

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2033

2005 SENATE EDUCATION

SB 2033

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Education Committee

Conference Committee

Hearing Date 1/12/05

Tape Number	Side A	Side B	Meter #
1	x		2000-3930
Committee Clerk Signature <i>Patty Wilkens</i>			

Minutes: Relating to elementary and high school student residency determination.

Senator Layton Freborg, Chairman called the meeting to order on SB 2033

All Senator were present.

Testimony in support of the Bill:

Tom Decker, here on behalf of **Jerry Coleman**

See attached: written testimony

Tom Decker asked that the committee members would visit with **Jerry** before acting on the bill.

These are very needy students, they have had difficult lives. They need someone looking out for them.

Senator Flakoll : Would it be to your understanding that this would include residence of the Anne Carlson school?

Tom Decker : This includes any students where there is a ? about what there residency is in terms of the ND school district. Some of those students would be in that case not necessary all of them.

Senator Freborg : We will have Jerry come in soon.

Senator Freborg : other testimony in favor of SB 2033

Mike Ahmann :director of Special Education for the Bismarck Public Schools.

See attached: written testimony

Mike Ahmann, also asked if he could hand out a copy of testimony from **Mark Lemer**, Business Manager of the West Fargo Schools.

Mark Lemer wasn't able to attend because of weather concerns.

See attached: written testimony

Senator Erbele : Just for information purposes, what are we looking at for #'s of students that or throughout the state in any given year that fall under the homeless or the transient type students? What is the magnitude of the problem and where the key locations of it.

Mike Ahmann : In a typical yr. for instance with the Bismarck school district we average about eighty kids from our district of placement in some other place (meter 2970) other facilities such as Dakota Boys Ranch, and Carlson School, foster care, typically we have about 75 kids that are placed in Bismarck, from other schools. I think Mr. Decker testified earlier between 8 and 900 students state wide. This is a pretty accurate # of kids that are in placement. Homeless kids would be hard to track, for Bismarck we have over 60 kids that are considered homeless in our school district right now. Again homeless is a pretty broad definition.

Senator Freborg : How do you define the homeless?

Mike Ahmann : Homeless is basically the kind of kids that one don't have a home, do not have a permanent home. Maybe temporarily staying with someone else family friend, or relative. Some may be staying at hotels. (meter 3121) under an Act that says we cannot deny educating the homeless who show up at the school door.

Senator Freborg : other testimony in favor of SB 2003

Doug Johnson : Assistant Director for North Dakota Council of Educational Leaders. I am here in support of SB 2033. We believe from the counsils perspective, that this provides our superintendent of school administrator, clear direction on how to keep track of our students that are the residency of those students, and be able to receive payments in appropriate and proper ways, and track those students quite well. (meter 3240) they have all worked on the language of this bill. Special needs and disability category.

Senator Freborg : Any questions? none.

Bev Nielson : With the School Boards Association, we agree that we get some easy to understand definition in law, so that when districts call our office, and ask us what they should do, that we can look at the law and say, this is what determines residency. (Meter3355) definition explanation, line 13. The student custodial parent or where legal guardian resides. It use to be where the student resides. Bill talks a lot about the placement of kids by the courts or for special education purposes. That's why I am wondering, if this is the same definition now we will use for a district that's responsible to provide education even if it's regular education. (meter 3420) example, of homeless. Some were living in apartments with siblings. Should this be the responsibility of the school where they reside or the district of the custodial parent or guardian. This speaks mainly to placement for non educational reasons but my ? is this is going to be the

definition then, for residency in a broader usage, what district is responsible? We would like to see it go have a simple definition define residency for all students.

Testimony in opposition of the Bill:

Sophia Preszler : I am in opposition to this bill, concerning the homeless. I am in sympathy of the homeless, but more government is not the solution. When we think more government is the solution, we just go around in circles. I am not sure that I know the solution, but more government is definitely not the solution. It seems that maybe too much government is the problem. So I am in opposition of this bill and I thank you.

Senator Freborg : ?'s,

Senator Freborg : No questions?

Senator Freborg : closed the hearing on SB 2033
no action was taken.

The meeting was adjourned.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Education Committee

Conference Committee

Hearing Date 01/17/05

Tape Number	Side A	Side B	Meter #
2	x		0-2310
Committee Clerk Signature <i>Patty Wilkens</i>			

Minutes: Relating to elementary and high school student residency determination.

Senator Layton Freborg, Chairman called the meeting to order on SB 2033

Testimony in support of the Bill:

Jerry Coleman: I didn't get a chance to testify on this, there are a few concerns on how the bill is worded, just want to point that out. This is really a tricky piece in legislation to establish residency, for financial responsibility. Directed at certain types of places, in the code it calls on placement other than education. Generally speaking there is an court involved with care custody control that is taken away from parents, county social services or juvenile services award custody and they make an appropriate educational placement. Those placing agency pick of the residency costs but the educated costs and related costs remain, the most part come out of foundation aid money and local district money. The way it works is that the resident district is financially responsible, but that is limited. They are only responsible up to the state average cost which is roughly 6500.00 in any given yr. Then we do allow them because they are financially responsible

for those students to claim their foundation aid so that further offsets that. Any amt. that is over that then, they claim as excess costs reimbursement from the state. Money that comes out of foundation aid or special education line item. In cases where there has been a termination of parental rights on the student when they don't want the parents involved at all with that student, they don't even pay child support. There are really severe situation where it's better to have the parents removed entirely as termination of parental rights. Other cases where the parents subsequently relocate out of state, we pick up the entire cost. This bill the way that residency is determined currently the wording is the resident district of the child at the time he is placed, the bill amends that to make that the resident district of the parent. Most cases, 90% that those living with the parents at the time is gray area, weather they are living with grandparents or their parents are transient or in cases where the parents are deceased, all those types of situations where that is not covered. I think that change has the potential of making that much more difficult, the bill does go onto say that it expands the cases where the state can pick them up. If they relocate out of state, or we have a termination of parental rights, those two cases and then they added where these cases where they can't determine and then the state takes up these cases. Right now we have about 150 cases where the state is totally responsible for financial aid. My guess is that the amt. may double, we are not talking about a whole lot of money, because we pick up the excess cost anyway. In the subcommittee during the interim, we got together with some business managers and special education people and people over at human services. What came out of that is that we had some what's call voluntary placement and those are ones where the courts aren't involved the parents actually make these placements. These would be say like a developed disabled group home, that was intended to make them legal under this section. There is a list of

the types of agencies that (meter 438) Court action involved or if the student is placed in a state institution, that would be the state hospital, or if the student is admitted to state operated institution or state licensed childcare home or facility. Concern I have, after looking up the section of the law, that's referring to the foster care placement which are eligible under that section.

Senator Flakoll : on pg. 2 lines 6,7, and 29. asked to change the date from Sept.1st to Sept. 15?
Is that just a procedural thing?

Jerry Coleman : yes it is. We use Sept. 10th as our official count date. I do have concerns with that particular amendment too. Where requiring an annual notice, on the residency of the parents, if you could have compliance of that. We have difficulty, just getting them to apply placement notification to the educating district and resident district. I assume the placing agency will be the ones that will be doing the paperwork. So this will be juvenile services and county social services, reviewing all of their cases loads, and issue a notification as of that date. The reason for that is when we talked about that we wanted to take care of placements that happened after date, so when they assume responsibility at all during that yr., that they would assume responsibility for the entire year without having to consider changes during the year for that particular student. It does add a significant burden of paperwork to these placing agencies.

Senator Freborg : It does Jerry, but isn't the bulk of these cases be in the same situation for the coming year? Do they really have to do anything if the status hasn't changed?

Jerry Coleman : I think we still have to issue that notice, maybe it is the language, or if we have to issue a notice that has changed during the yr. I think it is just properly wording that.

Senator Seymour : If this bill passes will it cost the state of ND any more money?

Jerry Coleman : It would not cost us anymore. Foundation pymts and special education in certain circumstances. It may change the distribution a little bit. Won't change the amt. of money that is appropriated.

Senator Freborg : It could reduce foundation aid paymts to other students, correct?

Jerry Coleman : That is true, reduces the amt. of money in the general distribution.

Senator Freborg : What amt. of money are we looking at for the 150 cases we have.

Jerry Coleman : We are polling 6 million, some of this is reimbursing for students that the state isn't entirely responsible for, about half of that, in the biennium about 3 million \$'s.

Senator Freborg : Is the addition \$ over and above the normal foundation aid payment. Is that what you are talking about or is it the total cost on these two?

Jerry Coleman : The way the budget process works, this when established and available to distribute I make an estimate of how much money is going out for this, so I pull that out before we establish what the regular payment is. I might have missed the ?.

Senator Freborg : I think so, maybe I didn't ask in a way that is easy to understand. Lets just say the payment going out is 3000.00 dollars and you have 150 people, is our cost 3 million dollars a yr. after they receive the 3000.00 dollar payment or is the 3000.00 dollar included in that 3 million dollars. Is this 3 million over and above foundation aid?

Jerry Coleman : As I understand your ? yes it would be. This would be additional money that come off state sources to reimburse the total amt. of education. Having the state to pick up the total amt. is one part of it, that's dollars and cents part but the department feels that wherever possible we shouldn't be making the state responsible for the education of these students, it should be left at the district level. The districts don't like to send money out of their districts for

any reason, they can use that money at home they would rather avoid that if they can, but it is state money that is reimbursing the students.

Senator Flakoll : If a student in Fargo would be placed in the Anne Carlson center for children, how would the money trail go?

Jerry Coleman : First off it would be, how did that placement occur? Now if the states placed that or if it was voluntary placement, if this amendment is allowing the DD's then the districts responsibility for that student is the states average cost. If it is the district placement for the special ed. student, it would be 2 ½ times the state average because of the liability. If a student is educated at the Anne Carlson district there would be, the home district is responsible up to state average, so they would, say 6000.00 would be their share of that cost.

Senator Flakoll : Say you have a child who moves into the Fargo school district, how would that money trail go?

Jerry Coleman : Depends on how they were placed, what's going on at the time of placement, where the student is now residing with something that occurred with a court of order, financial responsibility would be on Fargo. They would be limited to 6000.00 dollars for this students costs, if it is higher than that then the state kicks in the education related costs.

Senator Freborg : What is the cost? By today's standards?

Jerry Coleman : Between 6 and 7 thousand.

Senator Freborg : We still distribute special ed. money 10 million dollars to the districts?

Jerry Coleman : In the special education line, 75 % goes out on a block based on an average daily membership of school districts and then there is set aside 13 million dollars for this current biennium. We are already short of money on that.

Senator Freborg : 75% of what?

Jerry Coleman : Of that total of Special Education appropriation money of 50 million.

Senator Freborg : Every district, weather they have a special education student?

Jerry Coleman : Goes out on general student aid to the districts, the rest goes into a risk pool.
Kind of an insurance to protect for high cost.

Senator G. Lee : This does seem confusing, using the Anne Carson example, if the student happens to be in Fargo and moves to the Anne Carlson Center, the first yr. of placement, Fargo will get 6 thousand dollars?

Jerry Coleman : Fargo would be responsible for 6 thousand.

Senator G. Lee : But does Anne Carlson bill them the district of revenue for that other 50? Then the second yr. they promise to turn the residency toward them at Anne Carlson?

Jerry Coleman : This was more toward Senator Flakoll ?, as to how the money flows. They write up a contract for services on the students, and those are handled in most cases by the special ed. unit, Anne Carlson probably does theirs separately. There will be a contract for services that the present districts get to review and sign off on, but that itemizes the services that they are going to get. The payment system we work with special education unit so based on that contract we settle up with special education unit and they turn around and we'll send the state money to the special education unit, who in turn settles up with the members of that particular unit. That's the way the paperwork process works, there is contract on those students that are signed off by the resident district and education district signs off on it too, and also approved by the dept. as well. A lot of paperwork involved in the special ed. contracts, but we will work with

special ed. units to send the excess costs and all that paperwork to get the money, and they in turn settle up with members in their districts that they have.

Senator G. Lee : You raised some issues here, is this bill as good as we can do it? Or are you making some suggestions that we need to fix this?

Jerry Coleman : First you have to decide if you want those DD placements to be under this section, and if that's the case then I think we need to check that reference to make sure that actually happens. Usually those DD facilities are placement ICF, called intermediate care facilities, other issues are would we like that also to be group homes? Like in Bismarck, for the mentally disabled, under this particular section. Other thing that placement notification of Sept.10th maybe that could be done somewhat different. One suggestion I would have is that once you fix the responsibility for that student they will never change it. They are suppose to be short term placement, now if having, and there will be situations where there is placement aid and they will never get out of placement, maybe you could put a time limit on that. Say we would have responsibility for the first two yrs. and then the state could pick up the remainder for those cases, where they were considered permanent placement. That way we could keep district involvement with these students, it's much easier to fix the responsibility of the time that placement occurred the changes that happened subsequent to that are much more difficult, parents move around, many transients, you don't know where they landed, maybe they live with relatives for awhile, here they are in state and then out of state. Very hard to shift that responsibility in finding these parents after a certain amount of time.

Senator Seymour : In ND where are some of the typical revenue sources for a group home right now?

Jerry Coleman : The revenue sources I think for the residential placement, I think comes through human services somehow and I think that, that is a greater share of that is title 4e money, so that would be federal money with a state match on it. I am not at all an expert on that. I did work for the human services a number of yrs. ago, title 4e is the funding source for the foster care placements and quite a few of these are foster care type placements. Their funding would be, I am not sure what title it would be, either 18 or 19 but it is federal money and there is state money to match that. It takes care of the residential costs, education is usually a state responsibility, so this would fall to the state agencies. We have state agencies taking care of custody and control, then we come to take the paperwork through this particular section. No easy answers to any of the ? that are involved with this particular situation.

Senator Flakoll : With respect to the bill, when the interim committee was working on this, there were numerous groups who had major problems with a lot of things and we essentially had no one to speak in opposition to this, It has come a long ways.

Senator Freborg : Perhaps if you have some strong feelings in the area that we discussed or other areas in the bill, would you be comfortable in putting down some recommendation for amendments on paper and hand it out to the committee?

Jerry Coleman : I can do that.

Senator Freborg : You won't have to draft any of them just to give us the recommendations, we will draft them.

Jerry Coleman : I will do that, to get some general recommendations put together, sometimes we don't know what the answers are, but I will get something to the committee.

Senator Freborg : Did you say that you the 150 cases could double in the near future?

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Senate Education Committee

Bill/Resolution Number SB 2033

Hearing Date 1/17/05

Jerry Coleman : Yes, sometimes we don't even know where the parents are.

Testimony in opposition of the Bill:

Senator Freborg : closed the hearing on SB 2033

The meeting was adjourned.

Conference Committee

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Education Committee

Conference Committee

Hearing Date 01/24/05

Tape Number	Side A	Side B	Meter #
2	x		4000-4830
Committee Clerk Signature <i>Patty Wilkins</i>			

Minutes: Relating to elementary and high school student residency determination.

Senator Freborg, Brought up SB 2033 for discussion in the afternoon.

Senator Freborg : Jerry Coleman would like to present something to the committee again. I told him it needs to be soon. Because we need to get this out soon.

Senator Seymour : That bill 2033 did that cost like 6 million dollars or 3 million?

Senator Freborg : 2333?

Senator Seymour : Yes

Senator Freborg : That's the bill we heard this morning?

Senator Seymour : Oh no I got the wrong notes. I mean Jerry's bill that he's talking about. That cost some money didn't it or not?

Senator Freborg : That is 2033. What does your fiscal note say?

Senator Seymour : Well they say that but I don't believe the fiscal notes all the time.

Senator Freborg : It has no fiscal impact.

Senator Seymour : I don't believe in that..

Senator Freborg : Well,

Senator Seymour : We found that out in the hearing this morning, it was erroneous when they talk about the salaries of these teachers in the Minot area what the difference is going to be. They say fiscal note zero, I think we should start looking into it.

Senator Freborg : I guess we can do that, but we have a fiscal note that shows no fiscal impact.

Senator G. Lee : 2033? There isn't a fiscal note on that one.

Senator Freborg : I thought there was one in the back somewhere. I believe this is SB 2333

Senator Seymour : I thought you said this is the one that Jerry is coming down on 2033.

Senator Freborg : OH! OK,

Senator Seymour : I said didn't that cost 5 or 6 million, and he was standing over there saying at that time. I have at least 3 million.

Senator Freborg : OK

Senator Seymour : When could ask him if he comes back right?

Senator Freborg : We certainly can. Where did you get the 6 thousand dollars?

Senator Seymour : I said 6 million, I had this written down in my notes.

Senator Freborg : You had his testimony and I think you had a handout too.

Senator Taylor : On Senator Seymour ? I don't think there would be a fiscal b/c they are taking it, state's responsible for special ed students, they are taking it out of foundation aid right now and that would increase,, and they would have to rob a little more from the kitty, in that three million could currently go up to 6 million but this will come out of the appropriated funds.

Senator Freborg : The increase is not 6 million dollars? It is 3 million dollars.

Senator Taylor : Right

Senator Freborg : So on top of the 3. something we are spending now, it does come out of foundation aid, so that is why there is no fiscal impact b/c it's part of foundation aid. Once that money is appropriated it's whatever it takes comes out of foundation aid.

Senator Seymour : Don't you think it could be other things that come out of there too?

Senator Freborg : Yes, there are other things that come out of there.

Senator Seymour : So as we look at programs and such there is one pool of money foundation aid.

Senator Freborg : It goes to students, on a per pupil basis, different formula for this bill than there is what we know as a foundation aid per student payment bills.

Senator Seymour : I don't understand that yet, that's all, I will have to look into it.

Senator Freborg : Only money for student aid comes out of foundation aid. If Senator Taylor is right, the increase is 3 million dollars or even 4 million dollars it will come out of foundation aid and reduce the per pupil payment to all the rest of the students to schools in the state. I am assuming that is why there is no fiscal impact that money is appropriated for student aid and there isn't going to be any additional money. In fact we'll have to hang on to what we have got. I hope they are not foolish enough to save dollars in the budget by taking money from elementary and secondary education.

Senator Freborg : Ended discussion on SB 2033

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Education Committee

Conference Committee

Hearing Date 01/26/05

Tape Number	Side A	Side B	Meter #
2	x		0-1100
Committee Clerk Signature <i>Patty Wilkins</i>			

Minutes: Relating to elementary and high school student residency determination.

Senator Freborg : Call the meeting to order on **SB 2033**

More Discussion Afternoon

Mike Ahmann : Director of Special Education of Bismarck Public Schools, ND Council of Educational Leaders.

See attached : written testimony

Senator Seymour : I would like some more clarification on # 3? What kind of money are we talking, funding, where is it coming from, I had it figured around 3 million dollars or 6 million, do you have any idea what I am talking about.

Mike Ahmann : There is a Special Ed line item under DPI there is a line item called student contracts, then two line items under that one for school placed and one for agency placed. The agency placed is the part of the bill we are talking about here. The current # is probably 3 million in this line item and 6 million for all contracts. Special Ed line item is just for students with

disabilities. This century code is not limited to just students with disabilities, this is all students with disabilities. Specifically, this addresses placements for non-educational purposes. This is when social services or human services places kids in foster care, places of residence of treatment facilities, state has assumed responsibility when families leave our state and are still in placement the state is responsible for tuition or if the parents parental rights have been terminated. This allocation basically comes out of the foundation aid program right now, there is not a specific line item in there. # 3 in my testimony today specifically up until now the state has denied state responsibility for students when the parents have been deceased. Our point from a local stand point if parent rights can be terminated in court, they certainly can be terminated when deceased. To us this appeared logical that they too would be state responsible kids as far as tuition purposes.

Senator Seymour : I am still not clear on it, what will this bill do, will there be less foundation aid pymts? Less money in foundation aid b/c the way this bill will do things or not.

Mike Ahmann : The problem is putting a financial # on that. I would suspect that it will impact the foundation aid \$'s that are available. The # of kids we have right now b/c it is not counted any more, there is no system in our state to account for the students who have no parents, deceased. I would suggest it is a pretty finite #. Typically those students whose parents are deceased typically will go into a foster care kind of situation. Quite honestly I would suggest this will be very little. Someone should be financially responsible outside of the district where the last place these students may have lived, until there is a permanent guardian that's appointed or that the students are adopted.

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Senate Education Committee
Bill/Resolution Number SB 2033
Hearing Date 01/26/05

Senator Freborg : Perhaps Mr. Johnson may not make it here on time today. He has the information from Jerry Coleman.

Senator Flakoll : If you would like to get a little movement on it, Dirk is printing off copies of an amendment to change the date from Sept. 1-Sept. 15, Pg 2 line 6, 7 and 29.

Senator Flakoll : I would move the amendments the word first to fifteenth. Pg 2 line, 7 and 29 on SB 2033

No further discussion

Hearing None, Clerk took roll: **Vote: 5 Yea, 0 Nay, 1 Absent**

The meeting was adjourned.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Education Committee

Hearing Date Feb. 1, 2005

Tape Number	Side A	Side B	Meter #
2	x		1790-2400
Committee Clerk Signature <i>Patty Wilkens</i>			

Minutes: Relating to elementary and high school student residency determination.

Senator Layton Freborg, Chairman allowed a rebuttal on SB 2033 of Jerry Coleman's testimony

Doug Johnson : ND Council of Educational Leaders, you did get a letter in response to SB 2033 from Jerry Coleman, we will hand out to you testimony from Mike Ahman.

See attached : written testimony

(meter 1790-2294) spoke mostly about the testimony of Mike Ahman.

Senator Seymour : Have you looked into the cost of this bill?, this will cost us 3 million.

Doug Johnson : I have not looked personally into the cost of the bill. I don't know the cost.

Initially it was all state agencies.

went onto other committee work.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Education Committee

Conference Committee

Hearing Date 02/07/05

Tape Number	Side A	Side B	Meter #
1		x	2670-3750
Committee Clerk Signature <i>Patty Wilkens</i>			

Minutes: Relating to elementary and high school student residency determination.

Senator Freborg : Discussion on **SB 2033**

Senator Flakoll : It seems like with SB 2033 I am not sure there are any changes pending, this comes down to no ones made the motion b/c no one wants to carry it. Maybe I am wrong. It doesn't seem like there are any amendments floating out there that I know of. If you want to kick it lets kick it. I don't see any amendments.

Senator Freborg : I don't think there are.

Senator Flakoll : I might re-refer it.

Senator Seymour : There are some amendments

Senator Flakoll : With respect to SB 2033 I move a Do Pass as amended.

Senator G. Lee second the motion.

Discussion on the motion :

Senator Freborg : Do we only have the Flakoll amendment.

Clerk indicated there were two.

Senator Freborg : Does anyone have the second amendment?

Senator Freborg : First one was the Flakoll amendment. Simply changed, first to the fifteenth.

Senator Freborg : It shows that we voted on two amendments we can't find the other one and we need to know what it is?

Senator Flakoll : Did we get 2333 mixed with 2033 by chance did we?

Senator Freborg : I might have but I don't think Patty did.

Senator Flakoll : I have that we took up the so called Flakoll amendment 5-0 and one absent on the 26th of January.

Senator Freborg : They were both on the 26th.

Clerk indicated we could check notes.

Senator Flakoll : It could be 2333, b/c we have had several votes there.

Senator G. Lee : We show three votes of amendments on that one SB 2333.

Senator Flakoll : We took on the 101 amendment to 2333, we have a 4-1 vote with Freborg being the dissenting vote, on 2333.

Senator G. Lee : Those are different dates as well, the 30th of Jan. and the 1st of Feb.

Clerk indicated that the dates may have been written wrong on that.

Senator Freborg : We amended that again.

Senator G. Lee : We took it from three yrs. to eighteen months

Senator Freborg : That's right.

Senator Flakoll : We can wait until we get it all squared up.

Senator Freborg : We don't have to if we know what it is. I do believe it was SB 2333.

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Senate Education Committee
Bill/Resolution Number SB 2033
Hearing Date 02/07/05

Senator Freborg : We have one amendment on 2033.

Senator Flakoll : I f you would like to move forward if we find out between now and this afternoon that there were additional amendments we can certainly reconsider it if we feel that is necessary.

Senator Freborg : We will not find that out as this was SB 2333, b/c I had voted against the Lee amendment. This was the vote, I believe she had indicated SB 2033 when it should have been 2333. So this bill is right, we have one amendment to SB 2033. We do have a motion.

Hearing none Clerk took the roll for a Do Pass as amended, on **SB 2033, vote : 5-1**

Senator Freborg closed the hearing on SB 2033

Senator G. Lee will carry this bill.

Date: 1/26/05
Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2033

Senate SENATE EDUCATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken on amendment

Motion Made By Flakoll Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
CH- SENATOR FREBORG	✓		SENATOR SEYMOUR	✓	
V-CH- SENATOR G. LEE	✓		SENATOR TAYLOR		
SENATOR ERBELE	✓				
SENATOR FLAKOLL	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/7/05
 Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2033

Senate SENATE EDUCATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended

Motion Made By Flakoll Seconded By Lee

Senators	Yes	No	Senators	Yes	No
CH- SENATOR FREBORG	✓		SENATOR SEYMOUR		✓
V-CH- SENATOR G. LEE	✓		SENATOR TAYLOR	✓	
SENATOR ERBELE	✓				
SENATOR FLAKOLL	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2033: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2033 was placed on the Sixth order on the calendar.

Page 2, line 6, replace "first" with "fifteenth"

Page 2, line 7, replace "first" with "fifteenth"

Page 2, line 29, replace "first" with "fifteenth"

Renumber accordingly

2005 HOUSE EDUCATION

SB 2033

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

House Education Committee

Conference Committee

Hearing Date **28 February 2005**

Tape Number	Side A	Side B	Meter #
1	X		90 - 2000
Committee Clerk Signature			

Minutes:

Vice Chairman Johnson opened the hearing of SB 2033.

Mark Lemer, business manager, West Fargo Schools, testified in favor of the bill.

(Testimony attached.)

Rep. Mueller: This is not a new issue obviously. We have set a time certain for when the resident district is to be determined. What if that changes during that year. What provisions do we have in the bill to address that?

Lemer: The bill does not address changes during the school year. The assumption is that once you establish that residency it remains in place for the remainder of that school year. The following school year a new district of residence could be determined based on the address of the parent now. Rather than trying to chase families around the state we have said we going to pick a point in time in the fall of the year; hopefully, social services, for example, will deliver placement notifications to school districts on or before that date. Once you have set that, that

student is your responsibility then for the remainder of that school year. As a school district we could end up losing out on occasion and sometimes we'll end of winning. A family may move from our district on October 1. Because they moved after that cut off date we're not responsible for that child's education cost when they are placed in another school district until the following school year. I've worked with Jerry Coleman from DPI. Some of these instances of residency are very difficult to determine. Families are mobile, they may or may not have a permanent residence and so what we are attempting to do is eliminate a lot of that all school year long activity where we are trying to find where those parents and then assigning a district of residence.

Rep. Hunskor: If a student is in a school on September 15 and moves to another school on September 17 is that school that has the child that had the school on the 15th responsible.

Lemer: No, we are only talking about the students who are placed elsewhere for reasons other than education. These would be the students who are in the state hospital in Jamestown, maybe at Home on the Range, Dakota Boys Ranch in Minot, the Carlson Center in Jamestown. Once they are placed there a school district has to pay tuition costs for the educational program that's delivered to them. This bill only deals with those students. Students who are in a regular educational program in a public school district across the state are not covered by the provisions of this bill.

Dan Huffman, assistant superintendent, Fargo School District, testified in favor of the bill.

Along with Mark (Lemer) I was one of the people who worked with Legislative Council and DPI and the Department of Human Services in trying to establish some language that would actually become workable for those of us who deal with this on a day-to-day basis. One of the things

that is the most important to us was establishing this date certain so that these residency determinations only have to be dealt with one time in each school year.

Rep. Mueller: Do you see the possibility of games being played with the acceptance of students leading up to that September 15 timeline?

Huffman: I don't think that's going to happen. What is happening at the present time is there are some of these kids we are dealing with residency determinations on 6, 7, 8 times a year. It's a time consuming process and where each of these results in a contract situation it's difficult to determine where residency actually did exist and for what periods of time. Right now we have debates among school districts about whether or not they are responsible for eight days or twenty-eight days of tuition because it's impossible to determine what date that residency actually changed. I think in any one year window you may be perceived to be winning or losing from a financial perspective depending on the number of kids that came to you or left after that date. Over the long term it really isn't going to have a significant financial impact. We're not talking about total cost anyway we're only talking tuition cost.

Mark Ahmann, director of Special Education, Bismarck Public Schools, spoke in favor of the bill. **(Testimony attached.)** His testimony included some recommended amendments to the bill.

Rep. Meier: Do you have an idea how this would fiscally impact the Bismarck School District.

Ahmann: It's hard to talk about fiscal impact on our districts. It's the time we spend on trying to track families and kids. A lot of it is clarity of the law and giving us a clean date that only once a year is the only time that agencies would have to bother with paperwork of trying to track down where they live.

Rep. Meier: How many extra hours does it take to do this tracking?

Ahmann: Horrendous. It's the high intensity kind of task that takes a lot of time not only from school districts but the human services agencies. Agencies must notify school districts every time parents move but honestly it doesn't happen. It becomes a real detective job with those that are highly transient. Then you redo all the paperwork of contracts, rebilling, resubmitting all those. We lose a huge amount of secretarial time doing that kind of detective work.

Jerry Coleman, DPI, testified in favor of the bill. **(Testimony attached.)** His testimony also contained suggested amendments. If the committee desires I and Anita Thomas will work on the amendment language for the bill.

Rep. Hunskor: Section 2 addresses young people who come in to ND sent here by the courts for whatever reasons and whose district of residence is in another state. What is done currently under those circumstances. Who's paying the bill?

Coleman: Currently when we do get placements like that in most cases they come in under the Interstate Compact where the local social service agency will manage the case here but the financial responsibility remains with the placing agency in another state. The same works for ND students that are placed out of state.

Rep. Sitte: Do you have any idea what the fiscal note might be?

Coleman: The fiscal note is hard to determine. We will be picking up additional because there are a number of these cases that kind of hit this gray area. The additional cost to the state would be about \$6600 and we do allow school districts to claim foundation aid for these students too so it would be roughly an additional cost of about \$4000 per student. It wouldn't be a budget

breaker. It comes directly out of foundation aid or Special Education. It won't be an astronomical figure.

Rep. Sitte: Just to clarify, you say you agree with Mike Ahmann's three suggestions for changes?

Coleman: Yes, I believe that we need to be clear on they types of students that would be eligible under this particular section because they get favorable treatment in terms of tuition responsibilities.

Doug Johnson, ND Council of Educational Leaders, spoke in favor of the bill. We think the work that has done on it does address the issues for our school districts and our administrators in ND. I should also note that I think the recommendations that Mr. Ahmann gave you for changes would be helpful in identifying disabled students that are going to be placed and clarifying that language. I recommend a do pass of SB 2033 with the amendments suggested by Ahmann.

There being no further testimony, Vice Chairman Johnson closed the hearing of SB 2033.


2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

House Education Committee

Conference Committee

Hearing Date **2 March 2005**

Tape Number	Side A	Side B	Meter #
3	X		0 - 340
Committee Clerk Signature 			

Minutes:

Chairman Kelsch opened discussion of SB 2033. Jerry Coleman had some amendments he would like to offer on this bill.

Rep. Johnson: This is the bill that deals with residency time certain of September 15 each year for students placed by agencies. The proposed amendment was distributed. It is amended to make it consistent in both sections of Century Code.

Rep. Hawken: I Move the Amendment

Rep. Mueller: I second.

A voice vote was taken. **Carried.**

Chairman Kelsch: We now have amended SB 2033 before us. What are the wishes of the Committee?

Rep. Meier: I move Do Pass as Amended.

Page 2

House Education Committee

Bill/Resolution Number **SB 2033**

Hearing Date **2 Mar 05**

Rep. Sitte: I Second.

A roll call vote was taken.

Yes: 14 No: 0 Absent: 0 The bill as amended passed.

Rep. Sitte will carry the bill.

Date: 2 Mar 05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2033

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amend per attached

Motion Made By Hawken Seconded By Mueller

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch			Rep. Hanson		
Vice Chairman Johnson			Rep. Hunskor		
Rep. Haas			Rep. Mueller		
Rep. Hawken			Rep. Solberg		
Rep. Herbel					
Rep. Horter					
Rep. Meier					
Rep. Norland					
Rep. Sitte					
Rep. Wall					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Carry

If the vote is on an amendment, briefly indicate intent:

VK
3/2/05

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2033

Page 2, line 1, after "te" insert an underscored comma

Page 2, line 2, after "guardian" insert an underscored comma

Page 2, line 3, after the third underscored comma insert "located outside the student's school district of residence."

Page 2, line 4, replace "section" with "sections 25-01.2-01 and"

Page 4, line 22, after the second underscored comma insert "located outside the student's school district of residence." and replace "section" with "sections 25-01.2-01 and"

Renumber accordingly

Date: 24 Nov 05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2033

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do Pass as amended

Motion Made By Meier Seconded By Sitte

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep. Hanson	✓	
Vice Chairman Johnson	✓		Rep. Hunsakor	✓	
Rep. Haas	✓		Rep. Mueller	✓	
Rep. Hawken	✓		Rep. Solberg	✓	
Rep. Herbel	✓				
Rep. Horter	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte	✓				
Rep. Wall	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Sitte

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2033, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2033 was placed on the Sixth order on the calendar.

Page 2, line 1, after "~~te~~" insert an underscored comma

Page 2, line 2, after "guardian" insert an underscored comma

Page 2, line 3, after the third underscored comma insert "located outside the student's school district of residence."

Page 2, line 4, replace "section" with "sections 25-01.2-01 and"

Page 4, line 22, after the second underscored comma insert "located outside the student's school district of residence." and replace "section" with "sections 25-01.2-01 and"

Renumber accordingly

2005 TESTIMONY

SB 2033

Senate Education Committee
SB 2033
January 12, 2005

Chairman Freborg and members of the committee, my name is Mike Ahmann, I am the Director of Special Education for the Bismarck Public Schools. I am here to speak in support of Senate Bill No. 2033. Since the March 31st meeting of the Interim Education Committee, a small workgroup has been studying "the criteria by which a student's district of residence is established and whether that criteria correctly assigns both benefits and responsibilities to the school districts."

In March I testified about four major challenges that school districts are experiencing in determining a student's district of residence. They are:

1. School districts do not receive timely notice from agencies regarding the placements of students in their districts.
2. Parents voluntarily place students in treatment programs and facilities, and resident school districts are not notified of the placement.
3. It is unclear when the costs of a student's education should become the responsibility of the state.
4. There are special problems that occur when students from other states are placed in foster care with families in North Dakota.

Since March 31st the Department of Public Instruction, in collaboration with the Legislative Council, convened three meetings to address these issues. The first meeting included representatives from Fargo, West Fargo Public Schools, Lake Region Special

Education Unit, the Department of Public Instruction offices of School Finance & Organization and Special Education, and the ND Department of Human Services Division of Children & Family Services. I was present as a representative of Bismarck Public Schools and the ND Special Education Study Council. Anita Thomas from the Legislative Council was instrumental in identifying the issues and considering options and then prepared a bill draft that attempted to put language in place to address the identified concerns.

Following that meeting the DPI Office of Special Education conducted a forum on the determination of student residency at its summer conference for special education administrators. Members of the workgroup gave an overview of the topic and shared the bill draft prepared by Anita. During that forum our workgroup was joined by the administrator of North Dakota's Interstate Compact on the Placement of Children. The input of other special education administrators was requested.

Following that meeting the Department of Public Instruction asked the Mountain Plains Regional Resource Center at Utah State University to obtain examples from other states about how local education agencies determine the school district of residence for students who are homeless, placed out-of-district through court orders, or move frequently from their own communities. This past summer DPI received information from six other states for the workgroup to review.

The student district of residency workgroup met in early September. Four employees of the ND Department of Human Services joined us to provide information about foster care placements and the assistance provided to families when they choose to place their children for non-educational purposes. Senate Bill 2033 is a result of this work groups efforts. I believe Senate Bill 2033 will help school districts and the state identify a school district of residence for students while assigning and maintaining appropriate responsibility for those students.

I would offer a minor revision to SB 2033. On page 2, line 6 the date for determination of a student's school district of residence in subsequent years after initial placement should be September 15th rather than September 1st. This date would coincide with the date school districts report initial enrollments to the state.

I ask that you support Senate Bill 2033.

**TESTIMONY ON SB 2033
EDUCATION COMMITTEE**

1/12/2005

by Jerry Coleman

701-328-4051

Department of Public Instruction

Mr. Chairman and members of the committee:

My name is Jerry Coleman and I am the Assistant Director of School Finance and Organization for the Department of Public Instruction.

My comments today come from an administrative viewpoint and are concerned with being able to more smoothly administer a very difficult section of law because it deals with establishing financial responsibility based on residency.

Responsibility for educational costs for students placed for purposes other than education fall to the district of residence established at the time of the student's initial placement under this section. That district of residence is responsible for education and related costs up to the state average cost of education with the remainder paid from state funds appropriated for foundation aid and special education. For the current school year the state average cost is roughly \$6,600. This amount is further offset by foundation aid a district receives on behalf of the students.

This bill makes the following substantive changes:

1. A student's school district of residence at the time of placement is determined by the custodial parent's residence, not the residence of the student.
2. Placing agencies must review the determination of residence for each placement annually at September 1 and provide notification to the resident district.
3. Makes the state responsible for educational costs if parents relocate out of state, parental rights have been terminated, if the custodial parents' relationship is terminated or if the parents cannot be located.
4. Makes voluntary placements under section 50-11-00.1 which covers Foster Care Homes for Children and Adults.

The committee should consider the desirability of removing school district involvement in a student's educational program. Making the state responsible for all educational costs effectively does that.

The committee should review the value in requiring a mandatory review of the residency of parents annually. This burden will be placed on agencies that are not under the control of K-12 education agencies. This will make full compliance unlikely.

The amendment language for voluntary placements was intended to address placements by parents in an ICF home or facility (to address developmentally disabled students). I don't believe the amendment language accomplishes that objective.

I will be available to address any questions the committee may have. My phone number is 328-4051.

STUDENT'S SCHOOL DISTRICT OF RESIDENCE DETERMINATIONS STUDY

Background

North Dakota Century Code Section 54-01-26 provides that every individual has a residence and that an individual's residence is determined according to the following premises:

1. It is the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose.
 - There can be only one residence.
 - A residence cannot be lost until another is gained.
 - The residence of the supporting parent during the supporting parent's life, and after the supporting parent's death, the residence of the other parent is the residence of the unmarried minor children.
 - An individual's residence does not automatically change upon marriage, but changes in accordance with subsection 7. The residence of either party to a marriage is not presumptive evidence of the other party's residence.
 - The residence of an unmarried minor who has a parent living cannot be changed by either that minor's own act or that of that minor's guardian.
 - The residence can be changed only by the union of act and intent.

Residency determinations play a major role in delineating responsibility for the provision of elementary and secondary education and often have significant financial consequences. While residency determinations affect issues of annexation, home education, postsecondary enrollment options, tuition, and open enrollment, they seem to elicit the greatest concern when applied to student placements for purposes other than education. For this limited instance, NDCC Section 15.1-29-14 defines a student's school district of residence as:

[T]he district in which the student resides:

1. At the time that a state court, tribal court, juvenile supervisor, or the division of juvenile services issues an order requiring the student to stay for a prescribed period at a state-licensed foster home or at a state-licensed child care home or facility;
 - At the time a county or state social service agency places the student, with the consent of the student's parent or legal guardian, at a state-licensed foster home or at a state-licensed child care home or facility;
 - At the time the student is initially placed in a state-operated institution, even if the student is later placed at a state-licensed foster home or at a state-licensed child care home or facility; or
 - At the time the student is voluntarily admitted to a state-operated institution or to a state-licensed child care home or facility.

The section further provides if after a student placement is made, the student's custodial parent establishes residency in another school district in this state, the school district in which the custodial parent has established residency becomes the student's school district of residence for purposes of paying tuition and tutoring charges. A "custodial parent" is defined as "the parent who has been awarded sole legal and physical custody of the student in a legal proceeding or, if there is currently no operative custody order, the parent with whom the student resides." If the student resides with both parents, then both are considered to be custodial parents.

Reimbursement for Services Provided - Responsibility for Costs

When a student is placed in a school district for noneducational purposes, the student's district of residence is determined under NDCC Section 15.1-29-14 and that school district becomes obligated to pay tuition to the admitting district. The responsibility of the student's district of residence is limited to the state average cost per student. Any remaining charges are paid by the state within the limits of legislative appropriations. If the student requires special education services, the responsibility of the school district of residence increases to 2.5 times the state average cost per student plus 20 percent of all remaining costs.

Frequently, students placed under NDCC Section 15.1-29-14 for noneducational purposes are in the foster care system and their families are transient. An address provided at the time of the student's placement can impose significant financial obligations on the school district within which the address is located. If the student's parent relocates and establishes residency in another school district, the financial burden is then statutorily placed on the school district in which the parent resides. However, given the transitory lifestyles of many such parents, school districts are often

incapable of determining the address to which a parent has relocated and must therefore maintain financial responsibility for a student who at best may have only very tenuous connections with the district.

Committee Consideration - Recommendations

The committee recommends Senate Bill No. 2033 to establish a student's school district of residence at the time of placement and require the placing agency to review that determination each September 1 thereafter. The bill also clarifies that the state is responsible for the financial obligations of a student if the student's custodial parent or legal guardian is no longer a resident of this state, if parental rights have been terminated, if the student no longer has a custodial parent, or if the Superintendent of Public Instruction determines that all reasonable efforts to locate the student's parent or legal guardian have been unsuccessful. The committee concluded that determinations regarding a student's residency are complex and often result in unintended outcomes and that is why previous efforts by individuals or groups acting alone did not meet with success. This time, however, representatives of several school districts, special education directors, the Department of Public Instruction, and the Developmental Disabilities Division and the Children and Family Services Division of the Department of Human Services came together to craft a solution that the committee found to be both workable and acceptable.

CHAPTER 50-11
FOSTER CARE HOMES FOR CHILDREN AND ADULTS

50-11-00.1. Definitions. As used in this chapter:

1. "Department" means the department of human services.
2. "Facility" means a family foster home for adults, family foster home for children, group home, or residential child care facility for children.
3. "Family foster home for adults" means an occupied private residence in which foster care for adults is regularly provided by the owner or lessee thereof, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.
4. "Family foster home for children" means an occupied private residence in which foster care for children is regularly provided by the owner or lessee thereof to no more than four children, unless all the children in foster care are related to each other by blood or marriage, in which case such limitation does not apply.
5. "Foster care for adults" means the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour per day basis, in the home of a caregiver, to a person age eighteen or older, who is unable, neglects, or refuses to provide for the person's own care.
6. "Foster care for children" means the provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a family foster home, group home, or residential child care facility.
7. "Group home" means a residence in which foster care is regularly provided for more than four, but less than ten, unrelated children.
8. "Residential child care facility" means a facility other than an occupied private residence providing foster care to more than eight unrelated children, except as may be otherwise provided by rule or regulation.

50-11-01. Foster care for children - License required. No person may furnish foster care for children for more than thirty days during a calendar year without first procuring a license to do so from the department. The mandatory provisions of this section requiring licensure do not apply when the care is provided in:

1. The home of a person related to the child by blood or marriage.
2. A home or institution under the management and control of the state or a political subdivision.
3. A home or facility furnishing room and board primarily to accommodate the child's educational or career and technical education needs.

50-11-01.1. Family day care home for children defined. Repealed by S.L. 1975, ch. 444, § 17.

CHAPTER 25-01.2 DEVELOPMENTAL DISABILITY

25-01.2-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Developmental disability" means a severe, chronic disability of a person which:
 - a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - b. Is manifested before the person attains age twenty-two;
 - c. Is likely to continue indefinitely;
 - d. Results in substantial functional limitations in three or more of the following areas of major life activity:
 - (1) Self-care;
 - (2) Receptive and expressive language;
 - (3) Learning;
 - (4) Mobility;
 - (5) Self-direction;
 - (6) Capacity for independent living; and
 - (7) Economic sufficiency; and
 - e. Reflects the person's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.
2. "Institution or facility" means any school, hospital, residence center, group home, or any other facility operated by any public or private agency, organization, or institution, which provides services to developmentally disabled persons.
3. "Least restrictive appropriate setting" means that setting which allows the developmentally disabled person to develop and realize the person's fullest potential and enhances the person's ability to cope with the person's environment without unnecessarily curtailing fundamental personal liberties.
4. "Service or services for developmentally disabled persons" means services provided by any public or private agency, organization, or institution, directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of a developmentally disabled person.

25-01.2-02. Appropriate treatment, services, and habilitation - Treatment in least restrictive appropriate setting. All persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for those disabilities. Treatment, services, and habilitation for developmentally disabled persons must be provided in the least restrictive appropriate setting.

25-01.2-03. Presumption of incompetence prohibited - Discrimination prohibited - Deprivation of constitutional, civil, or legal rights prohibited. No developmentally disabled

Testimony on Senate Bill 2033
Presented by Mark Lemer, Business Manager, West Fargo Schools
January 12, 2005

*Same given
to
House on
2-28-05*

Senate Freborg and members of the Senate Education Committee, I would like to express my support of Senate Bill 2033.

This bill is a collaborative effort between school districts, special education units, social service agencies, divisions of the Department of Human Services, and the Department of Public Instruction.

The intent of the bill is to clarify the language that defines which school district within the state has the responsibility for assuming the costs of providing a student's education.

One of the most significant changes is on page 2, lines 5 though 15. This paragraph sets a date certain in the fall of the school year that will be used to establish the district of residence for the entire school year. By creating a single date for making the determination, it will be easier for placing agencies and school districts to know where tuition contracts and billings should be sent. It also eliminates to need to track parents as they move from district to district across the state.

The bill also provides more direction as to when the State of North Dakota will be responsible for educational costs. When parents are unable to be located, it is very frustrating for placing agencies, school districts, and the Department of Public Instruction to determine a district of residence. The language added on page 3, lines 7 and 8 will clear up this issue.

I encourage you to give this bill a "Do Pass" recommendation. I am sorry that I am unable to answer any questions in person. However, you may direct inquires to me via e-mail at lerner@west-fargo.k12.nd.us.

Thank you for you attention.

Senate Education Committee

SB 2033

January 26, 2005

Chairman Freborg and members of the committee, my name is Mike Ahmann, I am the Director of Special Education for the Bismarck Public Schools. I am here to speak in support of SB 2033.

In regard to the objective of changes in SB 2033:

1. The district of residence would be determined by residence of parent vs. student at time of placement.
2. Implement an annual review of residency, however, I would suggest amending the annual review date should be September 15th. Human services agreed this would be desirable, compared to the current system of school district notification every time parent moves, with subsequent district responsible for tuition changing each time a parent moves.
3. It expands cases where the state assumes full responsibility for education cost, specifically in the case of deceased parents.
4. It expands eligibility under this section to include parental placements assisted by Developmental Disabilities in the Department of Human Services. It is also intended to include parental placements in drug/alcohol facilities and psychiatric facilities where placement is funded either by parent or insurance. Section 1.d. is necessary due to the Department of Public Instruction limited interpretation of current language in section 1.d.

"At the time the student is voluntarily admitted to a state-operated institution or a state-licensed child care home or facility."

(We had hoped that any state agency licensed facility should have been inclusive enough language in the current century code.)

In regards to recommendations: I agree with Mr. Coleman's recommendation the language allowing parental placements assisted by Developmental Disabilities needs to be clarified. Reference is only to Section 50-11-00.1 added to identify Family Care Options. If placements in all institutions (groups homes) providing services to developmentally disabled persons are allowed, then section 25-10.2 (Developmental Disabilities) should be referenced. The language should also be restricted to out-of-district placements. [amend 1.a.4]

There should also be reference to whichever section covers licensing of facilities for drug/alcohol treatment and psychiatric care.

In regards to the current system of written notice through certified mail, Social Services representatives suggested the alternative use of electronic notification of placement and annual parental residency. If this is perceived as unacceptable, I would have no objection to leaving the current system of use of certified mail.

As to the other recommendations from Mr. Coleman, I would disagree. The residency rules of NDCC 54-01-26 are at the heart of the current problem. North Dakota system of funding education is reliant on property taxes. The current school year average cost of education is \$6,600, which is funded more than half by property taxes. It stands to reason that the school district responsible for the cost of educating a student in a placement for non-educational purposes, should be the district where parents reside and are paying property taxes.

The same argument holds true for Mr. Coleman's suggestion that district of residence should not change for the duration of placement. Further, Human Services representatives agreed with the compromise of annual determination and notice of parental residency vs. the current requirement of "continuous" determination & notice of any parental change of residency.

Mr. Coleman's last assertion that placement notification for parental placements is assumed to be with the approval of the resident district is not accurate. Often parents do not inform the resident district when they place their child voluntarily in a treatment facility.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2033

Page 2, line 6, replace "first" with "fifteenth"

Page 2, line 7, replace "first" with "fifteenth"

Page 2, line 29, replace "first" with "fifteenth"

House Education Committee

SB 2033

February 28, 2005

Chairman Kelsch and members of the committee, my name is Mike Ahmann, I am the Director of Special Education for the Bismarck Public Schools. I am here to speak in support of SB 2033. In regard to the objectives of changes proposed in SB 2033:

1. The district of residence would be determined by residence of parent vs. student at time of placement.
2. It would implement an annual review of residency. Human services agreed this would be desirable, compared to the current system of school district notification every time parent moves, with subsequent district responsible for tuition changing each time a parent moves.
3. It expands cases where the state assumes full responsibility for education cost, specifically in the case of deceased parents.
4. It expands eligibility under this section to include parental placements assisted by Developmental Disabilities in the Department of Human Services. It is also intended to include parental placements in chemical dependency treatment facilities and psychiatric care facilities where placement is funded either by parent or insurance.
 - a.) I would recommend a minor amendment to this section on page 2, line 4 should also include reference to section 25-01.2. This will include placements in all institutions (group homes) providing services to developmentally disabled persons, which was the intent of this bill.

I would also recommend amending page 4, line 22 to include this same reference to 25-01.2.

b.) The other amendment should be page 2, line 1 after the word "voluntarily", add "outside the resident district"

5. Finally, the new section 2 on page 5 would stipulate that agencies in other states cannot place a student in North Dakota without having an agreement with a responsible agency or school to pay the education cost to the receiving North Dakota school district.

I ask that you support Senate Bill 2033. I would be happy to answer any questions the committee may have.

**TESTIMONY ON SB 2033
HOUSE EDUCATION COMMITTEE
2/28/2005
by Jerry Coleman
701-328-4051
Department of Public Instruction**

The amendments to NDCC 15.1-29-14 in SB 2033 have the following objectives:

1. Change the criteria for assigning district of residence (and therefore financial responsibility).
2. Implement an annual review of residency for every placement at September 15 and fix financial responsibility until the following September 15.
3. Expand the cases where the state assumes full responsibility for education costs when parents cannot be located.
4. Expand eligibility under this section to include parental placements with residential costs funded by Developmental Disabilities in the Department of Human Services.

The language allowing parental placements assisted by Developmentally Disabilities needs to be clarified. Reference is only to Section 50-11-00.1 added to identify Family Care Options (licensed as a foster care home but funded by Developmental Disabilities). If placements in all institutions providing services to developmentally disabled students are allowed then Section 25-01.2 (Developmental Disability) should be referenced. The language should also be restricted to out-of-district placements otherwise any resident student in a group home would become eligible.

I have attached some information that you may find useful as you consider this bill.

If you have any questions feel free to contact me at 701-328-4051.

Attachments:

NDCC 50-11-00.1

NDCC 25-01.2-01

Student's School District of Residence Determinations Study - 2005 Legislative Council Report