

**FISCAL NOTE**  
**Requested by Legislative Council**  
**03/23/2017**

Amendment to: SB 2090

- 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>						
<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>			
<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).*

Engrossed SB2090 allows for two times the regular nonrefundable fees to be paid by childcare providers who fail to submit a renewal application at least sixty days before their license expires. It also requires providers to be certified in the use of an automated external defibrillator.

- 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.*

No fiscal impact. It is expected that the number of applicants who fail to meet the renewal deadline would be minimal; therefore the amount of fees collected would not be significant.

The cost to providers to be certified in the use of an external defibrillator is unknown. There is no fiscal impact to the Department of Human Services.

Section 1 requires adult household members of a childcare residence to receive a background check. It is current practice for household members of a residence, where childhood services are provided, to receive a background check, so no additional costs are anticipated.

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.*

**Name:** Debra A McDermott

**Agency:** Dept of Human Services

**Telephone:** 701-328-4608

**Date Prepared:** 03/24/2017

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/23/2016**

Bill/Resolution No.: SB 2090

- 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>						
<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>			
<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).*

SB2090 allows for a \$200 nonrefundable fee to be paid by childcare providers who fail to submit a renewal application at least sixty days before their license expires. It also requires all adult household members, of a childcare residence to receive a background check.

- 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.*

No fiscal impact. It is expected that the number of applicants who fail to meet the renewal deadline would be minimal; therefore the amount of fees collected would not be significant.

It is current practice for household members of a residence, where childhood services are provided, to receive a background check, so no additional costs are anticipated

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.*

**Name:** Jennifer Scheet

**Agency:** Dept of Human Services

**Telephone:** 701-328-4608

**Date Prepared:** 01/03/2017



**2017 SENATE JUDICIARY**

**SB 2090**

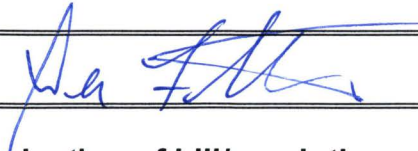
# 2017 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2090  
1/4/2017  
26522

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

A bill relating to criminal history record checks, relating to early childhood services criminal record checks, licensing, definitions, registration, applications, and fees; and to provide an effective date.

**Minutes:**

**Testimony attached #**

1, 2, 3, 4

Chairman Armstrong called the committee to order for SB 2090. All committee members were present.

Senator Brad Bekkedahl – Testified in support of bill and brought previous minutes from earlier session. (see attachment 1, 4)

Rebecca Eberhardt, Department of Human Services – Testified in support of the bill (see attachment 2)

Senator Nelson: “Couple of questions. What’s training for regular CPR and pediatric CPR?”

Rebecca: “Procedures are different and trainees need both types of training. They must take pediatric.

Senator Nelson: “Next question deals with self-determination. Can you explain different methods of licensing?”

Rebecca - Described some different types of procedures and different license types.

“There is a process everyone must go through. Self-declare provider is not technically licensed so they have certain restrictions to follow. They cannot care for 5 children including their own. Family provider is different and you can get more than one license.”

Senator Nelson: “Do you know how many licensed and non-licensed care providers are in the state of the ND?”

Rebecca: “I do not but I can get that for you.”

Senator Nelson: “How many self-declared providers are there in the state?”

Rebecca: “Last time I checked we were at 126.”

Jennifer Price, Luthern Social Services – Testified in support of bill (No written testimony.) She described her experience working with the legislature over similar issues regarding licensure for child care providers.

“This bill would require programs to turn in paperwork for county and regional offices to review and process and to fill the necessary paperwork 60-90 days in advance of the expiration date. This would help the state know that all providers are working with the appropriate license at all times. This would also address the concern for parental notification of late application renewals.”

She continued discussing her reasons of supporting the bill and more regulations regarding licensing.

Senator Luick: “At what point do people have to be registered with the state for child care? What if a friend of mine wanted to look after just one child that may be mine?”

Jennifer Price: “If you care for more than 5 children you would have to get a license from the state, 1-2 children you don’t need licensing.”

Senator Luick: “At what point does the state do inspections?”

Jennifer Price: “They do inspections during the licensing process. Inspection at beginning and annually for a licensed provider; plus the renewal visit.”

Mr. Trainer – Testified in a brief statement of support of bill (No written testimony)

Representative Kathy Hogan – testified in support of the bill (see attachment 3)

Chairman Armstrong closed the hearing on SB 2090.

Senator Larson motioned for Do Pass.

Senator Luick seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0

The motion carried.

Carried by Senator Larson.

**2017 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2090**

Senate Judiciary 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 Sen. Larson Seconded By Sen. Luick

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Osland	X	
Vice-Chair Larson					
Senator Luick					
Senator Myrdal					
Senator Nelson					

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Larson

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

**REPORT OF STANDING COMMITTEE**

**SB 2090: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2090 was placed on the  
Eleventh order on the calendar.

**2017 HOUSE HUMAN SERVICES**

**SB 2090**



# 2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee  
Fort Union Room, State Capitol

SB 2090  
3/6/2017  
28757

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

Relating to criminal history record checks; relating to early childhood services criminal record checks, licensing, definitions, registration, applications, and fees; and to provide for an effective date.

## Minutes:

1, 2, 3, 4

Chairman Weisz: Called the committee to order.  
Opened the hearing on SB 2090.  
Is there testimony in support of SB 2090?

Sen. Brad Bekkedahl  
(Attachment 1)  
Went through the bill  
5:05

Chairman Weisz: Are there any questions from the committee?

Representative Porter: At least 60 days and not more than 90 days and then the state has 30 days. Does it read that the department would have 30 days after the county would send the license, but there is no time restriction on the county component of this or is it 30 days including the time that the county has to review it?

Sen. Bekkedahl: I would probably defer that to someone from the department to answer that since it is a technical question. The intent was to be sure that we have adequate time for every review process to have time to do what they need to do.

Representative Porter: In regard to the CPR component. I understand what you're trying to do, but then you are doing the exact opposite of what the CPR course is doing. They could just do an abbreviated course and just take the pediatric portion of it. I am not aware of a course that just teaches adult CPR. When you take CPR you take adult, and pediatric, and infant. I don't know that we have the language right yet.

Sen. Bekkedahl: I know that each time I take my CPR I have to take a basic course, then I have to include infant in mine. I know that if I wanted to just take adult CPR I can do that,

because they offer it. I am not sure what this means here. If it needs to be changed the committee can do that. The intent is that they know how to do it, pediatric, infant and adult.

Chairman Weisz: Further questions?

8:27

Rep. Hogan

(Attachment 2)

Then went through the bill.

Chairman Weisz: Are there any questions from the committee?

Vice Chairman Rohr: The only federal requirement in this bill is the background checks?

Sen. Hogan: No, there are others, but they will address them for you.

Chairman Weisz: Further questions?

Is there further testimony in support of SB 2090?

12:38

Rebecca Eberhardt, Early Childhood Services Administrator

(Attachment 3)

18:21

Chairman Weisz: Are there any questions from the committee?

Representative P. Anderson: Why are they late in submitting their renewals? What is the biggest reason?

R. Eberhardt: Some providers just wait until the last possible minute to do training so they don't have their training requirements met by that time. Some people just have life circumstances. Maybe there may be some scheduling conflicts to get their fire inspection. There are lots of reasons depending on the provider.

Representative P. Anderson: Couldn't you send an email and tell them that it is time?

R. Eberhardt: Currently the department does not have an online status that houses any of that information.

Representative McWilliams: Why are you doing the different amounts of time? Why not just your application date is X and your license expires on this date. Why the back dating and fines, etc.

R. Eberhardt: They are trying to give the providers as much time as they can. The training requirements can be difficult to get in. A fire inspection or a house inspection can be a barrier too, so if we allow too much time some of the training can be outdated. They are trying to give them as much time as we can and still allow the county and state time to do their part as well and see if there is anything missing. We just feel it needs to be proactive and give the county and state time to look through all of the documentation and be sure that it is all there



Representative McWilliams: I understand the intention, but wouldn't it be just as easy to say this is when your license needs to be renewed instead of saying in law X amount of time?

R. Eberhardt: There is no ability to back date. The provider has up until the day their license expires to submit all of their documentation. If they wait until the day before, then the county and state wouldn't have time to do the paperwork before their license would expire and a new license could be issued. There would be a period of time when they wouldn't have either an new license or their old one if they waited that long.

Vice Chairman Rohr: How old are the federal requirements? Are these all new, or are they older requirements that we just haven't done.

R. Eberhardt: Federal law went into effect in 2014, however, there was staggered time limits for the implementation. The information you see in the bill we have to be in compliance with by September of 2017.

Vice Chairman Rohr: Has the department gotten a lot of feedback about all of this? If so, what have you been hearing from them?

R. Eberhardt: The department has not, but I understand that some of the senators have.  
25:00

Vice Chairman Rohr: So there has been no feedback from the providers in the state of ND?

Representative Skroch: It is very difficult to get all of these things done in a rural area. It is all at her expense and on her free time or weekends. I want to share what this one particular provider said. "To be a licensed provider I must have CPR, first aid, have a background check by the FBI, hours of education at our own expense, fire inspection at my expense, someone coming in yearly to check my fire extinguishers at my expense, carrying liability insurance, additional car insurance if I take the kids on a field trip, etc. Can you respond to some of these concerns?"

R. Eberhardt: The federal government has increased the requirements so that the children are safe no matter where they are. They felt very strongly about all of these issues and they require us to be in compliance with for our block grant.

Representative Skroch: The injunction being place I am not sure how broad that would apply. Would that apply to a grandmother that is babysitting grandchildren and maybe a neighbor child? How does that injunction directly apply to family taking care of family members.

R. Eberhardt: The rules only apply to the child services providers. Family members caring for their own children or grandchildren wouldn't fall under that definition.

Representative Skroch: I just wanted to be sure that didn't happen, because I have 12 grandchildren that I might have to take care of and I don't want someone to show up at my door.

Representative McWilliams: In regard to fingerprinting and background checks do they have to be done at the local level or at the department. When we adopted our child we had to go all the way to Fargo to a special place to have it done.

R. Eberhardt: They can be done at the human services department or they can be done locally. It just depends on what resource the community has.

Representative McWilliams: Ok, I was just thinking if that is the case in Hillsboro if you are trying to get your family members to go to Grand Forks or Fargo to get this done it is hard.

Representative Porter: Inside of the federal requirements and the different levels of state licensure, can you put together some kind of a spreadsheet that show us the absolute mandates for the federal mandates and who they apply to across and then how you get to be in each category. How many kids you can have. How many infants you can have. How many of the different things so we can kind of see who we are actually see who we are dealing with when we are looking this?

R. Eberhardt: We can do this, but just so you know. Anyone who is licensed is subject to the federal requirements. They are not based on the number of kids you have or the kind of kids you have or your license type. We do have that information that breaks down each license type and the number of kids that are for that category.

Representative Porter: As I am trying to read the federal law and the summary of the changes. If they opt out of the TANF component or opt out of the food assistance component that they don't fall under these requirements? That the state is just choosing to have it kind of one size fits all?

R. Eberhardt: There are certain things within the federal law where the state has the option to require of an individual who receives childcare or a provider. The state has chosen to have it across the board, because we don't have a way to distinguish between the different levels. There are certain levels that all are required to do.

Representative Porter: In the spreadsheet you make for us can you show us which things are federal and which ones are state? The \$200 late fee. It says that the fiscal note is 0, so does that mean that over the last couple of years no one has been late?

R. Eberhardt: We never had a late fee before. Also that fiscal note is for the department and the fee would be to the provider.

Representative Porter: There should be in the 12 – 19 biennium an estimate of new revenues coming into the department because of the late fee if we are having a new \$200 fee. children?

R. Eberhardt: That fee would go to the county.

Representative Porter: So then down below where it says county, that should actually have a number in it on the fiscal note. The fiscal note is blank and there is a spot down below that says county revenues. That should have a number in it.



Representative Porter: We have had this bill and bills similar to it many times over the years and it always takes on a view point from the self-declaration folks that the state is trying to run then out of business in the grand scheme of things to push childcare out of the rural areas into large centers where it can't happen. I understand the things that I am hearing that folks are saying this is kind of an over burden. We dealt with the household members component of this in the past. I am wondering if that blanket term that you are using now on page 7 sub C includes the kids that live in the household or where the definition of household members exists inside of the law so that we make sure we know who it includes.

R. Eberhardt: This is regarding anyone that is over 18. Our current requirement is that household members who have unsupervised contact with those children get background checked. With the federal reauthorization they require anyone who is living in the household who is over the age of 18 to be finger printed and background checked. They felt that there is a good chance that those individuals will have contact with the childcare children so they should be background checked. Right now we don't have the authority to say there is an adult child living in the house or a significant other who is not a staff member or part of that childcare could have a criminal history and we would have no idea about it.

Representative Porter: If there is a child in the family that is a senior in high school and turns 18 in November of their senior year and their mom was running a self-declared daycare center then on that child's 18<sup>th</sup> birthday that child has to be fingerprinted in order for her to continue operating her business?

R. Eberhardt: Yes.

Representative Porter: I am getting close to the end of my long list of concerns with this. The component that Representative Skroch brought up with the Grandmother. I am going to use an example that happened to me. My mom and dad both worked and they couldn't be home until 5 in the afternoon, so we walked down to aunt's house with our friends to wait. There was no money exchanged. Now do they have to be self-declared and have a license?

R. Eberhardt: Our law as it stands right now says that if you are caring for more than 5 children including your own that you would have to be licensed. If you wanted to receive childcare assistance, you would have to be self-declared as well.

Representative Porter: If there is no money exchanged do they have to be self-declared?

R. Eberhardt: No

Representative Porter: If there is reimbursement for expenses or somebody is kindly saying that you are feeding my kid at 4 because they are starving to death like all kids are does that count as reimbursement and then throw them into the self-declaration category.

R. Eberhardt: I am going to call up Joh Alm.

Jon Alm, Attorney with Dept. of Human Services.

The definition of childcare services means the care or supervision of a child or children which is provided in exchange for money, goods, or other services. So if it fits those, it would be considered childhood services. Then you would have to look at how many children you are caring for and how many hours. Then you would fit into those categories of having to be licensed or self-declared.

Chairman Weisz: What are the hours and limitations?

J. Alm: Two hours a day for at least 3 days a week.

Representative Porter: Is that part of that same federal thing or is that something that we did on top of federal thing?

Jon Alm: It is currently in statute. I don't know if it was created because of federal regulation or not.

Representative Porter: What I would like to see from you on that other spreadsheet is that these are the areas that would trigger you into absolutely doing a self-declaration. If 3 days a week you have 5 kids stop over because you are going to be there anyway and 2 of them are your grandkids or nieces or nephews and the other three are not. The other parents give you \$20/week to buy snacks because the kids are eating you out of house and home, does that throw you into a self-declared category or are you still just a good neighbor that is letting the kids come over to play until their parents get off work?

J. Alm: We can put that together in the chart you are requesting.

Representative McWilliams: If the 18 year old went off to college and he comes home for spring break or Christmas. Does he have to have a criminal background and fingerprinting.

Jon Alm: The definition of household member in statute is currently an adult living in a private residence out of which a program is operated regardless of whether the adult is living there permanently or temporarily. I know we have had situations where kids have come back and they do get background checked.

Vice Chairman Rohr: I am trying to get a handle on how many providers this is going to impact. Is it possible that we can we get the number of providers in each category of licensure that you talked about? Does that include the reservation?

J. Alm: Yes, we can get that for you. It would also include providers that are on the reservation if we currently license them. Sometimes we don't need to license them or we don't have any authority to license them. It would be the tribal licensing authority that would be licensing them. In some cases, we have a dual license.

Vice Chairman Rohr Many times you get reports though that there are issues on the reservation regarding childcare. So you are saying that you don't have jurisdiction?

J. Alm: Yes, sometimes we would not be able to force a licensing restriction on a facility.



Representative Skroch: Now it is my understanding that it can be a one-year licensure or two year license renewal?

J. Alm: Yes, that is correct.

Representative Skroch: I am wondering about that 60 – 90 day window in terms of that being above and beyond. Is there another type of licensure that requires that there is a \$200 fine if you would fall past that 60- day requirement? Also that is not refundable. Do you feel that is unfair? Can they appeal that determination? Maybe they have made appointments to get their inspections done and they don't show up. Do you have any kind of mechanism in here that protects daycare providers when they have made good effort and not been able to acquire the needed documentation?

J. Alm: I was not part of the committee that did this, but I am not aware of any other licensing authority that has anything like this. There is no appeal to this process. No there is no refund.

Representative Skroch: We are waiting for this inspection, but could I submit the paperwork and say that we are waiting for this inspection and I will have it to you before my license expires? Is that an option.

J. Alm: I guess it is an option, but they would still be held to the nonrefundable fee. They need to get the appointments scheduled, so they can be done in a timely manner.

Representative Skroch: Do they have adequate resources out there that can do these inspections and things in a timely manner?

J. Alm: I can't address that. It would be at the county level if they had those concerns.

Vice Chairman Rohr: The application may not include any fraudulent or untrue representation. Explain that please.

J. Alm: The language as far as the fraudulent or untrue representation and what the difference is. You would have to prove it was fraud or was based on fraud. As to the untrue representation that has a lower standard. That is currently language that is in statute.

Vice Chairman Rohr That is defined somewhere? Is that what you are saying?

J. Alm: I am not sure if untrue representation is truly defined anywhere.

Chairman Weisz: Any further questions?

Rep. Hogan: We did meet with the state fire marshal about getting the fire inspections done in the rural areas. He is working on that and is trying to get that done in a timely manner. Just so you know that we did address that. We do have daycare providers on the task force. Including home daycare providers.

Representative Porter: Was there any talk in the task force about allowing the self-declared providers to do a self-affidavit on the fire safety side of things and just mail it in?

Sen. Hogan: I don't think there is, but R. Eberhardt might know better.

Representative Porter: Is there a fine to the county if they don't get their license back to the provider for the potential loss of revenue from them not getting their license in time?

Sen. Hogan: That is a great question, because currently that day care provider can submit their application on the final day it is due with no time for processing at the county level and then at the human service center and then issuing it. In fact, that is the problem. That is why we have tried to get this fixed.

Representative Porter: There is nothing in this bill that would say that the fire inspection has to be done within a certain amount of time. If they don't come until the 61<sup>st</sup> day then the provider is out of compliance and doesn't have a license because they haven't had a completed package to send to the county to give them the 30 days. There are some problems in here that could delay this process outside of the control of the licensee but they don't have anyone to fall back on either.

Sen. Hogan: I think we tried to work with the fire departments to make sure that the fire response was quicker so that they didn't have those delays. I can't say it will never happen, but I think the system design was trying to address those issues.

Representative Skroch: Do you think there could be something that worked in here that would make an allowance for a delay to let them to have some wiggle room if it is beyond their control. Then they wouldn't have to pay that \$200, because that is \$200.

Sen. Hogan: I think that penalty is a new procedure and I think whether there is any wiggle room there was addressed in the fact that current law says that if your stuff was not there you lost your license. That didn't work, because then you had children in an unlicensed facility, so this gets really complicated with black and white date. I don't know the answer to that question.

Representative Skroch: Who reimburses the fire marshal for their expensive driving to various towns.

Sen. Hogan: There is not reimbursements. It is a cost of doing business.

R. Eberhardt: Self-declared providers do not have a requirement of a fire inspection. That is not in administrative rule. Then as far as the delay, the state fire marshals have said if there is a delay they will come out and do those inspections and there will not be a fee. If you use your local inspectors, they might charge a fee.

Representative Seibel: It says that this bill will allow the department to stay in compliance. If we don't pass this and we drop out of compliance, what happens.



R. Eberhardt: It would depend on what part we are not in compliance with. For example, the background check part, if we are not in compliance with that there is a penalty against our whole federal grant that we get. In other areas there is a penalty against the discretionary part of that grant.

Representative Seibel: Can we get a print out of what the penalties?

R. Eberhardt: Yes, we can get that to you.

Vice Chairman Rohr: There seems to be a lot here, do you think we are really ready for this?

R. Eberhardt: I would say the department is ready. A lot of these areas we are already implementing. Some of our programs have already been put into place. We knew they were going to be required, so we did it already.

Representative Kiefert: When you have an unlicensed daycare that gets more than 5 kids. Is that what triggers them having to participate? That is on the federal level?

R. Eberhardt: The state has the ability to define the number of children that would put you into licensed or unlicensed. We have to define that.

Representative McWilliams: If you have 5 children of your own and you take in another child to care for does that mean that you have to be licensed or does it mean that you can have 5 in addition to your own.

R. Eberhardt: If you have 5 of your own and take in one more you would have to have a license.

Chairman Weisz: In the change of language here on the violation of chapter page 8. I am trying to understand if the change of language was necessary, because it already allows you to go to district court, so what are we gaining in that section? In 50-11.1-12.

R. Eberhardt: The authorization is the county and I guess I would have to defer to Jon on that one.

Chairman Weisz: You don't think you had that ability before?

R. Eberhardt: No

Chairman Weisz: Further questions?

Chairman Weisz: Is there further testimony in support of SB 2090?

Chairman Weisz: Is there any testimony in opposition to SB 2090?

Heather Messner, Licensed Daycare Provider.  
BiBi Mehring (Testimony given by Heather Messner)  
(Attachment 4)

Chairman Weisz: What difference does it make as a provider when you start the relicensing process? Does it matter whether you turn in your stuff 90 days or 60 days? How does that effect the provider in a negative way?

Heather Messner: They are not going to wait until 60 or 90 days prior. They will turn it in right away and then won't the date keep moving up? I understand that that is not the intent of what the department is going to be doing, but in some cases that could be happening. I have already had my inspections done, but now this year I have to do it earlier. Under the law I have a whole year to do all of my time. To turn it in I have to have all of my training done too, so that only gives me 9 months to do my training.

Chairman Weisz: It would give you extra time the next year though. This is part of the problem we have found. If everything comes in on the 31<sup>st</sup> of Dec. and the license all expire on January 1<sup>st</sup>, how are they supposed to get that all done?

Chairman Weisz: Are there questions from the committee?

H. Messner: I think a 45- day time would be adequate. I don't think it needs to be 90. Things change overnight in childcare. Parents move, staff leave, new children come. Things change often, so how will the information that you turn in even be accurate if you turn it in so early?

Representative Kiefert: How do Bibi and her husband have more than 5 kids in their daycare?

H. Messner: Bibi and her husband work together to run a group home daycare so they can have up to 12 children.

Representative Kiefert: Are they licensed or unlicensed?

H. Messner: They are licensed.

Representative McWilliams: Do you have any kind of a chart that says how much the regulations that you have to cost you on an annual basis to comply with all of the regulations?

H. Messner: I travel to go to annual trainings because I don't think our state has quality training. I paid out \$1000 for 12 hours of training this year. It cost \$35 for a fire inspection. It cost \$45 for the relicensing fee. It also cost \$150 for my fire extinguishers to be serviced. I have had trouble getting my inspections done this year. Two times the fire department couldn't get to me because of the weather. I did not hand in my licensing paperwork in 30 days prior. It was 27 days because of the problem with the fire department.

Chairman Weisz: Further questions from the committee?

Is there further opposition to SB 2090? Seeing none, we will close the hearing on SB 2090.



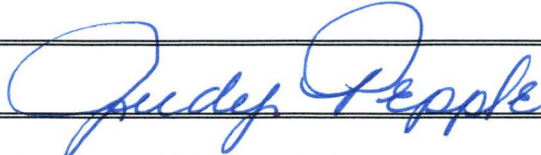
# 2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee  
Fort Union Room, State Capitol

SB 2090  
3/22/2017  
29565

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

Relating to criminal history record checks; relating to early childhood services criminal record checks, licensing, definitions, registration, applications, and fees; and to provide for an effective date.

## Minutes:

1, 2

Chairman Weisz: called the committee to order.  
Chairman Weisz: opened the hearing on SB 2090

Jonathan Alm, Attorney for Department of Human Services  
(Attachment 1)

Discussed his information he brought in answer to the questions asked before.

Chairman Weisz: I am looking here at public law 113-186. It doesn't mention anything there about pediatric. It is not here.

J. Alm: I do believe it might be in section 98.41. That is where they used pediatric.

Chairman Weisz: So which one supersedes the other? You said it is in 98?

J. Alm: Yes, Mr. Chairman. There is some documentation that I was able to pull up showed that it was in section 98.41 in the health and safety requirements it talked about pediatric. Then it would be part of rule-making is where they might have clarified that it was pediatric, but our rule making documents are approximately 600 and some pages from the federal government on this.

Chairman Weisz: It is your opinion at least that we do need to say pediatric?

J. Alm: Yes, it is.

Chairman Weisz: we will go section by section on this. Does anyone have any questions on the pediatric part of it?

Representative Porter: Inside of the definition of courses from 0-1 is considered infant and 1-13 is considered pediatric. I am not sure when we write things into the law that someone might not take us literally and think they just have to take the pediatric course. I don't have to take the infant course. I just think we need to be careful.

Vice Chairman Rohr: You don't want to do pediatric CPR on an infant.

Representative Porter: It is one thing if you take the literal verbiage then it is one thing, but if you go out to the Am. Heart Assoc. website and list a specific course, they have a specific course called The Hear Saver, pediatric, first aide, CPR, AED course. Then when you read the content of the course then it includes both CPR and AED use for adults, children and infants. That is a specific course using a specific title. This is not. I don't want to get hung up on it, but I think when we literally use a word we should be sure we are using the right word. If we want to specifically list a course that we know fits what we are trying to get at, I don't have a problem even doing that. I just don't want to list the word and say they need to take a pediatric first aide carido/pulmonary resuscitation course and then it skips infants just because it says they can. We just have to be careful. If we are writing it into law then we should be broader and if they want to narrow it down in their rules they certainly can go out and do that.

J. Alm: It could be written differently too that says CPR that includes infants and children.

Chairman Weisz: continue.

J. Alm: Continued to go through his answers to the questions.  
12:24

Chairman Weisz: Are these your definitions or are they the fed's.

J. Alm: These are the feds definitions.

Chairman Weisz: Ok from the state's perspective I want to be clear. If they are not licensed they don't have to worry about background checks or anything like that, right?

J. Alm: That is correct. If they are unlicensed we have no authority over them.

Representative Skroch: Is there any way for someone in ND to run a daycare without jumping through a bunch of hoops.

J. Alm: They can have up to 5 children without a license. If they go over the limit, then they would be subject to a penalty.

Representative Skroch: If the person had 4 children and was watching one other one. One of her children brings a friend home, would that put them out of compliance.

J. Alm: Yes, they would be. If the state would be there they would count the children there at the time. We wouldn't know about it unless someone reported it.



Chairman Weisz: Isn't there a time frame? They have to be there for a certain length of time?

J. Alm: It says that at least 2 hours at least 3 times a week. Children present on the premises under the age of 12.

Representative Skroch: There are times when there are unexpected situations. Sometimes I think this would be an over reaching intrusion

Chairman Weisz: They have to receive payment too.

Representative McWilliams: If there is a family of 6 kids that means that that family can't care for even 1 child?

J. Alm: They would have to become a licensed provider.  
19:39

Representative Porter: On your background checks on page 7, the feds really have a narrower scope than what is being proposed in this bill. A college kid that comes home for spring break that has nothing to do with the daycare part, they are just home. The childcare staff is defined as who is around the kids or has unsupervised access to the children. Ours is kind of a blanket of anybody who is a household member who is 18 years or older has to have a background check. I am just wondering why we are taking that approach rather than the federal approach on background checks.

J. Alm: The household members was added several sessions ago and I think it was because of federal regulations and requirements. We have tried to do the minimum necessary in some of those requirements. We understand the limitations of the state and limited providers out there. We are trying to get a balance. What they are looking at is that that person is still considered a staff member because they might have unsupervised access to children. They will say that at some point in time they might have some unsupervised access to children. That issue will always be there when you have a household member that is there 24/7. I can go through the 600 + pages and see if they have household members, but I know we had this discussion when we were drafting this and felt that this was the minimum that we had to do.

Representative Porter: It seems that we are kind of over reaching a little bit inside of that, because you could have a kid coming home from college and they would have absolutely nothing to do with the kids and they would never have unsupervised access to the children. I also agree that if they are helping with the daycare then they do need this, but not all of them do. I think our language could be better in that kind of scenario.

J. Alm: I just typed in household members and the federal government states, "thirty two states require some type of background checks for family members 18 years of age or older when they reside in the family or foster care home". They look at the family member as someone who is coming home and staying for two weeks and going back. Although these individuals may not be directly responsible for caring for the children they would have ample opportunity for unsupervised access to children. That is the reason we included this in the rule making for other family members that are adults to meet the background check requirements.

Representative Porter: Who is?

J. Alm: The federal government. Anyone that receives childcare block grant money. Now they are saying that the federal government is going to require all states to do this.

Representative Porter: What you are saying is that in public law 113-186 the feds are going beyond that inside of their program, because that is not how their public law reads.

J. Alm: What they are looking at is that it is a definition of staff members that is so broad and here are now our administrative rules that clarifies that definition. I was at a conference in NY and they were discussing this as well. They will lose 130,000,000 if they don't comply.

Representative Porter: Then the other thing that you read is that their definition is 18 or older and ours is not.

J. Alm: A criminal background check and fingerprinting can only be done on a person 18 years old or older. We have another background check that we do on 12 – 18 year olds. We do the child abuse and neglect index and the sexual offender index. Anyone 12 years old or up can be placed on those as well.

Chairman Weisz: How would you make sure that those background checks are done on those people that are there for a short time?

J. Alm: I don't know how the department would be sure they were being completed or how they would even know that it was occurring.

Representative McWilliams: Do the background checks that are being required by this bill, do they go back to 18 or 12?

J. Alm: We don't do any criminal background checks on those less than 18. We do the other test.

Representative McWilliams: So if you have a 17 year old just turned 18. The day he turns 18 he has to get a background check?

J. Alm: That would probably be a situation where they would have to do the background check.

Chairman Weisz: The law doesn't seem to be clear here that the law is not referring to someone being 18 if they are household members.

J. Alm: I think it is addressed in 50-11.102 It says and adult 18 or older living in the private residence out of which a program is operated regardless of whether the adult is someone living there permanently or temporarily.

Representative P. Anderson: If we don't require these background checks or put it in statute, we will lose a lot of money?



J. Alm: We could lose 11 million dollars that is on the table now with the federal government. We could be found out of compliance and they could make us do it next session. They could say they are going to take away 5% of our funding or we could be forced to pay back money we paid to those providers.

Representative P. Anderson: So you are the licensed daycare provider and you receive block grants and you don't do the background checks, would you not get your license?

J. Alm: If the law requires the background checks then yes we would have to obtain that before we could issue a license. All of our changes to the background check language will have to be approved through the federal bureau of investigations before we can put them into effect.

30:55

Chairman Weisz: Ok committee. We have some amendments that were passed out. (Attachment 2) Representative McWilliams, would you like me to go through your amendments?

Representative McWilliams went through the amendments he brought.

35:13

Chairman Weisz: Certainly taking out the background check is a big deal. Your amendment eliminates it completely for everybody. If it is eliminated completely we would end up with no background checks at all.

Chairman Weisz: Based on what we did with 2060, I can't believe we would want to get rid of background checks.

Representative Porter: I don't support getting rid of background checks. I want to meet the minimum of the federal guidelines so that it doesn't hurt the providers any more. I think some of this is ridiculous when you have the fine line of what a resident is and what a college student's sleep over guest is. I think that whether they have unsupervised access to the children is the key. It goes back to my poke in the eye that the federal government puts one thing in the law and then they put one thing in their administrative code to implement their law and they are two different things.

Chairman Weisz: Jonathan will you come back up. The language that you gave us is, "unsupervised access to children who are cared for or supervised". So kind of following up on what Representative Porter, is there a way to narrow up the law that defines supervised access. Can we narrow that up to a point that will give us some room so that if a college kid comes home and brings a friend with him? Can we narrow up that without getting on the wrong side of the feds?

J. Alm: No, there is not a way to do that. The feds just look at it as being able to have access no matter how short the time period.

Chairman Weisz: It could be a neighbor could be considered to need a background check. There has to be a line where you can allow people to come and go without all of this. Either you are saying that no one can enter that door unless they have a background check. If they

are going to have the broad definition of what unsupervised is then anyone that enters that facility then any time someone enters that house they would be out of compliance unless they had a background check. There has to be some line that can be drawn for people to come and go. It is a home.

J. Alm: I am going through this to see if there is a clearer definition of unsupervised access in the rule making, and my assumption would be no there won't be because they like the broad terms. We all might not like them, but they do.

Representative Skroch: If I am a daycare provider and I am watchful provider, that is a supervised situation. If I have a guest in my home, they are still under my supervision. If I am there constantly, do they still have to have the background check? If I am supervising them where is the line?

J. Alm: They would say there is always an opportunity for a few minutes of unsupervised access to the children. We do know of facilities where someone might be a great provider, but there have been unfortunate things that have happened in the home just because of the 5 or 10 minutes that they weren't watching a particular child and something did happen.

Chairman Weisz: Ok committee what do you want to do with the background checks? We don't want to get on the wrong side of the feds, but this is very broad. The 5 year that you are doing. Is that what you always did?

J. Alm: No, that is what the feds want.

Representative Kiefert: There are providers at the other end of the spectrum too that don't get federal money and then there is another group too isn't there?

J. Alm: Yes there are and those people that are unlicensed and are supposed to care for up to 5 children.

Representative Skroch: So would be exempt from those requirements.

J. Alm: Yes, they would be exempt from that.

Chairman Weisz: Well committee?

Representative Skroch: I think I just want to make a statement. There is always going to be someone out there that does something outside of the laws that is bad. I don't feel that there is enough regulations or legislation to stop it all. On the news there was something this am about a possible abduction by a teacher. I don't think it is fair to pass law that punishes the good instead of the bad and I think this crosses the line. I would have to vote no.

Chairman Weisz: That is a tough balance. We just did this yesterday on 2060 and the committee decided they wanted to err on the side of caution.

Representative P. Anderson: I agree with Representative Porter: about wanting to get the minimum only. The original that was given to us, was that the minimum?



Chairman Weisz: I think that is what we are trying to get to the bottom of.

Representative Schneider: Based on that and over a year's worth of work with a task force, a governor's task force that included childcare providers as well.

Chairman Weisz: Representative Schneider, would you be willing to wait until we see if we want to adopt any amendments?

Representative Schneider: Yes.

Representative Porter: I am going back to the public law part of this just to get to that minimum again. Everything I read in here talks about the provider. On top of page 3 you give us the definition of child care provider and nowhere in there is the household member. Then it talks about childcare staff and nowhere does it say anything about a household member unless they are given access to the children. Then I look at our state law and the tree that we put in place that elevates it up to higher level. I just want to get to the absolute minimum we can do without losing our block grant. I think the state is what increased the level.

J. Alm: I think the feds would look at the college kid as someone that has to be background checked and fingerprinted, because they would say that the person home for a two- week period they would have access to those kids. I think when we drafted this we were looking at the minimum requirements.

Representative Porter: Inside of your other definition that didn't open up with this bill that defines household member, the sub on the bottom of page 6 talks about the criminal history check and the fingerprints. When it goes through A, B, C all are required to have both. Your definition of household member is 18 or older, so during the course of a license year, I have a November birthday and I turned 18 in my senior year, I would still have to have the background check and finger prints done for the last 2 months of the year, even though he had had the other background check for the 12 – 18 year olds.

J. Alm: yes when you turned 18 you would have to have a fingerprint background check in order for that childcare provider to stay in compliance.

Chairman Weisz: Is there a way of raising that age to 21 instead of 18.

J. Alm: The federal law says "adult household member" so I am sure they would consider that to be 18.

Representative Porter: The emails that I received on this bill really didn't have anything to do with this. I just want to make sure that what we are creating as we are changing this that it is something that is workable in the real world. That is my only reason for diving into section 6.

Chairman Weisz: If we could move that age up they would still have been background checked.

J. Alm: It does say adult household member, so I am assuming they would say 18 is the standard. I also checked to see if they had any discussions about high school students or college students and they did not.

Chairman Weisz: Well, committee, before we get too far we need to clarify what CPR is. I think we need an amendment there.

Representative Porter: In my quick overview in section 4 there are two places and then there is another place and anywhere else Megan can find it, I move that in front of the word pediatric we insert infant/pediatric cardiac pulmonary resuscitation and add AED. That is the modern course compliance with what I have found.

Chairman Weisz: Does it have to be that specific to include the AED?

Representative Porter: There are courses out there that don't include training on an AED and I think we are at a point in this day and age, where I think it is not too much to ask to have them have AED training. If they are on an outing and they need to be able to use the AED would be good.

Representative McWilliams: I thought we heard that using an AED is almost foolproof. Anybody can use one. Didn't we take away all of the liability out of using an AED?

Representative Porter: Yes, we did, but that is the lay public walking up to a lay machine. This is an employee or individual who is supervising or overseeing that is required to have the CPR training. If we are going to require the training we should give them all the tools necessary to do the whole thing.

Representative Skroch: Would that mean that every daycare would have to have an AED?

Representative Porter: No. They are already required to have the course. Most courses do have the AED and all this would say is that they have to do the course that includes that training.

Representative McWilliams: I agree with Representative Porter that it might be a good idea, but there are a lot of things that are good ideas that we don't have to put into law.

Chairman Weisz: Is there further discussion? Did you make it as a motion?

Representative Porter: Yes, I move the amendment.

Representative D. Anderson: second

Chairman Weisz: Ok the motion is infant/pediatric cardiopulmonary resuscitation, AED" That is the motion in front of us. Is there anymore discussion?

Representative Skroch: Since we don't require daycares to have the AED in their home, I think there are a lot of opportunities for people to get that training and then I think there will



be a law that requires them to have an AED. That would be the next step. I feel that is just one more thing. I would move to remove the AED.

Chairman Weisz: We have a motion on the floor right now. Is there any more discussion?

Chairman Weisz: voice vote for the amendment  
Motion carried.  
1:02:43

Representative Skroch: I move the amendment with all of the language about the background checks goes back in.

Chairman Weisz: this is really a debate now over the 60-90 day and the fees. That is what you are trying to get at. The amount of the fee being raised and the question that seems to be in their mind that if we start at 60 or 90 days somehow they only have a 9-month license.

Chairman Weisz: Committee let's be clear that your are moving 01001- all of the overstruck language to be removed after the refundable fee of \$200.

Representative McWilliams: second.

Chairman Weisz: We are clear that this would basically increase the fee to \$50.

Representative McWilliams: No, it just doubles the application fee depending on what that was. On page 3 section 7 the fees are listed, so instead of having a \$200 late fee it just doubles the application fee

Representative Skroch: Doubling this is much more fair.

Chairman Weisz: I have some questions about the language though where you are trying to define the length of the license. I think it is unclear. On the top of page 9, it is not talking about the date of the license it is talking about the date of the renewal period. You are trying to get to having the date of the license to be specified, correct?

Representative McWilliams: We just want the renewal period printed on the license, so there is never a question about when it needs to be applied for.

Representative Seibel: If I have a license that expires on January 1, don't I know that 60 prior is the first of November?

Representative McWilliams: Yes, that seems to be a no brainer, but sometimes there are questions.

Chairman Weisz: Jon when you look on the license does it show the length of time the license is valid for? What does it say on the actual license.

J. Alm: It says on the license the date of expiration.

Representative Seibel: Rather than the 60 or 90 days could we change it to 2 months?

J. Alm: Yes, the committee could certainly change that. We could see the questions arise though as to how to count the months.

Representative Skroch: I haven't seen a license. Are they dated? Is it always the first of the month or are there random dates depending on when they apply?

J. Alm: It depends on when the license is approved, so it could be any day.

Chairman Weisz: I can't imagine that if your license expires on March 15 that you can't realize that you should have it in on the 15<sup>th</sup> of January.

Representative McWilliams: I agree that it is very easy to tell on the calendar. I think it is also very easy to print it on the license if it helps just one person. I think it just clarifies things. It doesn't cost the state any money.

Representative Seibel: If I am understanding this right, we would make this change in the first year after they have to turn in their paperwork 60 or 90 days prior. Your license is still good for 12 months.

Representative Skroch: there are licenses that work like that. My CNA license is moved ahead depending on when I reapply. If I renew my license early then they move it ahead.

Vice Chairman Rohr I have two certifications and two licenses and I have a window that I can renew and the date does not change. It is still good for a year or two years or whatever the term is.

Chairman Weisz: Frankly, I have never heard of that because you would never have a twelve-month license unless you waited to the absolute last day to renew.

Representative Porter: I don't have a problem with changing the fee part. I think the fee is a little out there. But trying to get this all up and running takes a lot of outside entity to get everything done. I think that starting to get it all lined up takes time, so starting earlier is not bad. The only part of this that I think is out there beyond where it should be is the late fee.

Chairman Weisz: We are just trying to get this done because of the issued that happened. The application was late, they knew it was coming so they looked the other way and then they back dated it, etc. That had nothing to do with what happened, but that is why this all started. Obviously somebody did something they shouldn't have done. All they are trying to do here is to insure that it doesn't happen again. Now, if their license lapses they will be shut down. You will all get lots of phone calls from people. We are doing it for their benefit and yet we are getting all this resistance. No one will have any forgiveness anymore. The parents will be irate. I am sorry if you can't figure out when the 60 days start and get it going. They are getting a window, so that they can get their stuff in so they don't get shut down. The irate parents will not blame the day care people they will blame you. I can certainly agree with the fee change. Making it according to the other fees that is fine.



Representative Skroch: I don't believe the amendment does anything with the 60 – 90 day window.

Chairman Weisz: No it doesn't, but now we would be adding cost to this renewal system because they have to change all of the licenses.

Representative McWilliams: If you spend money on the form to add the renewal dates then you could save money by not sending out a notice to them.

Representative Porter: Mr. Alm, do we have currently staggered expiration dates on these licenses or are they all January 1 based on a one year period.

J. Alm: They are given out depending on when they apply and then they are due one or two years out from that date. My fear is that if it is put on the license only they will forget. If they get a letter to remind them I think it would be a better reminder.

Representative Porter: Would a system on a Roman calendar work better? So that everything would be due on one day. If you start before the date it could be prorated until you reach that date.

J. Alm: I think the problem would be for the department to get it all done. It would be a real challenge.

Representative Porter: So it would overload the system? It is set up to be a staggered system and it is working.

Representative Devlin: The expiration date is printed on the license, is that correct?

J. Alm: Yes.

Representative Devlin: You send out a notice in advance that it is going to be due.

J. Alm: I believe it is in here that we are required to do that.

Representative Devlin: Do they have to post the license in the facility?

J. Alm: Yes, they have to post it.

Representative Devlin: So they should look at that for 364 days before they get their notice in the mail and they can't figure out when it is due.

Representative McWilliams: I would like to see it printed on there, but it really doesn't matter to me. I would like to change the late fee to twice the application and I would like to cut the time to post the late notice from 30 days to 14.

Chairman Weisz: Ok, committee do you want to act on the motion or do you want to take back the motion and modify it they can.

Representative Skroch: I will withdraw my motion.

Representative McWilliams: I withdraw my second.

Representative Skroch: Ok so we are looking at an amendment now that will return the sections we talked about relating to background checks and fingerprinting. We now will take out of the amendment the language related to printing the 60 – 90 day notice on the license on page 3 line 26. Then I would move the rest of the amendment.

Representative McWilliams: second

Chairman Weisz: Ok is everyone clear with the motion now? There are two things left then basically in the amendment. Going to the fees at twice the application fee and going to the 14 days.

Representative P. Anderson: I see here on page 9 line 11, does this leave in that the department may grant a 30 day extension? I think then everyone will want to get an extension.

Representative McWilliams: What this is is an extension granted by the department if they can't get their paperwork done in 30 days. Not because of the fault of the provider, but a delay because of the department.

Representative D. Anderson: Is there a problem now with that?

Chairman Weisz: I don't think this is saying your intent Representative McWilliams. You are trying to say that if the department doesn't get their work done then the department will have to grant a 30 day extension. There is no specification under C as to why the department may grant an extension.

Representative P. Anderson: I get the fee part, but I don't know if we need two and three.

Chairman Weisz: I know what he is trying to get at, but I don't think this is saying it. 1, 2, 3, are a subsection of subsection C and C doesn't say anything about the department not getting it to them in time. I am guessing based on what Representative McWilliams said you want to say "If the provider turned it in in time and the department doesn't get it back to them then the department has to give them an extension of 30 days". That is the intent, but I don't think it says that.

Representative McWilliams: Yes, that is the intent.

Representative P. Anderson: I think the department can do their own work. I don't think they need to give everyone another 30 days.

Chairman Weisz: Jonathan come up here one more time. Under the proposed of the 60 – 90 days and this is also the county. Do you have any wiggle room? You have to issue them a license if the paperwork is in there and complete by the date of the renewal.



J. Alm: Yes, how this bill would be drawn up is if they would have a sufficient amount of time to do it and I think that is 30 days, we would have to issue it at that time. If the provider fails to get it to us in the time period that is required, but yet they can still get it to us late and pay the penalty, we will try to get it done as fast as possible.

Chairman Weisz: Let's just focus on this. They do it within the 60 days which is what the proposed law would say now, they turned in all the proper paperwork. You can't say sorry we didn't get it done in time and so now we are going to pull your license for 10 days?

J. Alm: They have to get it done within the time period.

Chairman Weisz: That is what I think needs to be clear.

Representative Porter: On section 10 on page 8 we are saying that they have to have it in 60 days before the expiration or they get twice the fee and then we are saying on page 9 in the self-declaration component that the department shall approve within 30 days. Just from how I am reading it in the self-declared situations and I understand that the more complex centers a person needs more time. I am just looking at the self-declared component of this so I understand it.

Chairman Weisz: Representative Porter, this is only referring now if they are submitted less than 60 days before the expiration.

Representative Porter: I am reading it that the penalty if I turn my application in 59 days before, but if I run into that problem that the fire department couldn't get there and I can't turn it in until 45 days, so I have to pay twice the fee because of that and then the department still has 30 days.

Chairman Weisz: They have to refund then if in 30 days the department did not grant the renewal.

Representative Porter: Just inside of the date range so I am clear. Inside of the dates we are saying the department has 30 days, so if my license expires Dec. 1<sup>st</sup> I have to have it to the department by October 1<sup>st</sup> and then inside of the month of Nov. you have to have it back to me for the next year?

Chairman Weisz: No, this is only if you are past the 60 days. Then they have 60 days to do it. This is if they are late. They just have to get it in before the due date, correct?

J. Alm: if you are just looking at the current bill before you, my take on it is that if they get a completed application to us and we have 30 days upon receipt of that application to get a new license out.

Chairman Weisz: Where is the original 30 days found?

J. Alm: Section 11 on page 9

Representative Porter: The amendment changes how that reads now?

Chairman Weisz: We have a motion on page 9. That language is still in as part of the motion. If I could make a suggestion, I would really like to get this done. Why don't we take these up as individual pieces instead of based on this marked up bill? Why don't we have a motion to take up the fees and then we can take up the rest of it.

Representative Skroch: I withdraw my motion

Representative McWilliams: with draw my motion

Representative McWilliams: I move that the fee would be twice the application fee.

Representative Skroch: second it.

Chairman Weisz: Are there any questions? If not, we will have voice vote to adopt the amendment.

Voice vote taken. Motion carried.

Chairman Weisz: Ok committee. Is there a motion now or is there something else that we need to do?

Representative Skroch: I think that the discussion we had about that extension of expiration date based on the department approving an application in time. It falls under section 4 lines 26 and 27.

Chairman Weisz: The way I would read this. That language you just read says they have 30 days to do it. You are still saying that if you go past the 60 days the department still has 30 days. They have a time frame to approve it. We don't need to add any additional language to clarify that. Even if the application came in in 20 days they would still try to do it before it lapsed. I can guarantee that if they failed to do it both the county and us would hear about it if they just arbitrarily had to shut them down because they didn't get it done.

Representative P. Anderson: I move a do pass as amended on SB 2090.

Chairman Weisz: Thank you.

Representative D. Anderson: I second it.

Chairman Weisz: Representative Devlin do you have a question?

Representative Devlin: I did have a question for J. Alm, now that there is a motion on the floor it probably doesn't matter.

Chairman Weisz: Is it relevant? If it is, ask it.

Representative Devlin: J. Alm, you said that the federal government made the determination that it was at the age of adulthood. Do they let the state define what age that is? Would they let ND define it as the age at which they can legally buy alcohol in the state.

J. Alm: I don't know if the federal government would let us define it or not.

Chairman Weisz: That was the question I had as well. J. Alm would you try to find that answer for us? I am sure this is going to go to conference and I know the people on this committee would like to see it go to 21. Ok committee we have a motion. Is there any more discussion? We have beat this thing to death. Seeing none, the clerk will call the roll for a do pass as amended on SB 2090

Roll call vote taken    Yes    12    No    2    Absent    0

Chairman Weisz: Ok the motion carried. Is there a volunteer that would love to carry this.

Chairman Weisz: Representative Porter, thank you.



3/22/17 DB

17.0391.01002  
Title.02000

Adopted by the Human Services Committee

March 22, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2090

Page 3, line 28, remove "of"

Page 3, line 28, remove "an additional"

Page 3, line 29, replace "nonrefundable fee of two hundred dollars" with "two times the nonrefundable fees set forth in subsection 7"

Page 5, line 16, after "in" insert "infant and"

Page 5, line 16, after "resuscitation" insert "and the use of an automated external defibrillator"

Page 5, line 18, after "resuscitation" insert "and automated external defibrillator"

Page 5, line 24, after "in" insert "infant and"

Page 5, line 24, after "resuscitation" insert "and the use of an automated external defibrillator"

Page 5, line 26, after "resuscitation" insert "and automated external defibrillator"

Page 8, line 28, remove "an additional"

Page 8, line 29, replace "nonrefundable fee of two hundred dollars" with "two times the regular nonrefundable fees"

Page 10, line 1, after "in" insert "infant and"

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Page 10, line 5, after "resuscitation" insert "and the use of an automated external defibrillator"

Page 10, line 6, after "resuscitation" insert "and automated external defibrillator"

Renumber accordingly



Date: 3/22/17  
 Roll Call Vote #: \_\_\_\_\_

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2090**

House Human Services Committee

Subcommittee

Amendment LC# or Description: sect. 4 line 16 add "infant" before word pediatric and add AED after resubitation

- 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 Rep. Porter    Seconded By Rep. D. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. P. Anderson		
Vice Chairman Rohr			Rep. Schneider		
Rep. B. Anderson					
Rep. D. Anderson					
Rep. Damschen					
Rep. Devlin					
Rep. Kiefert					
Rep. McWilliams					
Rep. Porter					
Rep. Seibel					
Rep. Skroch					
Rep. Westlind					

*Vote to adopt the amendment*  
*Motion carried*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_  
 Absent \_\_\_\_\_  
 Floor Assignment \_\_\_\_\_

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

Date: 3/22/17  
 Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2090

House Human Services Committee

Subcommittee

Amendment LC# or Description: Make late fee double the application fee.

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 Rep. McWilliams Seconded By Rep. Skroch

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. P. Anderson		
Vice Chairman Rohr			Rep. Schneider		
Rep. B. Anderson					
Rep. D. Anderson					
Rep. Damschen					
Rep. Devlin					
Rep. Kiefert					
Rep. McWilliams					
Rep. Porter					
Rep. Seibel					
Rep. Skroch					
Rep. Westlind					

*Vote to adopt the amendment.  
 Motion carried*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 3/22/17  
 Roll Call/Vote #: 3

2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2090

House Human Services 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 Rep. P. Anderson Seconded By Rep. D. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. P. Anderson	✓	
Vice Chairman Rohr	✓		Rep. Schneider	✓	
Rep. B. Anderson	✓				
Rep. D. Anderson	✓				
Rep. Damschen	✓				
Rep. Devlin	✓				
Rep. Kiefert	✓				
Rep. McWilliams		✓			
Rep. Porter	✓				
Rep. Seibel	✓				
Rep. Skroch		✓			
Rep. Westlind	✓				

Total (Yes) 12 No 2

Absent \_\_\_\_\_

Floor Assignment Rep. Porter

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



**REPORT OF STANDING COMMITTEE**

**SB 2090: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2090 was placed on the Sixth order on the calendar.

Page 3, line 28, remove "of"

Page 3, line 28, remove "an additional"

Page 3, line 29, replace "nonrefundable fee of two hundred dollars" with "two times the nonrefundable fees set forth in subsection 7"

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Page 10, line 6, after "resuscitation" insert "and automated external defibrillator"

Renumber accordingly

**2017 TESTIMONY**

**SB 2090**

# testimony 1

SB 2090

January 4, 2017

Testimony by Senator Brad Bekkedahl, District 1

Senate Judiciary Committee

Senator Kelly Armstrong, Chairman

Chairman Armstrong and Committee Members,

Senate bill 2090 is a bill that addresses several areas of day care licensure, Federal compliance updates, and recent Audit recommendations. At the request of Governor Dalrymple, I served on the Governor's Advisory Committee on Child Care Licensing Process, along with Governor Dalrymple, Representative Kathy Hogan, and representation from Child Care Aware, the Association of Counties, the Department of Human Services, and Day Care Provider stakeholders. The initial committee focus was to review child care licensure processes, and determine improvements if needed. After review, it was determined that legislation should be developed to implement the necessary changes. With further discussion of related testimony, the committee agreed to also include changes recommended by the recent Audit Report, as well as Federal law changes that had not yet been updated into the ND Century Code. All of these revisions had led to the comprehensive SB 2090 before you today. To aid in your review, I am also providing copies of our last committee meeting on November 7, 2016, which outlines the significant discussion points that led to this bill.

Following my testimony, and submission of written testimony from Representative Kathy Hogan, Rebecca Eberhardt, from the Department of Human Services will provide a technical review of the bill and further explain the areas of compliance to Federal law, the Audit recommendations, and licensure process changes.

Thank you for your consideration of SB 2090, and I will remain to answer any questions.



testimony 2

**Testimony  
Senate Bill 2090 – Department of Human Services  
Senate Judiciary Committee  
Senator Kelly Armstrong, Chairman  
January 4, 2017**

Chairman Armstrong, and members of the Senate Judiciary Committee, I am Rebecca Eberhardt, Early Childhood Services Administrator with the Department of Human Services (Department). I am here today to provide information for Senate Bill 2090.

This Bill contains changes that are a result of the Governor's Advisory Committee on Child Care Licensing Process (Advisory Committee). I represented the Department as a member of the Advisory Committee. At the conclusion of the Advisory Committee meetings it was determined that this Bill, including the federal compliance pieces would be introduced by a legislative bill sponsor rather than the Department. The passage of this Bill would also allow the Department to be in compliance with the Child Care and Development Block Grant (CCDBG) Act of 2014 (Public Law 113-186).

Section 1 of the Bill gives the Department the authority to require fingerprint based background checks on providers holding, applicants for, emergency designees and staff members of providers holding and applicants for early childhood services licensure, and household members of a residence out of which early childhood services are provided. These changes are part of a federal requirement in the CCDBG.

Section 2 of the Bill revises the definition of "staff member" to align with the federal definition of staff member for early childhood services and to provide clarity.

Section 3 of the Bill removes "partnership, firm, corporation, Limited Liability Company, association, or nongovernmental organization" and replaces with "person" as defined in Section 01-01-49 includes "partnership, firm, corporation, Limited Liability Company, association, or nongovernmental organization". Based on a recommendation by the Advisory Committee, Section 3 also establishes a timeline for providers to submit re-license renewals at least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration and establishes a late fee of two hundred dollars. The late fee will be used to defray the costs of early childhood services licensing.

Section 4 of the Bill establishes a timeline for the Department to issue a license within thirty days based on a completed application with all supporting documents based on a recommendation by the Advisory Committee. Section 4 also requires that the supporting licensing documents not include any fraudulent or untrue representations. This Section also revises language based on the CCDBG to clarify that certification of pediatric cardiopulmonary resuscitation (CPR) is required for all staff members. This Section, based on a recommendation by the Advisory Committee, also requires that the Department notify the owner or operator that they are required to post a notice at the early childhood program premise of their late re-license application and supporting documentation at least thirty days before the license expires.

Section 5 of the Bill requires that the supporting registration documents do not include any fraudulent or untrue representations.

Section 6 of the Bill provides language that clarifies who is required to have a fingerprint based background check and the method on which the fingerprint based background check is conducted for providers holding, applicants for, emergency designees and staff members of providers holding and applicants for early childhood services licensures, and household members of a residence out of which early childhood services are provided. These changes are part of a federal requirement in the CCDBG and coincides with Section 1 of this Bill.

Section 7 of the Bill provides necessary language for compliance with CCDBG in regards to the frequency that fingerprint based background checks need to be conducted.

Section 8 of this Bill clarifies that an applicant's failure to comply with the licensing renewal timelines does not result in a correction order, but a late fee.

Section 9 of the Bill provides language that gives authority to the authorized agent, through the state's attorney office, to seek an injunction against an individual who provides licensed or unlicensed early childhood services and adds authority for the Attorney General's office to seek an injunction against an individual who provides unlicensed early childhood services.

Section 10 of the Bill establishes, based on recommendation by the Advisory Committee, a timeline for providers to submit license renewals



at least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration and establishes a late fee of two hundred dollars.

Section 11 establishes a timeline for the Department to approve a self-declaration within thirty days based on a completed application with all supporting documents based on recommendation by the Advisory Committee. Section 11 also requires that the supporting application documents not include any fraudulent or untrue representations. This section also revises language based on the CCDBG to clarify that certification of pediatric CPR is required for emergency designees if used. This section, based on recommendation by the Advisory Committee, also requires that the Department notify the holder of the self-declaration that they are required to post a notice at the self-declaration premise of their late re-application and supporting documentation at least thirty days before the self-declaration expires.

Section 12 of the Bill establishes an effective date of January 1, 2018 in regards to Sections 3, 4, 10, 11 to allow the Department, the Department's authorized agents, and child care providers time to revise policy and practices.

This concludes my testimony. I am happy to answer any questions you may have.

testimony 3

**TESTIMONY**

**SB 2090**

**Senate Judiciary Committee**

**January 4, 2017**

**Representative Kathy Hogan**

Mr. Chairman and members of the Judiciary Committee, my name is Representative Kathy Hogan, and I served on the Governor's Task Force regarding child care licensing. For over 18 years, I directed Cass County Social Services which was very involved in child care licensing issues.

The Task Force worked with many key partners to look at a broad range of issues that were identified over the last 12 months including the tragic situation in Velva, the state auditor recommendations and various federal requirement changes. This process was very collaborative with most of the key partners and this bill is a consensus bill. The Department of Human Services has been very helpful in the drafting of this bill.

Child care is priority issue because children deserve to be assured basic safety, parents need confidence that their children are in safe settings and child care providers need to have reasonable standards that are both clearly defined and practical. This bill attempts to do all of those thing.

Some of this bill is housekeeping but there are very significant changes too.

Specifically, it is critical to address three areas.

- A. Changes to timelines for licensing/re-licensing of child care providers to eliminate back dating.
- B. Notice requires
- C. Background check changes

Thank you for your interest and I would be more than willing to answer any questions.

testimony 4  
SB-2090 1/4/17

Governor's Advisory Committee on Child Care Licensing Process  
Monday, November 7, 2016 – 1:30-3:30 pm  
Red River Room, State Capitol – Bismarck, ND

**Committee Members Present:**

Governor Dalrymple, Senator Brad Bekkedahl, Representative Kathy Hogan, Rebecca Eberhardt, Jennifer Prince, Terry Traynor, Bonnie Storbakken, and Jeff Huber - State Fire Marshall.

Absent: Dawnita Nilles and Jan Irby.

**Welcome:**

Meeting was called to order at 1:30pm by Governor Dalrymple. The Governor welcomed the group and thanked the committee members for their work on this important issue.

**Minutes:**

The Governor's Advisory Committee on Child Care Licensing Process minutes from June 28, 2016, was reviewed. Terry Traynor moved that the minutes be approved and Representative Kathy Hogan seconded the motion. The motion was passed.

**Committee Discussion:**

Rebecca Eberhardt then handed out copies of policy changes that went into effect in October. Rebecca walked the committee through the policy changes. Rebecca stated that some of the changes made in policy were in response to federal requirements, some were simple updates relating to agency name changes, some of the changes were to formalize current practice and some changes were in response to the recent audit review. Some of the changes relevant to this committee were:

- The addition of childcare licensing packets which would help maintain consistency of the paperwork maintained within the licensing process. Policy 620-01-30 and 620-01-35-01
- The addition of the requirement to document square footage on the floor plans submitted. Various policies 620-01-20-20, 620-01-35-15, 620-01-55-10, 620-01-105, 620-01-105-01
- It was noted that the policy regarding the sample timeline for re-licensure would change if the legislation to change the required timeframes passes in this upcoming session.
- Policy governing when and how an MOU is to be issued and documented. (the Governor highlighted that this policy change would provide a notice to the parents that the facility was operating under an MOU) policy 620-01-80-10
- Unannounced reviews of childcare providers. Policy 620-01-116
- Correction Orders and Immediate correction orders. (there was discussion of the possible need to describe the form number 312 rather than just stating the form number in the policy) Policies: 620-01-120-01, 620-01-120-01-01
- There was also strong support that there is a need for a licensing data system that has the capability to capture child care licensing information to include, monitoring,



inspection reports, timelines for license renewals, correction orders and fiscal sanctions, store documentation requirements, etc.

Additionally, Rebecca distributed administrative rule changes that are currently proposed rules and will be submitted for approval after the upcoming session.

Rebecca also shared a copy of draft legislation which would change the process for re-licensure. Rebecca noted that once the legislation was approved the additional policy changes would also need to be made to effectuate the timeline changes for the licensing process changes that would be made under the legislation. The Governor suggested that the draft legislation would benefit from legislative sponsorship rather than coming directly from the Department of Human Services. Kathy Hogan and Brad Bekkedahl discussed and stated they would support the legislation as a legislative bill rather than an agency bill.

After lengthy discussion regarding the rule changes which spelled out how the timeline for re-licensure would be amended to ensure that no backdating of licenses would happen, the committee then turned their discussion to the outcomes of the Legislative Audit Fiscal Review Committee. The committee discussed that the changes in policy as well as the proposed legislation would adequately address the issues that arose within the audit findings and discussions.

The current State Fire Marshal attended the meeting and provided handouts of the updated checklists for both family and group childcare structures as well as child care facility in preschool structures. With his visit there was discussion of the updates and a plan to implement state wide training regarding the updates.

There was discussion with the Fire Marshal concerning how some childcare providers may be affected if they are in a home with 12 children or more regarding certain aspects of physical structure and fire code. The Fire Marshall indicated that there is no intent to close doors of childcare programs but rather to ensure safety of all children and that he would be working with ND Childcare Aware and Rebecca to ensure that providers are aware of all requirements. There was some discussion of the need to look at available resources that could be utilized by providers in this category if they need to make structural changes to their homes to remain in compliance with fire code.

Jennifer Prince read a letter she received from a provider regarding some concerns and frustrations she has had in working through the process of licensure.

There was discussion of what final recommendations will come out of this committee. The committee reviewed an outline of potential recommendations. The committee members discussed the list that was provided and stated that they would like to use that as the basis of the committee's recommendation. Kathy Hogan moved and the motion seconded by Terry Traynor that this list would be the basis of the recommendations from the committee. The motion passed unanimously. The committee agreed that Bonnie Storbakken and Rebecca

Eberhardt would work together to draft a final report including the committee's final recommendations. The committee agreed that they would review the final report and conclude the committee's activity on this matter.

Outline for final report.

The committee agreed that the list provided would be the basis for the recommendations.

1. Make the necessary changes to Century Code, Administrative Rules, and policy to require the renewal application for re-licensure to begin well before the expiration date of the current license.
  - a. Ensure through the necessary changes that no license is issued without a complete application being received.
  - b. Provide for requirements to notify parents of children served by a provider when the renewal process is untimely.
2. Encourage state wide training to ensure all licensors are prepared to administrate existing and new requirements.
3. Encourage development of a licensing data system to move toward compliance with federal requirements and support the acquisition of the necessary personnel to provide the staffing needed for an effective system.
4. Encourage state wide training regarding childcare fire inspections to ensure consistency state wide.

Meeting was adjourned at 3:00 pm.

Att. 1  
SB 2090  
3-6-17

SB 2090

March 6, 2017

Testimony by Senator Brad Bekkedahl, District 1

House Human Services Committee

Honorable Representative Robin Weisz, Chairman

Chairman Weisz and Committee Members,

Senate bill 2090 is a bill that addresses several areas of day care licensure, Federal compliance updates, and recent Audit recommendations. At the request of Governor Dalrymple, I served on the Governor's Advisory Committee on Child Care Licensing Process, along with Governor Dalrymple, Representative Kathy Hogan, and representation from Child Care Aware, the Association of Counties, the Department of Human Services, and Day Care Provider stakeholders. The initial committee focus was to review child care licensure processes, and determine improvements if needed. After review, it was determined that legislation should be developed to implement the necessary changes. With further discussion of related testimony, the committee agreed to also include changes recommended by the recent Audit Report, as well as Federal law changes that had not yet been updated into the ND Century Code. All of these revisions have led to the comprehensive SB 2090 before you today. To aid in your review, I am also providing copies of our last committee meeting on November 7, 2016, which outlines the significant discussion points that led to this bill.

Following my testimony, and testimony from Representative Kathy Hogan, Rebecca Eberhardt or a designee from the Department of Human Services may provide a technical review of the bill and further explain the areas of compliance to Federal law, the Audit recommendations, and licensure process changes. I am prepared to explain the bill by Sections as well if necessary.

Thank you for your consideration of SB 2090, and I will remain to answer any questions.



## Governor's Advisory Committee on Child Care Licensing Process

Monday, November 7, 2016 – 1:30-3:30 pm  
Red River Room, State Capitol – Bismarck, ND

### **Committee Members Present:**

Governor Dalrymple, Senator Brad Bekkedahl, Representative Kathy Hogan, Rebecca Eberhardt, Jennifer Prince, Terry Traynor, Bonnie Storbakken, and Jeff Huber - State Fire Marshall.

Absent: Dawnita Nilles and Jan Irby.

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Outline for final report.

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3. Encourage development of a licensing data system to move toward compliance with federal requirements and support the acquisition of the necessary personnel to provide the staffing needed for an effective system.
4. Encourage state wide training regarding childcare fire inspections to ensure consistency state wide.

Meeting was adjourned at 3:00 pm.



Att. 2  
SB 2090  
3-6-17

**TESTIMONY**  
**SB 2090**  
**House Human Services Committee**  
**March 6, 2017**  
**Representative Kathy Hogan**

Chairman Weisz and members of the Human Services Committee, my name is Representative Kathy Hogan, and I served on the Governor's Task Force regarding child care licensing. For over 18 years, I directed Cass County Social Services which was very involved in child care licensing issues.

The Task Force worked with many key partners to look at a broad range of issues that were identified over the last 12 months including the tragic situation in Velva, the state auditor recommendations and various federal requirement changes. This process was very collaborative with most of the key partners and this bill is a consensus bill. The Department of Human Services has been very helpful in the drafting of this bill.

Child care is priority issue because children deserve to be assured basic safety, parents need confidence that their children are in safe settings and child care providers need to have reasonable standards that are both clearly defined and practical. This bill attempts to do all of those thing.

Some of this bill is housekeeping but there are very significant changes too.

Specifically, it is critical to address three areas.

- A. Changes to timelines for licensing/re-licensing of child care providers to eliminate back dating.
- B. Notice requires
- C. Background check changes

Thank you for your interest and I would be more than willing to answer any questions.

A.H. 3 SB2090  
3-6-17

**Testimony**  
**Senate Bill 2090 – Department of Human Services**  
**House Human Services Committee**  
**Representative Weisz, Chairman**  
**March 6, 2017**

Chairman Weisz, and members of the House Human Services Committee, I am Rebecca Eberhardt, Early Childhood Services Administrator with the Department of Human Services (Department). I am here today to provide information for Senate Bill 2090.

This Bill contains changes that are a result of the Governor's Advisory Committee on Child Care Licensing Process (Advisory Committee). I represented the Department as a member of the Advisory Committee. At the conclusion of the Advisory Committee meetings it was determined that this Bill, including the federal compliance pieces would be introduced by a legislative bill sponsor rather than the Department. The passage of this Bill would also allow the Department to be in compliance with the Child Care and Development Block Grant (CCDBG) Act of 2014 (Public Law 113-186).

Section 1 of the Bill gives the Department the authority to require fingerprint based background checks on providers holding, applicants for, emergency designees and staff members of providers holding and applicants for early childhood services licensure, and household members of a residence out of which early childhood services are provided. These changes are part of a federal requirement in the CCDBG.

Section 2 of the Bill revises the definition of "staff member" to align with the federal definition of staff member for early childhood services and to provide clarity.

Section 3 of the Bill removes "partnership, firm, corporation, Limited Liability Company, association, or nongovernmental organization" and replaces with "person" as defined in Section 01-01-49 includes "partnership, firm, corporation, Limited Liability Company, association, or nongovernmental organization". Based on a recommendation by the Advisory Committee, Section 3 also establishes a timeline for providers to submit re-license renewals at least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration and establishes a late fee of two hundred dollars. The late fee will be used to defray the costs of early childhood services licensing.

Section 4 of the Bill establishes a timeline for the Department to issue a license within thirty days based on a completed application with all supporting documents based on a recommendation by the Advisory Committee. Section 4 also requires that the supporting licensing documents not include any fraudulent or untrue representations. This Section also revises language based on the CCDBG to clarify that certification of pediatric cardiopulmonary resuscitation (CPR) is required for all staff members. This Section, based on a recommendation by the Advisory Committee, also requires that the Department notify the owner or operator that they are required to post a notice at the early childhood program premise of their late re-license application and supporting documentation at least thirty days before the license expires.



Section 5 of the Bill requires that the supporting registration documents do not include any fraudulent or untrue representations.

Section 6 of the Bill provides language that clarifies who is required to have a fingerprint based background check and the method on which the fingerprint based background check is conducted for providers holding, applicants for, emergency designees and staff members of providers holding and applicants for early childhood services licensures, and household members of a residence out of which early childhood services are provided. These changes are part of a federal requirement in the CCDBG and coincides with Section 1 of this Bill.

Section 7 of the Bill provides necessary language for compliance with CCDBG in regards to the frequency that fingerprint based background checks need to be conducted.

Section 8 of this Bill clarifies that an applicant's failure to comply with the licensing renewal timelines does not result in a correction order, but a late fee.

Section 9 of the Bill provides language that gives authority to the authorized agent, through the state's attorney office, to seek an injunction against an individual who provides licensed or unlicensed early childhood services and adds authority for the Attorney General's office to seek an injunction against an individual who provides unlicensed early childhood services.

Section 10 of the Bill establishes, based on recommendation by the Advisory Committee, a timeline for providers to submit license renewals

at least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration and establishes a late fee of two hundred dollars.

Section 11 establishes a timeline for the Department to approve a self-declaration within thirty days based on a completed application with all supporting documents based on recommendation by the Advisory Committee. Section 11 also requires that the supporting application documents not include any fraudulent or untrue representations. This section also revises language based on the CCDBG to clarify that certification of pediatric CPR is required for emergency designees if used. This section, based on recommendation by the Advisory Committee, also requires that the Department notify the holder of the self-declaration that they are required to post a notice at the self-declaration premise of their late re-application and supporting documentation at least thirty days before the self-declaration expires.

Section 12 of the Bill establishes an effective date of January 1, 2018 in regards to Sections 3, 4, 10, 11 to allow the Department, the Department's authorized agents, and child care providers time to revise policy and practices.

This concludes my testimony. I am happy to answer any questions you may have.



AH. 4  
SB2090  
3-6-17

My name is BiBi Mehring. I am a licensed Childcare Provider with my CDA (Child Development Associate Degree) in Mandan, ND. I along with my husband have owned and operated our in home Childcare facility in which I also teach a Christian based Preschool Program since 2003.

I am contacting you regarding Senate Bill 2090 and the concerns and questions that this bill raises. While reading this I respectfully ask that you put yourselves in the shoes of myself and every Licensed Childcare Provider in the State of North Dakota who follows the rules and regulations (play by the same rules if you will) set before us each year when the time comes to renew our licenses. I am not sure if you are aware but unfortunately we are not made aware in advancing of rules (that will directly affect us) the majority of the time until they have already been proposed by persons such as yourselves. No one ever comes to any of the licensed providers and asked for their thoughts, opinions, insight, ideas, comments etc. when things are to be newly added or changed to our every growing list of requirements that we have to abide by and meet each year for our relicensing requirements. In my opinion this is not how a state shows their Licensed Childcare Providers your appreciation for our hard work, long hours, deprivation our own families and relationships endure. It shows a lack of concern (by those who have not perhaps performed our jobs, have no children, and have not worked or been around children of any age for any extended periods of time) care, judgment and knowledge of what our jobs actually in tale each day. Frankly I myself feel like I am being BLACK BALLED, THROWN UNDER A MOVING STEAM ROLLER when we are not part of these processes.

I am aware as many are of the drowning incident that took place in Velva, ND and with the daycare and the back dating of the issued license. I am also aware of an audit that was recently completed of the Department of Human Services (Childcare Division). Due to this audit and/or either the lack of competency or over loaded case load that the Social Worker had and the findings of corrections that need to be implemented within the Dept. I feel that this is what brought about someone to propose changes to the requirements on our end rather than perhaps changes and the hiring of more staff to adequately cover all of the caseloads. I do not feel that we should have to absorb the backlash of penalties that the Department of Human and Child Services should be taking the responsibility to fix. After speaking to my licensure Linda Aberle and supervisor Shari Doe, they were unaware of these proposed changes that had been submitted.

The items of concern are:

Requiring us to start our relicensing process a minimum of 60 days to 90 days before our licensed expires.

If we do not, we will be charged a \$200.00 late fee.

If we still have not submitted our paperwork 30 days prior to expiration date, we will be required to post notice that we are not in compliance.

All staff must have pediatric CPR and First Aid, including emergency backups.

Now I have to ask you some questions and provided you some information that you will hopefully ponder with the greatest of thought and will hopefully help you to make a more informed decision when the time comes to cast a decision on Senate Bill 2090.

/



We are required per our license to be relicensed annually. Within that year, we are also required to have all of our training hours completed (# of hours vary depending on Family or Group provider), our fire inspection completed, fire extinguishers checked and serviced, CPR & 1st Aid renewed if due within that one year time frame.

Requiring us to start our relicensing process a minimum of 60 days to 90 days before our licensed expires.

Each year we are required to pay a fee to relicense for 1 Year. Not 9 months not 10 months but 12 months.

Each year we are required to pay a fee for our Fire Inspections and a fee to have our fire extinguishers checked for 1 year. Not 9 months or 10 months but 12 months.

If we do not, we will be charged a \$200.00 late fee.

How can we possibly be in default and be required to pay a late fee when our license is dated for one year and our yearly fee is paid for one year?

If we still have not submitted our paperwork 30 days prior to expiration date, we will be required to post notice that we are not in compliance.

Why must we be shamed for being in compliance when our license again is dated for one year and our fee to be relicensed has been paid in full? Is it our fault that the department is not fully staffed in order to meet the work load requirements?

All staff must have pediatric CPR and First Aid, including emergency backups.

When trying to find back up of any kind to come in to help for whatever reason it is quite a chore. We have 2 grown daughters who both work 2 jobs that. If we are able to get them to help us we bring one of them in. We cannot rely on either or our parents as my mother is 78, physically handicapped and in a nursing home. My husband's father is 77 and still works full-time and his mother is not able to climb the stairs or move much anymore. And the option of hiring a prior childcare provider to come in to help is not an option when the charge is \$25.00 per hour.

In my case my husband and I work together every day. If one of us is gone for some reason and we have someone come in to help there is still 1 of working there. I do not find the validity in requiring our back up and emergency backups to be pediatric CPR and First Aid certified when we may never know for sure who we may be able to get to come in depending on their circumstances and availability and need. To me this is such a monetary waste and hardship when one of us is on site and working at all times.

I am not sure if you are aware, but as a Childcare Provider we do not make a lot of money! The money that we do make has to be stretched amongst several areas of our business to stay afloat and our family in order to provide for our needs as well. To me when I pay for something for a year, that is what I expect it to be for. I do not expect to pay for a year and then turn around in 9 or 10 months lose 3 months of service. I do not believe that is neither good business practice nor it is a smart way of conducting a viable business.

If there was ever an area of childcare that truly needed more rules and regulations applied and greater monitoring, it is the area of unlicensed babysitters. Yes, there is a law; sadly it is not enforced upon!

There is only one law for it and it requires that they can only have 5 children (including their own) in their care at any one time. I myself have reported an unlicensed mother and daughter for having more than 5 out in public. I gave dates, times and the places but was told the only thing that they can do is send out a letter stating "Please remember you can only have 5 children in your care at one time. How wrong, indifferent and unjust is this! If I as a licensed provider who cares for the same product as those who are not licensed and choose (not to play by the same rules) were to have more children in my care at one time than I am licensed for I would have the Department of Human Services on my door step in a heartbeat.

Now seriously, I ask you who is really in need of more rules and regulation placed upon them.

I thank you for taking the time to read this and hopefully act with great understanding on the greater cause at hand.

Thank You!

Sincerely,

BiBi Mehring

"WATCH ME!" Learn & Grow Daycare



Department of Human Services  
Response to Information Requested by House Human Services  
2017 Senate Bill 2090

- A. Pediatric cardiopulmonary resuscitation: The Federal government uses the term pediatric first aid cardiopulmonary resuscitation.
- B. In accordance with Department policy, the County must complete a licensing visit within thirty calendar days upon receipt of the application for licensure. When the County has received all required materials for licensing, the County must submit the licensing study to the Department's regional office within fifteen calendar days. The regional office must respond to the licensing study within fifteen calendar days upon receipt of all licensing study materials.
- C. Failure to comply with Public Law 113-186 and subsequent regulations can result in the Federal government:
1. Disallowing any improperly expended funds;
  2. Deducting improperly expended funds from the administrative portion of the State allotment;
  3. Disqualifying the State from receiving further funding;
  4. Placing the State on a corrective action plan; or
  5. Withholding either 4% or 5% funds that would otherwise be allocated. The entire annual amount of funding is \$11,042,354.
- D. 1,640 Current providers (capacity to serve 34,539 children) of which 1,437 are eligible to receive payments associated with child care block grants:
1. Self-Declared = 146 providers of which 134 providers are eligible to receive payments associated with child care block grants. Self-declared provider may provide services for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months. State law does not require a provider to become a self-declared provider since a provider can choose to be unlicensed and care for the same amount of children. If a provider is receiving payments associated with child care block grants, federal law requires the provider to either be licensed or a self-declared.
  2. Family = 298 providers of which 248 providers are eligible to receive payments associated with child care block grants. Family provider may provide services for no more than seven children at any one time, plus an additional two school-age children.
  3. Group = 752 providers of which 671 providers are eligible to receive payments associated with child care block grants. Group provider may provide services for thirty or fewer children.
  4. Group in a facility = 123 providers of which 110 providers are eligible to receive payments associated with child care block grants. Group provider in a facility may provide services for thirty or fewer children.



5. Center = 127 providers of which 124 providers are eligible to receive payments associated with child care block grants. Center provider may provide services to nineteen or more children.
  6. School Age = 57 providers of which 38 providers are eligible to receive payments associated with child care block grants. School age provider may provide services for nineteen or more children ages five years through eleven years.
  7. Preschool = 53 providers of which 35 providers are eligible to receive payments associated with child care block grants. Preschool provider may provide services to children no more than three hours per day.
  8. Multiple license = 84 providers of which 77 providers are eligible to receive payments associated with child care block grants. Multiple licensed programs are licensed to provide more than one type of early childhood services.
- E. Public Law 113-186 requires the following if a provider receives payments associated with the child care block grants:
1. Monitoring and inspections by the Department or County.
  2. Ongoing training and professional development requirements to enable child care providers to promote the social, emotional, physical, and cognitive development of children and improve the workforce.
  3. Child to provider ratio standards to provide for the safety and developmental needs of the children served along with required provider qualifications.
  4. Implementation of State or local laws designed to protect the health and safety of children to include: prevention and control of infectious diseases; prevention of sudden infant death syndrome and use of safe sleeping practices; administration of medication; building and physical premises safety; prevention of shaken baby syndrome; emergency preparedness response; handling and storage of hazardous materials; transportation safety; first aid and cardiopulmonary resuscitation; minimum health and safety training (orientation and continuing); and physical activity.
  5. Providers' compliance with all State and local health and safety requirements.
  6. One pre-licensure inspection for compliance with health, safety, and fire standards.
  7. At least one unannounced annual inspection (licensed or unlicensed).
  8. Compliance with child abuse and neglect reporting.
  9. Criminal background checks on all staff members and prospective child care staff members of providers. Criminal background check involves a search of the State criminal and sex offender registry, child abuse and neglect registries, National Crime Information Center, FBI fingerprint background check, and National Sex Offender Registry. Criminal background check requirements must be conducted every five years.

Child care provider is defined by Public Law 113-186 as a center-based child care provider, a family child care provider, or another provider of child care services for compensation and on a regular basis that is not an individual who is related to all children for whom child care services are provided and is licensed, regulated, or registered under State law or receives assistance provided under Public Law 113-186.

Child care staff member is defined as an individual who is employed by a child care provider for compensation or whose activities involve child care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider.

F. State law requirements on self-declared providers:

1. Prohibition on smoking on the premises, N.D.C.C. chapter 23-12 and section 50-11.1-02.2.
2. Department approved sudden infant death syndrome prevention training if providing care of children under the age of one.
3. Criminal background checks for new household members and new staff members, which includes child abuse and neglect checks. Department or County shall investigate the applicant and every individual living in the private residence and shall conduct a background check.
4. Prohibitions based on criminal convictions.
5. Department or County at any time may investigate and inspect the premises, qualifications, current and prospective staff members of any applicant or self-declaration provider. State department of health and the state fire marshal or the fire marshal's designee shall inspect the premises upon request.
6. Must maintain records as the Department prescribes regarding each child and report facts the Department may require with reference to each child.
7. Admit for inspection the Department or County and open for examination all records, books, and reports.
8. Notify each parent of each child receiving services and all staff members of the process of reporting a complaint or suspected licensing violation.
9. Upon request of a parent, make a list of names, telephone numbers, and addresses of the parents of children for whom the provider is providing services to, if parents grant permission.
10. Notify parents, post correction orders, and comply with the correction order upon a determination of a violation of state law or administrative rules.
11. The premises must be fit and sanitary condition to provide for the health and safety of all children and maintained according to the standards prescribed by the rules of the Department.
12. That the applicant/provider is able to provide for the health and safety of each child receiving services.
13. That the applicant/provider is currently certified in CPR and first aid.



14. Comply with N.D. Administrative Rules Chapter 75-03-07.1. Administrative rules address background checks; provider qualifications; proper care and protection provided to children; food safety; supervision; immunizations; child abuse and neglect reporting; child development and activities; provider training (basic child care training course at the time of approval and three hours annually); child records and information; constructive or educational discipline; aquatic activities policies; potential hazards; minimum sanitation requirements; infant care; and minimum requirements for the care of children with special needs.



PROPOSED AMENDMENTS TO SENATE BILL NO. 2090

Page 1, line 2, remove "section"

Page 1, line 3, remove "50-06-01.9,"

Page 1, line 4, remove "subsection 1 of section 50-11.1-06.2,"

Page 1, line 5, remove "50-11.1-12,"

Page 1, line 5, remove the second comma

Page 1, remove lines 9 through 23

Page 2, line 15, after "**Fees**" insert "**- Renewal**"

Page 3, line 26, after the underscored period insert "A license or self-declaration issued under this section must identify the specific dates of the thirty-day renewal period for that license or self-declaration."

Page 3, line 28, replace ", the" with ":

a. The"

Page 3, line 28, remove "an additional"

Page 3, line 29, replace "nonrefundable fee of two hundred dollars" with "two times the nonrefundable fees set forth in subsection 7."

b. The department shall refund to the applicant the late fee, if within thirty days of receipt of a complete reapplication, the department does not grant the renewal.

c. The department may grant a thirty-day extension of the applicant's license or self-declaration"

Page 6, line 8, replace "thirty" with "fourteen"

Page 6, remove lines 25 through 30

Page 7, remove lines 1 through 9

Page 7, remove lines 30 and 31

Page 8, remove lines 1 through 12

Page 8, line 26, after the underscored period insert "A license or self-declaration issued under this section must identify the specific dates of the thirty-day renewal period for that license or self-declaration."

Page 8, line 28, replace ", the" with ":

(1) The"

Page 8, line 28, remove "an additional"

Page 8, line 29, replace "nonrefundable fee of two hundred dollars" with "two times the regular nonrefundable fees."

- (2) The department shall refund to the applicant the late fee, if within thirty days of receipt of a complete reapplication, the department does not grant the renewal.
- (3) The department may grant a thirty-day extension of the applicant's license or self-declaration"

Page 10, line 19, replace "thirty" with "fourteen"

Page 10, line 21, replace "3, 4, 10, and 11" with "2, 3, 7, and 8"

Renumber accordingly

Introduced by

Senator Bekkedahl

Representatives Damschen, Hogan

1 A BILL for an Act create and enact a new subsection to section 50-11.1-06.2 of the North  
2 Dakota Century Code, relating to criminal history record checks; to amend and reenact ~~section~~  
3 ~~50-06-01.9~~, subsection 25 of section 50-11.1-02, sections 50-11.1-03, 50-11.1-04, and  
4 50-11.1-06, ~~subsection 1 of section 50-11.1-06.2~~, subsection 1 of section 50-11.1-07.2, and  
5 sections ~~50-11.1-12~~, 50-11.1-16; and 50-11.1-17 of the North Dakota Century Code, relating to  
6 early childhood services criminal record checks, licensing, definitions, registration, applications,  
7 and fees; and to provide an effective date.

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

9 ~~SECTION 1. AMENDMENT. Section 50-06-01.9 of the North Dakota Century Code is~~  
10 ~~amended and reenacted as follows:~~

11 ~~50-06-01.9. Criminal history record checks.~~

12 ~~The department may require criminal history record checks as the department determines~~  
13 ~~appropriate for:~~

14 ~~1. Employees of the department upon hiring;~~

15 ~~2. Providers licensed by the department under chapter 50-12, as well as for any~~  
16 ~~employees of those providers; and~~

17 ~~3. Applicants Providers holding, applicants for, and emergency designees and staff~~  
18 ~~members of providers holding and applicants for early childhood services licensure,~~  
19 ~~nonlicensed holders of a self-declaration, and in-home providers provider registration~~  
20 ~~under chapter 50-11.1. The department also may require criminal history record~~  
21 ~~checks for new staff household members of those applicants, providers of an applicant,~~  
22 ~~and a provider if the provider is providing a residence out of which early childhood~~  
23 ~~services within the provider's home are provided.~~



1       **SECTION 1. AMENDMENT.** Subsection 25 of section 50-11.1-02 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       25. "Staff member" means ~~operator, caregiver, provider, or any other individual, whether~~  
4 ~~paid or volunteer, who provides care, supervision, or guidance to children in an~~  
5 individual:

6       a. Who is an employee of an early childhood program or of an early childhood  
7 services provider under a self-declaration and includes food preparation,  
8 transportation, and maintenance personnel; or

9       b. Whose activities involve the care, supervision, or guidance of children for or  
10 unsupervised access to children under the care, supervision, or guidance of an  
11 early childhood program or early childhood services provider under a  
12 self-declaration.

13       **SECTION 2. AMENDMENT.** Section 50-11.1-03 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15       **50-11.1-03. Operation of early childhood services program - License required - Fees -**  
16 **Renewal.**

17       1. A license for family child care is required if early childhood services are provided for  
18 four or more children ages twenty-four months and under, or six or seven children  
19 through age eleven at any one time which includes no more than three children under  
20 twenty-four months of age.

21       2. A license for group child care is required if early childhood services are provided for at  
22 least eight and no more than thirty children at any one time.

23       3. A license for a child care center is required if early childhood services are provided for  
24 more than thirty children at any one time.

25       4. ~~A~~Except as provided under subsection 5, a person, partnership, firm, corporation,  
26 limited liability company, association, or nongovernmental organization may not  
27 establish or operate a family child care, group child care, preschool, school-age child  
28 care, or child care center unless licensed to do so by the department.

29       5. A governmental organization may not establish or operate a family child care, group  
30 child care, preschool, school-age child care, or child care center without first receiving  
31 public approval by certifying, to the department or the department's authorized agent,

1 that it has complied with all rules applicable to family child care, group child care,  
2 preschool, or school-age child care, or to child care centers.

3 6. A license is not required for onsite child care services ~~that are~~ located in the actual  
4 building in which the child's parent is employed, not to exceed ten children per  
5 location.

6 7. An applicant for a license shall submit the following nonrefundable fees with the  
7 application:

8 a. The operator of a family child care applying for a license shall pay an annual  
9 license fee of twenty dollars or if the license is issued for a two-year period, a fee  
10 of thirty-five dollars.

11 b. The operator of a group child care applying for a license shall pay an annual  
12 license fee of twenty-five dollars or if the license is issued for a two-year period, a  
13 fee of forty-five dollars.

14 c. The operator of a preschool applying for a license shall pay an annual license fee  
15 of thirty dollars or if the license is issued for a two-year period, a fee of fifty-five  
16 dollars.

17 d. The operator of a child care center applying for a license shall pay an annual  
18 license fee of forty dollars or if the license is issued for a two-year period, a fee of  
19 seventy-five dollars.

20 e. The operator of a multiple licensed program applying for a license shall pay an  
21 annual license fee of fifty dollars or if the license is issued for a two-year period, a  
22 fee of ninety-five dollars.

23 8. An applicant for a license who currently holds a license or self-declaration shall submit  
24 the nonrefundable fees set forth in subsection 7 with the application at least sixty days  
25 and no more than ninety days before the expiration date of the applicant's current  
26 license or self-declaration. A license or self-declaration issued under this section must  
27 identify the specific dates of the thirty-day renewal period for that license or  
28 self-declaration. If the nonrefundable fees and application are submitted less than sixty  
29 days before the expiration date of the applicant's current license or self-declaration;  
30 the;





1 against them. The department may use the findings of the investigation to determine  
2 licensure. Except as otherwise provided, the department shall grant a license for the  
3 operation of an early childhood program within thirty days of receipt of a completed  
4 application and all supporting documents by the department and upon a showing that:

- 5 a. The premises to be used are in fit and sanitary condition, are properly equipped  
6 to provide for the health and safety for all children, and ~~must be~~are maintained  
7 according to rules adopted by the department;
- 8 b. Staff members are qualified to fulfill the duties required of them according to the  
9 provisions of this chapter and standards prescribed for their qualifications by the  
10 rules of the department;
- 11 c. The application ~~does~~and supporting documents do not include any fraudulent or  
12 untrue representations;
- 13 d. The owner ~~or~~, operator, or applicant has not had a previous license or  
14 self-declaration denied or revoked within the twelve months ~~prior to~~before the  
15 date of the current application;
- 16 e. The owner ~~or~~, operator, or applicant has not had three or more previous licenses  
17 or self-declarations denied or revoked. The most recent revocation or denial  
18 ~~cannot~~may not have occurred within the five years immediately preceding the  
19 application date;
- 20 f. The program ~~has~~ paid its license fees and any penalties and sanctions assessed  
21 against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
- 22 g. The family child care owner or operator ~~has~~and staff members have received  
23 training and ~~is~~are currently certified in pediatric cardiopulmonary resuscitation by  
24 the American heart association, American red cross, or other similar  
25 cardiopulmonary resuscitation training programs that are approved by the  
26 department, and ~~is~~are currently certified in first aid by a program approved by the  
27 department; and
- 28 h. The group child care, preschool, school-age child care, or child care center  
29 ~~maintains~~, at all times during which early childhood services are provided, at  
30 ~~least one person who~~ hasstaff members have received training and ~~is~~are  
31 currently certified in pediatric cardiopulmonary resuscitation by the American

1 heart association, American red cross, or other similar cardiopulmonary  
2 resuscitation training programs that are approved by the department, and at least  
3 one person who is currently certified in first aid by a program approved by the  
4 department.

5 2. The license issued to the owner or operator of an early childhood services program  
6 may not be effective for longer than two years.

7 3. The department may consider the applicant's ~~prior~~past licensing, self-declaration, and  
8 registration history in determining whether to issue a license.

9 4. The department may issue a provisional or restricted license in accordance with the  
10 rules of the department.

11 5. The department shall notify the owner or operator that the owner or operator is  
12 required to post a notice of late application at the early childhood program premises if  
13 the department has not received a completed application and all supporting  
14 documents for licensure or self-declaration renewal at least thirtyfourteen days before  
15 the expiration date of the early childhood program's license.

16 **SECTION 4. AMENDMENT.** Section 50-11.1-06 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **50-11.1-06. In-home provider - Registration voluntary - Prerequisites for approval -**  
19 **Issuance of registration document - Term.**

20 An in-home provider may apply for a registration document from the department. The  
21 department or the department's authorized agent shall determine whether the applicant meets  
22 the standards and shall issue or deny a registration document based upon that determination. A  
23 registration document for an in-home provider may not be effective for longer than one year.  
24 The application ~~does~~and supporting documents may not include any fraudulent or untrue  
25 representations. The department may consider the early childhood services history of the  
26 applicant in determining issuance of a registration document. The department may investigate  
27 an applicant according to rules adopted by the department to determine whether the applicant  
28 has a criminal record or has been the subject of a finding of services required for child abuse  
29 and neglect. The department may issue a provisional in-home provider registration document in  
30 accordance with the rules of the department.



1 ~~SECTION 6. AMENDMENT.~~ Subsection 1 of section 50-11.1-06.2 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3 ~~1. Upon a determination by the department that a criminal history record check is~~  
4 ~~appropriate, the following individuals are to obtain two sets of the individual's~~  
5 ~~fingerprints from a law enforcement agency or other local agency authorized to take~~  
6 ~~fingerprints:~~

7 ~~a. A provider holding or an applicant for early childhood services licensure,~~  
8 ~~self-declaration, or in-home provider, as well as new staff members of early~~  
9 ~~childhood services programs and new household registration;~~

10 ~~b. Emergency designees and staff members of providers holding and applicants for~~  
11 ~~early childhood services licensure, self-declaration, or in-home provider~~  
12 ~~registration; and~~

13 ~~c. Household members of a residence out of which early childhood services~~  
14 ~~are provided, shall obtain two sets of the individual's fingerprints from a law~~  
15 ~~enforcement agency or other local agency authorized to take fingerprints.~~

16 **SECTION 5.** A new subsection to section 50-11.1-06.2 of the North Dakota Century Code is  
17 created and enacted as follows:

18 A criminal history record check conducted under this section and subsection 3 of  
19 section 50-06-01.9 is valid for five years, after which the department shall require  
20 another criminal history record check.

21 **SECTION 6. AMENDMENT.** Subsection 1 of section 50-11.1-07.2 of the North Dakota  
22 Century Code is amended and reenacted as follows:

- 23 1. ~~Whenever~~If the department or the department's authorized agent finds, upon  
24 inspection, that the program, self-declaration, or premises is not in compliance with  
25 this chapter, or the rules adopted under this chapter, the department or the  
26 department's authorized agent shall issue a correction order to the program or  
27 self-declaration, provided the department does not revoke the license or  
28 self-declaration as a result of the noncompliance. The correction order must cite the  
29 specific statute or rule violated, state the factual basis of the violation, state the  
30 suggested method of correction, and specify the time allowed for correction. The  
31 correction order must also specify the amount of any fiscal sanction to be assessed if



1 the program or self-declaration fails to comply with the correction order in a timely  
2 fashion. This section does not apply to an applicant's failure to comply with  
3 subsection 8 of section 50-11.1-03 or subdivision c of subsection 1 of section  
4 50-11.1-16.

5 ~~SECTION 9. AMENDMENT. Section 50-11.1-12 of the North Dakota Century Code is~~  
6 ~~amended and reenacted as follows:~~

7 ~~50-11.1-12. Violation of chapter or rules - Injunction.~~

8 ~~The department or the department's authorized agent may seek injunctive action against an~~  
9 ~~individual who provides early childhood services for which licensure is required, an early~~  
10 ~~childhood program, or holder of a self-declaration, or in-home registration document provider in~~  
11 ~~the district court through proceedings instituted by the attorney general on behalf of the~~  
12 ~~department or by a state's attorney on behalf of the authorized agent, if:~~

- 13 ~~1. There is a violation of this chapter or a rule adopted under this chapter; or~~  
14 ~~2. An early childhood program or, holder of a self-declaration, or in-home registration~~  
15 ~~document provider, after notice and opportunity for hearing on the notice of~~  
16 ~~noncompliance, or on the resumption of the fiscal sanction, or after administrative~~  
17 ~~hearing confirming and upholding the fiscal sanction does not pay a properly assessed~~  
18 ~~fiscal sanction in accordance with section 50-11.1-07.6.~~

19 **SECTION 7. AMENDMENT.** Section 50-11.1-16 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **50-11.1-16. Self-declaration - Approved application required - Fees.**

- 22 1. a. An application for self-declaration is voluntary. ~~An~~ if an individual ~~may~~  
23 ~~apply~~ applies for self-declaration from the department. ~~The,~~ the department or the  
24 department's authorized agent shall determine whether the standards for  
25 self-declaration have been met and shall approve or deny a self-declaration  
26 based upon that determination.
- 27 b. An applicant for self-declaration shall pay a nonrefundable fee of fifteen dollars at  
28 the time the application is filed.
- 29 c. An applicant for self-declaration, who currently holds a license or self-declaration,  
30 shall submit the nonrefundable fees with the application at least sixty days and  
31 no more than ninety days before the expiration date of the applicant's current

1 license or self-declaration. A license or self-declaration issued under this section  
2 must identify the specific dates of the thirty-day renewal period for that license or  
3 self-declaration. If the nonrefundable fees and application are submitted less than  
4 sixty days before expiration of the applicant's current license or self-declaration;  
5 the:

6 (1) The applicant shall submit with the application ~~an additional nonrefundable~~  
7 ~~fee of two hundred dollars~~ two times the regular nonrefundable fees.

8 (2) The department shall refund to the applicant the late fee, if within thirty days  
9 of receipt of a complete reapplication, the department does not grant the  
10 renewal.

11 (3) The department may grant a thirty-day extension of the applicant's license  
12 or self-declaration.

- 13 2. All fees collected under this section must be paid to the department or the  
14 department's authorized agent and must be used to defray the cost of investigating,  
15 inspecting, and evaluating applications for self-declarations or to provide training to  
16 providers of early childhood services.

17 **SECTION 8. AMENDMENT.** Section 50-11.1-17 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **50-11.1-17. Application for self-declaration - Prerequisites for approval - Approval -**  
20 **Term.**

- 21 1. Applications for self-declarations must be made on forms provided and in the manner  
22 prescribed by the department. The department or the department's authorized agent  
23 shall investigate the applicant and every individual living in the private residence and  
24 shall conduct a background check. The department or the department's authorized  
25 agent shall conduct the investigation in accordance with the rules adopted by the  
26 department and shall determine whether any of them has a criminal record or has had  
27 a finding of services required for child abuse or neglect filed against them. Except as  
28 otherwise provided, the department shall approve a self-declaration within thirty days  
29 of receipt of a completed application and all supporting documents by the department  
30 and upon the applicant's declaration that:



- 1 a. The premises to be used are in fit and sanitary condition to provide for the health  
2 and safety of all children and ~~shall be~~are maintained according to the standards  
3 prescribed by the rules of the department;
- 4 b. The applicant is able to provide for the health and safety of each child receiving  
5 early childhood services from the applicant according to this chapter and  
6 standards prescribed by the department as set forth in its rules;
- 7 c. The applicant has not had a previous license or self-declaration denied or  
8 revoked within the twelve months before the date of the current application;
- 9 d. The applicant has not had three or more previous licenses or self-declarations  
10 denied or revoked. The most recent revocation or denial ~~cannot~~may not have  
11 occurred within five years of the application date;
- 12 e. The applicant has paid the required application fees;
- 13 f. The applicant has paid any penalties and sanctions assessed against the  
14 program required by sections 50-11.1-03 and 50-11.1-07.4;
- 15 g. The applicant is currently certified in pediatric cardiopulmonary resuscitation by  
16 the American heart association, the American red cross, or a similar  
17 cardiopulmonary resuscitation training program approved by the department;
- 18 h. The emergency designee used by the applicant, if any, is currently certified in  
19 pediatric cardiopulmonary resuscitation by the American heart association, the  
20 American red cross, or a similar cardiopulmonary resuscitation training program  
21 approved by the department;
- 22 i. The applicant is currently certified in first aid through a training program approved  
23 by the department; and
- 24 ~~i.j.~~ The application ~~does~~and supporting documents do not include any fraudulent or  
25 untrue representations.
- 26 2. The department may consider the early childhood services history of the applicant in  
27 determining issuance of a self-declaration document.
- 28 3. The department may issue a provisional self-declaration document in accordance with  
29 the rules of the department.
- 30 4. The department shall notify the holder of a self-declaration that the holder of a  
31 self-declaration is required to post a notice of late application at the self-declaration



1           premises if the department has not received a completed application and all  
2           supporting documents for licensure or self-declaration renewal at least ~~thirty~~fourteen  
3           days before the expiration date of a self-declaration.

4           **SECTION 9. EFFECTIVE DATE.** Sections ~~3, 4, 10, and 11~~2, 3, 7, and 8 of this Act become  
5           effective on January 1, 2018.