

**1999 HOUSE EDUCATION**

**HB 1435**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1435

House Education Committee

Conference Committee

Hearing Date 1-26-99

Tape Number	Side A	Side B	Meter #
#1	x		0.1 to 32.0
Committee Clerk Signature <i>Joan Davis</i>			

Minutes:

Chairman R. Kelsch : Opened the hearing on HB 1435 and asked the clerk to take roll call.

Chairman R. Kelsch , Vice-Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep. Haas , Rep. Johnson , Rep. Nelson , Rep. Nottestad , Rep. L. Thoreson , Rep. Grumbo , Rep. Hanson , Rep. Lundgren , Rep. Mueller , Rep. Nowatzki , Rep. Solberg all present. Open the hearing on HB 1435 and ask the clerk to read the title.

Rep Hawken: Sponsor of the bill, introduced the bill. Bill deals with students living with people other than their parents. For reasons other than education.

Jim Tronsgard: (see written attached). Appeared in favor of HB 1435. Director of Special Education Services for the Fargo Public Schools.

Vice-Chair Drovdal : Are all districts in North Dakota charged the same non resident tuition?

Tronsgard: It depends upon the cost of education in the district, in which the child resides.

Vice-Chair Drovdal : My concern is the outgoing school district, if a low paying rate district has a child sent to a high rate district, the lower pay rate school district has no choice but to pay the higher rate?

Tronsgard: That is correct.

Vice-Chair Drovdal : Is there any way, we could address where the parents would pay the difference?

Tronsgard: That is not addressed in this law. We probably have a need to address the definition of residency of children in this state and tuition charges.

Rep. L. Thoreson : HE answered my question.

Rep. Grumbo : Does the state have funds to subsidize the school if that tuition is not paid?

Tronsgard: They do not at this point.

Terry Tucker: Director of West River Special Services serving twenty school districts in the southwest part of the state. This is not a large one school district issue. We have an inability to charge tuition based on current practices. We are asking to look at the voluntary placement of students by the parents. We have eleven students identified in the southwest. Ask for a favorable consideration on HB 1435.

Rep. Nelson : Are those eleven students in special education district.

Tucker: That is correct.

Rep. Nelson : How many of those students came from out of state?

Tucker: Nine came from out of state.

Rep. Nelson : I would anticipate we would have constitutional problems if we mandate tuition agreements from out of state. How do we direct a piece of legislation for two students?

Tucker: I could defer this question to Jim. If you go on and look at that section of the North Dakota Century Code, you would see, if no resident parent is found in the state, the child would then become state responsible. The foundation aid payment has structured funds to pay those types of payments.

Rep. Haas : What would you do with a child who came to the district and you were unable to collect tuition?

Tucker: You would look at this person as state responsible student.

Rep. Haas : Is the state likely to say, we are not responsible for the student, because the parents are not here?

Tucker: Under current Century Code, that is addressed already.

Rep. L. Thoreson : Does it have any effect, as with open enrollment?

Chairman R. Kelsch : The way I read the bill, it does not.

Bev Nielson: with the North Dakota School Board Association. Our Association did pass a resolution to try and clarify this problem of residency, for special ed purposes in law. We are in support of clarifying the residency issue.

Vice-Chair Drovdal : Heard testimony of children that are voluntarily placed in bigger cities, I can foresee, there are more children placed outside then inside. Are they going to have a problem with the outflow of cash?

Nielson: I would defer that to Mr Tronsgard.

Tronsgard: In many cases student in and student out it is a wash. Children who are out of state we can make claims if it is a result to some court order, when that child resides with a relative,

those are the ones we have to assume the obligation. We waiver tuition. The majority of students that I refer to are not special education students.

Chairman R. Kelsch : Anyone who wishes to appear in opposition of HB 1435?

Dean Bard: represents NDSOS. Appeared in opposition. People are leaving smaller school districts and going to larger towns, and children are going to live with relatives. The parents have made the choice to leave the district, then the resident school district isn't going to get any tax money from their real property. When the kids go to another school district the parents should bear the cost.

Jerry Grunberg: with the Department of Public Instruction and have the job of administrating this section of the bill. By having this bill assigned to the section as placing children for purposes other than education, when parents place the child with someone else in a district, they are not doing it for the purpose of accessing the school privileges of that district. What do we do if someone fails to pay tuition? Supreme Court says that according to North Dakota law, schools need to be free and open to all children in the district. The application of this amendment would require the application of tuition or the denial of such education without someone paying the bill. Need to clarify the question of open enrollment. In the foster care situation, where child is placed from state to state. The dollars do not follow the child in foster care. education cost transfer to the new residence in foster care.

Brenda Oas: Director of Special Education for the Department of Public Instruction. Concern with the vague language in the purposed bill and the spill over effect. Gave information on the student not residing with the parent when it dealt with other states.

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House Education Committee  
Bill/Resolution Number Hb 1435  
Hearing Date 1-26-99

Chairman R. Kelsch : Anyone else wishing to give testimony on HB 1435? If not we will close the hearing on HB 1435.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1435-2-12-99

House Education Committee

Conference Committee

Hearing Date 2-2-99

Tape Number	Side A	Side B	Meter #
Tape # 3	x		27.1 to 33.8
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:

COMMITTEE ACTION

Chairman R. Kelsch , Vice-Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep. Haas ,  
Rep. Johnson ,jn , Rep. Nottestad , Rep. L. Thoreson , Rep. Grumbo , Rep. Hanson , Rep.  
Lundgren , Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R. Kelsch : We will take up HB 1435. What are the wishes of the committee?

Rep. Haas : I move a DO NOT PASS.

Rep. Nelson : Second.

Chairman R. Kelsch : Discussion. We will ask the clerk to read the roll on a DO NOT PASS  
motion. THE DO NOT PASS motion passes with a vote of 13 YES 2 NO 0 Absent FLOOR  
assignment Rep. Haas .

## FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: HB 1435

Amendment to: \_\_\_\_\_

Requested by Legislative Council

Date of Request: 01/20/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

**Narrative:**

NDCC 15-40.2-08 applies to residency determination and payment of tuition in cases of child placements for purposes other than education. Students falling within this section are generally placed as a result of a legal proceeding. This amendment allows any voluntary placement by a parent for purposes other than education to fall under this section.

Under 15-40.2-08, the district of residence is liable for tuition up to the state average cost of education and the remainder is paid out of the foundation aid appropriation.

The bill language is wide open. However, I believe the intent is to establish the district of residence responsible for tuition as that of the parents for all placements. Assuming these students are already the responsibility of a school district for education purposes, there would be no fiscal impact.

2. **State** fiscal effect in dollar amounts:

1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
General Fund	Special Fund	General Fund	Special Funds	General Fund	Special Funds

Revenues:

Expenditures: 0 0

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_
- b. For the 1999-2001 biennium: \_\_\_\_\_ 0
- c. For the 2001-03 biennium: \_\_\_\_\_ 0

4. **County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
					0			0

If additional space is needed, attach a supplemental sheet.

Signed *Jerry Coleman*

Typed Name Jerry Coleman

Department ND Dept of Public Instruction

Date Prepared: 01/25/99

Phone Number 328-4051



Date: 2-2-99  
Roll Call Vote #: /

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1435

House Education Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Haas Seconded By Nelson

Representatives	Yes	No	Representatives	Yes	No
Rep. ReaAnn Kelsch-Chairperson	✓		Rep. Dorvan Solberg	✓	
Rep. David Drovdal-Vice Chair	✓				
Rep. Michael D. Brandenburg	✓				
Rep. Thomas T. Brusegaard	✓				
Rep. C. B. Haas	✓				
Rep. Dennis E. Johnson	✓				
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson		✓			
Rep. Howard Grumbo	✓				
Rep. Lyle Hanson	✓				
Rep. Deb Lundgren	✓				
Rep. Phillip Mueller	✓				
Rep. Robert E. Nowatzki		✓			

Total (Yes) 13 No 2

Absent 0

Floor Assignment Haas

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

REPORT OF STANDING COMMITTEE (410)  
February 2, 1999 5:50 p.m.

Module No: HR-21-1737  
Carrier: Haas  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1435: Education Committee (Rep. R. Kelsch, Chairman) recommends DO NOT PASS**  
(13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1435 was placed on the  
Eleventh order on the calendar.

**1999 SENATE EDUCATION**

**HB 1435**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1435

Senate Education Committee

Conference Committee

Hearing Date March 1, 1999

Tape Number	Side A	Side B	Meter #
1	x		755-4580

Committee Clerk Signature *Linda Christman*

Minutes:

SENATOR FREBORG opened the hearing on HB1435. All senators present.

Testimony in Favor: Representative Hawken, District 46. Spokesperson for the bill. This bill deals with the non-educational placement of students. There is no recourse for school districts when they are not referred by an agency. Schools without open enrollment it is a problem, this not just an urban problem. What the bill asks is very simple, is that we do place in statute at this time something about non-educational placement. When it is a safety issue there is rarely any question about placement policy.

SENATOR KELSH : Purpose of the bill is so that if a child is placed voluntarily by parents with Aunt Emma they can collect tuition from the other district.

Rep. Hawken: Correct

SENATOR KELSH : In section one it says for services applying this chapter the school district

in which the child resides must be construed to be the district of residence of the child. When they voluntarily place them then the child does not reside there.

Rep. Hawken: The problem is that that is not the legal guardian for that child. It is not the child's school district. Nothing in statute at this point addresses that.

SENATOR KELSH : Say I send a child to Lisbon to live with an aunt and uncle because they need special education and they have a good program there, their residence would still be with me.

SENATOR O'CONNELL : Can you give an example that is special education related.

Rep. Hawken: I can give you one that is not special education related. We have a junior hockey league in Fargo, a number of students from various places around the state have opted to give up their senior year in their particular high school and come play hockey.

SENATOR WANZEK : In these situations, open enrollment cannot work because the school isn't taking open enrollment students. Aren't the parents responsible to pay some tuition.

Rep. Hawken: That is the reason for the bill, they don't have to do that.

SENATOR REDLIN : Trying to figure out the money following the kid is the problem.

Rep. Hawken: The tuition part follows but the special needs doesn't cover. I am not the expert. Someone here may be able to give you more technical information.

Testimony in Favor: Bev Nielson, ND School Board Association. Terry Tucker brought about the bill and it originated from a rural area. This bill provides some options for school districts.

SENATOR FREBORG : Under the other statutes the child leaves the parents and goes to live with relatives, don't they have to become a legal guardian before they go tuition free.

Bev: I think the people from DPI can answer that better. We have legal opinions on that

but we feel you can sign a paper but you really can't sign away your parental rights.

Exactly what guardianship is, is a real question. Frankly that issue is what we are trying to get a resolution together for the past several sessions. Who is financially responsible for the local share of the educational cost of children. The guardianship issue is a real problem.

SENATOR WANZEK : Did I understand in these cases the foundation aid does follow, it is the inability to negotiate tuition agreement to some other dollars from that district in which they resided.

Bev: To try and negotiate tuition for the local share of the tuition.

Testimony in Opposition: Jerry Coleman, School Finance, DPI. Written Testimony attached.

SENATOR FREBORG : Under number 4, parents living apart, which district is responsible.

How do you answer that question today.

Jerry: Custodial parent.

SENATOR FREBORG : Do you consider all parental placements today to be for purposes of educating.

SENATOR KELSH : I can see lots of problem areas. Transient parents, not really being a resident anyplace in North Dakota. Big problems arise where the school district is ending up as not participating in open enrollment because all they would have to do is use the open enrollment clause and there would be no problem. Am I right or wrong. If there is no residence then there is no solution.

Jerry: Matter of students wanting to attend a different school for whatever reason, open enrollment is an option. Except for those districts, Fargo is one of those districts, that does not participate in open enrollment.

SENATOR WANZEK : Does open enrollment require a tuition agreement.

Jerry: What open enrollment basically does is that it waives that districts tuition. Except when there is a disability.

SENATOR WANZEK : I hear the opponents say they need this so they can negotiate a tuition agreement.

Jerry: They waive their regular tuition.

SENATOR KELSH : What we are saying is we gave students the right that the districts accepting them could not charge tuition. To offset that we give the districts the right not to accept open enrolled students, if they accept open enrolled students they can't charge tuition, but if they aren't an open enrolled student they can charge those additional costs. Is that correct.

Jerry: That is correct.

Testimony in Opposition: Brenda Oas, Director of Special Ed for DPI. No written testimony.

Concerned about the very vague language in the bill. It requires interpretation. When the proposal is considered in its full context it appears it would be necessary to amend section 4. Gave several cases to emphasize concerns on interpretation. Largest concern is the unknown fiscal impact. This issue needs to be studied further. Would like the legislature to look at the whole range of enrollment options.

Testimony in Opposition: Dean Bard, ND Small Organized Schools. Have some great concerns about this bill. I'm concerned about the part that is understandable here and how I fear that might treat school districts in an unfair fashion. You have to go back to the 1932 Anderson

case. This case came up out of Wishek. A young girl named Anderson was going to Whisek school, living with her Aunt. The father had deserted the family and they lived in a district close to Wishek. The mother was unable to take care of the child so she sent the child to live with an Aunt in Wishek. That was not a placement for the purpose of education and the court said so. Statute said that the school district was required to provide a free public education to residents of the district. The young girl could gain residency separate from her parents, she was therefore a resident of the Wishek district. The Wishek district had to bear the costs. Parents could not be billed back for the tuition. That is what I fear is left out of the formula. Parents are voluntarily sending their students somewhere else, then parents should be responsible for the tuition.

Testimony in Opposition: Tom Decker, DPI. No written testimony. In 1932 the courts rules in favor of what was best for the student. Language is narrow. We're trying to put language in place so in those few districts that do not have open enrollment that will make this substantially more difficult or impossible. Open enrollment, the foundation aid will follow them but the local tuition will not if not involved in open enrollment.

Close hearing on HB1435

Discussion was held.

SENATOR COOK: Brenda made reference to sub section 4, addresses same issue but comes at it a little bit different. It says in the event of a voluntary admission to any state license. This talks about voluntary placement. Is there a difference between voluntary admission and voluntary placement.



Tom: Placement refers to placement by a legal entity with authority to make a decision about placement. Juvenile court, social services, something like that. Other piece we're talking about is strictly voluntary. Parent decisions, what's in the best interest of the state not mandated by anyone with legal authority to place.

SENATOR COOK: When I read that and I see voluntary admission I think of a voluntary action taken by the receiving school. When I read voluntary placement I think of a voluntary action by someone else who is placing the student, not the receiver of the student. Am I right in thinking that way.

Tom: I think that over simplifies what is happening out there in the real world. The place of business because there are legal authorities/entities working through the various systems in the law we can usually get to the bottom of that and reach an agreement about who is responsible. The business here about voluntary placement a parent deciding they want their child to live in a school district for whatever reason, is something that happens strictly between parent and relatives. Fargo finds out about it in the middle of the year when they discover the student is living with grandma and doesn't have a parent there. There are no requirements to notify them, child enrolls in school as a resident, we would argue that in the circumstances it's not for educational purposes. The court case cited that he is a resident.

SENATOR COOK: This sub section deals with the process in which if there is a dispute the 3 member committee referred to section 1540 shall consult with the school boards of the districts concerned and with the parent or guardian of the pupil concerned and render a decision in regard to the tuition charges. Have we had a lot of these such disputes settled this way.

Tom: No, virtually none.

SENATOR KELSH : Certainly not comfortable with it the way it is. Someone has a problem at home for whatever reason moves and lives with another relative and intends on staying there for whatever amount of time, that is their residence. That is what is confusing. Testified that under that lawsuit where the child is living at the time unless placed by a court order is their residence. Is that right.

Tom: It is my interpretation that the affect of this language is essentially overturned greatly.

Ruled in all cases the intent is unless a child is living with their parents then they must be paying tuition unless they are under open enrollment or some other specific provision that allows them to move.

SENATOR FREBORG : Who has the burden of proof under the current law as to whether the child is living with grandma for reasons other than education.

Tom: It is the school district that has the child.

SENATOR FREBORG : Who has to prove that the child is there for other reasons.

Tom: Incredible variety of circumstances here that is hard to pinpoint.

SENATOR FREBORG : If child goes to live with a relative do they have to prove that the child is there for those reasons in the home in order not to have to pay tuition.

Tom: Following the circumstances you outlined, the student would go to live with relatives, enroll in the school district where they are living and then if the school district questioned their residence the parents would indicate that there were domestic problems that brought this child to the district to live. That is purely reasons other than education for his own safety or whatever, because he is school age he is going to school here. It would be incumbent on the school district at that point to prove that the child was here strictly for educational purposes.

SENATOR COOK : If this bill was to pass and it actually affected kids out there, would not the relatives simply then become a legal guardian and no longer would this apply.

Tom: There is some gray in the area we are talking about here. There are a number of kids moving around for a variety of reasons. Some districts if a child moves in, they just accept the student because he is in our district and he is living with relatives. Other districts are pretty sticky, even a guardianship in some cases is not considered adequate. Some districts go to the point of almost requiring relinquishing of parental rights and adoption. Some gray areas. Is the kid here for education only or is he here for other reasons, if he's here for other reasons a whole range of things then he's a resident of the district he is living in now.

SENATOR COOK : I would think there is a lot of flexibility that we would like to give our local districts. But there shouldn't be any gray area as far as where the student is a resident or not or who is responsible for that education, I would hope the Century Code is such that it is pretty clear that there is not a problem.

Tom: In most of these cases it really is difficult. for the district that is educating the kids to prove that he is there for educational purposes only.

SENATOR KELSH : How many cases are there in ND now that you think this would affect.

Tom: Difficult issue to answer. Most of the students who would fall under this provision are in Fargo, who doesn't have open enrollment. They are going somewhere else on open enrollment and it is no big deal. They are able to do that. It is only in those few places that don't accept students under open enrollment that this becomes a real issue. Affect is to limit parents choices to some degree.

SENATOR WANZEK : What are they trying to get at by referring to purposes other than education. It appears to me what we're trying to target are those situations where for whatever reason the parents decided to send their student to another district to live with a relative or someone who is not a state licensed child care or state operated institution. That is what we're targeting but why would it even matter if it were for purpose other than education or purposes of education. Either way it would be the same situation.

Tom: Talking about the philosophy that you've adopted in regard to open enrollment. I think you're right. It shouldn't matter why the parents made that decision but that takes care of all the places that take students on open enrollment. But the other places have a different set of circumstances more confined in options in deciding whether they are there for educational purposes or other purposes and making a decision.

SENATOR WANZEK : If they are placed there for educational reasons, does the admitting district have any recourse in getting the tuition.

Tom: The admitting district can charge. You can document. It is an interpretation and it falls on the local districts.

SENATOR KELSH : I move a DO NOT PASS.

SENATOR REDLIN : 2nd

Vote: 7 Yes 0 No

CARRIER: SENATOR KELSH

Date: 3/1/99  
 Roll Call Vote #: \_\_\_\_\_

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1435**

Senate EDUCATION \_\_\_\_\_ Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Move Do Not Pass

Motion Made By Kelsh Seconded By Redlin

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment Kelsh

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

REPORT OF STANDING COMMITTEE (410)  
March 1, 1999 1:46 p.m.

Module No: SR-36-3767  
Carrier: Kelsh  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1435: Education Committee (Sen. Freborg, Chairman)** recommends **DO NOT PASS**  
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1435 was placed on the  
Fourteenth order on the calendar.

1999 TESTIMONY  
HB 1435

**HOUSE EDUCATION COMMITTEE**  
**January 26, 1999**  
**by Jim Tronsgard - Fargo Public School District**  
**TESTIMONY ON HB 1435**

Chairman Kelsch and Members of the House Education Committee,

My name is Jim Tronsgard, I am the Director of Special Services for the Fargo Public Schools. I am here in support of a House Bill 1435. The proposal in House Bill 1435 contains an addition to Section 15-40.2-08 of the North Dakota Century Code as it relates to tuition payments for students. "e. At the time of any voluntary placement by a parent for purposes other than education"

Our district has noted a significant increase in non-resident students who have been unilaterally placed in our school district by their parents for purposes other than education over the past 4 years. Typically, these are non-resident children whose parents have placed them with grandparents, other relatives and in some cases with friends because of the increasing social/emotional unrest these children have caused in their natural homes. In all of these cases, ( in excess of 30 over the past four years), the Fargo Public Schools have been forced to waive tuition charges. Unless children are placed via courts, tribal courts or juvenile supervisors we are hampered in making tuition demands upon their home districts. This is particularly true if they are not residents of the State of North Dakota.

In the landmark North Dakota Supreme Court decision *Anderson v. Breithbarth*, -1932, the court determined that the District where a child was placed by a parent, even if the parent was out of state, was financially responsible for the education of the child residing with an aunt and uncle when such placement was for purposes other than education. Thus it has been a district responsibility to prove that the motive was to receive an educational gain. The *Breithbarth* decision, although not addressed in North Dakota Century Code, has continued to this date to be the guiding principle when unilateral placements with relatives occur. It is only in recent years with a more transient population that the Fargo Public Schools and other schools have been increasingly exposed to these tuition liabilities.

The growth of homeless shelters for mothers and children has also impacted tuition obligations when such parents either move from the community and leave children with relatives or friends. It is not unusual today to encounter instances where parent have moved, leaving children behind with others and using false addresses or erroneous relative information in order to assure that their children can remain in a given community.

In summary, this is and will continue to be an increasing problem for many districts in North Dakota. I would urge you to consider adopting this resolution which would give districts an increased opportunity to claim tuition for students who are nonresidents.



I would also like to suggest that the *Breithbarth* decision be incorporated in the North Dakota Century Code as applicable to existing tuition sections.

Chairman Kelsch, and Member of the House Education Committee, thank you for this opportunity to be heard on this important educational issue.

**TESTIMONY ON HB 1435**  
**SENATE EDUCATION COMMITTEE**  
**March 1, 1999**  
**by Jerry Coleman, School Finance**  
**328-4051**  
**Department of Public Instruction**

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Mr. Chairman, members of the committee, my name is Jerry Coleman. I am the Assistant Director of School Finance and Organization, Department of Public Instruction. I am here today to provide information on HB 1435 relating to tuition payments for children placed for purposes other than education. The DPI opposes this bill.

NDCC 15-40.2-08 applies to residency determination and payment of tuition in cases of child placements for purposes other than education. Currently, students falling within this section are placed as a result of a legal proceeding. This amendment adds any voluntary placement by a parent for purposes other than education to this section. We believe this language is wide-open to interpretation and frankly have not been able to assess its impact.

Currently, the district of residence is where the child is living to be raised (unless specifically addressed under NDCC 15-40.2-08). This bill will effectively allow a parent to place a student into any district as long as it is not for educational purposes. The district of residence becomes that of the parent and will require tuition to be paid.

The following are administrative questions that should be addressed:

1. What constitutes a voluntary placement for purposes other than education? What is the definition? What type of documentation is required?
2. Who will determine if the parent's decision was really for purposes other than education?
3. What happens if a parent cannot be found? Has a placement occurred?
4. If parents are living apart, which district is responsible?
5. Subsection 3 of NDCC 15-40.2-08 provides criteria on residency when parents move for placements under a through d of subsection 1. This amendment is not addressed in subsection 3.
6. What happens with non-payment of tuition? Can a district deny admittance because a payer cannot be found?

Thank you for the opportunity to testify. I will try to answer any questions you may have about this matter.