

**Fifty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1146  
(Human Services Committee)  
(At the request of the Department of Human Services)

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

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

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

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

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

Annual average percentage debt  
to annual average assets  
51 to 80 percent -

0 to 50 percent -

Return  
2 percent return on original  
cost of fixed assets  
3 percent return on original  
cost of fixed assets

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1146 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas        91            Nays        0            Absent      3

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas        45            Nays        0            Absent      2

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2005,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State