

**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**

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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.