

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/09/2017**

Amendment to: SB 2307

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>			\$500,000			
<b>Appropriations</b>						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>		\$500,000	
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2307 relates to eligibility criteria for students placed for non-educational purposes.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

NDCC 15.1-29-14 covers tuition responsibility for students placed for purposes other than education. Students falling within this section are classified as “agency placements” when determining reimbursement under the student contract system.

District of residence determinations not falling under 15.1-29-14 are based on the Anderson-Breithbarth standard of “where the student is living to be raised”, which can be different from the district of residence of the parent. The criteria for determining district of residence for financial responsibility under 15.1-29-14 is determined annually as the resident district of the custodial parent at the time of placement.

The student contract system is an insurance type program that districts can use to claim reimbursement for the excess costs of an individual student. Costs over the state average cost of education are covered for “agency placements” and costs over four times the state average are covered for “school placements”. The two liability thresholds are roughly \$12,000 and \$48,000.

The bill changes the reference to “state-licensed foster care home” to “in foster care”. This change will allow unlicensed relative placements to become eligible as agency placements in the student contract system. The change accomplishes two things:

1. Residency determination for all foster care placements facilitated by an agency will be based on the same standard – the residence of the parent.
2. Unlicensed relative placements will be reimbursed as an agency placement (cost over \$12,000) rather than as a school placement (costs over \$48,000).

The fiscal impact of this change cannot be known with any degree of precision. DHS reports indicate that annually there are 2,400 foster care placements. Of those placements, 500 are unlicensed relative placements. The vast majority of these placements do not generate excess costs. In situations where a tuition responsibility is created, there may be an indirect impact on the state aid formula as 75% of tuition revenue collected by the educating district

is considered in the calculation of state aid payments.

The student contract appropriation cannot absorb the additional contract costs that will most certainly occur. For purposes of the fiscal note, we estimate \$500,000 should be added to the student contracts line to cover the additional contracts that will be added. This assumes that 25 new excess cost contracts will be created at an average cost of \$20,000.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
  
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
  
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The student contract system is funded through the Grants-Special Education line item appropriation in the NDDPI budget (HB 1013). The budget request for this appropriation is \$19,300,000.

**Name:** Jerry Coleman

**Agency:** Dept of Public Instruction

**Telephone:** 701-328-4051

**Date Prepared:** 02/10/2017

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/01/2017**

Bill/Resolution No.: SB 2307

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**Name:** Jerry Coleman

**Agency:** Dept of Public Instruction

**Telephone:** 701-328-4051

**Date Prepared:** 02/06/2017

**2017 SENATE EDUCATION**

**SB 2307**

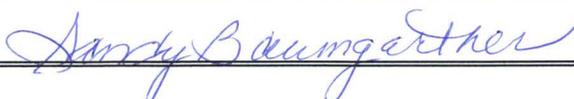
# 2017 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2307  
2/1/2017  
Job Number 27708

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to student placement for non-educational purposes

## Minutes:

#1, #2, #3, #4

**Chairman Schaible:** Committee hearing for SB 2307

**David Rust:** Senator for District 2: Introduced SB 2307. Testimony #1

**Tracy Klein:** Student Services Director of Morton-Sioux Special Education Unit. Testimony #2 in support of SB 2307. There may be a bump in the Fiscal note, but has been accounted for in the past.

**Chairman Schaible:** Where is the money shifted to?

**Tracy Klein:** I can give you a basic feel for that. In the past, residency was based on where the parent lived. That community then shouldered the expense of educating that child. Now, in this new scenario when a child is placed in kinship care, but not in a licensed home, the cost falls to where that child is living as opposed to where the parent is living.

**Mike Bitz:** Superintendent of the Mandan School District. Testimony #3.

**Chairman Schaible:** Is this the only place that has this situation.

**Mike Bitz:** This is when an agency takes custody and places a kid.

**Chairman Schaible:** Is there any other types of placements?

**Mike Bitz:** Maybe, but these would be the vast majority of them.

**Chairman Schaible:** Any other testimony, any agency testimony?

**Jerry Coleman:** Department of Public Instruction: Attachment #4 Explained the placements from agency or schools. The impact also impacts the amount of money they can get through the contract system. If the placement is agency placed, it is state average cost. If it is school placed, it is 4 times the state average per pupil. There is a big difference between the two. We have issues with meeting our obligations under current contract system for the current biennium. We are short 1.2 million. We are expecting another 2 million to stay even, so we have issues with appropriations to on that.

**Chairman Schaible:** Making the change in this bill, is it going to raise the cost of that to the state?

**Jerry Coleman:** It will raise the cost to the state. It is determining what the amount would be. The contract system is quite complicated. I would like to see that this gets studied a little bit, like during the interim, to see whether the changes that we made in funding education over the last few years with foundation aid has made a difference. It is quite complex. We don't have a consistent standard.

**Chairman Schaible:** Any other comments? Welcome to the Hazen students.

Committee meeting closed.

# 2017 SENATE STANDING COMMITTEE MINUTES

Education Committee  
Sheyenne River Room, State Capitol

SB 2307  
2/6/2017  
Job Number 27951

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Jandy Baumgardner*

## Explanation or reason for introduction of bill/resolution:

Relating to student placement for non-educational purposes

## Minutes:

**Chairman Schaible:** Come back to order for SB 2307. We were given a Fiscal Note.

**Jerry Coleman:** Department of Public Instruction: The fiscal note is lengthy, but there are a few pieces you need to understand. In Century Code there is 15.1-29. It deals with tuition. I know it is a free public education, but if you are sending kids outside of your school district that results in a tuition charge, it is designed to have local property tax follow that student. 15.29-14 is a specific section of Century Code that deals with student's place for purposes other than education. Generally, that refers students that are placed into foster care, placed by courts in juvenile services or county social services. When they are placed under that, we call them agency placements. The district of residence involves that the school district would be responsible for the financial education of those students. Sometimes care in their district and sometimes they are outside their district. But there will be a residence school district. There are 2 different standards that are used to determine that residency. It depends on the type of placement. But the agency placement is the residence of the parents. Everything else it is the actual residence of the child to be raised. That is important here because it determines the financial responsibility. If it is an agency placed student the threshold is \$12,000, so the school district is only responsible for up to \$12,000. If it is a school placement, which is everything else, that would be liable 4 times the state average which is \$48,000. There are 2 different liability thresholds. It is better to have them placed as an agency placement because the liability is so much lower.

**Senator Rust:** Who is Anderson and Breightbart?

**Jerry Coleman:** A Supreme Court decision for residency standards. This is based back to 1930. This is done for everything except these agency placements. This bill changes a reference from state license foster care home to just foster care home. It removes "state license". It allows these students to be determined agency placements. This is what is creating the fiscal note on this. We had a lack of data, so we took a report from DHS that says there is about 2300 foster care placements. Of those, 500 are placed with relatives. So about 500 of those would be unlicensed relative placements. Most aren't going to generate excess costs. Some of them will. For purposes of the note, we just picked at number. We said that 25 new contracts would be added at an average cost of about \$20,000. That is how we came up with \$500,000 for the fiscal note. Right now our Special Ed. contract line is really under water and we are seeking extra help from appropriations. If this bill was passed, we feel that we should add at least

\$500,000 to student contract line to cover this particular provision. There are 2 things, the people that wanted to have this brought, they want all the residency determination for all foster care placements to be under that same standard.

**Chairman Schaible:** The non-agency placement would be non-educational purposes?

**Jerry Coleman:** Yes, that is true. If they can prove costs over \$12,000 they can claim reimbursement from the school contracts.

Discussion on varied placements situations. School placement is where one school doesn't have the services needed for a child and places them in a district that can provide services. Agency placement is where an agency places them out of the parent home to another for reasons other than educational.

**Chairman Schaible:** This bill does fix the differences?

**Jerry Coleman:** In this narrow instance, yes. There are others that are probably going to pop up. This is just a real small patch that happens to have a fiscal note. I am sorry that this has to be so confusing to get through this stuff.

**Chairman Schaible:** Do you want to ponder this or what?

**Senator Rust:** I understand from the school districts standpoint. There is a difference in dollars. All of a sudden it shifts. The bill basically as I recall the reason for the bill was if you have a student, and let's take Minot and somebody who gets placed at the Boy's Ranch. Depending on the how the placement is, Minot could be responsible for the education costs and it is not really their child. The child might be coming from Fessenden. Could that happen? If I was the Minot School District and we have a Boy's Ranch student, we could be responsible for the costs. In the past, the school district of the residence of the parent determines who pays the cost.

**Jerry Coleman:** You have 2 standards for determining the financial responsibility. Which one is right or wrong? Is it the parents and then would it be where the student is living to be raised? Which is his home district? It wouldn't have anything to do with the Home on the Range because that would not be living with a relative.

**Senator Rust:** So most of the time it is when they come to live with a relative.

**Jerry Coleman:** That is what we are talking about in this bill.

**Chairman Schaible:** This bill is asking for interpretation of the bill.

Further discussion on examples:

**Senator Rust:** In years past we always billed the residence of the parents.

**Chairman Schaible:** Let's look at this again tomorrow.

# 2017 SENATE STANDING COMMITTEE MINUTES

Education Committee  
Sheyenne River Room, State Capitol

SB 2307  
2/7/2017  
Job Number 28014

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Sandy Baumgardner*

## Explanation or reason for introduction of bill/resolution:

Relating to student placement for non-educational purposes

## Minutes:

**Chairman Schaible:** Let's look at SB 2307. Does anyone have any amendments for this one pending? We heard yesterday that this classification will cost the state in the way they do it. I guess the biggest question we have is what's the right thing to do in which way of making that classification? I still believe that we heard, that regardless of the reason, this bill is because that is how they did it 2-3 years ago. That is what they are trying to get back to, but because of the interpretation it will be a cost to the state.

**Senator Oban:** We did hear a request to change the word "home" in this bill to "care". Do you see that necessary? Does it change anything?

**Chairman Schaible:** Who made the reference?

**Senator Oban:** Mike Bitz did on testimony on bottom of page 2.  
Discussion on foster home and foster care.

**Chairman Schaible:** I don't know if it makes much of a difference. Let's leave it until tomorrow.

**Senator Oban:** Just for conversation sake, on the chart that Jerry Coleman provided us with revenue sources and programing for students with disabilities, they have in there agency placement using the word "foster care". If that is something Senator Rust wants to check into or I could if you want me to.

**Senator Rust:** I will check into that.

**Chairman Schaible:** Okay we will look at that tomorrow afternoon.

# 2017 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

SB 2307  
2/8/2017  
Job Number 28066

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Sandy Baumgartner*

## Explanation or reason for introduction of bill/resolution:

Relating to student placement for non-educational purposes

## Minutes:

#1

**Chairman Schaible:** Meeting called to order for SB 2307

**Senator Rust:** The amendments that I have deal with the one-word change. #1 In Mike Bitz's testimony, he gave us the last page that crossed out the word "home" and inserted "care". That is what this amendment does. It changes "home" to "care". I move amendment 17.0985.01001.

**Senator Oban:** Second

**Chairman Schaible:** We have a motion and second to approve 01001. Any other discussion?  
Roll called. 5 yeas, 0 nays, 1 absent.

**Chairman Schaible:** We have an amended version of SB 2307.

**Senator Rust:** I move a "Do Pass as Amended" on SB 2307.

**Senator Oban:** Second

**Chairman Schaible:** We have a motion and second for "Do Pass" on SB 2307.

**Senator Rust:** I realize we might have a little bit of an uphill battle because it does carry a price tag with it. I do believe it is the right thing to do because up until some months ago that was the interpretation that was used. Then because the interpretation had been done incorrectly, it was changed. I am ready to take my chance when we get to the appropriations people as to whether they will give it a Do Pass or not. The motion should have included referred to appropriations. Are you okay with that Senator and Senator Oban?

**Chairman Schaible:** Yes, and any other discussion? Seeing none take the roll.

Roll taken: 5 yeas, 0 nays, 1 absent

**Senator Rust** will carry.

**Chairman Schaible:** We will be adjourned.

2/9/17 Senator Klein said it does not have to go to appropriations so it will not and new standing committee report was made and turned into legislature.

February 8, 2017

CR  
2/8/17

PROPOSED AMENDMENTS TO SENATE BILL NO. 2307

Page 1, line 11, overstrike the first "at a"

Page 1, line 11, after "~~state-licensed~~" insert "in"

Page 1, line 11, overstrike "home" and insert immediately thereafter "care"

Page 1, line 14, overstrike "at a"

Page 1, line 14, after "~~state-licensed~~" insert "in"

Page 1, line 15, overstrike the first "home" and insert immediately thereafter "care"

Page 1, line 17, overstrike the first "at a"

Page 1, line 17, after "~~state-licensed~~" insert "in"

Page 1, line 17, overstrike "home" and insert immediately thereafter "care"

Renumber accordingly





**REPORT OF STANDING COMMITTEE**

**SB 2307: Education Committee (Sen. Schaible, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2307 was placed on the Sixth order on the calendar.

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Page 1, line 11, after "~~state-licensed~~" insert "in"

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Renumber accordingly

**2017 HOUSE EDUCATION**

**SB 2307**

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau A Room, State Capitol

SB 2307  
3/7/2017  
Job 28781

- Subcommittee  
 Conference Committee

Committee Clerk Signature

## Explanation or reason for introduction of bill/resolution:

Relating to student placement for noneducational purposes.

## Minutes:

Attachments 1, 2, and 3.

Chairman- Mark S. Owens: Senator Rust welcome.

Senator Rust: see attachment 1 for testimony

Chairman- Mark S. Owens: I personally will wait for your experts.

Rep. Mary Johnson: How does it increase the cost to the state, if these kids are North Dakotans.

Senator Rust: I have a real expert behind me on that, I think it has to do with the basis of an agency placement, and a school placement. One is the cost of above \$12,000, the other one the cost is about \$40,000, and Mr. Coleman he just has all the answers for you on that one.

Chairman- Mark S. Owens: any other questions, seeing none thank you. Anyone else in support of SB 2307.

Tracy Klein: see attachment 2 for testimony.

Chairman- Mark S. Owens any questions.

Rep. Rich S. Becker: to any rule there is an exception, and what I am hearing you say with the parent being the address of record always, what if the parent has been claimed non fit, they leave the state, and they have no intention of keeping in touch with the student the child. I am a little concerned that no matter what the legal residency is the parent, and what if the parent is totally not fit or not capable of performing those duties.

Tracy Klein: if the parent is deemed unfit, the child will not be reunified with the parent, so this does not mean that the child must be reunified with an unfit parent, it simply means we

have a school district of residence that we can do, communicate with, and exchange funds with for the purposes of education.

Rep. Rich S. Becker: but what if the foster care, grandparent, aunt, uncle, that the child maybe with is not in the original school district. Again I am confused as to how always insist that the residency is going to be where the parent was.

Tracy Klein: at the point if the child is not going to be reunified with the initial family, at some point guardianship, and parental authority would be removed, and that child would become a ward of the state, at that point that state then becomes the fiscal responsibility.

Chairman- Mark S. Owens: any additional questions, seeing none thank you.

Mike Bitz: see attachment 3

Chairman- Mark S. Owens any questions.

Rep. Brandy Pyle: what happens if a student is placed from out of state into North Dakota, how does that transaction work for tuition payments.

Mike Bitz: I am going to defer to Jerry Coleman if I can on that one.

Chairman- Mark S. Owens: Any opposition to SB 2307, any neutral testimony to SB 2307.

Jerry Coleman: I brought along copies of the fiscal note, so I think it will be useful if I walk through that, there is a number of things that are in play here, so it might be helpful if we walk through it. Mr. Coleman will be explaining the fiscal note to SB 2307.

Chairman- Mark S. Owens: and the reason it cost the state more money, is because we reimburse over \$12,000 vs the \$48,000.

Jerry Coleman: Mr. Chairman that is correct.

Chairman- Mark S. Owens: I am sorry it took me so long to see that. That took me a while, until right there your last sentence triggered it. Any questions.

Rep. Dennis Johnson: you must have an idea now how many of these types are out there, don't you with boy's ranch and other places.

Jerry Coleman: what we are actually dealing with here is kind of a narrow effects, this is those placements that are with relatives, so they are foster care placements. Under this contract system there can be a number of different types of placements that are eligible, there can be court placements by either tribal courts, big court, they can be placed by juvenal services, placements can occur for students placed in DD homes, group homes for the developmentally disabled, we have the state hospices, there is a number of different types of placements, this is really kind of focuses on a certain type of foster care placement. What brought this to light is we had a meeting of student contract system, and we put a validation in there that identified the type of foster care placement it was, and then we become aware

that these are out there, but we do not know how many there might be. Then we go back to asking DHS how was the potential, and they say maybe 500 in a calendar year. So that is the best we got, but we do not know how many of those would be special needs students that would generate a reimbursement under this system as a high cost student. So the fiscal note is a guess that could easily be 1 million dollars also, so we don't really know, they are usually slow on coming on, but the fiscal note is certainly a guess I will give you that. I was also very conservative in my opinion where we thought it only had 25 new contracts over 2 years, I believe that that's at least a recognition that this is going to add cost to the student contracts line.

Chairman- Mark S. Owens: any other questions.

Rep. Brandy Pyle: do we have a lot of students being placed in North Dakota families either licensed or unlicensed coming from out of state, or are we sending students to live with families in other states that we are responsible for, for their tuition.

Jerry Coleman: I could not give you any numbers, I can probably look, but not off the top of my head. We do have placements that we put in Minnesota, Montana, and they can actually be all over the country but it is very rare. So we do have those, and if they fall under this section that means that a state agency got involved, and took usually shared custody and control away from the parents, and the placement happened to be out of the state. North Dakota would be responsible, so the school district will be responsible, and they would fall under this system for excess cost reimbursement for paying the above tuition. For students that are coming in from other states, they are the other states responsibility, so there would be tuition, but the tuition bill would go to that other state.

Rep. Brandy Pyle: and that is happening that there are contracts and a reciprocity agreement type of thing that this is occurring.

Jerry Coleman: I would not call it reciprocity, if they are sending their students into North Dakota, we would expect that they would be paying the educational cost for those students, and I should also bring this up too, there are these residential placements, so there is a residential component, but that is not a part of this. The education system is paying the educational cost of that student, there are also, if they are at a home on the range for boys or the one up in Minot- Dakota Boys Ranch those residential placements. There is also a residential component, and there is another funding source for that, usually the placing agency will have a funding source for that, I think if it is foster care it is probably the title 4E from federal funds. There is a whole mixture of things going on, and there is a whole number of players involved too, because we've got tribes, courts, tribal courts, state courts, and county social services, juvenal services, developmental disabilities can come into play here, and on occasion parents can actually make placements as long as they can get them into a residential treatment facility, then they are also eligible under this system.

Rep. Denton Zubke: is there a specific reason why those reimbursements are imputed to that school district or is it just because that is where it fits in the formula.

Jerry Coleman: that is, in terms of the philosophy of the formula, school districts get state funding, and they get local funding from the local property tax when they are educating

somebody else's student, they are paying tuition over so that is money that is reimbursing them for their educational cost. So within the formula it calculates what an adequate payment amount is, and it subtracts the amount of revenue, first it subtracts off what they are collecting locally, 60 mills on property tax, they can collect more than that if they levy more than that, and then tuition is also recognized as a local source of revenue just like property tax, it is just some other school districts property tax, that that's following that over. So that is why that it is considered as part as that local source, and that local contribution to the funding formula.

Chairman- Mark S. Owens: any other questions. Any other neutral testimony, seeing none I am closing the hearing on SB 2307.

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau A Room, State Capitol

SB 2307  
3/7/2017  
Job 28835

- Subcommittee  
 Conference Committee

Committee Clerk Signature

## Explanation or reason for introduction of bill/resolution:

Relating to student placement for noneducational purposes.

## Minutes:

No attachments.

Vice Chairman- Cynthia Schreiber-Beck: I move for a do pass on engrossed SB 2307.

Chairman- Mark S. Owens: we have a do pass and refer to appropriations motion from Vice Chairman- Cynthia Schreiber-Beck, and a second from Rep. Mary Johnson. Any discussion.

Rep. Denton Zubke: does this actually have to go to appropriations since the state is not spending any funds.

Chairman- Mark S. Owens: it is \$500,000 general funds. Any further discussion, I invite the clerk to call roll for a do pass and refer to appropriations vote on SB 2307. 10-3-1, and Chairman- Mark S. Owens will be carrying this bill.

Date: 3/7/17

Roll Call Vote 1

**2017 HOUSE STANDING COMMITTEE  
Roll Call Votes**

**BILL/RESOLUTION NO. SB2307**

House Education Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Schreiber-Beck Seconded By M. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman- Mark S. Owens	✓		Rep. Bill Oliver		✓
Rep. Corey Mock	✓		Rep. Rich S. Becker	4B	
Rep. Denton Zubke		✓	Rep. Longmuir	✓	
Rep. Andrew Marschall	✓		Rep. Mary Johnson	✓	
Rep. Dennis Johnson		✓	Rep. Brandy Pyle	✓	
Rep. Matthew Ruby	✓		Rep. Ron Guggisberg	✓	
Rep. Pat D. Heinert	✓		Vice Chairman- Cynthia Schreiber-Beck	✓	
	5	2		5	1

Total (Yes) 10 No 3

Absent 1

Floor Assignment Chairman Owens

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

**REPORT OF STANDING COMMITTEE**

**SB 2307, as engrossed: Education Committee (Rep. Owens, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2307 was rereferred to the Appropriations Committee.**

**2017 HOUSE APPROPRIATIONS**

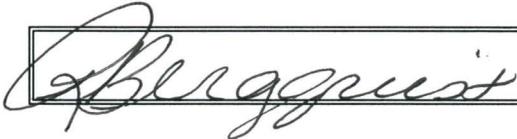
**SB 2307**

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

SB 2307  
3/23/2017  
29642

- Subcommittee  
 Conference Committee



**Explanation or reason for introduction of bill/resolution:**

Relating to student placement for no educational purposes.

**Minutes:**

**Representative Mark Owens, District 17, Grand Forks:** In the past tuition responsibility for student's place for other than educational purposes entering a different district was based on the residency of the parents. In the past year DPI changed it to the location of the student. This bill would change the reference of state license foster home to in foster care; this would allow for unlicensed relatives placement. It would also clarify language and clearly provide tuition responsible as it had been in the past. The tuition responsibility to the district of the parent's residence.

**Chairman Delzer:** Does DPI usually cover the excess cost for these?

**Representative Owens:** That is what they testified to, they said they don't have a line item budget in house bill 1013 but they do have it within the funding they believe to the tune of 500 thousand dollars.

**Chairman Delzer:** So this should have no fiscal affect and there's nothing that we need to work on.

**Representative Owens:** That's my understanding.

**Representative Pollert:** It looks like there's 500 thousand?

**Chairman Delzer:** They think it's already in their budget. Further discussion? We'll close this discussion.

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

SB 2307  
3/23/2017  
29645

- Subcommittee  
 Conference Committee

 \_\_\_\_\_

**Explanation or reason for introduction of bill/resolution:**

Relating to student placement for non-educational purposes

**Minutes:**

\_\_\_\_\_

## 5:50 Part of recording number 29645 (SB 2037)

**Chairman Delzer:** SB 2037, this is the one that changes the foster care. Committee members any discussion on it?

**Representative Monson Moved Do Pass**

**Representative Meier seconded the motion**

**Chairman Delzer:** We have a motion and a second, any discussion?

**A Roll Call vote was taken. Yea: 14    Nay: 0    Absent: 7**

**Motion Carries**

**Representative Owens will carry the bill**

Date: 3/23/2017  
Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2307**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Representative Monson Seconded By Representative Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X				
Representative Kempenich	A		Representative Streyle	X	
Representative: Boehning	A		Representative Vigesaa	A	
Representative: Brabandt	X				
Representative Brandenburg	X				
Representative Kading	A		Representative Boe	A	
Representative Kreidt	A		Representative Delmore	X	
Representative Martinson	X		Representative Holman	X	
Representative Meier	X				
Representative Monson	X				
Representative Nathe	X				
Representative J. Nelson	A				
Representative Pollert	X				
Representative Sanford	X				
Representative Schatz	X				
Representative Schmidt	X				

Total (Yes) 14 No 0

Absent 7

Floor Assignment Representative Owens

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

**REPORT OF STANDING COMMITTEE**

**SB 2307, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)**  
recommends **DO PASS** (14 YEAS, 0 NAYS, 7 ABSENT AND NOT VOTING).  
Engrossed SB 2307 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2307

SB 2307  
2-1-17  
#1

Mr. Chairman and Members of the Senate Education Committee:

For the record, I am David Rust, Senator from District 2 located in NW ND. I'm here to introduce SB 2307.

Superintendents of the Bismarck Schools, Mandan Schools, West Fargo Schools, along with DPI and Morton Co. Social Services have been having conversations on a section of the NDCC which deals with student placements.

For tuition purposes the district financially responsible has always been based on the residency of the parents. However, in the past year, DPI has changed their interpretation of this section of code. When an agency (social services) places a student in a non-licensed foster home (usually a family member like a grandparent, uncle, or aunt), DPI is now saying that residency is based on the location of the student, not the parent.

The schools prefer the consistency of basing residency on the location of the parents.

According to the school superintendents, this can be accomplished by eliminating the word "state-licensed" before each "foster home" in SB 2307.

Those following me will explain the bill and the rationale for the bill. I will try to answer any questions you may have.

Mr. Chairman.

SB 2307-Support

Chairman Schaible, Vice Chairman Rust and Members of the Education Committee

For the record my name is Tracy Klein, I am the Director of Special Education for MSSEU which encompasses Mandan Public Schools and six School Districts in Morton and Sioux Counties.

This is a clean-up bill to allow the DPI and school districts to continue defining residency based on the parent's address. In prior years, the interpretation of Century Code (Sec. 15.1-29-14) included non-licensed foster home for purposes of determining a student's school district of residence. However, recently based on the current Code the DPI has interpreted this to be "state licensed foster home" as the determining factor. This amendment would allow the department to continue several years of past practice which included identifying residency based on the parents address for agency placements in non-licensed foster homes.

I request your **support** of this amendment for the following reasons:

- \* To provide harmony between interpretation and past implementation in the field!
- \* A single standard for agency placements in relation to district of residence (where the parent resides) encourages consistency and clarity across multiple agencies.
- \* The student is likely to return to the community where their parent resides. Identifying the parent's District of residence plays an integral part in educational planning and monitoring of student's progress essential for transition back to the student's home community.

(Given the former interpretation and implementation of this code a significant portion of any fiscal change should be accounted for based on previous years of ongoing practice.)

**Tracy Klein**  
Student Services Director  
Morton-Sioux Special Education Unit  
901 Division St. NW  
Mandan ND 58554  
(701)751-6500  
(701)751-6683 fax

Testimony in Support of SB2307  
ND Senate Education Committee  
February, 2017  
By: Mike Bitz  
(701) 391-8664

SB 2307  
2-1-2017  
# 3 p.1

Chairman Schaible and members of the Senate Education Committee, I appreciate the opportunity to come before you today in support of SB2307, which was written to clarify financial responsibility for students placed in foster care. For the record, my name is Mike Bitz and I am the Superintendent of the Mandan School District.

North Dakota School District administrators have come to expect that when a state agency places a student in foster care, that the school district where the student's parents resides is financially responsible for the educational cost of that child. This was the case for several years, without exception. However, in the past year or two, the ND Department of Public Instruction has interpreted NDCC 15.1-29-14 differently. DPI is now saying that this is the case only if the student is placed in a state licensed foster home.

I would like to share two short examples of why this interpretation is problematic. In August of 2015, the Division of Juvenile Services took custody of a student from Barnes Co. North and placed him with an aunt and uncle who lived in the far NE corner of the Flasher School District. The caseworker from DJS then requested that the Mandan School Dist. provide education services for this student because both the aunt and uncle both worked in Mandan. Mandan agreed to provide educational services for this student and sent the tuition bill for the excess costs, (the costs not covered by foundation aid), to the Barnes Co. North School District. We believed this to be the case, since this is where the student's parents lived and paid taxes. DPI however, determined that since this was a placement with a relative in an unlicensed foster home, that the Flasher School District was financially responsible. As a result, the Flasher School District was required to pay nearly \$30,000 to the Mandan School District to cover the educational expenses for this child. I believe this was very unfair to the taxpayers of Flasher. This student never attended school in Flasher, nor did the Flasher School District collect any tax dollars from the student's family. The taxpayers in the Flasher School District should not have been

SB 2307

2-1-2017

# 3 p. 2

responsible for the educational costs of this child. He was a Barnes Co. North student and his family lived and paid taxes in Barnes County North.

The second example is even more egregious. Last year a West Fargo Student was placed in the Dakota Boys and Girls Ranch in Minot. The West Fargo School District was fully expecting to pay for the educational costs incurred because of this placement. However, since the student was placed in an unlicensed foster home with a grandparent in the Minot School District and the student only attended the Dakota Boys and Girls Ranch for day treatment, DPI determined that the Minot School District was financially responsible for the education of this child. In my opinion it was unreasonable for the taxpayers of the Minot School District to have to cover the educational costs of a student who never attended school in Minot and whose parents lived and paid taxes in West Fargo.

When social services takes custody of a student and looks for a placement, priority is always given to a family member who is willing to take the child. This often results in a placement in an unlicensed foster home. The changes recommended in SB2307 will direct DPI to determine residency in all foster care placements in the same way regardless of whether the foster parent is licensed or not.

The language being proposed in SB2307 is also in complete agreement with the new foster care requirements in the Every Student Succeeds Act. According to the language in ESSA, "all children in public custody are considered to be in foster care," even if the home is unlicensed. Having the same language and reporting requirements in both federal and state laws just makes sense.

Yesterday, I was part of a meeting between several school officials, and staff from DPI. As a group, we decided that we would like to suggest one small change to SB2307 as it is written. Instead of referring to placement in a "foster home", we are proposing that the language read, placement in "foster care." The committee felt this language covered family placements and was also better aligned with the language in the Every Student Succeeds Act.

In closing I strongly encourage you to give SB2307 a DO PASS recommendation. Thank you for the opportunity to appear before you today. If you have any questions, I'd be happy to try to answer them.

SB 2307  
2-1-2017  
#3 p.3

Introduced by

Senators Rust, Schaible, Vedaas

Representatives D. Johnson, Longmuir, Holman

1 A BILL for an Act to amend and reenact subdivision a of subsection 1 of section 15.1-29-14 of  
2 the North Dakota Century Code, relating to student placement for noneducational purposes.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Subdivision a of subsection 1 of section 15.1-29-14 of the  
5 North Dakota Century Code is amended and reenacted as follows:

6 a. Except as provided in subdivision b, for purposes of applying this chapter, a  
7 student's school district of residence is the district in which the student's custodial  
8 parent or legal guardian resides:

9 (1) At the time that a state court, tribal court, director of juvenile court, or the  
10 division of juvenile services issues an order requiring the student to stay for  
11 a prescribed period at a ~~state-licensed~~ foster home care or at a state-  
12 licensed child care home or facility;

13 (2) At the time a county or state social service agency places the student, with  
14 the consent of the student's parent or legal guardian, at a ~~state-licensed~~  
15 foster home care or at a state-licensed child care home or facility;

16 (3) At the time the student is initially placed in a state-operated institution, even  
17 if the student is later placed at a ~~state-licensed~~ foster home care or at a  
18 state-licensed child care home or facility; or

19 (4) At the time the student is placed voluntarily, by a parent or legal guardian, in  
20 a state-operated institution or in a state-licensed child care home, facility, or  
21 program, located either within or outside the student's school district of  
22 residence, including those defined in sections 25-01.2-01 and 50-11-00.1.

SB 2307  
2-1-17  
#4 p.1

## Revenue Sources in Programming for Students with Disabilities

Authority	<i>Students placed for purposes other than education [NDCC 15.1-29-14]</i>  <i>AGENCY PLACED</i>	<i>School placed for education purposes out-side the school district of residence [NDCC 15.1-32-(14-15)]</i>  <i>SCHOOL PLACED</i>	<i>Students programmed within school district of residence [NDCC 15.1-32-18]</i>  <i>SCHOOL PLACED</i>
Types	<ul style="list-style-type: none"> <li>•Court placements</li> <li>•Foster Care</li> <li>•Juvenile services</li> <li>•Deinstitutionalization</li> <li>•Institutionalization</li> </ul>	<ul style="list-style-type: none"> <li>•Low incidence programming</li> <li>•Distance related services</li> </ul>	<ul style="list-style-type: none"> <li>•Low incidence programming related services</li> </ul>
Resident district responsibility	State average cost per pupil for education	4.0 times the state average cost per pupil for education	4.0 times the state average cost per pupil for education
State responsibility	Remaining costs	Remaining costs	Remaining costs
2010-11 State Average Cost Caps	Elem            - \$8,961.30 HS                - \$9,278.23	Elem            - \$35,845.20 HS                - \$37,115.32	Elem            - \$35,845.20 HS                - \$37,115.32
State funding source	Sp Ed Contracts Appropriation Fnd Aid for State Responsible	Sp Ed Contracts Appropriation	Sp Ed Contracts Appropriation
Responsibility for residential costs	100% - Placing Agency	80% State – 20% District if necessary	80% State – 20% District if necessary

SB 2307 Senate Ed Hearing  
2/1/2017

17.0985.01001  
Title.

2-08-17  
SB 2307  
Prepared by the Legislative Council staff for  
Senator Rust #1 P.1

February 7, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2307

Page 1, line 11, overstrike "at a"

Page 1, line 11, after "~~state-licensed~~" insert "in"

Page 1, line 11, overstrike "home" and insert immediately thereafter "care"

Page 1, line 14, overstrike "at a"

Page 1, line 14, after "~~state-licensed~~" insert "in"

Page 1, line 15, overstrike the first "home" and insert immediately thereafter "care"

Page 1, line 17, overstrike "at a"

Page 1, line 17, after "~~state-licensed~~" insert "in"

Page 1, line 17, overstrike "home" and insert immediately thereafter "care"

Re-number accordingly

Mr. Chairman and Members of the House Education Committee:

For the record, I am David Rust, Senator from District 2 located in the great NW of ND. I'm here to introduce SB 2307.

Superintendents of the Bismarck Schools, Mandan Schools, West Fargo Schools, along with DPI and Morton Co. Social Services have been having conversations on a section of the NDCC which deals with student placements.

For tuition purposes the school district financially responsible has always been based on the residency of the parents. However, in the past year, DPI changed their interpretation of this section of code. When an agency (social services) places a student in a non-licensed foster home (usually a family member like a grand-parent, uncle, or aunt), DPI is now saying that residency is based on the location of the student, not the parent. I believe they arrived at that decision after looking more closely at the wording of the law.

The schools prefer the consistency of basing residency on the location of the parents.

According to the school superintendents, this can be accomplished by eliminating the word "state-licensed" before each "foster home" in NDCC 15.1-29-14. Hence, SB 2037.

The Senate Education Committee amended the bill by changing foster home to foster care to make the bill more inclusive.

Those following me will explain the bill and the rationale for the bill. I will try to answer any questions you may have.

Mr. Chairman.

Attachment 2 SB 2307 3/7/17



901 Division St. NW | Mandan, North Dakota 58554 | Telephone: 751-6500 | DIRECTOR, TRACY KLEIN

SB 2307-Support

Chairman Owens, Vice Chairman Schreiber-Beck and Members of the Education Committee,

For the record my name is Tracy Klein, I am the Director of Special Education for MSSEU which encompasses Mandan Public Schools and six School Districts in Morton and Sioux Counties.

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I request your **support** of this amendment for the following reasons:

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(Given the former interpretation and implementation of this code a significant portion of any fiscal change should be accounted for based on previous years of ongoing practice.)

**Tracy Klein**

*Student Services Director*

*Morton-Sioux Special Education Unit*

*901 Division St. NW*

*Mandan ND 58554*

*(701)751-6500*

*(701)751-6683 fax*

**Testimony in Support of SB2307**

**ND House Education Committee**

**March 7, 2017**

**By: Mike Bitz**

**(701) 391-8664**

---

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Dakota Boys and Girls Ranch for day treatment, DPI determined that the Minot School District was financially responsible for the education of this child. In my opinion it was unreasonable for the taxpayers of the Minot School District to have to cover the educational costs of a student who never attended school in Minot and whose parents lived and paid taxes in West Fargo.

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The language being proposed in SB2307 is also in complete agreement with the new foster care requirements in the Every Student Succeeds Act. According to the language in ESSA, "all children in public custody are considered to be in foster care," even if the home is unlicensed.

Having the same language and reporting requirements in both federal and state laws just makes sense.

Finally, before I finish, I want to discuss the \$500,000 fiscal note that has been assigned to this bill. I believe that figure is very high and misleading. However, even if the \$500,000 figure is correct, any dollars that a school district receives as a result of this bill are considered tuition dollars and they would be imputed at 75%. As a result, in the following fiscal year when DPI calculates the state foundation aid entitlement for school districts, the payments will be reduced by 75%. In other words, a fiscal note of \$500,000, has a net impact of \$125,000 to the state.

In closing I strongly encourage you to give SB2307 a DO PASS recommendation. Thank you for the opportunity to appear before you today. If you have any questions, I'd be happy to try to answer them.