

# EDUCATION COMMITTEE

The Education Committee was assigned three studies:

- Section 2 of House Bill No. 1238 (2023) directed a study of the implementation of effective parameters for the ending fund balance for a school district to enable a school district to achieve credit scores sufficient to bond at a reduced cost to taxpayers while ensuring equitable and adequate education. The study required identification of efficient ways to analyze information on district expenditures; a review of the ending fund balance's impact on a district's short- and long-range planning, related facilities, staffing, and programming; an evaluation of possible trends between state investment, district expenditures, and student performance; and a review of the dramatic increase in behavioral and mental health issues of students, which are addressed by schools with school budgets, in addition to the traditional scope of academic preparation.
- Section 13 of Senate Bill No. 2284 (2023) directed a study of school choice models implemented nationally for K-12 schools, including charter schools, magnet schools, private schools, voucher systems, and home schools. The study required consideration of input from stakeholders, including public and nonpublic teachers and administrators, parents of students, representatives from the Department of Public Instruction (DPI), a representative from the Governor's office, and representatives from regional education associations (REAs). The study also required a review of regulations implemented by state regulatory agencies to ensure accountability for various school choice models; a comparison of nontraditional school choice models implemented by other states; an analysis of the impact of enrollment fluctuation, including the impact on state aid; a review of the state's student population and enrollment capacity and tuition costs of nonpublic schools; and a review of services nonpublic schools are able to offer students with special needs.
- Section 15 of Senate Bill No. 2284 (2023) directed a study of the feasibility, desirability, and impact of replacing storm days with virtual instruction days. The study required consideration of input from DPI, public school administrators and teachers, and other stakeholders. The study also required a review of relevant statutes, plans approved by school boards, and current practices related to storm days.

The Legislative Management assigned the committee the responsibility to receive the following 14 reports from the Superintendent of Public Instruction:

- Annual reports regarding the implementation of intervention measures for chronically low-performing schools, pursuant to North Dakota Century Code Section 15.1-02-23.
- A report in even-numbered years regarding a comparison of academic performance of students participating in virtual instruction versus those not participating in virtual instruction using the statewide prekindergarten through grade 12 strategic vision framework goals, pursuant to Section 15.1-07-25.4.
- A biennial report regarding proposals to allow students enrolled in grades 6 through 12 to earn course credit through educational opportunities with a sponsoring entity, pursuant to Section 15.1-07-35.
- A report regarding the implementation and effectiveness of reading curriculum and professional development training requirements in improving educational outcomes and reading competency of students, pursuant to Section 15.1-21-12.1.
- Annual reports regarding the categories and amount spent by each school district on school safety and security measures during the previous school year, pursuant to Section 15.1-07-36.
- A report regarding dyslexia screening and intervention, pursuant to Section 15.1-32-26.
- Quarterly reports regarding the implementation and effectiveness of the appropriation provided to DPI for the purposes of supporting professional learning related to the science of reading and implementing systematic direct literacy instruction to improve educational outcomes, including the number of teachers trained, an anticipated timeline of results trends, and any results trends available, pursuant to Section 18 of Senate Bill No. 2284 (2023).
- A report regarding any updates to the strategic vision and the collaborative report of the strategic plans of each steering committee member entity receiving state education funds, pursuant to Section 15.1-02-04.
- Annual reports regarding the financial condition of school districts, pursuant to Section 15.1-02-09.
- Annual reports regarding a compilation of annual school district employee compensation reports, pursuant to Section 15.1-02-13.
- A report regarding any request from a school or school district for a waiver of any rule governing the accreditation of schools, pursuant to Section 15.1-06-08.
- A report regarding waiver applications, pursuant to Section 15.1-06-08.1.

- Annual reports regarding the innovative education program, including the status of the implementation plan, a summary of any waived statutes or rules, and a review of evaluation date results, pursuant to Section 15.1-06-08.2.
- Annual reports regarding the compilation of test scores of a test aligned to the state content standards in reading, mathematics, and science, given annually to students statewide, pursuant to Section 15.1-21-10.

The Legislative Management also assigned to the committee the responsibility to receive two additional reports:

- A report from the North Dakota Education Standards and Practices Board regarding electronic satisfaction survey results of all interactions with individuals seeking information or services from the board, pursuant to Section 15.1-13-36.
- A report from the Kindergarten Through Grade Twelve Education Coordination Council regarding the activities of the council, pursuant to Section 15.1-01-04(9).

Committee members were Senators Michelle Axtman (Chairman), Todd Beard, Cole Conley, Jay Elkin, Judy Estenson, Justin Gerhardt, and Kent Weston and Representatives LaurieBeth Hager, Patrick Hatlestad, Dori Hauck, Pat D. Heinert, Jim Jonas, Donald W. Longmuir, Andrew Marschall, David Monson, Eric James Murphy, Mitch Ostlie, David Richter, Cynthia Schreiber-Beck, and Kelby Timmons.

Senator Doug Larsen served on the committee until his death on October 1, 2023.

## **SCHOOL DISTRICT ENDING FUND BALANCE STUDY**

Section 2 of House Bill No.1238 (2023) directed a study of the implementation of effective parameters for the ending fund balance for a school district to enable a school district to achieve credit scores sufficient to bond at a reduced cost to taxpayers while ensuring equitable and adequate education. The study required identification of efficient ways to analyze information on district expenditures; a review of the ending fund balance's impact on a district's short- and long-range planning, related facilities, staffing, and programming; an evaluation of possible trends between state investment, district expenditures, and student performance; and a review of the dramatic increase in behavioral and mental health issues of students, which are addressed by schools with school budgets, in addition to the traditional scope of academic preparation.

### **Background**

#### **Ending Fund Balance Limitations**

Section 15.1-27-35.3, enacted with the passage of Senate Bill No. 2200 (2007), established the permissible amount of a school district's ending fund balance and provided for a reduction in state aid by any amount exceeding the statutory ending fund balance limitation.

The permissible ending fund balance was directly related to the school district's actual expenditures. As enacted, Section 15.1-27-35.3 limited a school district's ending fund balance to an amount equal to 50 percent of a school district's actual expenditures plus \$20,000, with a decrease slated for the following year. On July 1, 2008, the allowable ending fund balance was lowered from 50 to 45 percent of a school district's actual expenditures, plus \$20,000.

Six years later, the Legislative Assembly decreased the ending fund balance limitation a second time with the passage of House Bill No. 1013 (2013). Proponents of the decrease reasoned that school districts do not need to maintain excessive cash on hand, particularly in districts receiving substantial funding from oil and gas revenue. Proponents contended decreasing the allowable ending fund balance would result in property tax relief for constituents. As a result of House Bill No. 1013 (2013), on July 1, 2015, the ending fund balance limitation decreased from 45 to 40 percent of actual expenditures plus \$20,000, and on July 1, 2017, the limitation decreased again to 35 percent of actual expenditures, plus \$20,000.

Senate Bill No. 2321 (2017) retained the ending fund balance limitation of 35 percent of actual expenditures but increased the additional amount a school district may retain from \$20,000 to \$50,000, or \$100,000 if the school district was in a cooperative agreement for 2 years. Supporters of the bill sought a substantial increase in the permissible ending fund balance to address the difficulty small schools faced when a significant cost, such as replacing a boiler, was incurred unexpectedly. Several rural school districts offered testimony in favor of the bill.

#### **Ending Fund Balance Limitation Moratorium**

In 2021, the statutory limitations on a school district's ending fund balance were suspended to prevent school districts from being penalized for increased cash on hand as a result of the Coronavirus (COVID-19) pandemic. School closures resulted in lower than anticipated expenditures, and an influx of federal funding disbursements in response to the pandemic created an unexpected surplus in cash. The Legislative Assembly determined penalizing schools for higher

than usual ending fund balances was not the best course of action in this unprecedented scenario. With the emergency passage of Senate Bill No. 2165 (2021), the Legislative Assembly suspended the operation of Section 15.1-27-35.3 until July 1, 2023.

### **Continued Moratorium and Study**

House Bill No. 1238 (2023) extended from July 1, 2023, to July 1, 2027, the moratorium on the penalty for exceeding the unobligated general fund balance limitations. The Executive Director of North Dakota Small Organized Schools provided testimony in support of House Bill No. 1238 during the 2023 legislative session. Testimony indicated small and rural schools face budgetary concerns when a large expenditure arises, such as an air handling system or bus purchase, and the school district's ending fund balance is insufficient to cover the expense. The bill also provided for this study, which afforded the committee an opportunity to review a variety of policy considerations and determine the desirable parameters for a school district's ending fund balance.

### **School District Expenditure Data**

The total expenditures of a school district vary widely. Applying an ending fund balance limitation to a school district with relatively low total expenditures can be more impactful. The expenditure disparities between school districts are apparent when comparing school districts within the lower and upper bounds of school expenditure data from the 2021-22 school year. For instance, the total expenditures for Manning and Zeeland were \$382,282 and \$1,396,205, respectively, compared with Fargo and Bismarck, spending \$189,592,783 and \$194,559,620, respectively.

### **Youth Behavioral Health and Mental Health Challenges**

The ending fund balance study also required a review of the dramatic increase in behavioral and mental health issues of students, which result in additional school district expenditures. Kindergarten through grade 12 students continue to report increased mental health challenges, which in many cases were exacerbated by the COVID-19 pandemic. Many students face short- or long-term challenges in managing social relationships, learning, decisionmaking, anxiety, depression, worry, and isolation. Data collected by the World Health Organization indicates half of all mental illnesses begin by the age of 14. Statistics provided in the 2020 North Dakota Young Adult Survey indicate 1 in 10 young adults in North Dakota seriously considered suicide in 2020 and 1 in 50 attempted suicide. The early onset and prevalence of these health challenges makes early intervention and support critical.

Youth behavioral and mental health challenges often are addressed by school counselors and school psychologists. School counselors deliver fundamental services to a broad range of students, whereas school psychologists provide comprehensive services to students in need of mental health care. The National Association of School Psychologists recommends providing one psychologist for every 500 students; the American School Counselor Association recommends one counselor for every 250 students. States with staffing ratio policies generally require the highest concentration of mental health professionals at the high school level. North Dakota requires one counselor for every 300 students in K-12, permitting up to one-third of the counselors required in grades 7 through 12 to be career advisors. There is no requirement for school psychologists. Other state legislatures have approached behavioral and mental health issues in education by enacting legislation to support a positive school climate, require mental health and wellness curricula, promote suicide prevention services, create task forces to study student behavior and discipline, promote professional development related to mental health, permit student absenteeism related to mental health, and require staffing ratios for mental health professionals.

## **Testimony**

### **Department of Public Instruction**

The committee received testimony from a representative of DPI regarding school district ending fund balances. Testimony indicated the COVID-19 pandemic led to increased funding and larger ending fund balances. Testimony indicated the ending fund balance pertains only to the general fund, allowing districts to transfer general fund dollars to the building fund to avoid penalties; however, a school district may not return these funds to the general fund. Legislation beginning in 2017, and the subsequent moratorium following the pandemic, have allowed for higher permissible balances to assist smaller schools with necessary expenses, including unexpected expenses and funds set aside for future teacher salaries. Notably, 70 to 80 percent of a district's ending fund balance typically is allocated for teacher salaries.

The committee received additional testimony from representatives of DPI regarding best practices for school district spending and anticipated budgeting needs. The committee was informed federal Elementary and Secondary School Emergency Education Relief funds, primarily used for construction and to address learning loss post-COVID-19, expire in 2024. According to the testimony, 23 individuals attended a finance workshop focused on outcome-based budgeting, and DPI offers tools to help districts evaluate spending effectiveness. Testimony indicated budget challenges may lead to reductions in staff or salaries, forcing districts to assess program effectiveness. The committee was informed there is a lack of data on behavioral and mental health issues among students. Testimony emphasized the importance of quantitative data to inform policy decisions. Senate Bill No. 2351 (2023) would have created a data collection system for tracking behavioral challenges in schools and would have clarified schools' legal authority for student discipline.

## **North Dakota Small Organized Schools**

The committee received testimony from a representative of North Dakota Small Organized Schools. Testimony contended the temporary moratorium on reducing state aid payments to school districts with an ending fund balance exceeding the state limit is highly valued, and there is hope for it to become permanent. According to the testimony, the ending fund balance policy disproportionately affects smaller school districts, which struggle more than larger districts that often maintain carryover balances primarily for favorable bond ratings because the larger districts do not come close to exceeding the ending fund balance limit. Testimony advocated for the elimination of the sunset provision to allow school districts greater financial management flexibility.

### **Committee Considerations**

The committee expressed interest in repealing Section 15.1-27-35.3 or increasing the limitation on the ending fund balance to ensure small schools are prepared for unexpected expenses. The committee indicated the limitation on the ending fund balance could vary depending on school size. The committee also noted repealing the statute would align with the committee's preference for local control.

### **Conclusion**

The committee makes no recommendation regarding its study of school district ending fund balance requirements.

## **SCHOOL CHOICE MODELS STUDY**

Section 13 of Senate Bill No. 2284 (2023) directed a study of school choice models implemented nationally for K-12 schools, including charter schools, magnet schools, private schools, voucher systems, and home schools. The study required consideration of input from stakeholders, including public and nonpublic teachers and administrators, parents of students, representatives from DPI, a representative from the Governor's office, and representatives from REAs. The study also required a review of regulations implemented by state regulatory agencies to ensure accountability for various school choice models; a comparison of nontraditional school choice models implemented by other states; an analysis of the impact of enrollment fluctuation, including the impact on state aid; a review of the state's student population and enrollment capacity and tuition costs of nonpublic schools; and a review of services nonpublic schools are able to offer students with special needs.

### **Background**

Several models exist to provide families with options for K-12 education, whether through public or nontraditional schools.

#### **Charter Schools**

A charter school operates under a performance contract between the charter school and the authorizing entity, such as the state or an approved government entity. Charter schools commit to obtaining specific, measurable educational objectives in exchange for a charter that allows a school to operate with greater autonomy. A charter school may have more freedom in curriculum design, focusing on content areas such as science, technology, engineering, and mathematics education, the arts, or language immersion, or tailoring instruction for students with autism. Some states permit more flexibility for staffing charter schools, including employing uncertified educators.

A charter school is publicly funded. Despite greater freedom in operations and management, as a public school, a charter school must adhere to regulations imposed on public schools. For example, charter schools must meet academic and financial standards, comply with the federal Individuals with Disabilities Education Act, and may not have a religious affiliation or charge tuition.

Minnesota was the first state to pass a charter school law in 1991. Forty-five states, in addition to Washington, D.C., Guam, and Puerto Rico, allow charter schools. Montana, North Dakota, South Dakota, Nebraska, and Vermont are the only states without authority for charter schools.

The availability of charter schools may lead to the closure or consolidation of rural schools already struggling with low enrollment and tight budgets. Rural charter schools make up 11 percent of all charter schools nationally.

#### **Magnet Schools**

Magnet schools emerged in the 1960s as a response to school segregation protests and the civil rights movement. School choice provided a model to address educational inequality without forcing desegregation.

Magnet schools are founded on five pillars that include diversity, innovative curriculum and professional development, academic excellence, leadership and family, and community partnerships. Magnet schools offer a special curriculum capable of attracting substantial numbers of diverse students and may focus on a particular academic subject, language immersion, the arts, gifted study, or an instructional approach like Montessori.

Magnet schools are public schools and must adhere to the same funding structure and regulations as public schools. In addition, magnet schools may receive federal grants from the Magnet Schools Assistance Program, authorized in 1965. The purpose of the program is to voluntarily desegregate communities by providing funding to promote diversity, improve student success, and sustain long-term high performance that continues after federal funding ceases.

### **Private Schools**

Private schools rely on tuition, private grants, and donations for funding. Because private schools do not receive government funding, private schools operate under different curriculum and personnel standards. Private schools are not required to enroll every student who wishes to attend, may expel a child for behavior or academic performance, and are not required to comply with government regulations like the Individuals with Disabilities Education Act, which requires a school to provide an individualized education program to students in need of special education services. Private schools often are associated with religious institutions.

### **Voucher Systems**

The school voucher model first emerged in the 1980s. A school voucher is a certificate representing government funding that may be used for educational costs at any approved school a parent chooses. School vouchers may provide an opportunity for a student living in a low-performing public school district to attend a high-achieving private or religious school instead, extending the free market of choice to education for all students by subsidizing the cost of tuition. Proponents of the voucher system contend school choice creates better schools through competition. However, because private schools are not subject to the same requirement as public schools to admit every child, the beneficiaries of the program may remain limited to a subset of students, based on standards for admission.

There are a variety of voucher programs. Some states provide traditional voucher programs, which give parents or the selected school a voucher worth a certain amount of public education funding, usually less than the per student state aid payment, to use for tuition for an approved private school. Other states provide education savings account (ESA) programs, in which states deposit educational funds in accounts for parents to spend on educational costs, including home schooling curriculum, private tuition, tutoring, or approved therapy. Another type of voucher program involves tax credit scholarships, in which tax credits are provided to taxpayers who donate to a scholarship organization of the taxpayer's choice and the scholarships are distributed to eligible students to use for tuition at a private school.

The Education Commission of the States reported in 2021 that 16 states and the District of Columbia had voucher programs, 6 states had ESA programs, and 19 states had scholarship tax credit programs. Key elements to consider in implementing voucher programs are funding mechanisms, eligibility conditions, and appropriate scholarship or voucher amounts. Some states limit voucher programs to students meeting certain criteria, including living beneath specified income thresholds, in low-performing school districts, or with a disability. Other states use the federal poverty guidelines issued by the United States Department of Health and Human Services as a metric for determining eligibility.

### **Home Schools**

Home schooling is permitted by law in all 50 states. Home schooling offers parents flexibility to tailor curriculum and instruction to fit the educational needs of their children and promote personal values. The primary reasons driving the selection of home schooling include concern about school safety, drugs, or negative peer pressure; a desire to provide moral instruction, religious instruction, or a nontraditional approach to education; emphasis on family life together; dissatisfaction with academic instruction at other schools; and special needs, a physical or mental health problem, or a temporary ailment.

Chapter 15.1-23 governs home education. If a parent wishes to home school his or her child, the parent must provide a statement of intent to the superintendent of the child's school district of residence each year. A supervising parent must teach the subjects required by law and keep records of the child's academic progress. Additional monitoring is required if the supervising parent does not have a high school diploma or general education development diploma or if the child scores below the 50<sup>th</sup> percentile on a standardized assessment. A child may receive a diploma from the child's school district of residence, the Center for Distance Education (CDE), or an approved nonpublic high school if the child has met the school's requirements through home education.

### **Other States' School Choice Models**

In 2023, several states passed legislation to expand school choice options, while others experienced setbacks. For instance, Florida eliminated income-related restrictions for its ESA program, allowing all students access, whereas Indiana expanded its school voucher program based on household income levels. Conversely, states like Texas faced resistance to school choice legislation, with significant reforms failing to pass. Arizona provides various educational options, including open enrollment, magnet schools, charter schools, home school, and five voucher programs. Overall, the landscape of school choice in the United States continues to shift, with different states pursuing various approaches to enhance educational opportunities for families.

## **State Law**

Open enrollment is a school choice policy that permits a student to attend a public school other than the student's school of residence. House Bill No. 1376 (2023) provides a parent may file an open enrollment application with the school board of the parent's choice. Section 15.1-31-06 directs each school district to set standards for acceptance and denial of open enrollment applications. Although the school district may admit or deny an application based on the school district's predetermined set of criteria, House Bill No. 1376 provides the only reason a school board may refuse to consider an open enrollment application is if enrollment has reached maximum capacity. As a result, a school of residence may not deny enrollment to a student who wishes to attend an approved virtual school.

The Center for Distance Education is the state-sanctioned virtual school, funded by the state and administered by the Superintendent of Public Instruction, pursuant to Section 15-09-06. The Center for Distance Education provides virtual courses to over 4,000 students. School districts that enroll students at CDE pay the associated enrollment fee but are not required to pay the foundation aid payment for the student.

## **Vetoed Legislation**

House Bill No. 1532 (2023) would have established an educational reimbursement program to reimburse approved nontraditional schools for the tuition costs for eligible families, functioning as a traditional school voucher program. The program would have provided funding directly to schools to offset tuition costs in an amount up to 30 percent of the per student state aid payment rate for families whose incomes were less than 500 percent of the federal poverty level. The program would have required the Superintendent of Public Instruction to administer the program and refer any evidence of fraud to the Attorney General and required the State Auditor to audit program funds dispersed to qualified schools. However, the bill was vetoed by the Governor on April 21, 2023. In the Governor's veto message, he expressed support for school choice but emphasized North Dakota's approach should be more comprehensive, citing a lack of meaningful incentives for expanding nontraditional K-12 schools, inadequate public transparency and accountability standards, and the need for effective measures tailored for rural areas. He suggested a more robust school choice bill could be developed during the interim, referencing Arizona and Iowa as model states for potential reforms.

## **Testimony**

### **The Hunt Institute**

The committee received testimony from a representative of The Hunt Institute regarding an overview of school choice programs, detailing various public school options such as charter schools, open enrollment, and magnet schools. Testimony indicated private school choice options include vouchers and ESAs. Public school choice includes charter schools, which are publicly funded but privately managed, offering greater operational autonomy and increased accountability. According to the testimony, charter schools generally receive 70 percent of the per student state aid funding traditional public schools receive, which limits their ability to provide services for students with disabilities and transportation. Testimony contended charter schools offer greater operational flexibility and have seen significant growth nationally, serving about 3.7 million students in 2021.

The committee was informed challenges exist for rural charter schools, including funding disparities and lower enrollment numbers. Testimony indicated charter schools may choose students from among applicants, resulting in students expelled from charter schools typically returning to public schools. Testimony contended, despite these hurdles, charter schools may revitalize communities by providing high-quality education options. Testimony indicated the Legislative Assembly could adjust the school funding formula to address revenue losses from declining enrollment and the implementation of caps on student enrollment could help protect smaller schools from closure, although most families tend to remain with public schools due to familiarity. According to the testimony policies that support rural school choice are necessary, such as improving school finance structures, ensuring transportation access, and establishing equitable enrollment processes.

Testimony indicated open enrollment allows families to choose schools outside their assigned districts, with laws in place in 46 states and the District of Columbia. Magnet schools offer specialized programs, often featuring selective admissions, and aim to foster diversity. For private schools, choices include vouchers, which allow public funding to be used for private schooling; tax credit scholarships, to provide tax breaks for donors supporting private education; and ESAs, to enable families to use public funds for various educational expenses.

According to the testimony, open enrollment laws in North Dakota enable parents to apply for enrollment in different districts, and recent legislation expanded options for virtual schooling, enhancing educational access for students in the state.

### **Department of Public Instruction**

The committee received testimony from a representative of DPI indicating the department offers waivers to allow public schools to operate with the same autonomy as charter schools while maintaining a high level of accountability.

According to the testimony, some communities, such as communities with abundant oil, rely solely on local contributions for school funding. Therefore, enabling charter schools will create a cost to the state if the state allocates a per student amount for each student attending a charter school regardless of local contributions for public school students.

### **Americans for Prosperity North Dakota**

The committee received testimony from a representative of Americans for Prosperity North Dakota regarding the school choice movement. According to the testimony, 16 states have implemented universal school choice models, 17 states offer ESAs, 26 states offer tax credits, 2 states offer individual tax credits, and 25 states have voucher programs. Several ESAs were enacted in various states in 2023. Notably, the testimony indicated North Dakota is the only state without a charter law or a school choice program, aside from its open enrollment policy.

### **National Alliance for Public Charter Schools**

The committee received testimony from a representative of the National Alliance for Public Charter Schools advocating for charter schools as a tuition-free, inclusive, and accountable alternative in public education. Testimony emphasizing the ability of charter schools to innovate and meet diverse student needs. According to the testimony, despite representing only 10 percent of public high schools, charter high schools make up 23 percent of the top 100 schools nationwide, demonstrating significant learning gains in reading and mathematics for students. Testimony contended parental satisfaction is higher among charter school families compared to district school families, and charter schoolteachers report feeling more valued and involved in decisionmaking.

The committee was informed state funding for charter schools does not affect overall state funds because per student payments transfer with students. Charter schools typically are organized as 501(c)(3) entities with self-perpetuating boards, although some members may be elected by teachers and parents. Charter schools must secure facilities, which can be located in various spaces, including vacant buildings or church basements, and may involve private funding.

According to the testimony, North Dakota is one of only four states without charter school laws. Model laws relating to charter schools require strong authorizers, autonomy for schools, requirements for high student achievement, equitable funding, and accessibility to facilities. The National Alliance published its model charter school law in 2009. Since then, seven states have enacted new legislation aligned with the model law.

### **ExcelinEd**

The committee received testimony from a representative of ExcelinEd regarding education choice options in the United States, emphasizing the belief that every child deserves access to a quality education. Testimony indicated education choice enables families to select the most suitable educational setting for their children, encompassing public schools, charter schools, homeschooling, and private schools. Surveys indicate parents prioritize various aspects of education, such as safety, individual attention, and academic quality, which positions parents as accountable decisionmakers in their child's education.

According to the testimony, there are three main types of private education choice--vouchers, which are state-funded checks for private school tuition; tax-credit scholarships, in which donations to nonprofits fund scholarships and provide tax credits to donors; and ESAs, which are flexible spending accounts that families can use for various educational services. Recent years have seen significant growth in ESAs, particularly following the COVID-19 pandemic, due to rising parental demand for customizable education options. Notably, ESA participation increased from 41,189 students in the 2021-22 school year to 450,000 in the 2023-24 school year.

Testimony indicated while home school students generally are categorized separately, most states allow home school students some participation in ESA programs. Model policy recommendations for ESAs include universal eligibility, equitable funding equivalent to state public school payments, and flexibility in approved educational expenditures, alongside robust accountability measures. North Carolina and Florida have introduced universal or nearly universal voucher programs, offering broad access to funding for families, reflecting a growing trend towards empowering parental choice in education.

### **American Experiment North Dakota**

The committee received testimony from a representative of American Experiment North Dakota regarding ESAs. Testimony contended ESAs are the most customizable education choice program, offering flexibility for families. Testimony indicated ESAs provide long-term fiscal benefits to the state because ESAs are funded with lower amounts than the average per student payment for public school students. According to the testimony, in North Dakota, the average cost per student to the state exceeds \$16,000, compared with a national average of \$8,000 for an ESA student.

### **North Dakota Council of Educational Leaders**

The committee received testimony from a representative of the North Dakota Council of Educational Leaders regarding the CDE. According to the testimony, survey results show 2,106 students enrolled in CDE for a course also offered by participating schools, leading to an estimated \$482,000 to \$545,000 in enrollment costs for schools, because the schools must cover the student's CDE course fee. Students noted various reasons for enrolling in CDE courses, including 391 enrolling to avoid a teacher, 325 enrolling due to mental health issues, 317 enrolling due to scheduling conflicts, 189 enrolling for an alternative setting, 105 enrolling due to physical health limitations, and 58 enrolling for reasons related to peer issues. The committee was informed parental approval is not required for students to change their schedules, including enrolling in CDE.

### **School Districts**

The committee received testimony from a representative of Bismarck Public Schools regarding CDE. Testimony indicated some students are enrolling in CDE to avoid traditional classroom teacher expectations, bypassing the social and emotional development that comes from learning to meet expectations or handle related consequences. Testimony contended students should pay for CDE courses if they enroll to avoid teacher expectations or disciplinary action.

The committee received testimony from a representative of Litchville Public Schools regarding open enrollment. According to the testimony, a student requested to take a course offered at Litchville Public Schools through CDE to learn from a different teacher. However, due to the small size of the school, there was no available space for the student to attend virtual class at the time the traditional class was offered. Consequently, the student left the district because the student could not enroll in the desired class.

### **North Dakota Small Organized Schools**

The committee received testimony from a representative of North Dakota Small Organized Schools regarding open enrollment. According to the testimony, when students attend CDE to avoid a challenging class with a teacher at the school, it places the school in a difficult position because the school is required to pay for CDE courses.

### **North Dakota Educational Opportunities Task Force**

The committee received testimony from representatives of the North Dakota Educational Opportunities Task Force regarding stakeholder listening sessions. Testimony indicated the listening sessions revealed a strong preference from parents for educational options to facilitate personalized learning experiences. Testimony indicated parents expressed a desire for access to specialized programs and diverse curricula, such as science, technology, engineering, and mathematics, arts, and vocational training, viewing these choices as essential for preparing children for the future. Testimony also indicated barriers limiting access to school choice identified by parents, including cost, transportation, and geographic distance, particularly for rural families. Concerns about equitable admissions practices in private and charter schools also were raised, along with a demand for safer, higher quality educational environments and consistent standards across all schools.

The testimony indicated the stakeholder listening sessions also revealed the educators' perspective, which included an emphasis on the need for consistent accountability across all schools, with strict oversight of public funds to maintain high educational standards. According to the testimony, educators expressed worries that diverting public funds to private or charter schools could weaken public education, particularly in rural and low-income areas where resources already are limited. Educators indicated geographic isolation presents additional challenges to implementing school choice effectively. Educators also highlighted inclusivity as a concern, advocating for fair admissions policies to ensure all students, especially those with special needs and language barriers, have access to quality education.

The committee was informed the task force developed a proposed framework for a tiered student assistance program. The task force's proposal includes a three-tiered funding approach for public, private, and home schooled students. Under the framework, families would receive funds for an ESA, allowing them to purchase approved educational products from an online marketplace. Students must complete a state assessment to participate and eligibility initially would be based on family income with an eventual transition to universal eligibility. The committee was informed the task force also is exploring charter school legislation. Testimony indicated The Hunt Institute would provide a report once the task force has completed its work.

The committee was informed the task force was facilitated by The Hunt Institute and included representation from public schools, private schools, tribal schools, military schools, the Governor's office, DPI, and members of the Legislative Assembly, including participants from various geographies and types of schools across the state to reflect a broad range of constituents.



## **Committee Considerations**

The committee expressed concern regarding student access to school choice in rural communities. The committee also expressed concern regarding potential loss of funding and student enrollment in public schools if other schooling options become available.

## **Conclusion**

The committee makes no recommendation regarding its study of school choice models.

## **REPLACEMENT OF STORM MAKE UP DAYS WITH VIRTUAL INSTRUCTION DAYS STUDY**

Section 15 of Senate Bill No. 2284 (2023) directed a study of the feasibility, desirability, and impact of replacing storm days with virtual instruction days. The study required consideration of input from DPI, public school administrators and teachers, and other stakeholders. The study also required a review of relevant statutes, plans approved by school boards, and current practices related to storm days.

## **Background**

Many states are re-examining their approaches to virtual learning in response to inclement weather, particularly following the COVID-19 pandemic, which demonstrated schools' capacity to deliver remote education. This shift has led some districts to integrate virtual learning into their policies while others have opted to maintain traditional snow days. Key considerations in replacing storm days with virtual learning days include the effectiveness of virtual instruction compared to in-person instruction, the preparedness of staff and students for remote education, the availability of reliable technology and Internet access, and the cultural significance of "snow days" in the school experience.

In Wisconsin, policies vary significantly among school districts. The Green Bay Area Public School District has embraced virtual learning days alongside traditional weather-related closures, while the Arcadia School District has reverted to conventional snow days for the 2023-24 school year. New York City Public Schools have eliminated snow days altogether, opting instead for a seamless transition to remote learning, although this policy remains discretionary for other regions in the state. Virginia attempted to introduce legislation that would have mandated virtual instruction during school closures, but the proposal ultimately was withdrawn.

Other states, such as South Carolina, allow for the use of up to 5 virtual days for short-term closures due to weather or utility interruptions, provided districts meet certain requirements. In New Jersey, virtual learning is prohibited for 1-day weather-related closures, but may be used during longer closures associated with emergencies. The District of Columbia maintains a strict policy against virtual instruction on snow days, requiring any lost instructional time be made up at the end of the school year. States that do not permit virtual instruction days for any purpose to count toward the required number of instructional days per school year include Iowa, Vermont, Massachusetts, and Connecticut.

As states continue to navigate the balance between traditional educational practices and the demands of modern technology, the landscape of virtual instruction during storm days remains dynamic and subject to ongoing evaluation.

## **State Law**

Statutory provisions and administrative regulations regarding virtual learning and storm days are found in North Dakota Century Code Sections 15.1-06-04, 15.1-07-25.4, and 15.1-27-23 and North Dakota Administrative Code Chapters 67-30-01 and 67-30-02. The North Dakota Administrative Code defines "virtual instruction" as remote teaching and learning that can occur synchronously or asynchronously and "virtual schools" as educational institutions that operate without a physical facility. North Dakota Century Code Section 15.1-06-04 requires a school district to provide 962.5 hours of instruction for elementary school students and 1,050 hours of instruction for middle and high school students per school year. A school district must make up lost instructional time due to closures, which can be fulfilled through virtual instruction. Additionally, individual students may participate in virtual learning under extenuating circumstances, even if the school remains open to others.

North Dakota Century Code Section 15.1-06-04(6) provides a full day of virtual instruction must be equal to a full day of instruction at a physical school plant, which equals 5.5 hours for kindergarten and elementary students and 6 hours for high school students. A school district providing virtual instruction must develop an academic pacing guide to monitor student attendance and academic progress. An "academic pacing guide" is defined in North Dakota Administrative Code Section 67-30-02-01 as "a document created or adopted by the school district or nonpublic school which outlines the amount of course content covered during each portion of the school year." Pursuant to North Dakota Administrative Code Chapter 67-30-01, to receive state aid payments for virtual hours of instruction used to make up instructional time, a school board must adopt a local policy defining those procedures. Virtual instruction is limited to 9 calendar weeks, but an extension may be requested if necessary.

## Testimony

### Department of Public Instruction

The committee received testimony from representatives of DPI regarding traditional storm make up days and the option for virtual instruction days under Section 15.1-27-23, which enables districts to conduct virtual instruction on a case-by-case basis. According to the testimony, during the 2022-23 school year, 309 school buildings in 113 school districts used virtual instruction days. Cumulatively, 687 days of instruction were virtual instruction days due to weather or other circumstances. The average number of virtual instruction days used per school was 6.3 and the greatest number of virtual instruction days per school was 15. Testimony indicated DPI is mandated to compare the academic outcomes of students engaged in virtual instruction with those who are not engaged in virtual instruction. The committee was informed there are no state requirements for virtual instruction, methods or curriculum, although local school boards may establish policies. When schools encounter repeated late starts due to bad weather, the schools have discretion to adjust schedules to ensure equitable instruction per class period. Additionally, the reports on virtual instruction do not distinguish between synchronous and asynchronous formats, and attendance is tracked based on local board policies.

The testimony included insights into the state's virtual instruction feedback gathered from parents, students, and community members, which highlighted positive aspects of virtual instruction. Reported positive aspects included effective communication from schools, the flexibility of virtual learning during inclement weather, and organized lesson plans, particularly in art classes. The feedback indicated parents appreciated the safety of keeping children at home during adverse conditions. However, according to the testimony, a significant preference for face-to-face instruction emerged, particularly among families with younger children who require more guidance and support at home during virtual learning.

Conversely, stakeholders voiced concerns regarding the inconsistency in the quality of virtual instruction, noting younger students often struggled without direct teacher interaction. Some parents expressed frustration over varying lesson lengths and content quality, leading some to view virtual learning as being ineffective. Recommendations for improvement included enhancing communication, providing educator training for high-quality virtual lessons, increasing accountability for both teachers and students, and limiting the number of virtual instruction days in favor of traditional make up days. Overall, while virtual instruction offers flexibility, the feedback indicated a strong preference for in-person learning whenever possible.

### North Dakota School Boards Association

The committee received testimony from a representative of the North Dakota School Boards Association regarding the leadership roles of school boards, which include setting a vision, creating structure, ensuring accountability, and advocating for education. Testimony indicated school boards are responsible for adopting and revising policies, with input from administrators and other personnel. The testimony emphasized the importance of multiple readings for new policies and regular reviews to ensure adherence and relevance. Testimony also emphasized the importance of clear communication and tracking of participation.

Testimony indicated feedback from school districts revealed many prioritize using traditional snow days before transitioning to virtual learning. Although there is broad support for virtual education among school leaders, there are concerns regarding the effectiveness of virtual instruction, particularly in elementary grades, and the challenges families face in accessing technology. Testimony indicated school boards are committed to refining their policies based on community feedback to enhance the virtual learning experience while balancing the need for in-person instruction.

### School Districts

The committee received testimony from representatives of Mandan Public Schools regarding the district's implementation of 7 virtual days during the 2022-23 school year due to inclement weather. According to the testimony, a survey of 935 parents demonstrated 86.6 percent preferred virtual instruction over making up snow days, leading the district to favor continuing this practice.

Testimony indicated Mandan uses the Canvas platform for virtual instruction, which enables teachers to upload instructional videos students can watch repeatedly and allows monitoring of student engagement. Students can access Canvas without Internet access from any electronic device. The district funds the Canvas platform, and teachers can share instructional videos with one another. Testimony indicated students can connect with their teachers on virtual learning days, facilitating ongoing support. Specialists and interventionists provide one-on-one online services during virtual days. According to the testimony, a learning management system like Canvas offers more resources than traditional textbooks and 59 percent of students in higher education are now enrolled in online learning.

The committee was informed a typical virtual day for a high school chemistry class begins with an overview of the agenda on Canvas, transitions to student instruction, and concludes with an assessment completed on students' school-issued iPad, which is submitted via the platform. The lesson plan on virtual days closely aligns with the lesson plan for traditional classroom instruction. Testimony indicated administrators can monitor student engagement with the modules

and although some students may be reluctant to participate actively, students have the flexibility to access the material at their pace and are encouraged to complete and submit their assignments. Canvas allows students to review instructional materials for reinforcement.

According to the testimony, using Canvas to instruct kindergarten students on virtual days requires teaching young students to navigate iPads and the platform at the beginning of the school year. iPads may be issued to students in anticipation of potential virtual learning days based on weather forecasts. Notably, during the COVID-19 pandemic, teachers developed reusable virtual learning content that included lessons and instructional videos, which readily may be accessed in the case of a virtual day. According to testimony, classroom and virtual instruction offer equivalent learning experiences by providing similar reading assignments, whether in-person or online.

The committee received testimony from a representative of Bismarck Public Schools regarding virtual instruction. Testimony indicated maintaining flexibility in using learning management systems like Canvas is important to the district. According to the testimony, learning management systems provide benefits like lesson repetition, transparency for parents regarding curriculum, and continuity for students who transition between learning environments.

#### **North Dakota Council of Educational Leaders**

The committee received testimony from a representative of the North Dakota Council of Educational Leaders regarding the evolution of virtual instruction policies on snow days. Testimony indicated school districts have adjusted their virtual instruction policies based on feedback from parents and community members who have expressed diverse needs depending on the individual district. According to the testimony, as districts gain more experience, implementation of virtual instruction is improving. Testimony contended granting school districts the trust and responsibility to create local policies is important.

Testimony also indicated the 2022-23 school year was an outlier with a higher number of school closures due to inclement weather. The committee was informed the North Dakota Council of Educational Leaders is collaborating with the Department of Transportation to clarify the definition of "No Travel Advised" in relation to school attendance to assist administrators in determining whether to close schools. Seventy-five of 89 reporting school districts have a policy in place to use make up days before resorting to virtual instruction days. School districts are gaining experience to enhance their learning management systems. The testimony indicated 98 percent of school leaders support the option for virtual instruction and there is a consensus among districts that a statewide learning management system would be advantageous.

#### **Committee Considerations**

The committee emphasized the importance of considering feedback from school districts and one committee member expressed a preference to defer to the general preference of parents for snow days, with the approval of virtual days when necessary, as shown in the parent survey responses provided by the North Dakota Council of Educational Leaders.

#### **Conclusion**

The committee makes no recommendation regarding its study of the replacement of storm make up days with virtual instruction days.

### **REPORTS**

#### **Superintendent of Public Instruction**

##### **School District Waiver Requests**

The committee received a report from DPI regarding requests from a school or school district for a waiver of any rule governing the accreditation of schools under Sections 15.1-06-08 and 15.1-06-08.1. The report indicated there is one school operating on an initial high school unit instructional time waiver, one school operating on an initial extension high school unit instructional time waiver, and 10 schools operating on a 2-year high school unit instructional time waiver extension. Schools have applied for instructional time waivers for career and technical education and science courses.

##### **Innovative Education Program**

The committee received a report from DPI regarding the innovative education program, including the status of the implementation plan, a summary of any waived statutes or rules, and a review of evaluation date results under Section 15.1-06-08.2. The report indicated seven school districts are participating in the Innovation Education Program.

##### **School Safety and Security Spending**

The committee received a report from DPI regarding the categories and amount spent by each school district on school safety and security measures during the previous school year under Section 15.1-07-36. The report indicated statewide school safety and security spending for 2022-23 school year was \$23.4 million.

### **Professional Development and Improved Educational Outcomes Related to Direct Literacy Instruction**

The committee received a report from DPI regarding the implementation and effectiveness of reading curriculum and professional development training requirements in improving educational outcomes and reading competency of students under Section 15.1-21-12.1. The report indicated DPI and REAs are collaborating to provide North Dakota Science of Reading, a low-cost and no-cost professional development and curriculum, and assessments for educators. The committee received a report from DPI regarding a summary of Science of Reading activities to demonstrate the implementation and effectiveness of the appropriation provided to the department for professional learning and educational outcome improvement under Section 18 of Senate Bill No. 2284 (2023). The report indicated 599 individuals were trained under Phase I and II, which included Science of Reading, Big Dippers, and Language Essentials for Teachers of Reading and Spelling (LETRS) training. A total of 3,006 individuals were trained under Phase II and III, which included the State Literacy Conference and Science of Reading training. The report noted 226 public elementary schools received funding for LETRS training and DPI is offering LETRS training for higher education faculty. The report also indicated 102 school districts have committed to using Amira Learning, which is an artificial intelligence reading tool for use on an electronic device for tutoring students to read aloud.

### **Dyslexia Screening and Intervention**

The committee received a report from DPI regarding dyslexia screening and intervention under Section 15.1-32-26. The report indicated professional development for dyslexia screening and a universal dyslexia screener are available to school districts at no cost, and two individuals have completed the dyslexia credential available for educators specializing in dyslexia.

### **School District Employee Compensation**

The committee received a report from DPI regarding a compilation of annual school district employee compensation reports under Section 15.1-02-13. The report indicated from the 2020-21 to 2022-23 school year, the average compensation for administrators increased 4.41 percent, or \$6,688, and the average compensation for teachers increased 2.61 percent, or \$2,234.

### **Financial Condition of School Districts**

The committee received a report from DPI regarding the financial condition of school districts under Section 15.1-02-09. The report indicated the cost of education for all students in the 2023-24 school year was \$1,688,400,249, and the average cost per student was \$14,345.87.

### **Intervention Measures for Chronically Low-Performing Schools**

The committee received a report from DPI regarding North Dakota Fostering Improved Results for School Transformation, which is the implementation of intervention measures for chronically low-performing schools under Section 15.1-02-23(5). The report indicated the program has not been implemented, but any school that would be receiving comprehensive support and improvement for a second consecutive 3-year cycle in August 2025 will enter a North Dakota Fostering Improved Results for School Transformation Partnership Agreement.

### **Learn Everywhere Program**

The committee received a report from DPI regarding Learn Everywhere, a program that allows students enrolled in grades 6 through 12 to earn course credit through educational opportunities with a sponsoring entity under Section 15.1-07-35. The report indicated the enactment of House Bill No. 1521 (2023) made the program easier for schools to implement and DPI will be promoting the program to encourage more schools to participate.

### **Prekindergarten Through Grade 12 Education Strategic Vision**

The committee received a report from DPI regarding an update on the strategic vision and the collaborative report of the strategic plans of each steering committee member entity receiving state education funds under Section 15.1-02-04. The report indicated the statewide prekindergarten through grade 12 education strategic vision was developed through input and participation provided by a steering committee consisting of representatives of 24 state-level education entities and stakeholder groups. The committee's vision is for all students to be graduating choice ready with the knowledge, skills, and disposition to be successful. The report indicated the strategic themes used to drive improvement on outcomes are quality early childhood experiences; support for safe and healthy behaviors; career awareness, exploration, and development; quality education personnel; and quality student-centered instruction.

### **Academic Performance Metrics of Students in Virtual Instruction**

The committee received a report from DPI regarding a comparison of academic performance of students participating in virtual instruction with those not participating in virtual instruction using the statewide strategic vision framework goals. Due to the low group size of reporting school districts, each participating district gave its own report under Section 15.1-07-25.4. The reports indicated schools appreciate the virtual instruction model because it is the best delivery model for certain students. The reports also indicated schools are implementing plans to increase the number

of virtual students who take the state assessment, which must be taken in person, to provide more data to analyze the effectiveness of virtual instruction.

### **Statewide Test Scores**

The committee received a report from DPI regarding a compilation of test scores of a test aligned to the state content standards in reading, mathematics, and science under Section 15.1-21-10. The report indicated student proficiency is trending upward toward prepandemic scores. The 2023-24 assessment reflected an overall student proficiency of 45 percent in English language arts and 40 percent in mathematics across all grade levels. Comparatively, North Dakota students perform in the top 25 percent of all states consistently.

## **Education Standards and Practices Board**

### **Satisfaction Survey Results**

The committee received a report from the Education Standards and Practices Board regarding electronic satisfaction survey results of all interactions with individuals seeking information or services from the board under Section 15.1-13-36. The report indicated the public is extremely satisfied with the board's accessibility, customer service, and consistent message.

## **Kindergarten Through Grade Twelve Education Coordination Council**

### **Activities of the Council**

The committee received a report from the Kindergarten Through Grade Twelve Education Coordination Council regarding the activities of the council under Section 15.1-01-04(9). The council is comprised of 20 stakeholders from various backgrounds, including legislators, the Governor, the Superintendent of Public Instruction, school administration, teachers, and education associations. These stakeholders are required to assist with the implementation, dissemination, and communication of the statewide strategic vision and evaluate its progress; perform a review of the access and delivery of education in the state; identify opportunities for collaboration; identify gaps and duplications; evaluate initiatives and trends; and support local or regional initiatives and practices. The report indicated the focus of the council's efforts in 2024 was the future of school staffing, including recruitment and retention initiatives for teachers and other employees.

## **Governor's Office**

### **Teacher Retention and Recruitment Task Force**

The committee received a voluntary report from the Governor's office regarding an update on the Teacher Retention and Recruitment Task Force, which is tasked with studying how to improve teacher preparation programs, evaluating pathways to licensure, improving working conditions to promote retention, and identifying best practices in other states. The Hunt Institute provided technical expertise to the task force related to teacher retention and recruitment. The report indicated the task force will provide recommended legislation to the Governor and DPI.

## **Center for Distance Education**

### **Enrollment Statistics**

The committee received a voluntary report from the CDE regarding enrollment statistics for the center. The report indicated approximately 400 students are enrolled in over 2,600 courses.