

**HOUSE BILL NO. 1146**

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact two new sections to chapter 25-18 of the North Dakota  
 2 Century Code, relating to treatment or care centers for individuals with developmental  
 3 disabilities; to amend and reenact sections 25-18-01 and 25-18-05 of the North Dakota Century  
 4 Code, relating to payment to treatment or care centers for individuals with developmental  
 5 disabilities; to repeal sections 25-18-02, 25-18-04, 25-18-06, 25-18-07, 25-18-08, 25-18-11, and  
 6 25-18-12 of the North Dakota Century Code, relating to a fee-for-service ratesetting system for  
 7 treatment or care centers for individuals with developmental disabilities; to provide an effective  
 8 date; and to declare an emergency.

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

10 **SECTION 1.** Two new sections to chapter 25-18 of the North Dakota Century Code are  
 11 created and enacted as follows:

12 **Treatment or care center budget flexibility.** The department shall allow treatment or  
 13 care centers to transfer funds received from the department between budget categories and  
 14 line items.

15 **Maximum annual return on investment.** Profit-motivated institutions or facilities must  
 16 be allowed an annual return on investment in fixed assets related to client care. The maximum  
 17 return on investment must be established based upon the existing debt divided by original asset  
 18 cost and must be determined as follows:

19	<u>Annual average percentage debt</u>	
20	<u>to annual average assets</u>	<u>Return</u>
21	<u>51 to 80 percent -</u>	<u>2 percent return on original</u>
22		<u>cost of fixed assets</u>
23	<u>0 to 50 percent -</u>	<u>3 percent return on original</u>
24		<u>cost of fixed assets</u>

1           **SECTION 2. AMENDMENT.** Section 25-18-01 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **25-18-01. Definitions.** In this chapter, unless the context or subject matter otherwise  
4 requires:

- 5           1. "Department" means the department of human services.
- 6           2. ~~"Fee for service" means a prospective rate based on allowable historical costs~~  
7           ~~established by the department for payment of services provided to individuals with~~  
8           ~~developmental disabilities by a treatment or care center.~~
- 9           3. ~~"Historical operating costs" means the allowable costs of operating a treatment or~~  
10           ~~care center during the reporting year in compliance with licensing standards~~  
11           ~~prescribed by the department but does not include an annual return on investment~~  
12           ~~in fixed assets related to client care.~~
- 13           4. "Treatment or care center" means an entity providing services to individuals with  
14           developmental disabilities and licensed by the department as an intermediate care  
15           facility for the mentally retarded as defined in the section 1905(d) of the Social  
16           Security Act [42 U.S.C. § 1396d(d)]; group home; or a provider of day supports,  
17           supported living arrangement, extended services, or infant development services.

18           **SECTION 3. AMENDMENT.** Section 25-18-05 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20           **25-18-05. Limitation on owner compensation for services provided.** ~~In~~  
21 ~~establishing the fee to be paid for a service, the~~ For-profit treatment or care centers may  
22 compensate working owners and their families for time worked on behalf of the treatment or  
23 care center. The amount of total annual compensation allowed for an owner acting in an  
24 executive or administrative capacity must be limited as follows:

25 Number of clients served:	Compensation limit:
26           1 - 15	\$25,000
27           16 - 30	\$35,000
28           31 - 45	\$45,000
29           46+	\$50,000

30 The limits in this section are intended to be the total compensation allowed by this state in any  
31 one year regardless of the number of owners performing work for the treatment or care center.

1 A proration of the total compensation for owners who perform services in this state and who  
2 perform services in other states must be made on the basis of individual time distribution  
3 records. For family members working in direct care, housekeeping, maintenance, dietary, or  
4 clerical positions, wages are limited to the wage paid to any nonrelated employee, with the  
5 same qualifications and experience, working in a similar job function for that ~~organization~~  
6 treatment or care center. The allowable compensation limit is inclusive of all salaries and  
7 related fringe benefits and may not be construed to be an addition or enhancement to the fee  
8 rate payable to a treatment or care center.

9           **SECTION 4. REPEAL.** Sections 25-18-02, 25-18-04, 25-18-06, 25-18-07, 25-18-08,  
10 25-18-11, and 25-18-12 of the North Dakota Century Code are repealed.

11           **SECTION 5. EFFECTIVE DATE.** This Act becomes effective on July 1, 2005.

12           **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.