Michelle Axtman	N
Senator Cole Conley	Y
Senator Randy D. Lemm	Y
Senator Michael A. Wobbema	N

VOTE: YES – 3 NO – 3 Absent – 0 Motion FAILED

Sen Axtman moved a committee without Recommendation As Amended.  
Sen Lemm seconded.

<b>Senators</b>	<b>Vote</b>
Senator Jay Elkin	Y
Senator Todd Beard	Y
Senator Michelle Axtman	Y
Senator Cole Conley	Y
Senator Randy D. Lemm	Y
Senator Michael A. Wobbema	Y

VOTE: YES – 6 NO – 0 Absent – 0

Motion PASSED

Sen Beard will carry the bill.

3:15 PM Chair Elkin adjourned the meeting.

*Pam Dever, Committee Clerk*



**REPORT OF STANDING COMMITTEE**

**HB 1376, as engrossed: Education Committee (Sen. Elkin, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1376 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 2, line 6, after "**management**" insert "**and legislative assembly**"

Page 2, line 9, remove "through an approved virtual school"

Page 2, line 12, after "2." insert "A student or a student's family member may not receive any item, service, or thing of value not given in exchange for fair market consideration from a vendor providing instruction or support under this section."

3."

Page 2, line 15, replace "3." with "4."

Page 2, line 15, overstrike "biennial reports" and insert immediately thereafter "an annual report"

Page 2, line 15, after "to" insert "either"

Page 2, line 16, overstrike "regarding" and insert immediately thereafter "or the legislative assembly. In odd-numbered years, the report must be made to the legislative assembly. In even-numbered years, the report must be made to the legislative management. The annual report must:"

a. Contain a comparison of"

Page 2, line 16, overstrike "metrics"

Page 2, line 17, after "instruction" insert "against students not participating in virtual instruction"

Page 2, line 17, after "section" insert "; and"

b. Use the statewide prekindergarten through grade twelve strategic vision framework goals.

5. If the superintendent of public instruction does not have access to academic performance reports of a school district's virtual instruction subgroup because of the low group size, the district shall provide the annual report required under this section for the district's comparison data.

6. Students enrolled in an approved virtual school do not generate school district sized weighting factors pursuant to section 15.1-27-03.2"

Renumber accordingly

**TESTIMONY**

**HB 1376**

I wanted to first thank you for your service to our community. I would like to ask for your support in the need to write an addendum in to the century code, giving parents' permission to choose for their students to attend schools such as Yellowstone Virtual Academy/Tech Trep Academy. I am fortunate that the School District of Grand Forks allowed my son to attend Yellowstone Virtual Academy however, other school districts have denied parents the rights by not signing the cost share agreement with this tuition free public education. I am strongly in favor of allowing open enrollment for a child to be able to attend a virtual school.

I am a mother of four, a military spouse, and a pharmacist. I have one child attending 5th grade at Twining Elementary, however have my 3rd grade, 8- year-old attending Yellowstone Virtual/ Tech Trep. The educational resources of the Tech Trep program have allowed me to tailor to my 3rd grader's needs. I have known since kindergarten he has needed help in reading/writing. I know I did not go to school to be an educator, but using a virtual school, Tech Trep, has given me the confidence and resources to tailor his education to his needs and help him grow to be successful.

We were stationed in California where resources were not readily available along with COVID shutting down so much it made it impossible to get help for him. I chose to have them attend a charter school, similarly to Tech Trep, I was primarily the teacher at home. I feel this was monumental for my 3rd grader's development. He hasn't been diagnosed with any learning disabilities, but has more difficult time with writing. I attribute all his growth and abilities to being able to attend an at home charter school and tailor his education to him. We have made huge strides this year in school because we have been able to seek occupational therapy and focus on eye training along with his 3<sup>rd</sup> grade curriculum all while maintaining confidence in his school work. He hasn't been able to be pulled from class to attend his appointments. His growth, which we predicted to take 1.5 years he met and exceeded within 3 months. I don't feel those strides would have been made if he would have been in the traditional setting.

I feel confident teaching him because Tech Trep has a teacher who is guiding me when needed. I want that for every family. I have currently not been working, and have worked part-time in past to support my children and their educations. The ability to choose my child's school, and educational resources has been essential for his growth and development.

I do not feel my son would be learning, and or succeeding like he is in a traditional school classroom. His abilities and the way they test in many classrooms wouldn't gauge his understanding at the moment. I know there are programs in school to help but as a mother I know he is best at home and is worth my time and attention. One day I do hope to send him to school, I know he would love being with his peers. I would like if the virtual academy would have open enrollment because it would give me the confidence to put him in traditional school setting, I could always re-enroll for the support and resources given for his personalized education if that was needed for his success.

My fifth grader currently enrolled in traditional school setting enjoy school. He works very well with peer pressure, it motivates him where my 3<sup>rd</sup> grader doesn't like the competition. My 5<sup>th</sup> grader has done very well with his STAR testing, which reiterates that the last 3 years I have actually taught him something. Some days while being the primary teacher for your children you question, "Am I doing enough?" I feel I am but I would not be where I am or understand what I do about educating my children without the help of my resources/teachers at the Virtual Academy.

I have been wrestling with the thought of sending my child to Twining elementary this coming year. I would love to be able to decide in June if he would be able to be confident in a traditional classroom. When signing my child up this year, I was explained that open enrollment/ interdistrict transfers needed to get done before March, or to have moved. I was fortunate to have moved here this summer. I had fellow friends in different areas of North Dakota denied the opportunity to have the resources Tech Trep has given me. I was somewhat discussed that we would have to make the choice

by March, so much can change between March and August. Family and children's needs change immensely. In the military we could be told we are moving to a whole new country, have to sell and home and move with in that time period. I feel bound and great pressure to make the best decision for my child 5 months ahead.

I ask to please allow the open enrollment to the Virtual Academy to be a rolling enrollment. Families change, needs change, and allowing parents to choose what is best for their child is what is most important. As a parent, I love that I am held accountable in what is needed to be taught, hours, and that I have a professional teacher there every day to assist me as needed. I have been blessed to have been able to partake in this first year of Tech Trep in North Dakota. Thank you for your time and consideration. I was not able to attend the hearing this week, but am available if there are any questions I could answer in regards to my experience with Virtual learning. I would love this opportunity to be available to us parents who may not have everything altogether 5 months ahead of time.

Thank you,

Christine Zenzen Pharm D.

[Czenzen1@gmail.com](mailto:Czenzen1@gmail.com)

320-224-5616

## Testimony in favor HB 1376

Chairman Heinert and members of the House Education Committee – for the record my name is Derek Gackle and I serve as the administrator for the Yellowstone School District serving East Fairview School and our newly created Yellowstone Virtual Academy. Thank you for your commitment to public service in our state.

Yellowstone School District is a small, unique K-8 graded elementary school district located on the ND/MT border in western McKenzie County. We currently serve 66 students at East Fairview, 30 students in Yellowstone Virtual Academy, and send another 33 high school students, with payment, across the border to attend high school at Fairview Schools.

As a small district we are always looking for ways to be innovative and provide new educational opportunities. For example, we were one of the first districts to switch to a four-day school week. When virtual schools became an option we initially thought that wouldn't work for us being so small and rural but we noticed that home school student numbers were on the rise, not only in ND but in the nation. We started to research online schools that would attract home school students to public education. We wanted to provide an online schooling option with a reputable third-party vendor focused on introducing home school students and families to public school scrutiny, oversight, and rigor. We found Tech Trep Academy.

We partnered with Tech Trep Academy to provide a virtual school that meets the unique needs of students around the state including our own students. These are students that need to do school from home or choose to do so, but need flexibility in scheduling & curriculum. Currently there are 30 students enrolled in our virtual school and we hope to see continued growth as it proves effective over the years. Our virtual school is providing much needed additional income to our district while enrolling students that typically were not previously enrolled in a public school. Our focus is to offer the increasing number of home school students an avenue back into the public-school system.

Our goal is that once they complete grade eight in our program students would enroll in the public school in their district of residence. We see this as a win for everyone since it will decrease home school student numbers while simultaneously increasing public school population without costing the district of residence any per pupil funds. Ultimately, the district of residence enrollment would also increase when these students enroll for high school, win-win.

We feel this partnership is on the cusp of the direction education could look years from now and are grateful for the resources and funding it is providing for our students. Yellowstone receives per pupil funding for each student enrolled in our virtual school. We then hire Tech Trep Academy to provide the educational programming. The portion of funding we keep for the students takes into account the staff we are providing on our side of things to enroll students, monitor performance, meet with TTA staff, provide special education services, etc.

We are proud of the accountability and support we are providing to many students who have never participated in public education prior to their enrollment. This is a choice program that families seem to really be gravitating to. We are grateful that our small district has access to the program to meet the students' needs that we may otherwise have struggled to staff or the families would have otherwise withdrawn from the system and been provided no accountability & support.

A current legislative concern of ours is that school districts throughout the state have the ability to deny students from enrolling in our virtual school even if the students were previously homeschooled and never set foot in their schools. For example, we have had almost 30 students denied enrollment this year because their district of residence refused to sign the cost-sharing agreement for zero dollars. Without a signed agreement we cannot educate the student. We feel our program is the best example of school choice and we want to continue to provide a public-school option that all students have access to.

HB 1376 has the full support of the Yellowstone School District.

Derek Gackle, Administrator

Doug Gullikson, Board Chair

Members of the House Education Committee,

My name is Chris Eslinger, I live in District 34

I am a Father, a Husband, and a Property Owner.

I have children that have attended Home School, Virtual Classes, Private School, and/or Public School.

I Support Bill #1376

My position is pretty simple.

If we, as conservatives, believe it is the fundamental right and responsibility of a parent, to choose the best education and to keep their children safe.

Than parents should have the option to choose whether a Virtual class or transferring from one Public School to another Public School, in the same town or district, would be not only best educationally but more importantly, for their mental, emotional, physical, and spiritual safety and well being.

I urge you to vote in favor of Bill #1376.

Thank You for your service and taking the time to consider the importance of this issue.



yes.  
every  
kid.

# no more lines

Residents of any given state can access public goods like parks, libraries, or hospitals regardless of where they live. However, children across the country are denied access to quality public schools simply because they cannot afford the right neighborhoods. No More Lines policies allow students to access any public school, regardless of their race, income, or zip code.



## TYPES OF POLICIES

- **Intradistrict transfer.** This allows families to send their child to any school in the school district they are zoned for.
- **Interdistrict transfer.** This allows families to send their child to any school in any school district in their state.
- **Transportation for transfer students.** Providing free transportation for students on intradistrict or interdistrict transfers makes No More Lines a more accessible option for students who otherwise have no way of getting to school.

## WHERE IT'S DONE



**Florida.** Students in Florida can attend any school of their choice and have access to free transportation.



**Arizona.** Students in Arizona have access to both intradistrict and interdistrict transfers. The state provides financial and logistical support for transportation and also informs families of the number of open seats at any given school.

## HOW IT'S WORKING

During the 2014-15 school year alone, more than 10,000 Floridian students used No More Lines policies to transfer to a different school inside or outside of their district. Of these students, more than 90% transferred to districts with higher test scores than their home districts.

Learn more at [yeseverykid.com](http://yeseverykid.com).

yes.  
every  
kid.

# education your way

When it comes to public services, Americans get to choose which ones to use, and which ones to avoid. Whether it's libraries, parks, museums, or transportation, everyone gets to choose depending on what's best for them. For some reason, this right to choose doesn't extend to public schools. Education Your Way policies extend public school access to all kids by allowing private and homeschooled students to enroll in public schools part-time for instruction, sports, or clubs.

## THE IDEAL POLICY



Districts are required to accept both private and homeschooled students for part-time enrollment, funding each school proportionately.



Part-time students have access to both elective and core courses.



Districts are prevented from establishing barriers to public school access.

## WHERE IT'S DONE



**Washington.** Private school students are guaranteed the right to enroll part-time in public schools, provided they are otherwise eligible for full-time enrollment at that public school.



**Alaska.** Homeschooled and private school students are guaranteed the right to enroll part-time in public school courses, excepting sports and clubs, provided they are otherwise eligible for enrollment at that public school.

Learn more at [yeseverykid.com](http://yeseverykid.com).

**HB 1376 Parent Student School Choice****Representative Michelle Strinden****Wednesday, February 1<sup>st</sup> 2023**

**For the record, my name is Michelle Strinden and I represent the people of South Fargo's District 41.**

**Every child is unique, and all children learn differently. Parents need to be empowered to pursue the educational environment that best fits their children and align's with their personal values. According to EdChoice.org, a non-profit foundation founded by economist Milton Friedman, today there are 76 educational choice programs on the books in 32 states, the District of Columbia, and Puerto Rico. The Center for Education Reform lists Florida leading the country as the number one state that expands parental opportunities for their children's education. Other states that rank at the top of the list include Arizona, Indiana, Ohio, Wisconsin, West Virginia, and Minnesota to name a few. Sadly, North Dakota is at the very bottom of the annual assessment called the Parent Power Index which ranks states on the degree to which they allow school choice options and parental involvement.**

**North Dakota K-12 students and their families have very little choice. Parents education options for their children are expensive private schools, homeschooling, and very limited open enrollment. Many North Dakota children succeed at their assigned public school, but some students need a different learning environment that better fits their unique needs. For instance, bullying may make a school environment dangerous to a child's social and emotional well-being. Perhaps a struggling reader in 1<sup>st</sup> or 2<sup>nd</sup> grade could learn to read in**

**another school better trained to teach the science of reading. The Covid 19 pandemic has also led to parents greater understanding about how their children are being educated.**

**The pandemic increased school disruptions in many ND districts with school closings and mask mandates. This caused many parents across our state and country to look to other options for schooling and increased the school choice movement nationwide.**

**HB 1376 allows parents more involvement in deciding what is best for their children's education and gives parents increased flexibility to solve problems that are hindering or even harming their children. The bill still provides reasonable provisions for public schools that are at capacity, while encouraging healthy competition and incentivizing schools to improve instruction for all students. This is a very good thing and much needed given North Dakota's low reading and math proficiency rates. According to our ND DPI's dashboard, our students are only 44% proficient in ELA and 39% proficient in math.**

**HB 1376 states that a school of residence may not deny enrollment of a student at the Career for Distance Education to ensure that every student has the opportunity to pursue online courses that meet their unique needs. Students also must be able to open enroll virtually at another ND approved school district if they choose to do so. Currently, school district administrators have the power to deny students from enrolling in other North Dakota virtual schools.**

**The Yellowstone School District (K-8) in McKenzie County is one such public school providing a virtual school learning opportunity for students. Tech Trep is the vendor providing a personalized flexible curriculum and methods for a 21<sup>st</sup> Century global economy. Yellowstone is also excelling in math and reading proficiency. [Insights.nd.gov](https://insights.nd.gov)**

**shows that Yellowstone School District is outperforming state reading and math scores by 20 to 25 points respectively.**

**This fall, resident schools refused to sign the cost sharing agreement for approximately 30 North Dakota students who wanted to enroll in the Yellowstone School District's virtual school. Many of these students were homeschooled children, which means they would not lose one dollar of the per pupil payment. These families wrote letters to their superintendent's and school boards explaining their situations and asking them to reconsider, but unfortunately they were still denied enrollment.**

**What is best for the children? It's time for North Dakota to take a step in the right direction. School choice options can help certain students find a safer and more appropriate learning environment tailored to meet their needs. It provides options for low income families and holds public schools accountable. ND parents deserve the right to choose quality education that improves academic achievement for their kids. School choice means freedom to choose, and our ND education system needs more of it.**

**Thank you for your consideration, Chair Heinert and Education committee. I stand for any questions you may have.**

**TESTIMONY ON HB 1376  
HOUSE EDUCATION COMMITTEE**

**February 1, 2023**

**By: Jim Upgren, Assistant Director of School Approval and Opportunity  
701-328-2244  
North Dakota Department of Public Instruction**

---

---

Chairman Heinert and Members of the Committee:

My name is Jim Upgren, Assistant Director in the Office of School Approval and Opportunity with the Department of Public Instruction. I am here on behalf of the department to provide information regarding HB 1376 and virtual instruction.

Virtual Instruction in ND has evolved in the past few years because of COVID-19. Prior to April 1, 2020 virtual instruction was legal in two ways: The North Dakota Center for Distance Education (NDCDE), and Interactive Television (ITV). NDCDE courses could be completed by the student in the comfort of their learning environment, be it the school or the student's home, and ITV courses were, and still are, streamed into the classroom.

On March 16, 2020, Governor Burgum closed all public schools and ordered all districts to create a Distance Learning Plan and submit to DPI for approval. All district plans were approved by the due date of April 1, 2020. Distance Learning was different across the state. We saw everything from live streams of lectures and labs, asynchronous and synchronous courses, to paper and pencil project packets.

The 2020-2021 school year started the Smart Re-start. Districts were able to create their own back-to-learning plan that was approved by the school board, not DPI, and implement virtual learning they saw best for their communities. We saw A and B days, where groups of students would go to school face to face on some days, and on other days they would attend classes virtually (synchronously or asynchronously). Districts were given the freedom to create very unique schedules that balance virtual learning and face-to-face learning or go to full face-to-face learning or full virtual learning depending on the circumstance.

The 67<sup>th</sup> Legislature passed HB 1388, part of which ‘tightened up’ what virtual learning looks like ND and how it would be conducted starting with the 2021-2022 school year. Regarding this bill, virtual instruction can be conducted in a district if the school creates a virtual school that is approved by the school board or governing board. This school has all the same rules and regulations associated with a brick-and-mortar school. This includes accountability, conducting assessments, school approval requirements, reporting, etc. The way we explain it is ‘a virtual school has to do everything a brick-and-mortar school has to do except cut the grass and clean the toilets.’

We did work with partners to create the Administrative Rules surrounding virtual schools. These rules include the requirement of an academic pacing guide (attendance is tracked through the academic pacing guide), requiring educational

equity, enrollment procedure requirements, and adherence to special education law (IDEA). As of today, there are 24 approved virtual schools in North Dakota.

Section 13 of HB 1388 in the 2021 legislative session addressed students open enrolling into another school district using virtual education. Students wishing to enroll in a virtual academy in another school district can only do so if the resident and educating school districts establish and approve a cost-sharing agreement. Century Code does not establish what services are covered by the cost-sharing agreement or how much a school district may charge. Foundation aid is always distributed to the educating school district when enrolled in a public school.

Chairman Heinert and Members of the Committee that concludes my prepared testimony and I will stand for any questions that you may have.



Regarding HB1376

My name is Heidi Pope, I am a resident of Bismarck, and I live in District 47. I am honored to be here to share my experiences and thoughts.

My husband and I are parents of 5 children, 4 of whom are adults. We are currently homeschooling our last child, a 13 yr old son. We have participated in leadership education and commonwealth or community schools run by families, since he was very young. We enjoy frequent travel, so having the ability to take school with us has been important in recent years.

Last summer we chose to seek out an educational experience that would help our son prepare to attend our local high school. We wanted our son to have more accountability to and feedback from teachers and mentors other than his parents. **Yellowstone Virtual Academy** was a great fit for us, it was portable, he wouldn't miss school when we traveled, it gave us standards aligned curriculum, gave him accountability and the chance to excel in high quality STEM courses, activities and opportunities—which he loves.

Like nine other Bismarck students, our son was denied the opportunity to participate in **Yellowstone Virtual Academy (YVA)** by our local school district. They refused to sign a ZERO Tuition Cost share agreement which simply stated that BPS would NOT be financially responsible for any portion of our students' education while they were enrolled at **Yellowstone Virtual Academy (YVA)**.

Current Century code is written to defer authority to the local school districts to make decisions FOR students and families concerning their education. Therein lies the problem. BPS, and other school districts who have denied homeschooled students this innovative educational opportunity are not seeing the bigger picture.

Students attending YVA are accountable to ND certified teachers, students get to be educated with a curriculum that meets state standards. This is not a traditional homeschool program. In fact the local homeschool community strongly affirms that this is not homeschooling at all, its schooling at home—in an environment parents can choose based on the individual needs of their students.

YVA offers a program that fills a current gap between traditional homeschooling and public school attendance. This virtual program is not for everyone, but it is a great option

for those parents who share 50/50 custody of their children with an ex-spouse and don't want their student missing school. It ideally fits families who travel and families who need special education support, for students with learning disabilities or anxiety. It is outstanding for students who need to work at a slower pace, and for students who want to work ahead of schedule. And it is a great fit for families like mine who want to prepare their student to excel in high school, by increasing accountability to a teacher other than mom and dad.

Here is some information you may not be aware of;

1. Currently YVA is only available for K-8<sup>th</sup> grade.
2. Some school districts have tried to meet the growing needs of nontraditional students by offering libraries of school materials that are no longer used in the public school system –a benevolent gesture, but it doesn't sound like innovation to me.

Some school districts have created online or virtual academies in the year following the pandemic. But there has been no virtual academy provided in the state of ND that has been able to meet the needs of individual students and families like YVA powered by Tech Trep is able to offer.

YVA offers:

- Weekly teacher and administrative support, grading, communication and accountability for students and parents.
- Local Field trips
- Organized Community of friends and opportunities to participate in exceptional community events
- Online and in person clubs and classes
- STEAM lessons
- Online educational tools that fit individual student's needs and interests, such as;

Epic, Brain Pop, Generation Genius, LEARN 360, MiWrite, Time/Edge, Code Monkey, IXL MOBY Max, Prodigy, Reflex Math, Study Island, Math Seeds, Edu-Typing, Accelerated Reader, Kid's Discover, Adventure Academy, Center-vention, Beast Academy, CTC Math, Dream Box, Mr. Math, Dreamscape, Quill, Kiwi Co., ULAT (spanish/ French language program), Education.com, Flocabulary, Microsoft 360,

ALEKS, Mystery Science, Music Lessons, LEXIA, Mathletics, Tinker Coding, Power up, ASL, Evan-Moore teacher files, Exact Path, Thinkwell, etc.

The point of YVA is to offer families an option-- so that if needed, students can be educated in a non-traditional setting and still receive a standards-aligned education. It is not intended to replace homeschool or public school. But It is an excellent way to support families like mine who have previously homeschooled, but are now seeking more accountability, more accessibility and more innovation to meet the needs of their students.

School choice is gaining momentum across the country. Families need educational options, we live in an era where it is becoming unfeasible to expect that every student is going to fit into a local public school program and be able to excel there or that every parent who's student doesn't fit the mold will be able to homeschool them.

Please give **families** the right to choose to enroll in Virtual Academies such as Yellowstone Virtual Academy. Every student deserves a great education and support in that endeavor.

Thank you for your time,  
Heidi and David Pope  
701-751-1627 (home)  
307-287-5729 (cell)  
[epaheidipope@gmail.com](mailto:epaheidipope@gmail.com)  
[dpomax@gmail.com](mailto:dpomax@gmail.com)

Here is some information you may not be aware of;

3. Currently YVA is only available for K-8<sup>th</sup> grade.
4. Some school districts have tried to meet the growing needs of nontraditional students by offering libraries of dead school materials that are no longer in use in the public school system –a benevolent gesture, but it doesn't sound like innovation to me.

**Amanda Crane**

4224 High Creek Rd.  
Bismarck, ND 58503  
(619)972-3870  
Roadschool18@gmail.com

1st February, 2023

Dear Chair Heinert and committee members,

I am in favor of House Bill 1376 that would allow students to participate in a choice virtual program. This school year I was interested in enrolling my students in the Yellowstone Virtual Academy in Fairview, North Dakota. It is my understanding that we were denied this opportunity because "school choice" is not clearly defined and our superintendent was able to make the decision for us, using the language "we don't believe the legislative intent of North Dakota state education funding was designed to provide public school students with a virtual education in a program that is provided by a third-party and offered to students out of the school district."

I not coming from a public school. I have been an at home educator in some way or another for the past 10 years. I began my home education journey in California with support from a virtual school much like Yellowstone Virtual Academy. This has continued to be the way in which I have educated my children at home until moving to North Dakota. A common thread of each of these public programs was direct access to personalized educational support with a state certified teacher with whom I could meet in person or via phone or email anytime I needed. Additionally, we were motivated and kept on track by weekly accountability, record keeping, and access to supplemental educational resources. We were provided standards aligned curriculum and could participate in standardized testing to gain feedback on whether we were keeping pace, meeting, or exceeding the state standards.

Without these public options I have still chosen to educate at home while living here in North Dakota. We have loved what educating at home provides for our family and the educational opportunities available for our children. In the past 6 years we have moved 6 times and 3 states. Our occupation has been in retail, which could be considered our number one reason for continuing to school at home. Weekends and holidays are normal workdays. To allow for any family time we have to do things differently. Additionally, our moves have been within a few miles to thousands of miles from the previous home. Regardless of the distance, each one of them would have required a school change. There has even been a year that we schooled on the road because of how much travel we were doing. We not only lived through the year 2020, but thrived. Any one of these challenges could have had a negative impact on my children's progress and learning. Since we school at

home we can individualize the delivery of standards aligned curriculum provided by these public programs and keep continuity and consistency. This is also a reason we choose to do school during the summer months, making education seamless.

I am not North Dakota grown but this is the state where my children are being raised and I am definitely advocating for choice programming and innovative opportunities. I imagine North Dakota wants to promote industry and growth and opportunity for the state; we want the people who come here to have the opportunity to get the education they need for their family. This supports our economic growth and success as a state. People are understanding they have options and they need and want them.

As you can see I had abundantly more innovative educational opportunities 10 years ago and across multiple states than I currently have here in North Dakota. Please help bring innovation to our North Dakota students and don't deny them of having educational opportunities that have become available within the state. Additionally, I believe parents should have the right to choose for their students to attend schools available in the state, regardless of resident district. I believe in educational choice and I believe that the choice should be left to the parents.

Please vote yes to HB 1376

Sincerely,

Amanda Crane

**House Education Committee  
Testimony in Support of HB 1376  
February 1, 2023**

Chairman Heinert & Members of the House Education Committee,

My name is Lisa Feldner. I'm testifying on behalf of [yes. every kid.](#), and we are excited to support this bill. We believe that every child is a unique individual, and they deserve the opportunity to flourish. We are agnostic about what type of school a student attends. It could be a public school, private school, homeschool, or a combination of those. We are NOT agnostic about who should be the primary decision-makers—that's students and families.

Students and parents deserve a choice in the education they receive. Debates surrounding curriculum transparency and the pandemic have led to a variety of potential solutions, including school choice and online education. We believe that HB 1376 is the best solution. The bill allows a more personalized education through the ability to choose the school district that best fits the student's needs, and if that school district is not nearby, allows them to attend virtually.

We ask for a Do Pass recommendation on HB 1376. Thank you.

[yes. every kid.](#)

Thank you for your consideration of this bill and the individual needs of ND families the changes this bill represents. My interest in this bill is due to my experience with attempting to enroll my kids in a virtual school at the start of the 2022/23 school year, which went as follows:

I was told about TechTrepAcademy being available to North Dakota students for the first time this year by a friend of mine, who was familiar with the program because she had a sister residing in another state using it and enjoying it. I made some phone calls and did my best to research its integrity and values, and proceeded to enroll my three kids for the upcoming school year. Being it was new to the state, I was the only family in our school district that enrolled. We were approved and the kids' learning schedules were planned out, books were ordered, and classes started.

Note, the program does not offer comprehensive classes or their own curriculum of any sort. Their purpose, rather, is to work alongside the parent as the teacher, and support and guide accordingly. The student's learning progress is reported to and regulated by a certified ND teacher on a weekly basis, and passed or failed accordingly. All of the reporting stressed me out a bit in the beginning, but after becoming routine, I came to really appreciate it... it kept my family's schoolwork on track and was a great filing system for my own record keeping purposes.

My oldest two sons, in 6th grade and 3rd grade, both elected two different virtual classes each. One took a writing class and a math class, the other took a language arts class and a math class. Again, these are not comprehensive but supplemental to the curriculum we use at home. Each class is a one hour, weekly class, and is instructed by a live teacher over zoom call with 10 or so other students. The boys LOVED the classes. It has been so good for them to experience a classroom setting, as well as group thinking with other students. They are assigned homework that they complete each week and digitally turn in, which even my 3rd grader is able to navigate on his own with their user-friendly system. Overall, I have been most thankful for the virtual classes... 100% great experience and profitable for my kids' learning progress.

About a month into the school year, I was notified by TechTrep that they had not yet received the Cost Sharing form (that they had originally received a verbal agreement to) from certain school districts throughout ND, and my school district was one of them. I contacted the superintendent of our Valley City school district and asked if he had received the form to sign. He replied that he had received it, and he and the board decided together to not sign.

I was disappointed to say the least. First off, I wasn't aware originally that to enroll my kids in a virtual school, after homeschooling our entire school life, required the approval of our local superintendent. In the past 7 years of our children's education, we haven't used the Valley City Public School facilities or services. Why it would matter to them what program we were using for education, with no profit or loss to them, was beyond me. Secondly, this virtual school program is a really great concept! We value the option in ND to homeschool and found a program like this to greatly enhance our efforts. I would think officials truly interested in the public's education would welcome such a program. Lastly, it made me feel like I, as the parent, did not have the ultimate authority in deciding what is the best option for my children's education.

In-Home schools, Virtual schools, and Microschools are becoming more common across the country. I would like to see North Dakota advance in their education standards as more concepts are introduced. And, instead of fearing the change that comes with such progression, to welcome it by always looking for ways to improve and enhance our current methods.





**NDSBA**  
NORTH DAKOTA SCHOOL  
BOARDS ASSOCIATION

P.O. Box 7128  
Bismarck ND 58507-7128  
1-800-932-8791 • (701)255-4127  
[www.ndsba.org](http://www.ndsba.org)

**HB 1376**

**Testimony of Alexis Baxley**

**House Finance & Taxation**

**January 24, 2023**

Chairman Heinert and members of the House Education Committee, my name is Alexis Baxley. I am the executive director of the North Dakota School Boards Association. NDSBA represents all 170 North Dakota public school districts, their boards, and several multi-district special education units.

NDSBA opposes HB 1376. While we appreciate the flexibility virtual education has provided to public schools in North Dakota and their students, we believe HB 1376 has gone too far.

First, by removing a local districts ability to approve the enrollment of its students in a CDE program, this bill takes away local authority, and yet, expects the local district to cover the cost.

In section 2, the bill requires districts to permit students to enroll in any virtual education program of their choice and removes any deadlines for doing so. This is problematic for all schools, but particularly small schools. The ability of a student to transfer at any time will negatively impact a district's ability to predict its enrollment and budget. What happens if a student opts to leave in the middle of school year? The bill does not provide a mechanism to account for a student who has already been counted in their home district's ADM leaving mid-year.

Section 3 of the bill completely removes the application deadline and required timeframe for boards to a consider open enrollment applications. With this change, students would be able to open enroll in any district at any time, including mid-school year. This would also impact the home district's ability to predict its enrollment, which will, in turn, lead to budgetary and hiring concerns. The bill also does not take into consideration the costs of educating these students by the receiving district. NDCC chapter 15.1-29 addresses the education of students from other districts and provides requirements for payment of tuition if a student is educated by a district other than their home district. This chapter addresses those circumstances where a student wishes to attend a school district other than their home district but is unable to open enroll (either because the student has missed the deadlines or the receiving district has closed open enrollment). If HB 1376 were to be adopted, this chapter would largely be rendered irrelevant. If a student must not follow any deadlines and a school district has no choice whether to release or accept a student, why would student petition for a tuition agreement? Without a tuition agreement, transfers under this section could leave a district with less – or more – state aid than they are entitled to based on the funding formula.

The bill also limits a districts ability to deny open enrollment based on capacity and completely eliminates the ability to close open enrollment. Currently, school districts have the ability to decide whether they are accepting open enrollments or are effectively “closed.” Once a district opts to accept open enrollments, there are limited acceptable reasons to deny an application for enrollment. The reasons are limited, but important. Removing a district’s ability to choose whether they are open or closed AND further limiting a district’s ability to deny an application due to program capacity will negatively impact these schools. Program capacity is just as necessary as school and grade level capacity. A receiving district forced to accept an open enrolled student it did not budget nor plan for in an already full program will be less able to effectively serve its current students.

For these reasons, NDSBA stands in opposition to HB 1376 and encourages this committee to give it a do not pass recommendation. Thank you for your time, and I will stand for any questions.

23.0426.02003  
Title.

Prepared by the Legislative Council staff for  
Representative Timmons  
February 3, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1376

Page 1, line 3, after "students" insert ", state aid for school districts providing virtual instruction,"

Page 2, line 6, after "**management**" insert "**- State aid**"

Page 2, after line 18, insert:

- "4. Notwithstanding section 15.1-27-04.1, if the school district provides virtual instruction under this section, the amount of state aid to which a school district is entitled is:
- a. The amount listed in paragraph 1 of subdivision a of subsection 3 of section 15.1-27-04.1 for the 2023-24 school year.
  - b. The amount listed in paragraph 1 of subdivision b of subsection 3 of section 15.1-27-04.1 for the 2024-25 school year and each school year thereafter."

Renumber accordingly

23.0426.02006

Sixty-eighth  
Legislative Assembly  
of North Dakota

**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 applicable~~ applies 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.

23.0426.02006  
Title.

Prepared by the Legislative Council staff for  
Representative Schreiber-Beck  
February 9, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1376

- Page 2, line 9, replace "provided by the school" with "through an approved virtual school"
- Page 2, line 10, remove "A student who wishes to enroll in a school"
- Page 2, replace lines 11 and 12 with "A resident school district may not deny open enrollment to an approved virtual school."
- Page 2, line 22, remove the overstrike over "~~By March first of the school year preceding the year of enrollment, a parent who~~"
- Page 2, remove the overstrike over lines 23 through 31
- Page 3, remove the overstrike over lines 1 through 4
- Page 3, line 5, remove the overstrike over "4."
- Page 3, line 8, remove the overstrike over "5."
- Page 3, line 8, remove "2."
- Page 3, line 14, remove the overstrike over "6."
- Page 3, line 14, remove "3."
- Page 3, line 17, remove the overstrike over "7."
- Page 3, line 17, remove "4."
- Page 3, line 22, remove the overstrike over "8."
- Page 3, line 22, remove "5."
- Page 4, line 1, remove the overstrike over "~~program,~~"
- Page 4, line 2, remove the overstrike over the overstruck comma
- Page 4, line 7, after "a" insert "program."
- Page 4, line 7, after "level" insert an underscored comma
- Page 4, line 9, remove the overstrike over "~~; or directly exert influence on the student or the~~"
- Page 4, line 10, remove the overstrike over "~~student's family, in order~~"
- Page 4, line 11, after the period insert "The actions prohibited under this subdivision do not include providing informational materials about the program."
- Page 5, line 17, remove the overstrike over "~~or~~"
- Page 5, line 20, remove "; or"
- Page 5, remove line 21
- Page 5, line 22, remove "served by another school, including a virtual school"

Page 6, line 3, remove the overstrike over "~~The student's school district of residence shall transport the student to school in the~~"

Page 6, remove the overstrike over lines 4 through 7

Page 6, line 8, remove the overstrike over "6."

Renumber accordingly

HB 1376  
2/1/23

Good Morning Chair Heinert and  
committee members,

My name is Jared Crane and I am a  
resident of Bismarck district 47.

My appeal is one for individual liberty.  
Having moved to North Dakota a short 2.5  
years ago, I have become somewhat  
familiar with the political landscape. When  
it comes to states honoring the rights of  
the individual, I have been very impressed  
with how this state operates and protects  
my and my families rights.

My only dissapointment, thus far, has been  
a denial of my choice to enroll my kids in  
the program that has been mentioned  
before (Yellowstone school district  
distance learning, Tech Trep Academy). I  
understand that the discussion seems  
more nuanced, maybe even complicated,  
than to define it as a simple right to  
choose what is best for my family and my  
children, but that is the core of the issue. I  
believe that the decision of how to educate  
children should ultimately fall on the  
parents.

I have lived in two other states that offer

fewer liberties to their citizenry, this was especially true of California.

Homeschooling was chosen on my part because we lived in California and the education system there was less than desirable, to put it lightly. We lived in an area that had extremely high rankings and award winning programs, but still I chose homeschooling. We were later introduced to the idea of public charters, and found that they were most helpful as a resource to our family. We have since sought out this type of opportunity where we relocate. Here in North Dakota, my children have been denied the opportunity to do what we found to be a best option and as a result we have found that our liberties have been diminished.

I ask that, as you consider this bill for approval, an appropriate amount of weight be given to individual liberty. Thank you for your time.

23.0426.02001

Sixty-eighth  
Legislative Assembly  
of North Dakota

**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

Sixty-eighth  
Legislative Assembly

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. 4.

7 ~~4.~~ A parent who wishes to enroll a student in a school district other than the  
8 student's district of residence shall file an application for approval with the board of the  
9 admitting 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 3. 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       ~~45.1-31-04~~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 4. 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 5. 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           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

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

23 ~~— **15.1-31-01. Open enrollment - Procedure.**~~

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

Sixty-eighth  
Legislative Assembly

- 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 applicable~~applies~~ 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.

To whom it may concern,

I wanted to first thank you for your service to our community. I would like to ask for your support in the need to write an addendum in to the century code, giving parents' permission to choose for their students to attend schools such as Yellowstone Virtual Academy/Tech Trep Academy. I am fortunate that the School District of Grand Forks allowed my son to attend Yellowstone Virtual Academy however, other school districts have denied parents the rights by not signing the cost share agreement with this tuition free public education. I am strongly in favor of allowing open enrollment for a child to be able to attend a virtual school.

I am a mother of four, a military spouse, and a pharmacist. I have one child attending 5th grade at Twining Elementary, however have my 3rd grade, 8- year-old attending Yellowstone Virtual/ Tech Trep. The educational resources of the Tech Trep program have allowed me to tailor to my 3rd grader's needs. I have known since kindergarten he has needed help in reading/writing. I know I did not go to school to be an educator, but using a virtual school, Tech Trep, has given me the confidence and resources to tailor his education to his needs and help him grow to be successful.

We were stationed in California where resources were not readily available along with COVID shutting down so much it made it impossible to get help for him. I chose to have them attend a charter school, similarly to Tech Trep, I was primarily the teacher at home. I feel this was monumental for my 3rd grader's development. He hasn't been diagnosed with any learning disabilities, but has more difficult time with writing. I attribute all his growth and abilities to being able to attend an at home charter school and tailor his education to him. We have made huge strides this year in school because we have been able to seek occupational therapy and focus on eye training along with his 3<sup>rd</sup> grade curriculum all while maintaining confidence in his school work. He hasn't been able to be pulled from class to attend his appointments. His growth, which we predicted to take 1.5 years he met and exceeded

within 3 months. I don't feel those strides would have been made if he would have been in the traditional setting. He is completing grade level language arts curriculum, and he is completing and above grade level math.

I feel confident teaching him because Tech Trep has a teacher who is guiding me when needed. I want that for every family. I have currently not been working, and have worked part-time in past to support my children and their educations. The ability to choose my child's school, and educational resources has been essential for his growth and development.

I do not feel my son would be learning, and or succeeding like he is in a traditional school classroom. His abilities and the way they test in many classrooms wouldn't gauge his understanding at the moment. I know there are programs in school to help but as a mother I know he is best at home and is worth my time and attention. One day I do hope to send him to school, I know he would love being with his peers. I would like if the virtual academy would have open enrollment because it would give me the confidence to put him in traditional school setting, I could always re-enroll for the support and resources given for his personalized education if that was needed for his success. I understand this may be difficult with finances.

My fifth grader currently enrolled in traditional school setting enjoy school. He works very well with peer pressure, it motivates him where my 3<sup>rd</sup> grader doesn't like the competition. My 5<sup>th</sup> grader has done very well with his STAR testing, which reiterates that the last 3 years I have actually taught him something. Some days while being the primary teacher for your children you question, "Am I doing enough?" I feel I am but I would not be where I am or understand what I do about educating my children without the help of my resources/teachers at the Virtual Academy.

I have been wrestling with the thought of sending my child to Twining elementary this coming year. I would love to be able to decide in June if he would be able to be confident in a traditional

classroom. When signing my child up this year, I was explained that open enrollment/ interdistrict transfers needed to get done before March, or to have moved. I was fortunate to have moved here this summer. I had fellow friends in different areas of North Dakota denied the opportunity to have the resources Tech Trep has given me. I was somewhat discussed that we would have to make the choice by March, so much can change between March and August. Family and children's needs change immensely. In the military we could be told we are moving to a whole new country, have to sell and home and move with in that time period. I feel bound and great pressure to make the best decision for my child 5 months ahead.

I ask to please allow the open enrollment to the Virtual Academy to be a rolling enrollment. Families change, needs change, and allowing parents to choose what is best for their child is what is most important. As a parent, I love that I am held accountable in what is needed to be taught, hours, and that I have a professional teacher there every day to assist me as needed. I have been blessed to have been able to partake in this first year of Tech Trep in North Dakota. Thank you for your time and consideration. I was not able to attend the hearing this week, but am available if there are any questions I could answer in regards to my experience with Virtual learning. I would love this opportunity to be available to us parents who may not have everything altogether 5 months ahead of time. I most importantly ask that you give us parent's the choice for our children.

Thank you,

Christine Zenzen Pharm D.

[Czenzen1@gmail.com](mailto:Czenzen1@gmail.com)

Our daughter, Elowen Butz, was enrolled in Tech Trep Academy (TTA) through Yellowstone Virtual Academy of North Dakota for the 2022-2023 school year but was forcibly unenrolled because the school board has refused to sign the required cost share form. We, and many other North Dakotan families, are being forced into homeschooling due to this situation. Yellowstone Virtual Academy and Tech Trep provided us access to community, in person and virtual field trips, and the support of the virtual school system. Due to this innovative opportunity in North Dakota, we can better meet the needs of our children. We like to say that the kids are our future, but what kind of future are we building for them? Who knows our kids better than us, the parents?

In this tuition-free public school we were assigned a North Dakota licensed teacher and my child is required to meet North Dakota State Standards. The teacher answers questions, encourages student learning, and approves documentation of proof of student learning. With this schooling at home model. I, as the parent, am held accountable for my child's learning and was turning in physical proof every other week for every subject. This model helped me to feel confident that my daughter was learning, not only things she needs to be successful, but also real-life applications. If she one day chooses to join Bismarck Public Schools for high school, she will be prepared.

Because Elowen is not in a classic brick and mortar school, she is able to participate in more field trips, experience hands-on learning, and live on a schedule that is conducive to her needs and learning style. As a five-year-old, she attends 5-6 hours of therapies every single week. She struggles with debilitating anxiety and issues with executive functioning, such as planning and decision making. She was also a witness to domestic violence outside of our home. Accessing the number of resources she needs, while remaining in a North Dakota public school, was only possible because of this advancement in technology. I appreciate that we can school at home and meet North Dakota's state academic standards without compromising my child's mental health or quality of education. We have made trips to the zoo, Gateway to Science, the library, the History Museum, and Medora.

One big question is probably, "what are our kids missing by not being in a brick-and-mortar school?" You know what my kid is missing out on by not being in the Bismarck Public School system? She is missing out on possible bullying that could incite her anxiety. She is missing out on classrooms with too many kids and exhausted teachers, who cannot possibly address all of her needs. She is missing out on sitting at a desk for a large part of the day, which is frustrating and can be difficult for any child. She is missing out on not having full access to the mental health services she needs because the resources our schools are able to provide are limited. Schooling at home allows us to meet Elowen's mental health needs without her having to be pulled from school multiple times a week or being a distraction to her classmates by coming and going for appointments.

Elowen is always asking questions, and because she is not in a traditional classroom, every question can be answered. Whether it's something I already know, a quick google search, or a trip to the library, we don't have to worry about interrupting an entire class's learning and her questions don't have to go unanswered. We are growing confident problem solvers who can be independent but aren't afraid to ask for help.

Put students first, not school districts. Please allow students to participate in Yellowstone Virtual Academy regardless of what school district they live in. We are building a stronger generation, a stronger future, a stronger North Dakota.

Thank you so much for your time and consideration,

Miquela Butz

507-475-2377

[miquela.gaalswyk@gmail.com](mailto:miquela.gaalswyk@gmail.com)



**Amanda Crane**

4224 High Creek Rd.  
Bismarck, ND 58503  
(619)972-3870  
Roadschool18@gmail.com

6th March, 2023

Dear Chair Elkin and Senate Education Committee,

I am in favor of House Bill 1376 that would allow students to participate in a choice virtual program.

I have been an at home educator in some way or another for the past 10 years. I began my home education journey in California with support from a virtual school much like Yellowstone Virtual Academy. This has continued to be the way in which I have educated my children at home until moving to North Dakota. A common thread of each of these public programs was direct access to personalized educational support with a state certified teacher with whom I could meet in person or via phone or email anytime I needed. Additionally, we were motivated and kept on track by weekly accountability, record keeping, and access to supplemental educational resources.

Without these public options I have still chosen to educate at home while living here in North Dakota. We have loved what educating at home provides for our family and the educational opportunities available for our children. Since we school at home we can individualize the delivery of standards aligned curriculum provided by these public programs and keep continuity and consistency. This has helped make our education seamless from year to year as we choose to continue through summer months and made the year of covid a non issue in our home.

I am not North Dakota grown but this is the state where my children are being raised and I am definitely advocating for them to have choice programming and innovative opportunities. Because North Dakota believes in public education I believe they want to support student success through expanded opportunities and programming that meets individual needs. I believe North Dakota wants to promote and encourage industry, growth, and innovation for the state; we want the families who move here to feel that their children have the opportunity of a transformational education that promotes contributing members of society. It supports our economic growth and success as a state.

Please help bring innovation to our North Dakota students and don't deny them of having educational opportunities that have become available within the state. Please vote yes to HB 1376.

Sincerely,

Amanda Crane



1 HB 1376 Virtual Instruction Enrollment

2 Testimony in opposition

3 Chairman Elkin and members of the Senate Education Committee – we come to you  
4 today to ask that you please help us hold tight to certain laws that have ensured  
5 appropriate use of taxpayer dollars, keeping our dollars in state, doing what is right for  
6 the students, and laws that have been carefully crafted to allow for choice yet with  
7 prudence and appropriate levels of caution and decision making locally.

8 At first glance, one might seem that there isn't any issue with this bill. Please let me  
9 help you see that there are immense challenges represented here. First, when this body  
10 passed the opportunity for virtual instruction this past session, there was real context  
11 for it and scenarios that were deemed acceptable. After COVID and a couple years, the  
12 number of districts offering a virtual academy have dwindled for the most part it is only  
13 in larger communities that have a different staffing opportunity. Virtual was not ever  
14 intended to replace regular instruction, serve as a recruitment tool, replace high quality  
15 virtual CTE instruction with a hands-on component, nor as a modality to turn a profit  
16 and to funnel revenue out of state while burning inappropriately through tax-payer  
17 dollars.

18 Open enrollment laws, as they currently stand, are both measures to help protect the  
19 opportunity for parents and students to choose but to also provide reasonable limitations  
20 to allow for planning and capacity purposes. They also protect from basic NDHSAA  
21 nuances regarding student competition in sanctioned events. The dates and timelines



1 set for open enrollment allow school boards to account for current enrollment, staffing  
2 capabilities we are forced to have as our reality as we grapple with individual burnout.

3 If this goes through and program capacity is eliminated from consideration for open  
4 enrollment approval and denial. For highly specialized IEP programs, there'd be no way  
5 to prevent open enrollment for programs that are already full and very expensive. Getting  
6 "program" added back to line 7 and page 4 with school and grade would be very  
7 important. Beyond that, there are other concerns...

8 The delineation between a virtual school and home schooling through a K-12 online service  
9 needs to be reinforced. For the homeschool parent, this is the best of both worlds and is the  
10 same as purchasing online curriculum from another vendor while being listed as a home school  
11 student in their resident district (and attending whatever they want). Our home school  
12 parents often argue they are not "home school" - they are attending an "accredited online  
13 school", however, want to sign up for all our extracurricular activities. It needs to be clear the  
14 virtual schools receive full state funding in ND and are NOT eligible for home school students  
15 to maintain their home school status - they are enrolled in a K-12 public school district and not  
16 eligible for services from their resident district. We have an agreement with Dickinson and as  
17 the resident district we receive a payment from them due to the fact they are receiving a full  
18 payment for the students and sharing some of the excess revenue; which was discussed when  
19 virtual schools were first considered and between the two school districts.

20

21 How can this work and be reasonable?

22 1. Ensure the school district offering the virtual education is limited to a base payment per  
23 the foundation aid formula. Based on size and other factors, some school districts are paid  
24 above the standard payment (\$10,237). The virtual learning students would be reimbursed at

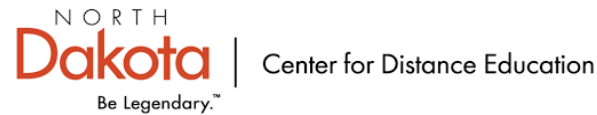


1 the state baseline payment regardless of their weighting factors and other components of the  
2 funding formula. Essentially, every school district offering virtual learning will be provided the  
3 SAME payment which is a significant “beef” with the other school districts at this point. The  
4 size and other factors in place for brick and mortar are not existent with the new virtual  
5 offerings and the payments should be the same and equitable.

6 2. The third-party contracting educational services with the school district can NOT provide  
7 direct payments to the families/students for technology or other educational expenses. These  
8 payments must be directed to the school district for their use in providing all the necessary  
9 educational resources needed by its students (computers, etc.). This avoids the perception of  
10 parent “kick-backs” using state/public dollars which is also an issue with this particular  
11 contractor that is also causing concerns. The “business” and financial aspects of the virtual  
12 learning agreement must remain with the school district and third-party contractor; parents are  
13 not part of that aspect and receive the “free” education as provided in a regular brick and  
14 mortar setting of which they are not involved in the financial aspects. They are provided a  
15 device and resources of which are turned back in when they leave the district; it should be the  
16 same for virtual learning and parents should not make a profit on it which is possible in the  
17 current Yellowstone situation. Virtual students receive their resources from the school district  
18 and NOT the third-party provider of which the school district can use the same practices in  
19 place as its regular students in terms of devices and shared resources.

20 3. Consideration of an amendment that would prohibit a parent from attending a virtual  
21 academy outside their resident school district UNLESS the resident school district does NOT  
22 offer a virtual learning option. So if you reside in a school district that offers a virtual learning  
23 option (approved by DPI); you must utilize that service. If your resident school district does  
24 NOT offer that option, the family is free to pursue options outside their resident school district  
25 with the provisions listed above.

26 We respectfully ask that you consider these items and further amend the bill or kill it.



HB 1376

03/07/2023

Chair Elkin and members of the committee, for the record, my name is Dr. Alyssa Martin, and I am the director of NDCDE. CDE is providing neutral testimony on this bill. We provide services to many stakeholders on both sides of the issue of virtual school choice, parents who have opted to enroll their children in CDE at their own expense and school districts that choose on behalf of their students to use CDE as a supplementary education provider but also typically require their students to attend local seated classes when available.

We wanted to testify today only because we're uncertain of how this bill will impact our enrollments. Because CDE is state funded, with any substantial increases in our enrollment, we'll need to seek additional spending authority through the Emergency Commission to use the tuition that we're collecting on paying additional adjuncts to deliver our courses. We may need to cap enrollments while we seek this authority and find adjuncts through the state hiring process. We temporarily capped enrollments one other time—during the pandemic as we sought an increase in our special spending authority—but we thought it may be best, for transparency purposes, if the authority of CDE to cap enrollments should be included in the bill. We propose this recommendation as an amendment to the bill.

As a current homeschooling parent who worked in the public school system for nearly 16 years, I come to you today showing my support for North Dakota's Yellowstone Virtual Academy/Tech Trep program and school choice for parents. This program helps provide homeschool parents with educational resources to create a more personalized home-based learning plan that matches their child's unique needs.

I have three older children who all graduated from the public school system. They each had bumps throughout their education, but at the time, other options were not available. The classrooms are full, behaviors are at an all time high causing distractions to those who want to learn, bullying occurs daily, mental health issues are on the rise and there is not enough support staff. During my years in public education, I witnessed a downfall in the teacher-child connections, parent-teacher connections as well as staff to staff connections. We decided last year that homeschooling our youngest was the best option for our son. Our journey of learning the different styles of homeschooling and choosing the best curriculum led us to Tech Trep.

Tech Trep helps supplement parents with expanded curriculum opportunities when it comes to the education of their children. It helps parents choose how their child is educated based on the child's individual skills, level of specific needs, religious beliefs or family preferences. What we need to realize is that no child is like another; they all learn in their own special way and in their own time. Our public school system is not set up to support each unique child and does not allow for parents or students, especially those in elementary or middle school, much choice on what or how each child will learn.

The flexibility of homeschooling curriculum as well as time scheduling is also very important to us because my husband works away from home most of the year. This allows us to be able to travel with him, allowing time for my son to learn from life experiences and for us to have more time together as a family. This program will help support the parents who want to get their kids out of a desk, which they are in for long hours each day, and it gets them out into their communities experiencing life while doing hands-on learning. As a homeschool parent, you realize that your child isn't only learning during the school year in a classroom setting, but all year round in all types of environments. And many kids, like my son, learn better in a one on one, relaxed setting with opportunities for different kinds of learning whether it's virtual or doing hands-on activities. Student success is key and in homeschool settings, it is individualized to each child's unique learning styles.

As a parent of a child who is homeschooled, I hear many critics, stating that homeschool children do not get enough socialization. My son is involved in sports in the community as well as learning co-ops and play groups. Tech Trep also hosts virtual

clubs as well as fun monthly get togethers in our communities with other homeschooled kids, which is a growing population.

When we look to the future, this program will open the doors for North Dakota to be an innovative player in the education of our children. By offering parents and students personalized resources, curriculum choices, available certified teachers as well as other learning opportunities both virtually and locally, Tech Trep helps parents to be able to provide education that fits each of their child's unique needs. I fully give my support for Yellowstone Virtual Academy/Tech Trep and parents' school choice in North Dakota.

Thank you so much for your time.



## Testimony in favor HB 1376

Chairman Elkin and members of the Senate Education Committee – for the record my name is Derek Gackle and I serve as the administrator for the Yellowstone School District serving East Fairview School and our newly created public-school and DPI approved, Yellowstone Virtual Academy. Thank you for your commitment to public service in our state.

Yellowstone School District is a small, unique K-8 graded elementary school district located on the ND/MT border in western McKenzie County. We currently serve 66 students at East Fairview, 30 students in Yellowstone Virtual Academy, and send another 33 high school students, with payment, across the border to attend high school at Fairview Schools.

As a small district we are always looking for ways to be innovative and provide new educational opportunities. For example, we were one of the first districts to switch to a four-day school week. When virtual schools became an option we initially thought that wouldn't work for us being so small and rural but we noticed that home school student numbers were on the rise, not only in ND but in the nation. We started to research virtual education opportunities that would attract home school students to public education. We wanted to provide a virtual schooling option partnered with a reputable third-party vendor focused on introducing home school students and families to public school scrutiny, oversight, and rigor. We found Tech Trep Academy.

We have done our due diligence with complete transparency during this process. We spent countless hours communicating with Mr. Kolosky and Mr. Tescher at DPI to make sure they understood our mission and vision for our virtual school. I also communicated with Dr. Copas at a summer golf event to ensure she was aware of our plan and provide any guidance. At the time, she was supportive of the idea. All of this led to our virtual academy gaining approval from DPI.

We partnered with Tech Trep Academy to provide a virtual school that meets the unique needs of students around the state including our own students. These are students that need to do school from home or choose to do so, but need flexibility in scheduling & curriculum. Currently there are 30 students enrolled in our virtual school and we hope to see continued growth as it proves effective over the years. Our virtual school is providing much needed additional income to our district while enrolling students that typically were not previously enrolled in a public school. Our focus is to offer the increasing number of home school students an avenue back into the public-school system.

Our goal is that once they complete grade eight in our program students would enroll in the public school in their district of residence. We see this as a win for everyone since it will decrease home school student numbers while simultaneously increasing public school population without costing the district of residence any per pupil

funds. Ultimately, the district of residence enrollment would also increase when these students enroll for high school, win-win.

We feel this partnership is on the cusp of the direction education could look years from now and are grateful for the resources and funding it is providing for our students. Yellowstone receives per pupil funding for each student enrolled in our virtual school. We then hire Tech Trep Academy to provide the educational programming. Our teachers are ND certified and living in ND, one in Mayville and one in Bismarck. The portion of funding we keep for the students takes into account the staff we provide on our side of things to enroll students, monitor performance, meet with TTA staff, provide special education services, etc.

We are proud of the accountability and support we are providing to many students who have never participated in public education prior to their enrollment. This is a choice program that families seem to really be gravitating to. We are grateful that our small district has access to a program that meets the students' needs that we may otherwise have struggled to staff or the families would have otherwise withdrawn from the system and been provided no accountability & support.

We believe we have been excellent stewards of our tax payer dollars. Yellowstone School District is currently debt-free while keeping our levies at the lowest limit allowed by law. Our constituents have shown they are happy with how we manage their money by recently approving a new construction project at 83%. The funds we generate through our virtual school are used to pay for programming, curriculum, staff, and support no different than the funds we use for our brick and mortar school. The hiring of Tech Trep is similar to hiring an instructional coach or strategist to help us provide the best education possible. We use many online vendors in our brick and mortar building that we must pay for with tax payer dollars. Partnering with Tech Trep provides many opportunities, expertise, coaching, and support that will ensure our virtual school is top of the line!

A current legislative concern of ours is that school districts throughout the state have the ability to deny students from enrolling in our virtual school even if the students were previously homeschooled and never set foot in their schools. For example, we have had almost 30 students denied enrollment this year because their district of residence refused to sign the cost-sharing agreement for zero dollars. Without a signed agreement we cannot educate the student. We feel our program is the best example of school choice and we want to continue to provide a public-school option that all students have access to.

Yellowstone School District asks for a Do Pass recommendation.

Derek Gackle, Administrator

Doug Gullikson, Board Chair

Regarding HB1376

My name is Heidi Pope, I am a resident of Bismarck, and I am a constituent in District 47. I am honored to be here to share my experiences and thoughts.

My husband and I are parents of 5 children. Our children have had a variety of educational opportunities and experiences over the past 25 years, including community schools, commonwealth schools run by families, public schools, concurrent enrollment programs offered by community colleges and universities and online schools similar to YVA. We have loved being involved in the education of our children. We are currently homeschooling our youngest child, a 13 yr old son in 8th grade.

Last summer we decided that he needed an educational experience that would help him prepare to attend our local high school. We wanted him to have more accountability to and feedback from teachers and mentors other than his parents. Yellowstone Virtual Academy (YVA) was a great fit for us, it was portable, he wouldn't miss school when we traveled, it gave us standards aligned curriculum, gave him accountability and the chance to excel in high quality STEM courses, activities and clubs—which he loves.

Like nine other Bismarck students, our son was denied the opportunity to participate in Yellowstone Virtual Academy (YVA) by our local school superintendent and school board. They were asked to sign a ZERO Tuition Cost share agreement (a document required in the state of ND). This document stated that BPS would NOT be financially responsible for any portion of our students' education while they were enrolled at YVA.

Currently the Century code defers the authority to the local school boards and superintendents—NOT PARENTS— for making critical decisions about a students educational environment. I don't see how this could be fairly done with students who have never been in the school system, that administrators don't know. This is a tragic misplacement of authority.

It's important to understand that NONE of these students would have pulled ANY funding out of the Bismarck School district because each of these 9 students had been previously homeschooled or not been enrolled in school yet.

I have seen that when parents have educational options for their students it fuels innovation and creativity. Educational options generate transformational learning experiences for students.

If school district administrators are permitted to deny a student the right to participate in a ND state sanctioned, standards based Virtual Academy– that is overseen by a North Dakota school board and Superintendent– and is supervised by North Dakota teachers– then educational equality for North Dakota students stops right here. ND education would take a backward step– away from “empowering every student to learn and be choice ready”at graduation– in favor of allowing the continuance of an outdated tradition of school districts operating like monopolies exercising authority, without accountability.

My son is currently an 8th grader. YVA powered by Tech Trep is available only for students in grades K-8<sup>th</sup>.

There are online schools offered in ND, such as the Center for Distance Learning. These virtual schools cost families between \$1200-1600 per year per student. Mandan offers another online option for students, but there is no virtual academy– provided in the state of ND– that is able to offer students the support and connection that YVA by way of TTA is able to. They offer families and students;

- Weekly teacher and administrative support, grading, communication and accountability for students and parents.
- Local Field trips
- Organized Community of friends and opportunities to participate in exceptional community events
- Online and in person clubs and classes
- STEAM lessons
- Special education options for students with learning disabilities
- Online educational tools that fit individual student’s needs and interests and programs that inspire every type of learner;

In addition, students have tuition free, unlimited access to many of the most innovative learning tools available online. Such as:

Epic, Brain Pop, Generation Genius, LEARN 360, MiWrite, Time/Edge, Code Monkey, IXL MOBY Max, Prodigy, Reflex Math, Study Island, Math Seeds, Edu-Typing, Accelerated Reader, Kids Discover, Adventure Academy, Center-vention, Beast Academy, CTC Math, DreamBox, Mr. Math, Dreamscape, Quill, Kiwi Co., ULAT (spanish/ French language program), Education.com, Flocabulary, Microsoft 360, ALEKS, Mystery Science, Music Lessons, LEXIA, Mathletics, Tinker Coding, Power up, ASL, Evan-Moore teacher files, Exact Path, Thinkwell, and more.

Yellowstone Virtual Academy, powered by TechTrep Academy, is not a homeschool program. In fact the local homeschool community strongly affirms that this is not homeschooling at all, its schooling at home—in an environment parents can choose, using state standards based curriculum and additional resources to meet the individual needs of their students.

YVA offers a program that fills a current gap between traditional homeschooling and public school attendance. This virtual program is not for everyone, but it is a great option for parents who share 50/50 custody of their children who spent time with both parents throughout the school year-but do not need to miss school to do so. It ideally fits families who travel and families with students who need special education support for students with learning disabilities or anxiety. It is outstanding for students who need to work at a slower pace, and for students who like to work ahead of schedule, and it is a great fit for families like mine who want to prepare a student to excel in high school, by increasing accountability to a teacher other than mom and dad.

YVA offers families an option— so that if needed, ND students can be educated in a non-traditional setting and still receive a North Dakota standards-aligned education. It is not intended to replace homeschool or public school. But It is an excellent way to support families like mine who have previously homeschooled, but are now seeking more accountability, more accessibility and more innovation to meet the needs of their students.

North Dakota Families need educational options. It is just not feasible to expect that every student is going to fit into a local public school program and be able to excel there or that every parent who's student doesn't fit the public school mold will be able to homeschool them.

School choice is gaining momentum across the country. Please give North Dakota families the right to choose to enroll in online schools such as Yellowstone Virtual Academy. Please put the students first in this decision.

Thank you for your time,  
Heidi and David Pope  
701-751-1627 (home)  
307-287-5729 (cell)  
[epaheidipope@gmail.com](mailto:epaheidipope@gmail.com)  
[dpomax@gmail.com](mailto:dpomax@gmail.com)

**TESTIMONY ON HB 1376**  
**SENATE EDUCATION COMMITTEE**  
**March 7, 2023**  
**By: Joe Kolosky Director of School Approval and Opportunity**  
**701-328-2755**  
**North Dakota Department of Public Instruction**

---

---

Chairman Elkin and Members of the Committee:

My name is Joe Kolosky, Director of the Office of School Approval & Opportunity with the Department of Public Instruction. I am here on behalf of the department to provide information regarding HB 1376 and virtual instruction.

Virtual instruction in ND has evolved in the past few years directly because of COVID-19. Prior to April 1, 2020, virtual instruction was legal in two ways: The North Dakota Center for Distance Education (NDCDE), and Interactive Television (ITV). NDCDE courses could be completed by the student in the comfort of their learning environment, be it the school or the student's home, and ITV courses were, and still are, streamed into the classroom.

On March 16, 2020, Governor Burgum closed all public schools and ordered all districts to create a Distance Learning Plan and submit to DPI for approval. All district plans were approved by the due date of April 1, 2020. Distance Learning was different across the state. We saw everything from live streams of lectures and labs, asynchronous and synchronous courses, to paper and pencil project packets.

The 2020-2021 school year started the K12 Smart Re-start. Districts were able to create their own healthy return to learning plan that was approved by the school board, not DPI; they were able to implement virtual learning in a way they saw best for their communities. We saw A and B days, where groups of students would go to school face-to-face on some days, and on other days they would attend classes virtually (synchronously or asynchronously). Districts were given the freedom to create very unique schedules that balance virtual learning and face-to-face learning or go to full face-to-face learning, or full virtual learning depending on the circumstance.

Then, during the 67<sup>th</sup> Legislature HB 1388 was passed; part of this bill ‘tightened up’ what virtual learning looks like in ND and defined how it would be conducted starting with the 2021-2022 school year. Regarding this bill, virtual instruction can be conducted in a district if the school creates a virtual school that is approved by the school board or governing board. This school has all the same rules and regulations associated with a brick-and-mortar school. This includes accountability, conducting assessments, school approval requirements, reporting, etc. The way we explain it is ‘a virtual school has to do everything a brick-and-mortar school has to do except cut the grass and clean the toilets.’ In addition, districts can instruct virtually because of weather or other conditions.



We worked diligently with partners to create the Administrative Rules surrounding virtual schools and guidance on what exactly is “weather or other conditions.” Regarding virtual schools, the rules include the requirement of an academic pacing guide (attendance is tracked through the academic pacing guide); in addition, the rules require educational equity, enrollment procedure requirements, and adherence to special education law (IDEA). As of today, there are 24 approved virtual schools in North Dakota.

Section 13 of HB 1388 in the 2021 legislative session addressed students open enrolling into another school district using virtual education. Students wishing to enroll in a virtual academy in another school district can only do so if the resident and educating school districts establish and approve a cost-sharing agreement. Century Code does not establish what services are covered by the cost-sharing agreement or how much a school district may charge. Foundation aid is always distributed to the educating school district when enrolled in a public school. Adam Tescher is present to answer any questions that you might have on open enrollment or cost-sharing.

Chairman Elkin and Members of the Committee that concludes my prepared testimony and I will stand for any questions that you may have.

### In support of House Bill #1376

We support the passing of House Bill #1376, which relates to virtual instruction of students and open enrollment. There is one main point, School Choice, which this bill fosters around. Within this topic there fosters two distinct, yet related, components to make as to why the passing of this bill positively impacts not just our family, but other families in the district with similar yet not exact circumstances.

The first component is access to flexible forms of education with regards to scheduling. We are a military household of 11. We are blessed with the responsibility of the education of our 9 children, and home education has been the best choice for our family. The flexibility of having our children at home allows them to thrive regardless of the sacrifices our family is called for in service to our nation. This flexibility is beyond what a brick-and-mortar school would allow due to temporary duty orders, short term assignments away from the area, and moving every few years as well as deployments. Allowing our family and other families this added flexibility in their schedules removes unnecessary/conflicting schedules and allows the family unit more autonomy of when key elements of their child's education can be applied.

The second component is access to quality alternative forms of curriculum. Tech Trep Academy (TTA) curriculum options differ vastly from the virtual option currently available in our district (district 43). District 43 uses the Center of Distance Education (CDE). The CDE has selected the curriculum for the grade and subject; moreover, it is structured as brick-and-mortar school but administered at home. It doesn't afford the students the ability to slow down when needed to grasp concepts or an option to excel when clearly ready to move into more advanced material. TTA, through the Yellowstone school district, has found a solution for families needing more than what other districts provide currently. They allow for an education focused on student success with the support of a North Dakota certified teachers, guided by parents.

A vote no on this bill would allow for the residing school district to control our student's education over both components outlined above. It would force families into a curriculum which does not meet their needs, or it leaves homeschooling families without support which tacitly would lower students' success. The support we receive from TTA has been phenomenal. We are in weekly contact with our teacher, and through our frequent conversations she has offered endless resources and supplemental material to strengthen and expand our lessons, thus our children's education, and our abilities as home educators. Our home room teacher is available to answer any question we may have; furthermore, she provides accountability to North Dakota guidelines for education ensuring a standard is being upheld with each individual student. All this is being accomplished while still allowing for our family to choose the curriculum that works best for each of our children and their specific needs.

In closing, Tech Trep Academy, through the Yellowstone School district, allows for personalized choice and success for each child regardless of family income and dynamics. Through their program, TAA offers families legitimate resources, support, and choices for all. This enables families to have successful educational development of their children.

Please vote yes on House Bill #1376 which will allow families to provide a specialized, tailored education for their students and give students and their home educators the resources and opportunity to flourish.

Thank you for holding this hearing and for the opportunity to provide testimony.

My name is Andrew Yates, and I represent yes. every kid. We are a nonprofit dedicated to creating an environment where every student has access to an individualized learning experience. House Bill 1376 allows students to attend the public school that best meets their unique needs, regardless of attendance boundaries. A ZIP code should never dictate a child's opportunity, and we appreciate your willingness to focus on this important issue.

In North Dakota, where a child attends school is almost always determined by where he or she lives. This results in severe geographic inequities that can negatively impact a child's future success.

Residents can access public goods like parks, libraries, or hospitals regardless of where they live. However, children in North Dakota are too often denied access to quality public schools simply because their families cannot afford a home in a particular neighborhood.

HB1376 is a great first step to breaking down those barriers by allowing students to access the school that best fits their individual needs, learning environment, and specialized programs. This legislation moves us away from an institution-centered public school system to a more student-centered system.

We would also like to recommend a change we believe would help schools better provide for their communities. We would recommend an amendment that deletes lines 23 through 30 on page 2 and lines 1 through 6 on page three ((23-30 Pg 1& 1-6 Pg 3)). This amendment added to the bill, while purposed with good intent, hinders the ability for schools to adapt and enroll students as openings come available. There are countless reasons that children move schools throughout the year but one of the most glaring barriers we have is the beginning of the school year. Often there are students that do not return the next year for one reason or another. Without a continuous enrollment strategy, these spots will simply sit empty. Allow the schools to make the decisions regarding their capacity without arbitrary dates.

In closing I would like to reiterate: No child should be deprived of a quality education simply because of their ZIP code or family's income. This legislation will expand opportunities for North Dakota students while empowering families to make decisions that are in the best interest of their child. For these reasons, we respectfully ask for your favorable support of this legislation.

Thank you for your time.  
Andrew Yates

My name is Jennifer Connell, and I currently have three children enrolled in Tech Trep Academy. I wanted to share with you a little bit about our family, and why we believe that educational choice is so important for families in North Dakota. Our break from the brick and mortar school system came about three years ago. When kids were sent home due to COVID, I recognized how much my middle child was struggling with her reading, reading comprehension and spelling. She was in third grade at the time. She had always gotten good report cards, and positive parent teacher reviews. She had been on an IEP for reading since mid-kindergarten, and was meeting with a reading specialist several times a week, but I was shocked at how far behind she was when I observed her learning in person. I immediately took her to an outside reading specialist, and she was diagnosed with dyslexia and dysgraphia. As I learned more and more about dyslexia, I recognized a lot of those same struggles in my older daughter, had her tested, and she was also diagnosed with dyslexia. We live in a smaller town, and it became very clear that our school just didn't have the resources or the knowledge to help my children. I began learning all I could about teaching dyslexic kids, enrolled them in private tutoring to help with their dyslexia, and decided that the next year I would not enroll her in our local public school.

This decision was also the best for my oldest daughter. Three years ago, my oldest daughter contracted an illness that caused her to miss nearly a year of school. She was experiencing severe neuropathic pain that began about a week before school was to start. She always did well in school, but experienced some bullying. It is a small school, and many of the kids in her grade were pretty awful to her. Her symptoms started mildly, but increased in severity until she was unable to walk. She endured exhaustive testing by nearly every pediatric specialist in North Dakota, and was seen at Mayo Clinic several times. No medication they gave her worked. Her illness baffled all of her doctors. Her case was submitted to the Pediatric Diagnostic Clinic at Mayo and was accepted by their team. It was eventually discovered that she was having an extreme stress response that was causing her to have physical pain and had to be put on nerve blockers for months in order to calm her symptoms down. Her anxiety about returning to school had triggered the response, and we knew at that point that sending her back to that environment would not be good for her.

While homeschooling was not a bad choice for us for the start of our journey, when I heard about Tech Trep Academy, I knew it was just what we needed. I have benefitted so much from having additional educational resources that were not available to me as a homeschooler. Having access to virtual courses, to curriculum advisors, and a homeroom teacher that provides guidance and feedback has been amazing for us. My oldest daughter is a few months away from catching up to being at grade level after missing almost a year of school. My middle daughter is reading and writing so much better than before, but more importantly we now have resources to help her in her growth. They participate in virtual clubs and enjoy that peer interaction. Not only have the additional resources and customized curriculum helped them in their core studies, it has allowed us to provide a customized education plan that supports their interests and talents. For example, my oldest daughter is a talented artist. Although

she is only in 7th grade, she is taking a high school art class where she is excelling, She has also started taking a digital art course, an animation course, and a coding course and is creating her own programs and games. She just turned 13. Her sister loves baking and has chosen a decorating class as her elective this semester, and they are both enrolled in a Young Entrepreneur Club where they are learning about starting their own businesses. I am so happy with the opportunities they have been given as we have been able to choose our own curriculum while still having access to resources. Being able to provide them with a curriculum that works with their dyslexia instead of them constantly having to fight against it has been a game changer.

This year my youngest daughter is kindergarten age. Since I learned dyslexia is hereditary, I decided to have her tested early. She had several dyslexia markers, and so I contacted the school to see if there could be accommodations made to start her reading journey with an Orton-Gillingham based method, that is proven to have the most success for dyslexic kids. I was told that they would not do that, and that if she struggled they would just hold her back and make her repeat kindergarten. This did not seem to be a great solution to me, so we decided to enroll her in Tech Trep as well, and I am so glad we did! She has had access to so many resources, fun virtual clubs geared towards her age group, and she is already reading after using an amazing curriculum recommended to us.

There were several points being debated previously that I would like to speak to. First was the usage of surplus funds by Yellowstone School District. I took the opportunity to speak to a member of their school board, and found out that the kitchen in their school has not been updated since the 1950's, and they have hopes to be able to bring their kitchen up to standard in order to better serve the children attending school there. Knowing that surplus funds will be used to benefit children in our state, as is surplus funds in every other school district that I am aware of, made me feel that this is a win/win situation for meeting the needs of children in North Dakota. There was also a concern brought up about using an out of state vendor such as Tech Trep Academy, and that it is essentially diverting funds to another state. If this is being used as an argument against vendors, then perhaps we should also require that textbooks, computers, desks, and any other vendor supplies only be purchased in North Dakota? It is my understanding that many if not most states use out of state vendors to provide distance learning opportunities, much like Tech Trep Academy.

I have loved Tech Trep so much that when the opportunity was presented to be a field trip coordinator for North Dakota, I jumped at the chance. I have had the opportunity to meet so many families from across the state that would love the opportunity to participate in a virtual school option, while still having the freedom to choose their own curriculum. We are so fortunate to live in a school district that was willing to sign our cost sharing agreement. We are hoping to be able to move closer to my husband's job, but are concerned that moving to another school district will limit our educational choices for our family. I believe that every family should be able to have a tuition free public education, but also have the freedom to school their child in a way that best

serves their personal circumstances. For us that includes having a choice in what curriculum we use.

Thank you for your time. I appreciate you being willing to promote educational choice in North Dakota!

**HB 1376 Parent Student School Choice****Representative Michelle Strinden****Tuesday, March 7th 2023**

For the record, my name is Michelle Strinden and I represent the people of South Fargo's District 41.

Every child is unique, and all children learn differently. Parents need to be empowered to pursue the educational environment that best fits their children and align's with their personal values. According to EdChoice.org, a non-profit foundation founded by economist Milton Friedman, today there are 76 educational choice programs on the books in 32 states, the District of Columbia, and Puerto Rico. The Center for Education Reform lists Florida leading the country as the number one state that expands parental opportunities for their children's education. Other states that rank at the top of the list include Arizona, Indiana, Ohio, Wisconsin, West Virginia, and Minnesota to name a few. Sadly, North Dakota is at the very bottom of the annual assessment called the Parent Power Index which ranks states on the degree to which they allow school choice options and parental involvement.

North Dakota K-12 students and their families have very little choice. Parents education options for their children are expensive private schools, homeschooling, and very limited open enrollment. Many North Dakota children succeed at their assigned public school, but some students need a different learning environment that better fits their unique needs. For instance, bullying may make a school environment dangerous to a child's social and emotional well-being. Perhaps a struggling reader in 1<sup>st</sup> or 2<sup>nd</sup> grade could learn to read in

another school better trained to teach the science of reading. The Covid 19 pandemic has also led to parents greater understanding about how their children are being educated.

The pandemic increased school disruptions in many ND districts with school closings and mask mandates. This caused many parents across our state and country to look to other options for schooling and increased the school choice movement nationwide.

HB 1376 allows parents more involvement in deciding what is best for their children's education and gives parents increased flexibility to solve problems that are hindering or even harming their children. The bill still provides reasonable provisions for public schools that are at capacity, while encouraging healthy competition and incentivizing schools to improve instruction for all students. This is a very good thing and much needed given North Dakota's low reading and math proficiency rates. According to our ND DPI's dashboard, our students are only 44% proficient in ELA and 39% proficient in math.

HB 1376 states that a school of residence may not deny enrollment of a student at the Career for Distance Education to ensure that every student has the opportunity to pursue online courses that meet their unique needs. Students also must be able to open enroll virtually at another ND approved school district if they choose to do so. Currently, school district administrators have the power to deny students from enrolling in other North Dakota virtual schools.

The Yellowstone School District (K-8) in McKenzie County is one such public school providing a virtual school learning opportunity for students. Tech Trep is the vendor providing a personalized flexible curriculum and methods for a 21<sup>st</sup> Century global economy. Yellowstone is also excelling in math and reading proficiency. [Insights.nd.gov](https://insights.nd.gov)



shows that Yellowstone School District is outperforming state reading and math scores by 20 to 25 points respectively.

This fall, resident schools refused to sign the cost sharing agreement for approximately 30 North Dakota students who wanted to enroll in the Yellowstone School District's virtual school. Many of these students were homeschooled children, which means they would not lose one dollar of the per pupil payment. These families wrote letters to their superintendent's and school boards explaining their situations and asking them to reconsider, but unfortunately they were still denied enrollment.

What is best for the children? It's time for North Dakota to take a step in the right direction. School choice options can help certain students find a safer and more appropriate learning environment tailored to meet their needs. It provides options for low income families and holds public schools accountable. ND parents deserve the right to choose quality education that improves academic achievement for their kids. School choice means freedom to choose, and our ND education system needs more of it.

Thank you for your consideration, Chair Elkin and Senate Education committee. I stand for any questions you may have.

1 HB1376– Relating to Virtual Education

2 Mandan Public Schools – Mike Bitz, Superintendent

3 Good afternoon Chairman Elkins and members of the Senate  
4 Education Committee. For the record, my name is Mike Bitz. I  
5 am fortunate to serve as the superintendent for Mandan Public  
6 Schools. Dr. Aimee Copas had a conflict and she could not be  
7 her so she asked me to cover for her. In that capacity, I am here  
8 today to support HB1376 if it can be amended to address a few  
9 concerns from the field. I will be brief.

10 The ND Funding Formula has a school-size factor. This factor is  
11 in place because of the efficiencies associated with size. Schools  
12 like Mandan are guaranteed \$10,237, per pupil. While schools  
13 like Yellowstone receive an adjustment due to their size which  
14 currently guarantees them over \$14,000 per pupil. We believe  
15 this school-size factor adjustment is unnecessary for virtual  
16 academies because the economy of scale is not a factor when  
17 school are contracting with a third part. An amendment like this  
18 will save the state dollars and still allow the flexibility parents want  
to select the virtual option.

1 Another amendment that we feel is important is the direct  
2 payment that is sent to parents enrolled in the Yellowstone Virtual  
3 Academy. My understanding is that parents can receive up to  
4 \$1,700 for qualified educational expenses. In other words they  
5 can purchase a new MacBook Air Computer and then unenroll  
6 from the school and keep the computer. - - - Mandan currently  
7 operated a virtual academy, we have roughly 75 students enrolled  
8 in grades 2-12 in our program. We do provide a device to all  
9 students that allows them to fully participate in our program.  
10 However, when the school year ends or they unenroll, the device  
11 needs to be returned to the school. Adding language to this bill  
12 that avoids the perception of a “kickback” to parents using state  
13 dollars, seems like the right things to do. – Again this amendment  
14 would not prohibit people from enrolling in a virtual academy or  
15 from having a device provided to them. It would just provide  
16 more accountability for state dollars by requiring the device to be  
17 returned after they are no longer enrolled.

18 With these two small changes the North Dakota Council of  
19 Educational Leaders could support HB1376. With that I would  
20 stand for any questions.



**NDSBA**  
**NORTH DAKOTA SCHOOL  
BOARDS ASSOCIATION**

P.O. Box 7128  
Bismarck ND 58507-7128  
1-800-932-8791 • (701)255-4127  
[www.ndsba.org](http://www.ndsba.org)

**HB 1376**  
**Testimony of Amy De Kok**  
**Senate Education**  
**March 7, 2023**

Chairman Elkin and members of the Senate Education Committee, my name is Amy De Kok. I am General Counsel for the North Dakota School Boards Association. NDSBA represents all 170 North Dakota public school districts, their boards, and several multi-district special education units.

NDSBA opposes HB 1376. While we appreciate the flexibility virtual education has provided to public schools in North Dakota and their students, we believe HB 1376 has gone too far. First, by removing a local districts ability to approve the enrollment of its students in a CDE program, this bill takes away local authority, and yet, expects the local district to cover the cost. There is already an ability for a parent to work with their local school district to have their student receive education through a CDE program if called for under an IEP or Section 504 plan. Under those situations, the local district likely must cover the costs and that is appropriate in such situations; however, HB 1376 would expand this to any student whose parent decides to open enroll their student into a CDE program regardless of the circumstances and still require the local district to pick up the tab.

In section 2, the bill requires districts to permit students to enroll in any virtual education program of their choice and contains no deadlines for doing so. This is problematic for all schools, but particularly small schools. The ability of a student to transfer at any time will negatively impact a district's ability to predict its enrollment and budget. What happens if a student opts to leave in the middle of school year? The bill does not provide a mechanism to account for a student who has already been counted in their home district's ADM leaving mid-year.

We were pleased that the House Education Committee amended the bill to put back the open enrollment deadlines that currently exist in law. This is reflected in Section 3 of the bill.

Section 4 of the bill, however, is still problematic as it limits a districts ability to deny open enrollment based on class capacity and provides the ability to close open enrollment only if there is a lack of capacity. Currently, school districts may decide whether they are accepting open enrollments or are effectively "closed." Once a district opts to accept open enrollments, there are limited acceptable reasons to deny an application for enrollment. The reasons are limited, but important. Removing a district's ability to choose whether they are open or closed AND further limiting a district's ability to deny an application due to capacity will negatively impact these schools. Class capacity is just as necessary as program, school, and grade level capacity. A receiving district forced to accept an

open enrolled student it did not budget nor plan for in an already full class will be less able to effectively serve its current students.

For these reasons, NDSBA stands in opposition to HB 1376 and encourages this committee to give it a do not pass recommendation. Thank you for your time, and I will stand for any questions.

Sixty-eighth  
Legislative Assembly  
23.0426.03000

Sixty-eighth Legislative Assembly of North Dakota

Introduced by

**FIRST ENGROSSMENT ENGROSSED HOUSE BILL NO. 1376**

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

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

3 **15.1-07-25.4. Virtual learning - School district policy - Report to legislative**  
4 **management.**

5 1. The board of a school district or governing board of a nonpublic school that operates a  
6 physical school plant may adopt a policy to allow students to engage in virtual  
7 instruction ~~through an approved virtual school~~ and in the case of a school district,  
8 qualify for average daily membership in the district. A resident school district may not  
9 deny open enrollment to an approved virtual school.

10 2. Students and their families shall not receive any item, service or thing of value not  
given in exchange for fair market consideration from a vendor providing instruction or  
support under this section.

11 2.3. The superintendent of public instruction shall adopt rules governing policies under this  
12 section. A policy adopted by a school district under this section must comply with the  
13 rules adopted by the superintendent of public instruction.

14 3.4. The superintendent of public instruction shall provide biennial reports to the legislative  
15 management regarding the academic performance metrics of students participating in  
16 virtual instruction under this section.

17 5. Students enrolled in an approved virtual school do not generate school district sized  
weighting factor pursuant to section 15.1-27-03.2.

18  
19 2. The superintendent of public instruction shall adopt rules governing policies under this  
20 section. A policy adopted by a school district under this section must comply with the  
21 rules adopted by the superintendent of public instruction.

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

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

27 **15.1-31-01. Open enrollment - Procedure.**

28 1. By March first of the school year preceding the year of enrollment, a parent who

**Commented [BKK1]:** We removed this language based on NDSBA concern that it causes conflict with schools using virtual snow days. Adam Tescher and Joe Kolosky from NDDPI said it is not necessary anyway. Every ND school district or nonpublic school would already be going through the approval process to operate each August of every year and their virtual schools are included.

**Commented [BKK2]:** This language was borrowed from ND ethics law language and simply means parents may not receive the kickbacks of cash or credits or other incentives from a vendor or for a service either directly or indirectly.

**Commented [BKK3]:** This prevents any school from getting any more than the base student foundation aid payment (currently \$10,237 per student) for virtually enrolled students and be making money off them.

Sixty-eighth  
Legislative Assembly

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



25 who wishes to enroll in a school district other than the district to which the student  
26 moved.

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

29 **15.1-31-06. Open enrollment - School boards - Standards.**

30 1. The board of each school district shall set standards for the acceptance and denial of  
31 applications for admittance under open enrollment as provided in section

1 ~~15.1-31-04~~ 15.1-31-08. The standards may address the capacity of a program, ~~class,~~  
2 grade level, or school building. The standards may not address previous academic  
3 achievement, participation in extracurricular activities, disabilities, English language  
4 proficiency, or previous disciplinary proceedings.

5 2. A board may ~~also~~ determine that applications for admittance under open enrollment, in  
6 accordance with this chapter, will not be considered only if there is a lack of capacity in  
7 a program, grade level, or school.

8 3. a. A school district participating in an open enrollment program may not give or offer  
9 to give a student remuneration, or directly exert influence on the student or the  
10 student's family, in order to encourage participation in the open enrollment  
11 program. The actions prohibited under this subdivision do not include providing  
12 informational materials about the program.

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

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

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

29 **15.1-31-07. Students not subject to this chapter.**

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

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

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

9 **15.1-31-08. Open enrollment - Transfer of students - Responsibility of district of**  
10 **residence.**

- 11 1. ~~Notwithstanding the provisions of chapter 15.1-31, a~~ student's parent may apply to a  
12 ~~contiguous~~another school district for admission of the student at any time during the  
13 school year if:
- 14 a. The student was a victim of violence occurring within the school in which the  
15 student was enrolled and the violence was documented;
  - 16 b. The superintendent of public instruction has declared the school in which the  
17 student was enrolled to be an unsafe school; or
  - 18 c. The superintendent of public instruction has identified the school in which the  
19 student was enrolled as one that requires program improvement for six  
20 consecutive years.
- 21 2. The school district receiving an application under subsection 1 shall review the  
22 application to ensure compliance with the provisions of subsection 1 and shall notify  
23 the student's parent and the student's school district of residence of the arrangements  
24 for the student's transfer within five days from the date the application was received.
- 25 3. The student's school district of residence shall consider the student transferred as of  
26 the date of enrollment by the admitting district.
- 27 4. Upon transfer of a student under this section, the board of the admitting district and  
28 the board of the student's school district of residence shall enter into a tuition

Sixty-eighth  
Legislative Assembly

29 agreement. The student's school district of residence shall reimburse the admitting  
30 district for all costs incurred by the admitting district in providing education for the  
31 student.

1 5. The student's school district of residence shall transport the student to school in the  
2 admitting district or shall reimburse the admitting district for all costs incurred in  
3 transporting the student or providing for the transportation of the student to school in  
4 the admitting district. These transportation costs are not reimbursable through state  
5 transportation funds.

6 6. ~~The provisions of this~~This section applies to a student until the student's  
7 parent or legal guardian decides to enroll the student in another school, or in the case  
8 of a student who has been transferred for the student's safety or due to a school's  
9 improvement status under subsection 1, until the conclusion of the school year in  
10 which the superintendent of public instruction declares that the school in the student's  
11 district of residence is no longer an unsafe school or that the school no longer requires  
12 program improvement.

1 **SECTION 7. AMENDMENT.** Section 15.1-07-25.4 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3 **15.1-07-25.4. Virtual learning - School district policy - Report to legislative**  
4 **management and legislative assembly.**

5 The board of a school district or governing board of a nonpublic school that operates a  
6 physical school plant may adopt a policy to allow students to engage in virtual instruction and in  
7 the case of a school district, qualify for average daily membership in the district. The  
8 superintendent of public instruction shall adopt rules governing policies under this section. A  
9 policy adopted by a school district under this section must comply with the rules adopted by the  
10 superintendent of public instruction. The superintendent of public instruction shall provide  
11 biennial reports an annual report to the legislative management regarding in even-numbered  
12 years and the legislative assembly in odd-numbered years comparing the academic  
13 performance metrics of students participating in virtual instruction with students not participating  
14 in virtual instruction under this section using the statewide prekindergarten through grade twelve  
15 strategic vision framework goals. If the superintendent of public instruction does not have  
16 access to academic performance reports of a school district's virtual instruction subgroup  
1 because of low group size, the district shall provide the annual report required under this  
section for the district's comparison data.

**Commented [BKK4]:** This section was added to strengthen the reporting required because we want to make sure that there is accountability for schools who are collecting foundation aid for the learning of all students who are enrolled in their virtual school to guarantee the students are learning and schools aren't just collecting money.