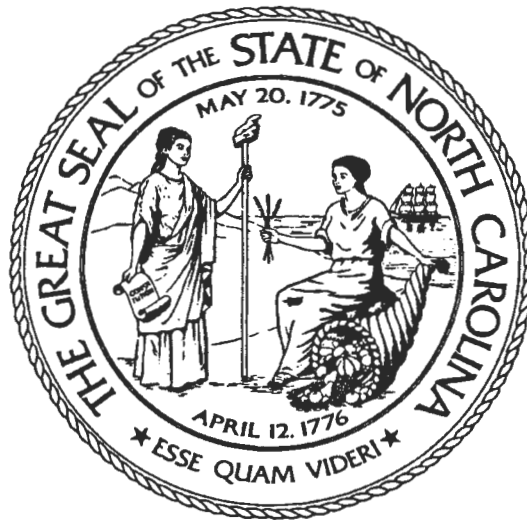


**LEGISLATIVE
RESEARCH COMMISSION**

CHILD DAY CARE ISSUES



**REPORT TO THE
1991 GENERAL ASSEMBLY
OF NORTH CAROLINA
1992 SESSION**

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1991-1992

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



May 26, 1992

TO THE MEMBERS OF THE 1991 GENERAL ASSEMBLY (REGULAR SESSION, 1992):

The Legislative Research Commission herewith submits to you for your consideration its final report on child day care issues. The report was prepared by the Legislative Research Commission's Committee on Child Day Care Issues pursuant to Section 2.2 of Chapter 754 of the 1991 Session Laws.

Respectfully submitted,

A handwritten signature in cursive script, reading "Daniel T. Blue, Jr.", written over a horizontal line.

Daniel T. Blue, Jr.
Speaker of the House

A handwritten signature in cursive script, reading "Henson P. Barnes", written over a horizontal line.

Henson P. Barnes
President Pro Tempore

Cochairmen
Legislative Research Commission

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1991 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of child care issues was authorized by Section 2.2 of Chapter 754 of the 1991 Session Laws (1991 Regular Session). This section reads :

" Sec. 2.2. Child Day Care Issues (H.B. 1062 - Easterling). The Legislative Research Commission may study the issue of child day care. The study may focus its examination on the issues related to child day care as they relate to availability, affordability, and quality of child day care in North Carolina, including:

- (1) Prior recommendations of other study commissions which have reviewed child day care services since 1980 and an assessment of compliance with these recommendations;
- (2) The advantages and costs associated with measures to improve the quality of day care, including lowering staff/child ratios, enhancing day care teacher credentialing, improving training of day care teachers, and improving the salaries of all day care workers;
- (3) Measures to enhance the availability and affordability of day care in currently underserved areas of the State, especially rural communities;
- (4) Ways to maximize the positive impact on North Carolina's child day care providers and resource and referral networks from the availability of federal funds under the Child Care Block Grant;
- (5) The implementation of the Governor's Uplift Child Day Care initiative;
- (6) The current statutory regulation of child day care and the procedures used to develop policies and rules under the current structure; and
- (7) The relationship between child day care services offered by for-profit and nonprofit, public and private, day care providers to other potential sources of child care and child development services including Head Start programs and North Carolina's public schools, with a view toward developing a unified State policy for funding and delivery of all early childhood development services."

The Legislative Research Commission grouped this study in its Human Resources area under the direction of Senator Russell Walker. The Committee was chaired by Senator James Richardson and Representative Ruth Easterling. The full membership of the Committee is listed in Appendix A of this report.

COMMITTEE BACKGROUND

House Bill 1062 and its adopted committee substitute were considered by the first session of the 1991 General Assembly. (See Appendix B.) House Bill 1062 lowered the staff/child ratio for licensed day care facilities. This issue is one that has been raised in every recent session of the General Assembly. As many of the materials contained in Appendix G demonstrate, there are very strong arguments on both sides of this issue, and most of the arguments rest in strongly differing views of what "quality" child care is and of what government's role is in assuring this care. The new federal mandate of freedom of parental choice in child care further adds to the issue's complexity.

Representative Easterling, the sponsor of House Bill 1062, prepared a further committee substitute to House Bill 1062 that would create a study committee to study the entire complex of issues surrounding the State's role in child care. Absent continuing study, particular child care issues such as lowering staff/child ratios cannot fairly or satisfactorily be addressed. The substance of this proposed committee substitute became the text of Section 2.2 of Chapter 754 of the 1991 Session Laws. (See Preface and Appendix B.) Appendix C contains the North Carolina statutes on day care. The notebook on file in the Legislative Library contains the rules adopted pursuant to these statutes and all presentations submitted to the Committee. Many of these materials have been duplicated in this report because it is essential that these materials be easily accessible to all people interested in child care in North Carolina. (See Appendix G for these most important materials.)

COMMITTEE PROCEEDINGS

The Committee met four times before the beginning of the 1992 Regular Session of the 1991 General Assembly, on February 12, 1992, March 10, 1992, April 8, 1992, and April 27, 1992. A subcommittee, formed to study whether or not to present recommendations to the short session regarding changing the day care subsidy rate structure met on April 16, 1992. This subcommittee was made up of the following members: Senator Russell Walker, Representative Eugene Rogers, and Ms. Margery Warlick. Appendix D contains the agendas for the full Committee meetings and for the subcommittee meeting. Appendix E contains the minutes of the full Committee meetings and of the subcommittee meeting. Appendix F contains lists of the people attending Committee meetings and testifying before them.

The first meeting, on February 12, 1992, served as a public forum for views of the state of child day care in North Carolina and of what needed to be improved or changed. Because many day care providers had been led to believe that the entire scope of the Committee was limited to the issue raised by House Bill 1062 and its adopted substitute, the lowering of staff/child ratios, most of the public testimony addressed that issue, with many for-profit providers speaking most strongly against such a change. The Committee received at this meeting, and has continued to receive, letters and petitions against lowering ratios. Most of these letters and of all the petitions are in the Committee Notebook in the Legislative Library.

Secretary Flaherty of the Department of Human Resources presented "Uplift Child Care", a combination of several day care programs, and supplied a document outlining the Department's day care programs, entitled Child Day Care. (See Appendix G.)

Gregory Berns of the Fiscal Research Division described a technical assistance grant awarded by the National Conference of State Legislatures to North Carolina to help the State study selected day care issues. Mr. Berns told the Committee that Representative Gardner had been instrumental in initiating the contact that ultimately led to the State being awarded the grant. The particulars of the grant's proposal were to be developed over the coming weeks and would be reported to the Committee as they were developed.

The next meeting of the Committee, on March 10, 1992, involved presentations and materials designed to clarify the issue of staff/child ratio change and of child care expenditures, by the State and by the federal government. Mr. Manny Marbet of Fiscal Research explained the funding of Headstart, Developmental Day, Social Service Block Grant, Title IV-A At-Risk, Family Support Act, Child Care Developmental Block Grant - Regular Day Care, Child Care Developmental Block Grant - Head Start Wrap-Around, State Subsidy, Developmental Day Care Pre-School, Pre-School Handicapped, Chapter I - Handicapped, and Community Residential Care.

Mr. Gregory Berns updated the Committee on the NCSL grant development. The likely focus of the grant study would likely be examination of the issues and problems surrounding the development of a "seamless" system of day care in North Carolina, including how best to deal with the multitude of variations in program administration at the county level and how best to integrate day care policy development and administrative direction at the State level. Mr. Berns told the Committee that a contract was soon to be entered into with an entity that would serve as the State's technical resource, probably with the Frank Porter Graham Child Development Center.

The issue of the Department of Human Resources' development of a voucher system for child care became of immediate concern, although Committee staff had considered it an item of long-term rather than short-term study. The federal

government has required that all states have a voucher system for subsidized day care in place by October 1, 1992. North Carolina is much farther advanced than many states in its subsidized care at present. There was much disagreement expressed at the meeting of how the Department was proceeding. Secretary Flaherty was requested to come to the next meeting and describe the progress and, in the meantime, was requested not to let contracts or request proposals. The Committee also requested that the Department make a presentation on the entire rate-structure system for subsidized day care, along with any recommendations as to changes that had to be made to the short session.

The Committee then moved to begin to isolate those issues or subissues presented to it that had to be presented to the short session. The Department of Human Resources requested a change in the definition of day care to exclude drop-in care, as there was neither the time nor the money for proper inspection of mall care or bowling-alley care. The Department also requested an amendment, recommended by a task force of the SBI and DSS combined, to Chapter 593 of the 1991 Session Laws, which required notification of the SBI whenever child sexual abuse is suspected and encouraged the SBI to establish a task force to investigate sexual abuse allegations in day care. The amendment would clarify some of the reporting and investigatory procedures when child sexual abuse is suspected to have occurred in a day care arrangement. Representative Rogers requested that the Committee consider Representative Thompson's House Bill 466, and a proposed committee substitute, for recommendation to the short session, in case it was otherwise ineligible. This bill would require criminal record checks of all day care providers. The proposed committee substitute would extend these checks to spouses of operators. The very need for so many pieces of legislation pointed to the need for the Committee also to consider

recommending the establishment of a permanent, statutory Legislative Study Commission on Child Care Issues.

The next meeting of the Committee, on April 8, 1992, was occupied in large part with developing the contents of the draft report to the short session. The bills requested at the last meeting were approved for inclusion. (See FINDINGS AND RECOMMENDATIONS and APPENDIX H.) The Committee was assured by Secretary Flaherty that the Department was not excluding any interested persons from its voucher development process and that the Department had the same concerns about implementing the voucher system that the Committee had. Secretary Flaherty also requested and received the Committee's endorsement for its designation of one dollar in Social Services Block Grant funds for all children who need it in order to ensure center eligibility for the Food Service programs. (See FINDINGS AND RECOMMENDATIONS.)

The NCSL grant contract for technical assistance was signed in April with the Frank Porter Graham Child Development Center to study how a "seamless" day care program can be implemented in the State. The unique characteristics of each of the several federal funding sources for child day care will be reviewed and barriers to the implementation of a unified system will be identified. Administrative issues, policy development, communication problems, and funding methods will be studied. Policy options will be presented to the Committee by mid-November, in time for the Committee to develop recommendations for the 1993 General Assembly.

Dr. Nancy Sampson and Mr. Ron Penny of the Day Care Section, Division of Facility Services, Department of Human Resources, presented the child day care payment rates and the allocation of non-FSA funds for the subsidized child day care program. The federal government has indicated that the State's dual rate structure is unacceptable, although this position has not been given to the State in writing and is

the result of interim rather than final regulations. The Committee expressed concern over this, and over the inequities in the rate system in general. The Committee appointed a subcommittee consisting of Senator Russell Walker, Representative Eugene Rogers, and Ms. Marjorie Warlick, to meet on April 16, to review the rate structure issue and report to the full Committee whether recommendations for change to the rate structure or the allocation formulae need to be made to the short session.

The "rate structure" subcommittee, meeting on April 16, 1992, agreed with the Department's premises, that parental choice should be maximized to the extent possible, that clients and providers should be treated equitably, that the State must comply with federal regulations, and that the program must live within its budget. However, the subcommittee did not agree with the fifth of the Department's premises, that the dual rate structure, (for "A" and "B" centers) should be eliminated, at least not until final regulations are made available to the State. The subcommittee recommended that the Department continue to negotiate with the federal government on this issue, including negotiating a possible waiver. The subcommittee also recommended that it continue in existence to study the ongoing issue as it develops with the federal government and to continue to inform the full Committee so that it may be able to make recommendations to the 1993 General Assembly, if necessary at that time.

The subcommittee asked the Department to advise the full Committee at its April 27 meeting on how many State dollars would be required to supplement above the market rate (75%). The Department stated that it would likely not be a great deal of money. The subcommittee felt that it was possible that the full Committee might recommend requesting a small amount for supplementing, if the amount indeed were manageable.

The subcommittee also recommended that the concept of a statewide market rate be presented to the full Committee to be considered as a floor to be developed and

negotiated with the federal government. The full Committee would then be able to consider recommending that the 1993 General Assembly amend the law regarding the Social Services Commission duties to require the Commission to adopt rates to establish minimum county rates as a floor for subsidy rates.

At the April 27 meeting, the Committee received and accepted the subcommittee report. The full text of the report is recorded here.

Report of Child Care Issues Subcommittee: April 16, 1992.

The subcommittee of the LRC Committee on Child Care Issues, composed of Senator Russell Walker, Representative Eugene Rogers, and Ms. Marjorie Warlick, met at 9:30 a.m. on April 16, 1992, in Room 605 of the Legislative Office Building. The subcommittee had been appointed at the April 8 Committee meeting to examine in detail the need to make any changes in the current subsidized rate structure in the coming short session. It had been stated at the April 8 meeting that such changes might be necessary to conform to federal government regulations and also to remove inequities in the funding of facilities in poor, rural areas that serve mainly subsidized children.

Ron Penny, Child Day Care Section, Division of Facility Services, Department of Human Resources, presented a series of options to the subcommittee. These options are attached to this report.

(1) With regards to the issue of the need to conform to federal regulations, Mr. Penny told the subcommittee that the federal government had rejected this State's dual rate structure as not properly conforming to the principle of "parental choice" and that the Department felt that it had to modify the rate structure or jeopardize federal block grant funds coming through the Child Care Development Block Grant and subsidize all

facilities by supplying market rate subsidies, regardless of provider charge. However, Mr. Penny told the subcommittee that the federal rejection was based on regulations that were not yet final. The Department had not received a written rejection, but had been notified by phone in the course of its plan development. The final rules will not be adopted until the fall. He also told the subcommittee that the Department had not felt that it was in a position to negotiate with the federal government to modify its stance or grant a waiver.

The subcommittee found that it would be premature to change North Carolina's dual rate structure, which had taken a number of years to develop, based on federal interim, not final rules. Subsidizing at market rate, regardless of provider charge would, it found seriously impair the provision of quality child care to low income children in counties where many subsidized providers were charging above market rate to non-subsidized children. It also found that the Department should enter into negotiations with the federal government to accept North Carolina's dual structure or to allow a waiver.

The subcommittee was very interested in finding out how much the State would need to provide in terms of supplementing above market rate, up to provider charges, for Category A facilities. The Department was asked to report to the April 27 full Committee meeting on the results of this cost analysis, together with an analysis of day care subsidy costs if the State simply ceased to negotiate with the federal government.

The subcommittee found that if the costs of supplementing above market rate were low, the full Committee might consider recommending that the 1993 General Assembly appropriate sufficient funds to pay the supplement.

(2) With regards to the issue of inequity in funding, the subcommittee heard Mr. Penny's option presenting a calculation of "minimum rates", of a State-provided floor for all rates. The subcommittee requested that the Department make a presentation on

this concept to the April 27 full Committee meeting but made no specific findings as to what future action the full Committee might wish to take in making recommendations to the 1993 General Assembly.

The subcommittee found that much work and study needs to go into these issues and found that the full Committee and this subcommittee should continue to work with the Department in order to make any necessary recommendations to the 1993 General Assembly.

The Committee then heard the requested presentation from Mr. Ron Penny. The Committee expressed a desire to continue to study the issues and requested that the Department continue to refine the data available on supplementing costs and on "floor" rates, in order to enable the Committee to have the information necessary in time to make necessary recommendations to the 1993 General Assembly.

The Committee considered the draft report of its study for the short session. Ms. Jane Gray of the Attorney General's Office requested that the effective date of Legislative Proposal 2 be returned to July 1, 1992. The Committee so moved. Representative Gardner requested that fiscal information on county reversions that she had requested at an earlier meeting be supplied. (See E-21.) The Committee so moved. The report was unanimously approved as amended. An additional motion gave staff authority to make technical corrections. The Committee then moved to request Senator Walker to request the LRC chairs to allocate additional funds to the Committee to enable it to continue its work after the short session. The Committee, having concluded its work, thanked staff and adjourned, to meet again after the short session.

FINDINGS AND RECOMMENDATIONS

RECOMMENDATION 1. The Legislative Research Commission endorses the action of the Department of Human Resources in designating one dollar (\$1.00) in Social Services Block Grant funds for all children who need it in order to ensure center eligibility for the Child and Adult Care Food Program. (No legislative proposal required.)

The Committee found that a problem exists regarding the eligibility of for-profit child day care centers that apply for the Child and Adult Care Food Program. Eligibility criteria for the Child and Adult Care Food Program states that at least twenty-five percent (25%) of children in the center must receive Title XX or Social Services Block Grant (SSBG) funds for some or all of the cost of their care.

In the past, when the subsidized child day care program was funded with a blend of State appropriation and SSBG funds, there was no problem. With the advent of Family Support Act (FSA) child care some centers are unable to meet the twenty-five percent (25%) Title XX beneficiary benchmark because FSA funded children are not eligible to be included in the 25%. Thus, some centers that need these Child and Adult Care Food Program dollars in order to realize a profit are not eligible for these funds even though most of the FSA funded children are financially eligible for SSBG.

The designation of one dollar (\$1.00) in SSBG funds for all children who need it will ensure that child day care providers are not denied eligibility for Child and Adult Care Food Program dollars that enable them to continue to serve children at a lower rate simply because of a technicality.

RECOMMENDATION 2. The Legislative Research Commission recommends that the 1991 General Assembly, Regular Session, 1992, retain the dual rate structure for day care payments for subsidized care, that the Department continue to negotiate with the federal government to accept the dual rate structure, including negotiations for possible waivers, and that the Legislative Research Commission Study Committee on Child Care Issues continue to study the issue of the dual rate structure and the allied issue of equity in funding and report its recommendations to the 1993 General Assembly. (No legislative proposal required.)

The Committee found that two issues relating to the day care rate subsidy created problems. First, the dual rate structure seems to create problems with the federal mandate of parental choice. Second, the current day care rate subsidy appears to provide inequitable funding, penalizing rural counties. With regards to the dual rate structure, the interim federal regulations would seem to disallow this structure. Currently, the Social Services Commission establishes rules, pursuant to direction of the General Assembly in Section 125 of Chapter 689 of the 1991 Session Laws, for the monthly schedule of payments for the purchase of day care services for low income children as follows:

- (1) For facilities in which fewer than fifty percent (50%) of the enrollees are subsidized by State or federal funds, the State shall continue to pay the same fee paid by private paying parents for a child in the same age group in the same facility.
- (2) Facilities in which fifty percent (50%) or more of the enrollees are subsidized by State or federal funds may choose annually one of the following payment options:
 - a. The facility's payment rate for fiscal year 1985-86; or

b. The market rate as calculated annually by the Division of Facility Services Child Day Care Section in the Department of Human Resources. as calculated annually by the Department of Human Resources' Office of Child Day Care Services.

The county market rate is currently calculated at the seventy-fifth percentile of all rates charged in the county for unsubsidized enrollees of the same age. Counties are required, pursuant to subsection (c) of Section 125 of Chapter 689 of the 1991 Session Laws, to negotiate with day care providers for day care services below those rates prescribed above in order to purchase day care services so as to serve the greatest number of children possible within existing resources.

The Committee found that a number of years of legislative and agency time has been spent in coming up with this rate structure and that it could not recommend abandoning it because of federal interpretation in regulations that are not final regulations, without any further negotiation with the federal government. It further found a vital need to continue to study this issue, and the related one on funding equity, including the feasibility of setting a floor to subsidies, possibly employing a statewide market rate to provide such a floor, and that it must continue this study and report to the 1993 General Assembly.

RECOMMENDATION 3. The Legislative Research Commission recommends that the 1991 General Assembly, Regular Session 1992, enact the proposed committee substitute for House Bill 466, entitled "AN ACT TO MANDATE CRIMINAL RECORD CHECKS OF CHILD DAY CARE PROVIDERS AND SPOUSES OF CHILD DAY CARE OPERATORS." (See APPENDIX H: Legislative Proposal 1.)

The Committee found that House Bill 466, introduced by Representative Thompson in the 1991 General Assembly and currently in House Judiciary III, might not be eligible for consideration in the Regular Session 1992 unless it is recommended by a study committee. Since the introduction of the bill, a committee substitute has been proposed that updates the draft and that covers the spouses of day care operators in its criminal record check coverage. The Committee found both that the idea of the criminal record check was one which had been considered since 1985 and that it was time it was passed and that the addition of spouses of operators to the checks was a most pertinent one. (Information on what other states have done in checking day care providers' criminal records is provided in APPENDIX G, pages G-142 et seq.)

RECOMMENDATION 4. The Legislative Research Commission recommends that the 1991 General Assembly, Regular Session 1992, amend the law enacted in Chapter 593 of the 1991 Session Laws, which provides for notification to the State Bureau of Investigation by local departments of Social Services of allegations of child sexual abuse in a day care setting. The Legislative Research Commission recommends that the General Assembly enact "AN ACT TO AMEND CHAPTER 593 OF THE 1991 SESSION LAWS TO PROVIDE FOR THE STATE BUREAU OF INVESTIGATION'S IMMEDIATE NOTIFICATION OF ALLEGED SEXUAL CHILD ABUSE IN DAY CARE." (See Appendix H: Legislative Proposal 2.)

The Committee found that the report prepared pursuant to Chapter 593 of the 1991 Session Laws by the task force composed of representatives from the SBI, local departments of social services, local law enforcement, the Attorney General's Office, a district attorney's office, the Department of Human Resources, and the State Child Day Care Section, Facility Services, Department of Human Resources, and the legislation

proposed, should be recommended to the 1991 General Assembly, Regular Session 1992. The task force was formed to report on how best to implement the intent of Chapter 593, which was to involve the State Bureau of Investigation in investigation of sexual child abuse in day care in a timely enough fashion to enable possible criminal prosecutions to proceed with evidence properly gathered. It was the unanimous agreement of all the representatives, on behalf of their agencies, that the notification to the SBI should come before, not after, the initial investigation by the local department of social services. The Committee found, with the task force, that getting the SBI involved from the beginning, within 24 hours of DSS notification, will prevent contamination of evidence and allow for a unified investigation strategy and a joint investigative process. As enacted, Chapter 593 is resulting in duplicative investigations and reinterviewing of children, which is traumatic to the children and disruptive of their families.

RECOMMENDATION 5. The Legislative Research Commission recommends that the 1991 General Assembly, Regular Session 1992, enact "AN ACT TO AMEND THE DEFINITION OF 'DAY CARE' TO EXCLUDE DROP-IN CARE." (See APPENDIX H: Legislative Proposal 3.)

The Committee found that, based on a recent interpretation from the Attorney General's Office, drop-in child care arrangements provided for children while their parents are participating in non-employment related activities on the premises, such as in shopping malls, exercise studios, resort hotels, bowling alleys, health spas, church child care provided during church activities, and other similar arrangements, are required to be licensed or regulated by their implicit inclusion as "day care" in G.S. 110-86(2). The Committee found that the Department of Human Resources, Division

of Facility Services, does not have enough resources, either staff or money, to regulate these drop-in arrangements, even if all of them could be found. It is estimated that there are approximately 20,000 churches, malls, health clubs, resorts, and other such places, with the potential to offer drop-in service. If even half of these facilities offered care, the Department would need 118 additional staff at a cost of \$5,900,000 to regulate these arrangements.

The Committee found that, if all drop-in arrangements were removed from the definition of day care, the Department should begin to study how best, outside the day care regulation law, to assure parents that their children are in a safe and healthy environment. The Department would report the preliminary results of its study to the Committee in time for it to develop recommendations for the 1993 General Assembly.

RECOMMENDATION 6. The Legislative Research Commission recommends that the 1991 General Assembly, Regular Session 1992, enact "AN ACT TO ESTABLISH THE LEGISLATIVE STUDY COMMISSION ON CHILD CARE ISSUES." (See APPENDIX H: Legislative Proposal 4.)

The Committee found that there was a vital need for an on-going legislative study commission dedicated to the entire spectrum of child care issues. The Committee found that this commission should be established by the short session of the General Assembly so that it could begin meeting at the same time as the Committee has its last meeting and makes its final report. The commission could have one more meeting before the 1993 General Assembly and could thus ensure a continuum of study of child care issues.

APPENDIX A

MEMBERSHIP OF THE LRC COMMITTEE ON CHILD CARE ISSUES;
ATTENDANCE



APPENDIX A
CHILD DAY CARE ISSUES
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APPENDIX B

AUTHORIZING AND BACKGROUND LEGISLATION

Sec. 2.2. Child Day Care Issues (H.B. 1062 - Easterling). The Legislative Research Commission may study the issue of child day care. The study may focus its examination on the issues related to child day care as they relate to availability, affordability, and quality of child day care in North Carolina, including:

- (1) Prior recommendations of other study commissions which have reviewed child day care services since 1980 and an assessment of compliance with these recommendations;
- (2) The advantages and costs associated with measures to improve the quality of day care, including lowering staff/child ratios, enhancing day care teacher credentialing, improving training of day care teachers, and improving the salaries of all day care workers;
- (3) Measures to enhance the availability and affordability of day care in currently underserved areas of the State, especially rural communities;
- (4) Ways to maximize the positive impact on North Carolina's child day care providers and resource and referral networks from the availability of federal funds under the Child Care Block Grant;
- (5) The implementation of the Governor's Uplift Child Day Care initiative;
- (6) The current statutory regulation of child day care and the procedures used to develop policies and rules under the current structure; and
- (7) The relationship between child day care services offered by for-profit and nonprofit, public and private, day care providers to other potential sources of child care and child development services including Head Start programs and North Carolina's public schools, with a view toward developing a unified State policy for funding and delivery of all early childhood development services.

Senate Bill 917

Ch. 154

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 1062

Short Title: Day Care Ratio Change Phased In.

(Public)

Sponsors: Representatives Easterling; Barnhill, Black, Colton, N.J. Crawford, Ethridge, Fitch, Foster, Gottovi, Greenwood, Sam Hunt, Jerals, Lilley, Lineberry, McLaughlin, Nye, and Stamey.

Referred to: Human Resources.

April 22, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO PHASE IN CHANGES TO STAFF-CHILD RATIOS AND GROUP
3 SIZES IN CHILD DAY CARE FACILITIES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 110-91(7) reads as rewritten:
6 "(7) In determining the staff-child ratio, all children younger than 13
7 years shall be counted.
8 a. Effective until January 1, 1992, the ~~The~~ Commission shall
9 adopt rules regarding staff-child ratios, group sizes and
10 multi-age groupings for each category of facility provided
11 that such rules and regulations shall be no less stringent than
12 those currently required for staff-child ratios as enacted in
13 Section 156(e) of Chapter 757 of the 1985 Session Laws.
14 b. Effective January 1, 1992, until January 1, 1994, staff-child
15 ratios and group sizes shall be as follows:
16

<u>Child Age</u>	<u>Ratio</u>	<u>Group Size</u>
<u>0-12 mo.</u>	<u>6</u>	<u>12</u>
<u>12-24 mo.</u>	<u>6</u>	<u>12</u>
<u>2-3 yrs.</u>	<u>11</u>	<u>22</u>
<u>3-4 yrs.</u>	<u>14</u>	<u>22</u>
<u>4-5 yrs.</u>	<u>19</u>	<u>22</u>
<u>School aged</u>	<u>24</u>	<u>22.</u>

17
18
19
20
21
22

- 1 c. Effective January 1, 1994, until January 1, 1996, staff-child
2 ratios and group sizes shall be as follows:
3 Child Age Ratio Group Size
4 0-12 mo. 5 10
5 12-24 mo. 5 10
6 2-3 yrs. 10 18
7 3-4 yrs. 12 20
8 4-5 yrs. 16 20
9 School aged 19 22.
10 d. Effective January 1, 1996, staff-child ratios and group sizes
11 shall be as follows:
12 Child Age Ratio Group Size
13 0-12 mo. 4 8
14 12-24 mo. 5 10
15 2-3 yrs. 8 14
16 3-4 yrs. 10 20
17 4-5 yrs. 12 20
18 School aged 15 22."
19 Sec. 2. This act becomes effective January 1, 1992.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

2

HOUSE BILL 1062
Committee Substitute Favorable 5/13/91

Short Title: Day Care Ratio Change Phased In.

(Public)

Sponsors:

Referred to:

April 22, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO PHASE IN CHANGES TO STAFF-CHILD RATIOS AND GROUP
3 SIZES IN CHILD DAY CARE FACILITIES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 110-91(7) reads as rewritten:

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8 a. The Commission shall adopt rules regarding staff-child
9 ratios, group sizes and multi-age groupings for each category
10 of facility provided that effective until January 1, 1992, such
11 rules and regulations shall be no less stringent than those
12 currently required for staff-child ratios as enacted in Section
13 156(e) of Chapter 757 of the 1985 Session Laws.

14 b. Effective January 1, 1992, until January 1, 1994, staff-child
15 ratios and group sizes shall be as follows:

<u>Child Age</u>	<u>Ratio</u>	<u>Group Size</u>
16 <u>0-12 mo.</u>	<u>6</u>	<u>12</u>
17 <u>12-24 mo.</u>	<u>6</u>	<u>12</u>
18 <u>2-3 yrs.</u>	<u>11</u>	<u>22</u>
19 <u>3-4 yrs.</u>	<u>14</u>	<u>25</u>
20 <u>4-5 yrs.</u>	<u>19</u>	<u>25</u>
21 <u>School aged</u>	<u>24</u>	<u>25</u>
22		

- 1 c. Effective January 1, 1994, until January 1, 1996, staff-child
 2 ratios and group sizes shall be as follows:
 3 Child Age Ratio Group Size
 4 0-12 mo. 5 10
 5 12-24 mo. 5 10
 6 2-3 yrs. 10 20
 7 3-4 yrs. 12 24
 8 4-5 yrs. 16 25
 9 School aged 19 25.
 10 d. Effective January 1, 1996, staff-child ratios and group sizes
 11 shall be as follows:
 12 Child Age Ratio Group Size
 13 0-12 mo. 4 8
 14 12-24 mo. 5 10
 15 2-3 yrs. 8 16
 16 3-4 yrs. 10 20
 17 4-5 yrs. 12 24
 18 School aged 15 25."
 19 Sec. 2. This act becomes effective January 1, 1992.

5
Sec. 2.2. Child Day Care Issues (H.B. 1062 - Easterling). The Legislative Research Commission may study the issue of child day care. The study may focus its examination on the issues related to child day care as they relate to availability, affordability, and quality of child day care in North Carolina, including:

- (1) Prior recommendations of other study commissions which have reviewed child day care services since 1980 and an assessment of compliance with these recommendations;
- (2) The advantages and costs associated with measures to improve the quality of day care, including lowering staff/child ratios, enhancing day care teacher credentialing, improving training of day care teachers, and improving the salaries of all day care workers;
- (3) Measures to enhance the availability and affordability of day care in currently underserved areas of the State, especially rural communities;
- (4) Ways to maximize the positive impact on North Carolina's child day care providers and resource and referral networks from the availability of federal funds under the Child Care Block Grant;
- (5) The implementation of the Governor's Uplift Child Day Care initiative;
- (6) The current statutory regulation of child day care and the procedures used to develop policies and rules under the current structure; and
- (7) The relationship between child day care services offered by for-profit and nonprofit, public and private, day care providers to other potential sources of child care and child development services including Head Start programs and North Carolina's public schools, with a view toward developing a unified State policy for funding and delivery of all early childhood development services.

Senate Bill 917

Ch. 154

3

APPENDIX C

NORTH CAROLINA STATUTES AND RULES GOVERNING CHILD DAY CARE

ARTICLE 7.

Day-Care Facilities.

§ 110-85. Legislative intent and purpose.

The General Assembly hereby declares its intent with respect to day care of children:

- (1) The State should protect the growing number of children who are placed in day-care facilities or in child-care arrangements when these children are under the supervision and in the care of persons other than their parents, grandparents, guardians or full-time custodians during the day.
- (2) This protection should assure that such children are cared for by persons of good moral character, that their physical safety and moral environment are protected, and that the day-care resources conform to minimum standards relating to the health and safety of the children receiving day care.
- (3) This protection requires the following elements for a comprehensive approach: mandatory licensing of day-care facilities under minimum standards; promotion of higher levels of day care than required for a license through the development of higher standards which operators may comply with on a voluntary basis; registration of child day care homes which are too small to be regulated through licensing; and a program of education to help operators improve their programs and to develop public understanding of day-care needs and problems. (1971, c. 803, s. 1; 1987, c. 788, s. 1.)

Cross References. — As to privilege license tax on day-care facilities, see § 105-60.

Editor's Note. — Session Laws 1991, c. 689, s. 125, provides:

"(a) Rules for the monthly schedule of payments for the purchase of day care services for low-income children shall be established by the Social Services Commission pursuant to G.S. 143B-153(8)a., in accordance with the following requirements:

- (1) For day care facilities, as defined in G.S. 110-86(3), in which fewer than fifty percent (50%) of the enrollees are subsidized by State or federal funds, the State shall continue to pay the same fee paid by private paying parents for a child in the same age group in the same facility.
- (2) Facilities in which fifty percent

(50%) or more of the enrollees are subsidized by State or federal funds may choose annually one of the following payment options:

- a. The facility's payment rate for fiscal year 1985-86; or
- b. The market rate, as calculated annually by the Division of Facility Services' Child Day Care Section in the Department of Human Resources.

- (3) A market rate shall be calculated for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized private paying parents for each age group of enrollees within the county. The county market rates shall be calculated from facility fee schedules collected by the Child Day Care Section on a routine basis. The Section shall also calculate a statewide market rate for each age category. The Social Services Commission shall adopt rules to establish minimum county rates that use the statewide market rates as a reference point.

- (4) Child day care homes as defined in G.S. 110-86(4) and individual child care arrangements may be paid the market rate for day care homes which shall be calculated at least biennially by the Child Day Care Section according to the method described in subsection (a)(3) of this section.

(b) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes may participate in the program that provides for the purchase of care in day care facilities for minor children of needy families. No separate licensing requirements may be used to select facilities to participate.

Day care homes from which the State purchases day care services shall meet the standards established by the Child Day Care Commission pursuant to G.S. 110-101 and G.S. 110-105.1. Individual child care arrangements shall meet the requirements established by the Social Services Commission.

(c) County departments of social services shall continue to negotiate with day care providers for day care services

below those rates prescribed by subsection (a) of this section. County departments are directed to purchase day care services so as to serve the greatest number of children possible with existing resources.

(d) To simplify current day care allocation methodology and more equitably distribute State day care funds, the Department of Human Resources shall apply the following allocation formula to all noncategorical federal and State day care funds used to pay the costs of necessary day care for minor children of needy families:

- (1) One-third of budgeted funds shall be distributed according to the county's population in relation to the total population of the State;
- (2) One-third of the budgeted funds shall be distributed according to the number of children under 6 years of age in a county who are living in families whose income is below the State poverty level in relation to the total number of children under 6 in the State in families whose income is below the poverty level; and
- (3) One-third of budgeted funds shall be distributed according to the number of working mothers with children under 6 years of age in a county in relation to the total number of working mothers with children under 6 in the State.

(e) Counties whose allocation, if based on previously used formulas, exceeds the allocation produced by the formula prescribed by this section may not have their allocations reduced to the level that results from application of the new formula. Counties whose allocation, if based on previously used formulas, is less than the allocation produced by the formula prescribed by this section shall continue to receive the proportional share of those funds that they received pursuant to appropriations for this purpose by the 1985 General Assembly. The formula prescribed by this section shall not be implemented unless additional State or federal funds are made available. The additional funds must be sufficient to apply the new formula without reducing any county's allocation below the previous year's initial allocation for child day care."

Session Laws 1991, c. 689, s. 352 pro-

vides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1991-93 biennium, the textual provisions of Titles I, II, and III of this act shall apply only to funds appropriated

for and activities occurring during the 1991-93 biennium."

Legal Periodicals. — For survey of 1979 constitutional law, see 58 N.C.L. Rev. 1326 (1980).

CASE NOTES

Quoted in *State, Child Day-Care Licensing Comm'n v. Fayetteville St. Christian School*, 299 N.C. 351, 261 S.E.2d 908 (1980).

Cited in *Smith v. Kinder Care Learning Centers, Inc.*, 94 N.C. App. 663, 381 S.E.2d 193 (1989); *Stott v. Martin*, 725 F. Supp. 1365 (E.D.N.C. 1989).

OPINIONS OF ATTORNEY GENERAL

Educational programs operated by public schools for three- and four-year-old children are not subject to licensure and regulation by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

Educational programs for three- and four-year-old children housed in public school buildings but operated by private providers are subject to licensure and regulations by the Child Day Care Commission. See opinion of

Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

State is not prohibited from purchasing day care services from day care programs operated by public schools, even though those programs are not licensed by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

§ 110-86. Definitions.

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

- (1) **Commission.** The Child Day-Care Commission created under this Article.
- (2) **Child day care.** Any child care arrangement except seasonal recreational programs operated for less than four consecutive months in a year, wherein three or more children less than 13 years old receive care away from their own home by persons other than their parents, grandparents, aunts, uncles, brothers, sisters, first cousins, guardians or full-time custodians, or in the child's own home where other unrelated children are in care.
- (3) **Child day care facility.** Includes any child day care center or child care arrangement which provides day care for more than five children, not including the operator's own school-aged children, under the age of 13 years, on a regular basis of at least once per week for more than four hours but less than 24 hours per day, regardless of the time of day and regardless of whether the same or different children attend. The following are not included: public schools; nonpublic schools whether or not accredited by the State Department of Public Instruction, which regularly and exclusively provide a course of grade school instruction to children who are of public school age; summer camps hav-

ing children in full-time residence; Bible schools conducted during vacation periods; facilities licensed under Article 2 of Chapter 122C of the General Statutes; and cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment.

Child day care facilities are separated by capacity into the following categories which determine applicable requirements and standards as established by the Commission pursuant to G.S. 110-88:

Facility Type
 Large Home
 Small Center
 Medium Center
 Large Center

The Commission shall establish the maximum capacity for each of the four categories of facilities.

- (4) Child day care home. Any day care program or child care arrangement wherein any person not excluded in G.S. 110-86(2) provides day care on a regular basis of at least once per week for more than four hours per day for more than two children under 13 years of age, but not to exceed a maximum of eight children at any one time, wherever operated, and whether or not operated for profit. Of the children present at any one time, no more than five children shall be preschool-aged, as defined in rules adopted by the Commission. The four hour limit applies regardless of the time of day and regardless of whether the same or different children attend. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment are not included.
- To determine whether a child care arrangement is a child day care home, all children shall be counted except the operator's own school-aged children and school-aged children who reside at the location of the day care home.
- (4.1) Department. Department of Human Resources.
- (5) Repealed by Session Laws 1975, c. 879, s. 15.
- (6) License. A license issued by the Secretary to any day-care facility which meets the statutory standards established under this Article.
- (7) Operator. Includes the owner, director or other person having primary responsibility for operation of a child day care facility subject to licensing.
- (8) Secretary. The Secretary of the Department of Human Resources. (1971, c. 803, s. 1; 1975, c. 879, s. 15; 1977, c. 4, ss. 1-3; 1983, c. 46, s. 1; c. 297, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 1034, s. 78; 1985, c. 589, s. 36; c. 757, s. 155(c); 1987, c. 788, s. 2; 1989, c. 234; 1991, c. 273, s. 1.)

Cross References. — As to the Child Day-Care Commission, see § 143B-168.3 et seq.

Effect of Amendments. — The 1991 amendment, effective October 1, 1991, in subdivision (1) substituted "Commission. The" for "'Commission' means the"; in subdivision (2) substituted

"Child day care. Any" for "'Child Day Care' means any"; in subdivision (3) substituted "Child day care facility. Includes" for "'Day care facility' includes" at the beginning of the first paragraph and substituted "Child day" for "Day" at the beginning of the second paragraph; rewrote subdivision (4); added subdivi-

sion (4.1); in subdivision (6) substituted "license. A" for "'License' means a"; in subdivision (7) substituted "Operator. Includes" for "'Operator' includes" and inserted "child"; and added subdivision (8).

Legal Periodicals. — For survey of 1977 law on health care regulation, see 56 N.C.L. Rev. 857 (1978).

CASE NOTES

Quoted in *State, Child Day-Care Licensing Comm'n v. Fayetteville St. Christian School*, 299 N.C. 351, 261 S.E.2d 908 (1980); *Kiddie Korner Day*

Schools, Inc. v. Charlotte-Mecklenburg Bd. of Educ., 55 N.C. App. 134, 285 S.E.2d 110 (1981).

OPINIONS OF ATTORNEY GENERAL

Educational programs operated by public schools for three- and four-year-old children are not subject to licensure and regulation by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

Educational programs for three- and four-year-old children housed in public school buildings but operated by private providers are subject to licensure and regulations by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

Day-care facilities operated by a public agency or with substantial public money support are required to

be licensed. See opinion of Attorney General to Mr. Clifton M. Craig, Department of Social Services, 41 N.C.A.G. 887 (1972).

A day-care facility operated by the Armed Forces on a federal reservation is subject to licensing unless the area is one in which the federal government has exclusive jurisdiction. See opinion of Attorney General to Mr. John Sokol, N.C. Day-Care Licensing Board, 42 N.C.A.G. 128 (1972).

State is not prohibited from purchasing day care services from day care programs operated by public schools, even though those programs are not licensed by Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

§ 110-87: Repealed by Session Laws 1975, c. 879, s. 15.

§ 110-88. Powers and duties of the Commission.

The Commission shall have the following powers and duties:

- (1) To develop policies and procedures for the issuance of a license to any child day-care facility which meets all applicable standards established under this Article.
- (2) To require inspections by and satisfactory written reports from representatives of local or State health agencies and fire and building inspection agencies and from representatives of the Department prior to the issuance of a license to any child day care facility.
- (3) To make rules establishing minimum and reasonable standards for the operation of child day-care homes and the issuance of registration certificates. These rules shall establish minimum standards of health and safety that will be required in child day-care homes and will recognize the vital role that parents and guardians play in the monitoring of the care provided in child day-care homes.

- (4) Repealed by Session Laws 1975, c. 879, s. 15.
- (5) To make rules and develop policies for implementation of this Article, including procedures for application, approval, renewal and revocation of licenses.
- (6) To make rules for the issuance of a provisional license to a child day-care facility that does not conform in every respect with the standards established in this Article provided that the Secretary finds that the operator is making a reasonable effort to conform to the standards, except that a provisional license shall not be issued for more than one year and shall not be renewed.
- (6a) To make rules for administrative action against a child day care facility or home when the Secretary's investigations pursuant to G.S. 110-105(a)(3) or G.S. 110-105.1(a)(4) substantiate that child abuse or neglect did occur in the facility or home. The type of sanction shall be determined by the severity of the incident and the probability of reoccurrence. The administrative actions shall include written warnings and special provisional licenses or registration certificates.

A written warning may be issued which shall specify the corrective action to be taken by the operator. The Department shall make an unannounced visit within one month after issuance of the written warning to determine whether the corrective action has occurred. If the corrective action has not occurred, a special provisional license or registration certificate may be issued.

When a special provisional license or registration certificate is issued, it shall require specific corrective action. It shall be in effect for six months from imposition and may not be renewed. The special provisional license or registration certificate and the letter which clearly states the reasons for the special provisional status shall be posted where parents can see them. Under the terms of the special provisional license or registration, the facility or home shall not enroll any new children until notified by the Department that it is satisfied the abusive or neglectful situation no longer exists. The Department shall make three unannounced visits during the period the special provisional license is in effect. Specific corrective action required by a written warning, special provisional license or special provisional registration may include the permanent removal from day care of the substantiated abuser or neglecter.

Nothing in this subdivision shall restrict the Secretary from using any other statutory or administrative remedies available.

- (7) To develop and promulgate standards which reflect higher levels of day care than required by the standards established by this Article, which will recognize better physical facilities, more qualified personnel, and higher quality programs. The Commission may adopt rules for the issuance of two grades of licenses: an "A" license for compliance with the provisions of the Article, and an "AA" license for those licensees meeting the voluntary higher standards promulgated by the Commission.

- (8) To develop a procedure by which the Department shall furnish such forms as may be required for implementation of this Article.
- (9) Repealed by Session Laws 1985, c. 757, s. 156 (66).
- (10) To develop rules for the issuance of a temporary license which shall expire in 90 days and which may be issued to the operator of a new facility or to the operator of a previously licensed facility when a change in ownership or location occurs.
- (11) To develop rules for the care of sick children in facilities and homes. (1971, c. 803, s. 1; 1975, c. 879, s. 15; 1985, c. 757, s. 155(d), (e), 156(a), (z), (aa), (bb); 1987, c. 543, s. 2; c. 788, s. 3; c. 827, s. 232; 1991, c. 273, s. 2.)

Editor's Note. — A former subdivision (10), relating to travel and per diem expenses, was repealed by Session Laws 1975, c. 879, s. 15.

Effect of Amendments. — The 1991 amendment, effective October 1, 1991, in subdivisions (1) and (2) inserted "child"; in subdivision (3) inserted "child" preceding "day-care" in three places and substituted "homes" for "plans" in two places in the last sentence of this subdivision; in subdivision (6) inserted "child" preceding "day-care," deleted "of Human Resources" following "Secretary" and made minor changes in phraseology; in subdivision (6a) inserted

"child" preceding "day care" and substituted "G.S. 110-105.1(a)(4)" for "G.S. 110-105.1(4) [110-105.1(a)(4)]"; in subdivision (7) substituted "may adopt rules for the issuance of" for "shall be empowered to issue"; in subdivision (8) following "Department" deleted "[of Human Resources]"; in subdivision (10) inserted "to the operator of a new facility or" and at the end of the subdivision deleted "provided the operator applied for a license prior to the change in status."

Legal Periodicals. — For comment on sectarian education and the state, see 1980 Duke L.J. 801.

CASE NOTES

Quoted in *Stott v. Martin*, 725 F. Supp. 1365 (E.D.N.C. 1989).

§ 110-89: Repealed by Session Laws 1975, c. 879, s. 15.

§ 110-90. Powers and duties of Secretary of Human Resources.

The Secretary of Human Resources shall have the following powers and duties under the policies and rules of the Commission:

- (1) To administer the licensing program for day-care facilities and the registration system for day-care homes.
- (2) To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.
- (3) To employ such administrative personnel and staff as may be necessary to implement this Article where required services, inspections or reports are not available from existing State agencies and units of local government.
- (4) To issue a license effective for one year to any day-care facility which meets the standards established by this Article.
- (5) To revoke the license of any day care facility which ceases to meet the standards established by this Article and rules

on these standards adopted by the Commission, or to deny a license to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.

- (6) To prosecute or defend on behalf of the State, through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.
- (7) To promote and coordinate educational programs and materials for operators of day-care facilities and day-care homes which are designed to improve the quality of day care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.
- (8) To issue a rated license when any operator of a day-care facility required to be licensed hereunder has satisfied the Commission that it has met the voluntary standards developed and adopted by the Commission.
- (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a license or registration. Such actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (10) To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, revocation or suspension of a license or the levying of a civil or administrative penalty. (1971, c. 803, s. 1; 1975, c. 879, s. 15; 1985, c. 757, ss. 155(g), 156(cc), (dd); 1987, c. 788, s. 4; c. 827, s. 233; 1991, c. 273, s. 3.)

Effect of Amendments. — The 1991 amendment, effective October 1, 1991, in subdivision (5), at the end of the first sentence inserted "and rules on these standards adopted by the Commission, or to deny a license to any applicant that fails to meet the standards or the rules," and in the second sentence substituted "These" for "Such" and inserted "and denials."

CASE NOTES

Cited in *Stott v. Martin*, 725 F. Supp. 1365 (E.D.N.C. 1989).

§ 110-90.1. Qualification for staff in a child day-care home.

No child day-care home shall be registered if that home is operated by or employs any person who has been convicted of a crime involving child abuse, child neglect, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotics or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children. The person registered to provide care in a child day-care home shall be at least 18 years of age and literate. A person who is less than 18 years of age, but at least 16 years of age, may work in a child day-care home if under the direct supervision of the person registered to provide

the care. (1977, c. 1011, s. 2; 1983, c. 277, s. 1; 1985, c. 757, s. 156(b); 1987, c. 788, s. 4; 1991, c. 273, s. 4.)

Cross References. — As to standards applicable to day-care facilities operated by churches, synagogues, or schools of religious charter. see § 110-106.

Effect of Amendments. — The 1991 amendment, effective October 1, 1991, inserted "child" preceding "day-care" in

the catchline and throughout this section, and in the last sentence, following "may work" substituted "in" for "on."

Legal Periodicals. — For survey of 1977 law on health care regulation, see 56 N.C.L. Rev. 857 (1978).

§ 110-91. Mandatory standards for a license.

The following standards shall be complied with by all day-care facilities, except as otherwise provided in this Article. These shall be the only required standards for the issuance of a license by the Secretary under the policies and procedures of the Commission except that the Commission may, in its discretion, adopt less stringent standards for facilities subject to licensing but which provide care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time basis.

- (1) **Medical Care and Sanitation.** — The Commission for Health Services shall adopt rules which establish minimum sanitation standards for day-care facilities and their personnel. The sanitation rules adopted by the Commission for Health Services shall cover such matters as the cleanliness of floors, walls, ceilings, storage spaces, utensils, and other facilities; adequacy of ventilation; sanitation of water supply, lavatory facilities, toilet facilities, sewage disposal, food protection facilities, bactericidal treatment of eating and drinking utensils, and solid-waste storage and disposal; methods of food preparation and serving; infectious disease control; sleeping facilities; and such other items and facilities as are necessary in the interest of the public health. These rules shall be developed in consultation with the Department.

The Commission shall adopt rules to establish minimum requirements for child and staff health assessments and medical care procedures. These rules shall be developed in consultation with the Department of Environment, Health, and Natural Resources. Each child shall have a health assessment before being admitted or within 30 days following admission to a day-care facility. The assessment shall be done by: (i) a licensed physician, (ii) the physician's authorized agent who is currently approved by the North Carolina Board of Medical Examiners, or comparable certifying board in any state contiguous to North Carolina, (iii) a certified nurse practitioner, or (iv) a public health nurse meeting the Department of Environment, Health, and Natural Resources' Standards for Early Periodic Screening, Diagnosis, and Treatment Program. A record of each child's assessment shall be on file in the records of the facility. However, no health assessment shall be required of any child who is and has been in normal health and whose parent, guardian, or full-time custodian objects in writing to a health assessment on religious

grounds which conform to the teachings and practice of any recognized church or religious denomination.

Each child shall be immunized in a manner that meets the requirements of Article 6 of Chapter 130A of the General Statutes and the pertinent rules adopted by the Commission for Health Services.

Each day-care facility shall have a plan of emergency medical care which shall include provisions for communication with and transportation to a specified medical resource, unless otherwise previously instructed. No child receiving day care shall be administered any drug or other medication without specific written instructions from a physician or the child's parent, guardian or full-time custodian. Emergency information on each child in care, including the names, addresses, and telephone numbers of the child's physician and parents, legal guardian or full-time custodian shall be readily available to the staff of the day-care facility while children are in care.

Nonprofit, tax-exempt organizations that provide prepared meals to day care centers only are considered day care centers for purposes of compliance with appropriate sanitation standards.

- (2) **Health-Related Activities.** — Each child in a day-care facility shall receive nutritious food and refreshments under rules to be adopted by the Commission. After consultation with the Division of Health Services of the Department of Environment, Health, and Natural Resources, nutrition standards shall provide for specific requirements for infants. Nutrition standards shall provide for specific requirements for children older than infants, including a daily food plan for meals and snacks served that shall be adequate for good nutrition. The number and size of servings and snacks shall be appropriate for the ages of the children and shall be planned according to the number of hours the child is in care. Menus for meals and snacks shall be planned at least one week in advance, dated, and posted where they can be seen by parents.

Each day-care facility shall arrange for each child in care to be out-of-doors each day if weather conditions permit.

Each day-care facility shall have a rest period for each child in care after lunch or at some other appropriate time.

No day-care facility shall care for more than 25 children in one group. Facilities providing care for 26 or more children shall provide for two or more groups according to the ages of children and shall provide separate supervisory personnel for each group.

- (3) **Location.** — Each day-care facility shall be located in an area which is free from conditions which are deemed hazardous to the physical and moral welfare of the children in care in the opinion of the Commission.
- (4) **Building.** — Each day-care facility shall be located in a building which meets the requirements of the North Carolina Building Code under standards which shall be developed by the Building Code Council, subject to adoption by the Commission specifically for day-care facilities, includ-

ing facilities operated in a private residence. Such standards shall be consistent with the provisions of this Article.

- (5) Fire Prevention. — All day-care facilities shall be inspected annually by a local fire department or a volunteer fire department, using fire-prevention standards which shall be developed by the State Insurance Department after consultation with local fire departments and volunteer fire departments, subject to adoption by the Commission.
- (6) Space and Equipment Requirements. — There shall be no less than 25 square feet of indoor space for each child for which a day-care facility is licensed, exclusive of closets, passageways, kitchens, and bathrooms, and such floor space shall provide during rest periods 200 cubic feet of airspace per child for which the facility is licensed. There shall be adequate outdoor play area for each child under rules adopted by the Commission which shall be related to the size and type of facility, availability and location of outside land area, except in no event shall the minimum required exceed 75 square feet per child, which area shall be protected to assure the safety of the children receiving day care by an adequate fence or other protection; provided, however, that a facility operated in a public school shall be deemed to have adequate fencing protection; provided, also, that a facility operating exclusively during the evening and early morning hours, between 6:00 P.M. and 6:00 A.M., need not meet the outdoor play area requirements mandated by this subdivision.

Each day-care facility shall provide equipment and furnishings that are child size, sturdy, safe, and in good repair. The Commission shall adopt standards to establish minimum requirements for equipment appropriate for the size facility being operated pursuant to G.S. 110-86(3). Space shall be available for proper storage of beds, cribs, mats, cots, sleeping garments, and linens as well as designated space for each child's personal belongings.
- (7) Staff-Child Ratio. — In determining the staff-child ratio, all children younger than 13 years shall be counted. The Commission shall adopt rules regarding staff-child ratios, group sizes and multi-age groupings for each category of facility provided that such rules and regulations shall be no less stringent than those currently required for staff-child ratios as enacted in Section 156(e) of Chapter 757 of the 1985 Session Laws.
- (8) Qualifications for Staff. — Each day-care facility shall be under the direction or supervision of a literate person at least 21 years of age. All staff counted in determining the required staff-child ratio shall be at least 16 years of age, provided that persons younger than 18 years of age work under the direct supervision of a literate staff person who is at least 21 years of age. No person shall be an operator of nor be employed in a day-care facility who has been convicted of a crime involving child neglect, child abuse, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotic or other impairing

drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.

The Commission shall adopt standards to establish minimum qualifications for operators, supervisors, caregivers and other staff who have direct contact with the children. These standards shall reflect training, experience, education or credentialing and shall be appropriate for the size facility being operated according to the categories defined in G.S. 110-86(3). It is the intent of this provision to guarantee that all children in day care are cared for by qualified people but also to recognize that qualifications for good child care may not be limited to formal education or training standards. To this end, the standards adopted by the Commission pertaining to training and educational requirements shall include provision that these requirements may be met by informal as well as formal training and educational experience. No requirements may interfere with the teachings or doctrine of any established religious organization.

- (9) Records. — Each day-care facility shall keep accurate records on each child receiving care in the day-care facility in accordance with a form furnished or approved by the Commission, and shall submit attendance reports as required by the Department.

Each day-care facility shall keep accurate records on each staff member or other person delegated responsibility for the care of children in accordance with a form approved by the Commission.

All records of any day-care facility, except financial records, shall be subject to review by the Secretary or by duly authorized representatives of the Department or a cooperating agency who shall be designated by the Secretary.

Any effort to falsify information provided to the Department shall be deemed by the Secretary to be evidence of violation of this Article on the part of the operator or sponsor of the day-care facility and shall constitute a cause for revoking or denying a license to such day-care facility.

- (10) Each operator or staff member shall truly and honestly show each child in that person's care true love, devotion and tender care.

Each day-care facility shall have a written policy on discipline, describing the methods and practices used to discipline children enrolled in that facility. This written policy shall be discussed with, and a copy given to, each child's parent prior to the first time the child attends the facility. Subsequently, any change in discipline methods or practices shall be communicated in writing to the parents prior to the effective date of the change.

The use of corporal punishment as a form of discipline is prohibited in day-care facilities and may not be used by any operator or staff member of any day-care facility, except that corporal punishment may be used in church day-care facilities as defined in G.S. 110-106, only if (i) the church day-care facility files with the Department a notice stating that corporal punishment is part of the religious

training of its program, and (ii) the church day-care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of nonchurch day-care facilities shall clearly state the prohibition on corporal punishment.

- (11) **Staff Development.** — The Commission shall adopt minimum standards for ongoing staff development for facilities. These standards shall include requirements for ongoing inservice training for all staff.
- (12) **Planned Age Appropriate Activities.** — Each day-care facility shall have a planned schedule of activities posted in a prominent place to enable parents to review it, and a written plan of age appropriate activities available to parents. Each facility shall have age appropriate activities and play materials to implement the written plan. The Commission shall establish minimum standards for age-appropriate activities appropriate for each category of facility as defined in G.S. 110-86(3).
- (13) **Transportation.** — All day-care facilities shall abide by North Carolina law regulating the use of seat belts and child passenger restraint devices. All vehicles operated by any facility staff person or volunteer to transport children shall be properly equipped with appropriate seat belts or child restraint devices as approved by the Commissioner of Motor Vehicles. Each adult and child shall be restrained by an appropriate seat safety belt or restraint device when the vehicle is in motion. These restraint regulations do not apply to vehicles not required by federal law to be equipped with seat restraints. All vehicles used to transport children shall meet and maintain the safety inspection standards of the Division of Motor Vehicles of the Department of Transportation and the facility shall comply with all other applicable State and federal laws and regulations concerning the operation of a motor vehicle. Children may never be left unattended in a vehicle.

The ratio of adults to children in day-care vehicles may not be less than the staff/child ratios prescribed by G.S. 110-91(7). The Commission shall adopt standards for transporting children under the age of two, including standards addressing this particular age's staff/child ratio during transportation. (1971, c. 803, s. 1; 1973, c. 476, s. 128; 1975, c. 879, s. 15; 1977, c. 1011, s. 4; c. 1104; 1979, c. 9, ss. 1, 2; 1981 (Reg. Sess., 1982), c. 1382, ss. 1, 2; 1983, c. 46, s. 2; cc. 62, 277, 612; 1985, c. 757, ss. 155(h), (i), 156(c)-(h); 1987, c. 543, s. 3; c. 788, s. 6; c. 827, s. 234; 1989 (Reg. Sess., 1990), c. 1004, s. 56; 1991, c. 273, s. 5; c. 640, s. 1.)

Cross References. — As to standards applicable to day-care facilities operated by churches, synagogues, or schools of religious charter, see § 110-106.

Editor's Note. — Section 156(e) of Session Laws 1985, c. 757, referred to in subdivision (7) of this section, was formerly codified as paragraphs (7)a to (7)c of this section.

Effect of Amendments. — The 1989 (Reg. Sess., 1990) amendment, effective July 20, 1990, substituted "Department of Environment, Health, and Natural Resources" for "Department of Human Resources" in the first paragraph of subdivision (2).

Session Laws 1991, c. 273, s. 5, effective October, 1, 1991, in the introductory

paragraph and in subdivision (9) deleted "of Human Resources" following "Secretary"; and rewrote subdivisions (1) and (11).

Session Laws 1991, c. 640, s. 1, effective October 1, 1991, in subdivision (10)

substituted "that person's" for "his" in the first paragraph, substituted "describing" for "which policy describes" in the second paragraph, and added the third paragraph.

CASE NOTES

Stated in *State, Child Day-Care Licensing Comm'n v. Fayetteville St. Christian School*, 299 N.C. 351, 261 S.E.2d 908 (1980).

Cited in *Smith v. Kinder Care Learning Centers, Inc.*, 94 N.C. App. 663, 381 S.E.2d 193 (1989).

OPINIONS OF ATTORNEY GENERAL

Size of Group and Child-Staff Ratio in Day-Care Facility. — See opinion of Attorney General to Mrs. Karen James, Office of Child Day-Care Licensing, 42 N.C.A.G. 221 (1973).

Child-staff ratio requirements are

applicable during all periods of the day unless modified by the board. See opinion of Attorney General to Mr. John S. Sokol, Director, Child Day-Care Licensing Board, 42 N.C.A.G. 301 (1973).

§ 110-92. Duties of State and local agencies.

When requested by an operator of a day-care facility or by the Secretary, it shall be the duty of local and district health departments to visit and inspect a day-care facility to determine whether the facility complies with the health and sanitation standards required by this Article and with the minimum sanitation standards adopted as rules by the Commission for Health Services as authorized by G.S. 110-91(1), and to submit written reports on such visits or inspections to the Department on forms approved and provided by the Department of Environment, Health, and Natural Resources.

When requested by an operator of a day-care facility or by the Secretary, it shall be the duty of the local and district health departments, and any building inspector, fire prevention inspector, or fireman employed by local government, or any fireman having jurisdiction, or other officials or personnel of local government to visit and inspect a day-care facility for the purposes specified in this Article, including plans for evacuation of the premises and protection of children in case of fire, and to report on such visits or inspections in writing to the Secretary so that such reports may serve as the basis for action or decisions by the Secretary or Department as authorized by this Article. (1971, c. 803, s. 1; 1973, c. 476, ss. 128, 138; 1975, c. 879, s. 15; 1985, c. 757, s. 155(j); 1987, c. 543, s. 4; 1989, c. 727, s. 31; 1989 (Reg. Sess., 1990), c. 1024, s. 21; 1991, c. 273, s. 6.)

Effect of Amendments. — The 1989 (Reg. Sess., 1990) amendment, effective July 27, 1990, inserted "by" preceding "the Commission for Health Services" in the first paragraph.

The 1991 amendment, effective October 1, 1991, near the beginning of the first paragraph deleted "of Human Re-

sources" following "Secretary"; near the middle of the first paragraph deleted "health and" preceding "sanitation standards"; near the end of the first paragraph deleted "of Human Resources" following "Department"; and in the second paragraph deleted "of Human Resources on forms provided by the De-

partment" following "in writing to the Secretary."

§ 110-93. Licensing procedure.

(a) Each operator of a day-care facility shall annually apply to the Department for a license. The application shall be in such form as is required by the Department. Each operator seeking a license shall be responsible for accompanying his application with the necessary supporting data and reports to show conformity with rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this Article including reports from the local and district health departments, local building inspectors, local firemen, voluntary firemen, and others, on forms which shall be provided by the Department.

(b) If an operator conforms to the rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this Article as shown in his application and other supporting data, the Secretary of Human Resources shall issue a license for no more than 12 months subject to suspension or revocation for cause as provided in this Article. If the applicant fails to conform to the required rules and standards, the Secretary may issue a provisional license under the policies of the Commission provided that the operator shall be notified in writing by registered or certified mail of the reasons for issuance of a provisional license.

(c) Each licensed operator of a child day-care facility must annually apply in order to renew the license and must accompany such renewal application with such supporting data and reports as are required to show conformity with the standards established under this Article.

(d) Repealed by Session Laws 1977, c. 929, s. 1. (1971, c. 803, s. 1; 1975, c. 879, s. 15; 1977, c. 4, s. 4; c. 929, s. 1; 1985, c. 757, s. 155(k), (l); 1987, c. 543, ss. 5, 6; c. 788, s. 7; 1991, c. 273, s. 7.)

Effect of Amendments. — The 1991 amendment, effective October 1, 1991, in subsection (c) substituted "a child" for "[a]" and substituted "the license" for "his license."

CASE NOTES

Stated in *State, Child Day-Care Licensing Comm'n v. Fayetteville Christian School*, 299 N.C. 351, 261 S.E.2d 908 (1980).

§ 110-94. Administrative Procedure Act.

The provisions of General Statutes Chapter 150B known as the Administrative Procedure Act shall be applicable to the Commission and to the rules it adopts. The Administrative Procedure Act shall also apply to child day care contested cases. However, a child day care operator shall have 30 days to file a petition for a contested case pursuant to G.S. 150B-23. The case hearing shall be scheduled to be held within 120 days of the date the petition for a hearing is received, pursuant to G.S. 150B-23(a), in any contested case resulting from administrative action taken by the Department to revoke a license, registration certificate, or Letter of Compliance or from

administrative action taken in a situation in which child abuse or neglect in a child day care facility or home has been substantiated. A request for continuance of a hearing shall be granted upon a showing of good cause by either party. (1971, c. 803, s. 1; 1975, c. 879, s. 15; 1977, c. 929, s. 2; 1985, c. 757, s. 155(m); 1987, c. 788, s. 8; 1989, c. 429; 1991, c. 273, s. 8.)

Effect of Amendments. — The 1991 amendment, effective October 1, 1991, in the first sentence, deleted "Child Day Care" preceding "Commission"; added the third sentence; and in the second to last sentence, before "day care" added "child."

§§ 110-95 to 110-97: Repealed by Session Laws 1977, c. 929, s. 1.

Cross References. — As to administrative hearings, and judicial review of administrative decisions, see § 150B-1 et seq.

§ 110-98. Mandatory compliance.

It shall be unlawful for any operator or employee of a day-care facility or day-care home to offer or provide day care without complying with the provisions of this Article. (1971, c. 803, s. 1; 1985, c. 757, s. 156(ee); 1987, c. 788, s. 9.)

§ 110-98.1. Prima facie evidence of existence of day-care.

A child-care arrangement providing day care for more than two children for more than four hours per day on two or more consecutive days shall be prima facie evidence of the existence of a day-care facility or day care home. (1977, c. 4, s. 6; 1987, c. 788, s. 10.)

§ 110-99. Display of license.

Each day-care facility shall maintain its current license displayed in a prominent place at all times so that the public may be on notice that the facility is licensed and may observe any grade or rating which may appear on the license. (1971, c. 803, s. 1.)

§ 110-100. Licenses are property of the State.

Any license issued to a day-care facility under this Article shall remain the property of the State and may be removed by persons employed or designated by the Secretary of Human Resources in the event that the license is not renewed or is revoked or has expired or in the event that the grade or rating is changed. (1971, c. 803, s. 1; 1975, c. 879, s. 15; 1985, c. 757, s. 155(n).)

§ 110-101. Registration; minimum standards for child day-care homes.

It shall be unlawful for any person to operate a day-care home unless the day-care home is registered with the Department in accordance with the requirements for registration adopted by the Commission. The person who is registered shall be the individual who is on site providing care. A registration certificate shall be issued and remain valid for a two-year period unless revoked, suspended or modified. Each home shall display its current registration certificate in a prominent place. The registration certificate shall remain the property of the State. Day-care homes shall comply with the reasonable minimum standards for health, safety, and sanitation adopted by the Commission. Each day-care home shall be located in a residence or other building which meets the requirements of the North Carolina Building Code under standards developed by the Building Code Council in consultation with the Division of Facility Services, and subject to adoption by the Commission, specifically for day-care homes.

The use of corporal punishment as a form of discipline is prohibited and may not be used by any operator or staff person of any day-care home, except that corporal punishment may be used in day-care homes that are religious sponsored child day-care homes under G.S. 110-106.1, only if the day-care home files with the Department a notice stating that corporal punishment is part of the religious training of its program. (1971, c. 803, s. 1; 1975, c. 879, s. 15; 1985, c. 757, s. 156(i), (j); 1987, c. 788, s. 11; 1991, c. 640, s. 2.)

Effect of Amendments. — The 1991 amendment, effective October 1, 1991, substituted "unless the day-care home" for "unless such day-care home" in the first sentence of the first paragraph and added the second paragraph.

§ 110-102. Information for parents.

The Secretary of Human Resources shall provide to each operator of a day-care facility a summary of this Article for the parents, guardian, or full-time custodian of each child receiving day care in the facility to be distributed by the operator. The summary shall include the name and address of the Secretary of Human Resources and the address of the Commission. The summary shall also include a statement regarding the mandatory duty prescribed in G.S. 7A-543 of any person suspecting child abuse or neglect has taken place in day care, or elsewhere, to report to the county Department of Social Services. The statement shall include the definitions of child abuse and neglect described in the Juvenile Code in G.S. 7A-517 and of child abuse described in the Criminal Code in G.S. 14-318.2 and G.S. 14-318.4. The statement shall stress that this reporting law does not require that the person reporting reveal his identity. (1971, c. 803, s. 1; 1975, c. 879, s. 15; 1977, c. 1011, s. 3; 1985, c. 757, ss. 155(o), 156(v).)

Legal Periodicals. — For survey of 1977 law on health care regulation, see 56 N.C.L. Rev. 857 (1978).

§ 110-102.1. Reporting of missing or deceased children.

(a) Operators and staff, as defined in G.S. 110-86(7), 110-90.1 and 110-91(8), or any adult present with the approval of the care provider in a day-care facility or home, as defined in G.S. 110-86(3), (4) and 110-106, upon learning that a child which has been placed in their care or presence is missing, shall immediately report the missing child to law enforcement. For purposes of this Article, a child is anyone under the age of 18.

(b) If a child dies while in day care, or of injuries sustained in day care, a report of the death must be made by the day care operator to the Secretary within 24 hours of the child's death or on the next working day. (1985, c. 392; 1987, c. 788, s. 12.)

§ 110-102.2. Administrative penalties.

For failure to comply with this Article, the Secretary may:

- (1) Issue a written warning and a request for compliance;
- (2) Issue an official written reprimand;
- (3) Place a licensee upon probation until his compliance with this Article has been verified by the Commission or its agent;
- (4) Order suspension of a license for a specified length of time not to exceed one year;
- (5) Permanently revoke a license issued under this Article.

The issuance of an administrative penalty may be appealed as provided in G.S. 110-90(5) and G.S. 110-90(9). (1985, c. 757, s. 156(ff); 1987, c. 788, s. 13; c. 827, s. 235.)

Editor's Note. — Session Laws 1987, c. 788, s. 13, effective August 12, 1987, rewrote the introductory language of the first sentence, deleted a former final sentence, which read "The Secretary shall implement the decision of the hearing officer or officers," and added the present final sentence.

Session Laws 1987, c. 827, s. 235, effective August 13, 1987, again rewrote

the introductory language of the first sentence, and also deleted the last sentence of the section, which read "The Secretary shall implement the decision of the hearing officer or officers."

The introductory language of the first sentence is set out as rewritten by Session Laws 1987, c. 827, s. 235, at the direction of the Revisor of Statutes.

§ 110-103. Criminal penalty.

Any person who violates the provisions of G.S. 110-98 through G.S. 110-100 or G.S. 110-102 shall be guilty of a general misdemeanor. Any person who violates G.S. 110-101 shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars (\$300.00), imprisonment for not more than 30 days, or both. (1971, c. 803, s. 1; 1983, c. 297, s. 3; 1985, c. 757, s. 156(gg).)

OPINIONS OF ATTORNEY GENERAL

Educational programs operated by public schools for three- and four-year-old children are not subject to licensure and regulation by the Child Day Care Commission. See opinion of Attor-

ney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

Educational programs for three-

and four-year-old children housed in public school buildings but operated by private providers are subject to licensure and regulations by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

State is not prohibited from pur-

chasing day care services from day care programs operated by public schools, even though those programs are not licensed by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

§ 110-103.1. Civil penalty.

(a) A civil penalty may be levied against any operator of any child day care facility or home who violates any provision of this Article. The penalty shall not exceed one thousand dollars (\$1,000) for each violation documented on any given date. Every operator shall be provided a schedule of the civil penalties established by the Commission pursuant to this Article.

(b) In determining the amount of the penalty, the threat of or extent of harm to children in care as well as consistency of violations shall be considered, and no penalty shall be imposed under this section unless there is a specific finding that this action is reasonably necessary to enforce the provisions of this Article or its rules.

(c) A person who is assessed a penalty shall be notified of the penalty by registered or certified mail. The notice shall state the reasons for the penalty. If a person fails to pay a penalty, the Secretary shall refer the matter to the Attorney General for collection. (1985, c. 757, s. 156(gg); 1987, c. 788, s. 15; c. 827, s. 236; 1991, c. 273, s. 9.)

Editor's Note. — Session Laws 1987, c. 788, s. 15, effective August 12, 1987, in subsection (c) as it read prior to amendment by Session Laws 1987, c. 827, s. 236, deleted "After a hearing as provided in G.S. 110-90(5)" at the beginning of the first sentence, added a second sentence, reading "The issuance of an assessment may be appealed as provided in G.S. 110-90(9)," substituted "If after receipt of the notice, the licensee fails to exercise his appeal rights in accordance with G.S. 110-90(9) or" for "If the licensee assessed" at the beginning of the

third sentence, and substituted "Chapter 150B" for "Chapter 150A" in the last sentence.

Session Laws 1987, c. 827, s. 236, effective August 13, 1987, rewrote subsection (c).

Subsection (c) has been set out above as rewritten by Session Laws 1987, c. 827, s. 236, at the direction of the Revisor of Statutes.

Effect of Amendments. — The 1991 amendment, effective October 1, 1991, rewrote subsection (a).

OPINIONS OF ATTORNEY GENERAL

Educational programs operated by public schools for three- and four-year-old children are not subject to licensure and regulation by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

Educational programs for three-

and four-year-old children housed in public school buildings but operated by private providers are subject to licensure and regulations by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

State is not prohibited from pur-

chasing day care services from day care programs operated by public schools, even though those programs are not licensed by the Child Day Care Commission. See opinion of Attorney

General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, — N.C.A.G. — (October 3, 1990).

§ 110-104. Injunctive relief.

The Secretary or his designee may seek injunctive relief in the district court of the county in which a day-care facility or day-care home is located against the continuing operation of that day-care facility or day-care home at any time, whether or not any administrative proceedings are pending. The district court may grant injunctive relief, temporary, preliminary, or permanent, when there is any violation of this Article or of the rules promulgated by the Commission or the Commission for Health Services that threatens serious harm to children in the day-care facility or day-care home, or when a final order to deny or revoke a license or registration has been violated, or when a day-care facility is operating without a license or a day-care home is operating without being registered, or when a day-care facility or day-care home repeatedly violates the provisions of this Article or rules adopted pursuant to it after having been notified of the violation. (1977, c. 4, s. 5; c. 929, s. 3; c. 1011, s. 1; 1985, c. 757, s. 156(hh); 1987, c. 543, s. 7; c. 788, s. 16; c. 827, s. 237.)

Legal Periodicals. — For survey of 1977 law on health care regulation, see 56 N.C.L. Rev. 857 (1978).

CASE NOTES

Action for Declaratory Judgment Not Barred. — The spirit and intent of this section do not permit, much less compel, a conclusion that the Day-Care Facilities Act is intended to restrict the general statewide jurisdiction of the superior court or to limit the scope of relief normally available in declaratory judgment actions. The mere existence of an alternate adequate remedy under this section will not be held to bar an appropriate action for declaratory judgment. *State, Child Day-Care Licensing Comm'n v. Fayetteville St. Christian School*, 299 N.C. 351, 261 S.E.2d 908, appeal dismissed, 449 U.S. 807, 101 S. Ct. 55, 66 L. Ed. 2d 11 (1980).

Preliminary injunction serves to place the parties in the position they were before the dispute between them arose. *State, Child Day-Care Licensing Comm'n v. Fayetteville St. Christian School*, 299 N.C. 731, 265 S.E.2d 387, appeal dismissed, 449 U.S. 807, 101 S. Ct. 55, 66 L. Ed. 2d 11 (1980).

Defendants' compliance with preliminary injunction does not moot is-

sues raised by defendants' assertions of constitutional defenses to the State's action. The preliminary injunction requires defendants to comply with the statutory licensing requirements until a final determination can be made on fully developed facts of the ultimate question in the case, i.e., whether the licensing statutes can be constitutionally applied to these defendants. Until such a determination is made the statutes, conceded to be facially valid, are presumably applicable to defendants and defendants must perforce comply with them. *State, Child Day-Care Licensing Comm'n v. Fayetteville St. Christian School*, 299 N.C. 731, 265 S.E.2d 387, appeal dismissed, 449 U.S. 807, 101 S. Ct. 55, 66 L. Ed. 2d 11 (1980).

Preliminary injunction under this section is not immediately appealable. *State, Child Day-Care Licensing Comm'n v. Fayetteville St. Christian School*, 299 N.C. 731, 265 S.E.2d 387, appeal dismissed, 449 U.S. 807, 101 S. Ct. 55, 66 L. Ed. 2d 11 (1980).

§ 110-105. Authority to inspect facilities.

(a) The Commission shall adopt standards and rules under this subsection which provide for the following types of inspections:

- (1) An initial licensing or certification inspection, which shall not occur until the administrator of the facility receives prior notice of the initial inspection or certification visit;
- (2) A plan for routine inspections of all facilities, which shall be confidential unless a court orders its disclosure, and which shall be conducted without prior notice to the facility;
- (3) An inspection that may be conducted without notice, if there is probable cause to believe that an emergency situation exists or there is a complaint alleging a violation of licensure law. When the Department is notified by the county director of social services that the director has received a report of child abuse or neglect in a child day-care facility, or when the Department is notified by any other person that alleged abuse or neglect has occurred in a facility, the Commission's rules shall provide for an inspection conducted without notice to the child day-care facility to determine whether the alleged abuse or neglect has occurred. This inspection shall be conducted within seven calendar days of receipt of the report, and when circumstances warrant additional visits, the second inspection shall be conducted within one month of the first visit.

The Secretary or the Secretary's designee, upon presenting appropriate credentials to the operator of the child day-care facility, is authorized to perform inspections in accordance with the standards and rules promulgated under this subsection. The Secretary or the Secretary's designee may inspect any area of a building in which there is reasonable evidence that children are in care.

(b) If an operator refuses to allow the Secretary or his designee to inspect the day-care facility, the Secretary shall seek an administrative warrant in accordance with G.S. 15-27.2. (1983, c. 261, s. 1; 1985, c. 757, s. 156(ii); 1987, c. 788, s. 17; c. 827, s. 238; 1991, c. 273, s. 10.)

Effect of Amendments. — The 1991 amendment, effective October 1, 1991, in subdivision (a)(3) inserted "child" preceding "day-care" in two places; near the beginning of the next-to-last sentence of

subsection (a) substituted "the Secretary's" for "his" and in that sentence inserted "child" preceding "day-care"; and added the last sentence of subsection (a).

§ 110-105.1. Authority to inspect child day care homes.

(a) The Commission shall adopt standards, rules, and regulations under this section that provide for the following:

- (1) An initial registration inspection, for which the person requesting registration as a child day care home operator has prior notice, to certify that all mandatory standards are met;
- (2) A plan for announced inspections of randomly-selected registered homes prior to registration renewal;

- (3) A plan for unannounced inspections of randomly-selected registered homes, which plan shall be confidential unless a court orders its disclosure; and
- (4) An inspection that may be conducted without notice if there is probable cause to believe that an emergency situation exists or if there is a complaint alleging a violation of registration law. When the Department is notified by any person that alleged abuse or neglect has occurred in a child day care home, the Commission's rules shall provide for an inspection conducted without notice to the home to determine whether the alleged abuse or neglect has occurred. This inspection shall be conducted within seven calendar days of receipt of the report; and when circumstances warrant additional visits, the second inspection shall be conducted within one month of the first visit.

The Secretary or his designee, upon presenting appropriate credentials to the operator of the child day care home, may perform inspections in accordance with the standards, rules, and regulations promulgated under this subsection.

(b) If an operator refuses to allow the Secretary or his designee to inspect the child day care home, the Secretary shall seek an administrative warrant in accordance with G.S. 15-27.2. (1985, c. 757, s. 156(j); 1987, c. 788, s. 18.)

§ 110-105.2. Abuse and neglect violations.

For purposes of this Article, child abuse and neglect, as defined in G.S. 7A-517 and in G.S. 14-318.2 and G.S. 14-318.4, occurring in day-care facilities and homes, are violations of the licensure and registration standards and of the licensure and registration law. (1985, c. 757, s. 156(w); 1987, c. 788, s. 19.)

§ 110-106. Religious sponsored day-care facilities.

(a) The term "church day-care facility" as used herein shall include any day-care facility or summer day camp operated by a church, synagogue or school of religious charter.

(b) Reporting Procedure of Church Day-Care Facilities. —

- (1) Church day care facilities shall file with the Department a notice of intent to operate a day care facility and the date it will begin operation at least 30 days prior to that date. Within 30 days after beginning operation, the facility shall provide to the Department written reports and supporting data which show the facility is in compliance with applicable provisions of G.S. 110-91. After the church day care facility has filed this information with the Department, the facility shall be visited by a representative of the Department to assure compliance with the applicable provisions of G.S. 110-91.
- (2) Each church day-care facility shall annually file with the Department a report indicating that it meets the minimum standards for facilities as provided in the applicable provisions of G.S. 110-91. The reports shall be in accordance with rules adopted by the Commission. Each church day-care facility shall be responsible for accompanying its report with the necessary supporting data to show confor-

- mity with those minimum standards, including reports from the local and district health departments, local building inspectors, local firemen, volunteer firemen, and other, on forms which shall be provided by the Department.
- (3) It shall be the responsibility of the Department to notify the facility if it fails to meet the minimum requirements. The Secretary shall be responsible for carrying out the enforcement provisions provided by the General Assembly in Article 7 of Chapter 110 including inspection to insure compliance. The Secretary shall be empowered to issue an order requiring a church day-care facility which fails to meet the standards established pursuant to this Article to cease operating. A church day-care facility may request a hearing to determine if it is in compliance with the applicable provisions of G.S. 110-91. If the Secretary determines that it is not, it may order the facility to cease operation until it is in compliance.
- (4) Church day-care facilities including summer day camps shall be exempt from the requirement that they obtain a license and that the license be displayed and shall be exempt from any subsequent rule or regulatory program not dealing specifically with the minimum standards as provided in the applicable provisions of G.S. 110-91. Nothing in this Article shall be interpreted to allow the State to regulate or otherwise interfere with the religious training offered as a part of any church day-care program. Nothing in this Article shall prohibit any church-operated, synagogue-operated, or religious affiliated facility from becoming licensed by the State if it so chooses.
- (5) Church day-care facilities found to be in violation of the applicable provisions of G.S. 110-91 shall be subject to the injunctive provisions of G.S. 110-104, except that they may not be enjoined for operating without a license. The Secretary is empowered to seek an injunction against any such facility under the conditions specified in G.S. 110-104 with the above exception and when any such facility operates without submitting the required forms and following the procedures required by this Article.
- (c) G.S. 110-91(11), G.S. 110-91(12), and the second paragraph of G.S. 110-91(8) do not apply to religious sponsored day-care facilities, and these facilities are exempt from any requirements prescribed by subsection (b) of this section that arise out of these provisions. No staff qualifications other than those prescribed by the first paragraph of G.S. 110-91(8) shall apply to religious sponsored day care facilities. (1983, c. 283, ss. 1, 2; 1985, c. 757, ss. 155(p), 156(k); 1987, c. 788, s. 20.)

§ 110-106.1. Religious sponsored day-care plans.

The requirements and exemptions that apply to religious sponsored day-care facilities pursuant to G.S. 110-106 apply to religious sponsored child day care homes, except that the religious sponsored child day care homes shall also comply with the minimum standards of health, sanitation, and safety prescribed by G.S. 110-88(3) and 110-101, and with the minimum requirements for staff in a child day care home prescribed by G.S. 110-90.1. (1985, c. 757, s. 156(l); 1987, c. 788, s. 21.)

**SUBCHAPTER 3U - CHILD DAY CARE RULES
(AMENDED EFF. JANUARY 1, 1992)**

SECTION .0100 - PURPOSE AND DEFINITIONS

.0101 PURPOSE

History Note: Repealed Eff. November 1, 1989.

.0102 DEFINITIONS

The terms and phrases used in this Subchapter shall be defined as follows except when the content of the Rule clearly requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these rules.

- (1) "Age appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (2) "Agency" means the Child Day Care Section, Division of Facility Services, Department of Human Resources, located at 701 Barbour Drive, Raleigh, North Carolina 27603.
- (3) "Appellant" means the person or persons who request a contested case hearing.
- (4) "A" license means the license issued to day care operators who meet the minimum requirements for the legal operation of a child day care facility pursuant to G.S. 110-91 and applicable rules in this Subchapter.
- (5) "AA" license means the license issued to day care operators who meet the higher voluntary standards promulgated by the Child Day Care Commission as codified in Section .1600 of this Subchapter.
- (6) "Child Care Program" means a provider of child day care services and may consist of a single center or home, or a group of centers or homes or both, which are operated by one owner or supervised by a common sponsor.
- (7) "Day care center" means any day care facility as defined in G.S. 110-86(3) which is authorized to provide day care to 13 or more children when any child present is preschool-age according to the definition of preschool-aged child in this Rule.
- (8) "Day care home" means any child day care home as defined in G.S. 110-86(4) which provides day care on a regular basis of at least once per week for more than four hours, but less than 24 hours per day. Child care arrangements excluded from the definition of day care facility in G.S. 110-86(3) are excluded as day care homes.
- (9) "Department" means the Department of Human Resources.
- (10) "Division" means the Division of Facility Services within the Department of Human Resources.
- (11) "Drop-in care" means a child day care arrangement where children attend on an intermittent, unscheduled basis.
- (12) "Group" means the children assigned to a specific caregiver, or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and this Subchapter, using space which is identifiable for each group.
- (13) "Large child day care center" or "large center" means any day care center which is authorized to provide care to 80 or more children.
- (14) "Large child day care home" or "large home" means any day care facility as defined in G.S. 110-86(3) which is authorized to routinely provide care to a maximum of 12 children when any child present is preschool-aged or, when all children present are school-aged, to a maximum of 15 children. Provided the appropriate child/staff ratios are not exceeded, the large home may exceed these maximum capacities by no more than two children:
 - a) during the school year for no more than one hour immediately after school; and
 - b) during the two week period preceding and the two week period following the public school year.

- (15) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a day care center.
- (16) "Licensing Manual" means the document published by the Child Day Care Section which contains the procedures and standards required by North Carolina law, the Commission and the Department for licensure of child day care centers. The licensing manual may be obtained from the Section at the address given in Paragraph (1) of this Rule.
- (17) "Medium child day care center" or "medium center" means any day care center which is authorized to provide day care to at least 30 but no more than 79 children.
- (18) "Operator" means the person or entity held responsible by law as the owner of a child day care business. The terms "operator", "sponsor" or "licensee" are used interchangeably.
- (19) "Part-time care arrangement" means a child care arrangement as defined in G.S. 110-86 which provides care on less than a full-time basis. Examples of part-time care arrangements are certain drop-in, before/after school, and seasonal programs.
- (20) "Passageway" means a hall or corridor.
- (21) "Preschool (formerly preschool-aged) child" means any child under 13 years of age who does not fit the definition of school-aged child in this Rule.
- (22) "Provisional License" means the type of license issued to a center which does not conform in every respect with the standards for an "A" license.
- (23) "Registrant" means the person or entity that is granted permission by the State of North Carolina to operate a day care home.
- (24) "School-aged child" means any child who is at least five years old on or before October 16 of the current school year and who is attending, or has attended, a public or private grade school or kindergarten.
- (25) "Section" means the Child Day Care Section, Division of Facility Services, Department of Human Resources. The Section is located at the address given in Paragraph (1) of this Rule.
- (26) "Small day care center" or "small center" means any day care center which is authorized to provide day care for a maximum of 29 children.
- (27) "Small day care home" or "small home" means the child care arrangements defined in G.S. 110-86(4) which are subject to the registration requirements set forth in Section .1700 of this Subchapter.
- (28) "Special Provisional License" means the type of license which may be issued a day care operator pursuant to the conditions of G.S. 110-88 (6a) when child abuse or neglect has occurred in the center.
- (29) "Substitute" means any person who temporarily assumes the duties of a regular staff person for a time period not to exceed two consecutive months.
- (30) "Teacher" means the caregiver who has responsibility for planning and implementing the daily program of activities for each group of children.
- (31) "Temporary care arrangement" means any child day care arrangement required to be regulated pursuant to G.S. 110-86 which provides either drop-in care or care on a seasonal or other part-time basis.
- (32) "Temporary license" means the license which may be issued when a licensed center changes location or changes ownership.
- (33) "Volunteer" means a person who works in a day care center or day care home and is not monetarily compensated by the center or home.

History Note: Statutory Authority G.S. 110-88; 143B-168.3;
 Eff. January 1, 1986;
 Amended Eff. October 1, 1991; October 1, 1990; November 1, 1989;
 July 1, 1988; January 1, 1987.

SECTION .0200 - GENERAL PROVISIONS

.0201 INSPECTIONS

The Child Day Care Section shall periodically visit and inspect all day care centers to insure compliance with North Carolina General Statutes and those rules and regulations adopted pursuant thereto.

- (1) A representative of the Section shall conduct an announced visit prior to the initial issuance and renewal of the license. The prospective or current licensee shall be notified in advance about the visit. This Rule does not apply to the investigation of centers that are operating without a license in violation of the law.
- (2) At the beginning of each fiscal year, the Section shall prepare a written plan explaining the guidelines for making routine, unannounced compliance visits to licensed day care centers. The plan shall be dated and signed by the Section Chief and shall be kept in a confidential file by the Section Chief.
- (3) A representative of the Section may make unannounced visits to any licensed center whenever the Section receives a complaint alleging violation of the licensing law or the rules in this Subchapter, or if a representative of the Section has reason to believe an emergency exists in the center.

History Note: Statutory Authority G.S. 110-105; 143B-168.3;
Eff. January 1, 1986.

.0202 CENTERS SUBJECT TO LICENSURE

Any day care center or large day care home as previously defined in Rule .0102 of this Subchapter which provides care on a regular basis of at least once per week, for more than four hours but less than 24 hours per day, regardless of the time of day and regardless of whether the same or different children attend regularly, must be licensed. These arrangements include, but are not limited to:

- (1) day care centers, including those which operate for more than one shift;
- (2) nursery schools;
- (3) part-time care arrangements, including those which provide care on a seasonal, drop-in, or after-school basis as defined in Rule .0102 of this Subchapter;
- (4) preschool programs housed in a public school building, whether operated by the public school system or a private provider;
- (5) large day care homes.

History Note: Statutory Authority G.S. 110-86(3); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. August 1, 1990; July 1, 1988;
January 1, 1987.

.0203 CENTERS NOT REQUIRED TO OBTAIN A LICENSE

History Note: Repealed Eff. August 1, 1990.

.0204 CHANGES REQUIRING ISSUANCE OF A NEW LICENSE

(a) When the operator, as defined in Rule .0102, of a licensed day care center changes, the new operator must apply for a new license prior to assuming ownership of the center. A child day care license cannot be bought, sold, or transferred by one operator to another.

(b) When a licensed child day care center is to be moved from one location to another, the licensee must apply for a license for the new physical location as prescribed in Section .0300 of this Subchapter. The licensee must obtain the new license prior to occupying the new location. A child day care license is not transferable from one location to another.

(c) When a licensee desires to change the licensed capacity of a center, the licensee must notify the Section.

- (1) If the licensee wishes to increase the licensed capacity by using space not currently approved for day care, the Section shall provide the licensee with appropriate forms to request approval. Once the additional space is approved, a new license shall be issued to reflect the increase in licensed capacity.
- (2) If a licensee wishes to increase the center's licensed capacity by using space that is already approved for day care, the Section shall, upon request, issue a new license showing the increase.
- (3) If a licensee wishes to decrease the center's licensed capacity, the Section shall, upon request, issue a new license reflecting the decrease.

(d) When a licensee decides to conform with requirements in order to remove a restriction on the age or number of children who can be served in the center, the licensee shall notify the Section. The Section shall supply forms for the licensee to use to obtain approval from the local inspectors, if necessary. When the Section is notified that the center conforms with all applicable requirements, a new license, without the restriction, shall be issued.

History Note: Statutory Authority G.S. 110-88(8); 110-93; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 1988; January 1, 1987.

.0205 PARENTAL ACCESS

The custodial parent, guardian or full-time custodian of a child enrolled in any child day care facility or home subject to regulation under Article 7 of Chapter 110 of the North Carolina General Statutes or these Rules shall be allowed unlimited access to the facility or home during its operating hours for the purposes of contacting the child or evaluating the facility or home and the care provided by the facility or home. The parent, guardian or custodian shall notify the on-site administrator of his or her presence immediately upon entering the premises.

History Note: Statutory Authority G.S. 110-85; 143B-168.3;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

.0206 CAPACITY OF THE FACILITY

(a) The licensed capacity shall be no greater than the number of children that the total primary space, as defined in Rule .1401, used by children can accommodate at 25 square feet per child.

(b) Except as provided in the definition of large home in Rule .0102 of this Subchapter, the number of children present at the facility shall not exceed the licensed capacity of the facility.

(c) The number of children occupying any room of the facility shall not exceed the number that the primary space in that room will accommodate at 25 square feet per child except as provided in Rule .1401 of this Subchapter.

History Note: Statutory Authority G.S. 110-86(3); 110-91(6); 143B-168.3;
Eff. January 1, 1991.

.0207 SCHOOL-AGE CHILDREN OF THE OPERATOR

The operator's own school-age children shall not be considered to be enrolled in the facility and, therefore, shall not be counted when determining the facility's compliance with the rules of this Subchapter.

History Note: Statutory Authority G.S. 110-86(3); 143B-168.3;
Eff. October 1, 1991.

SECTION .0300 - PROCEDURES FOR OBTAINING A LICENSE

.0301 PRE-LICENSING CONSULTATION

- (a) Anyone who wishes to obtain a license to operate a child day care center should first request pre-licensing consultation on a form provided by the Section.
- (b) Upon receiving a completed request form, a representative of the Section shall schedule a visit with the person requesting consultation. The purpose of the visit is to review the licensing law and standards and to explain the licensing process. The Section's representative shall furnish the forms required to be completed and submitted in order to apply for a license.

History Note: Statutory Authority G.S. 110-88(1); 110-88(5); 143B-168.3;
Eff. January 1, 1986.

.0302 APPLICATION FOR A LICENSE

- (a) The individual who will be legally responsible for the operation of the center, which includes assuring compliance with the licensing law and standards, must apply for a license using the form provided by the Section. If the operator will be a group, organization, or other entity, an officer of the entity who is legally empowered to bind the operator must complete and sign the application.
- (b) The applicant is responsible for arranging for inspections of the center by the local sanitarian, building and fire inspectors. The applicant must provide an approved inspection report signed by the appropriate inspector to the Section's representative.
- (1) A provisional classification may be accepted in accordance with Rule .0401(a)(1) of this Subchapter.
- (2) When a center does not conform with a specific building, fire, or sanitation standard, the appropriate inspector may submit a written explanation of how equivalent, alternative protection is provided. The Section Chief may accept the inspector's documentation in lieu of compliance with the specific standard. Nothing in this regulation is to preclude or interfere with issuance of a provisional license pursuant to Section .0400 of this Subchapter.
- (c) The applicant is responsible for compliance with all other state laws and local ordinances that apply to the operation of a child day care center.
- (d) The applicant, or the person responsible for the day-to-day operation of the center, must be able to describe the plans for the daily program, including room arrangement, staffing patterns, equipment, and supplies, in sufficient detail to show that the center will comply with applicable requirements for activities, equipment, and staff/child ratios for the size facility and type of license requested. The applicant shall make the following written information available to the Section's representative for review to verify compliance with provisions of this Subchapter and the licensing law:
- (1) daily schedules,
- (2) activity plans,
- (3) emergency care plan,
- (4) discipline policy.
- (e) The applicant shall, at a minimum, demonstrate to the Section's representative that measures will be implemented to have the following information in the center's files and readily available to the representative for review:
- (1) Records on staff which include an application for employment; documentation of previous education, training, and experience; medical and health records; and documentation of participation in training and staff development activities;
- (2) Records on children which include an application for enrollment; medical and immunization records; and permission to seek emergency medical care;

- (3) Daily attendance records;
- (4) Records of monthly fire drills giving the date each drill is held, the time of day, the length of time taken to evacuate the building, and the signature of the person that conducted the drill.

(f) The Section's representative shall measure all rooms to be used for day care and shall assure that an accurate sketch of the center's floor plan is part of the application packet. The Section's representative shall enter the dimensions of each room to be used for day care, including ceiling height, and shall show the location of the bathrooms, doors, and required exits on the floor plan.

(g) The Section's representative shall make one or more compliance inspections of the center and premises.

- (1) If the center is in compliance, the representative submits all inspection reports, the floor plan, and any other supporting documents, along with the signed application, to the Section for final review and issuance of the license.
- (2) If the center does not comply with the standards in all respects, the representative submits all information listed in Subparagraph (g)(1). The representative may recommend issuance of a provisional license in accordance with Section .0400 of this Subchapter or the representative may recommend denial of the application. Final disposition of the recommendation to deny is the decision of the Section Chief.

(h) If the license is denied, the operator may not reapply for a license for that facility for at least 90 days from the date the letter of denial is issued or, if administrative or judicial review is requested by the applicant, from the date the final agency decision or judicial determination is rendered, whichever is later.

History Note: Statutory Authority G.S. 110-88(2); 110-88(5); 110-91; 110-92; 110-93; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989; July 1, 1988; January 1, 1987.

.0303 RENEWAL OF A LICENSE

(a) Each licensee must annually apply for renewal of the license using forms supplied by the Section.

- (1) The Section shall mail the forms to the licensee approximately 90 days prior to the expiration date on the license.
- (2) The operator shall notify the local fire inspector when it is time for the facility's annual renewal inspection.
- (3) A new building inspection is not required unless the licensee wants to begin using space not previously approved for day care, has made major renovations to the building, has added new construction, or wants to remove any restriction related to building codes currently on the license.

(b) The Section's representative shall make one or more visits to the center to determine compliance with the licensing standards. The first of these compliance inspection visits shall be made during the 60 days immediately preceding the expiration date on the license. This shall be the announced renewal visit. The representative shall review the records and documents identified in Rule .0302(d) and (e), observe in the classrooms, and perform other activities necessary to evaluate compliance.

(c) When the Section's representative documents noncompliance on the announced renewal visit, based on the severity and extent of noncompliance, the representative may return to the facility at a later date, but prior to the license expiration date, to determine if compliance has been achieved; advise the licensee to submit written verification that the noncompliance has been corrected; recommend issuance of a provisional license in accordance with Section .0400 of this Subchapter; or recommend denial of the application for renewal. Final disposition of the recommendation to deny is the decision of the Section Chief. When the application for renewal of a license has been denied, the letter of denial shall be posted prominently in the facility immediately upon receipt. The stipulations of Rule .0302(h) shall apply.

(d) When the center is in compliance with licensing standards, the Section's representative shall submit forms and supporting documentation, together with the signed application for renewal, to the Section for final review and approval for renewal of the license.

(e) Regardless of the reason, when an application for renewal is received by the Section after the license expiration date, the existing license shall remain valid until the Section notifies the licensee otherwise pursuant to the provisions of 150B-3.

History Note: Statutory Authority G.S. 110-88(5); 110-93; 143B-168.3; 150B-3;
Eff. January 1, 1986;
Amended Eff. October 1, 1991; August 1, 1990; July 1, 1988;
January 1, 1987.

SECTION .0400 - PROVISIONAL AND TEMPORARY LICENSES

.0401 PROVISIONAL LICENSES

(a) A provisional license may be issued in accordance with the provisions of G.S. 110-88(6) for any period of time not to exceed twelve consecutive months for any of the following reasons:

- (1) To allow a specific time period for correcting a violation of the building, fire, or sanitation requirements, provided that the appropriate inspector documents that the violation is not hazardous to the health or safety of the children, but nevertheless necessitates a provisional classification until corrected.
- (2) To allow a specific time period for the center to comply fully with all licensing requirements other than building, fire, or sanitation, and to demonstrate that compliance will be maintained, provided that conditions at the center are not hazardous to the health or safety of the children or staff;
- (3) To allow time for the applicant or licensee to obtain a declaratory ruling pursuant to Section .2000 of this Subchapter.
- (4) To allow an applicant to open a facility even though a license has not been issued, provided the applicant made initial application for a day care license at least four weeks prior to the scheduled opening date, has complied with the Section's requests for information to demonstrate potential compliance with the General Statutes and the rules of this Subchapter, and the Section has not determined that the applicant is ineligible for a license.

(b) The provisional license may be issued upon the Section's determination that the applicant or licensee is making a reasonable effort to conform to such requirements.

(c) The provisional license and the document describing the reasons for its issuance shall be posted in a prominent place in the center.

(d) A licensee may obtain an administrative hearing on the issuance of a provisional license in accordance with Section .2000 of this Subchapter.

History Note: Statutory Authority G.S. 110-88(6); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. August 1, 1990; July 1, 1988; January 1, 1987.

.0402 SPECIAL PROVISIONAL LICENSE

History Note: Repealed Eff. July 1, 1988.

.0403 TEMPORARY LICENSES

(a) A temporary license may be issued in accordance with the provisions of G.S. 110-88(10) to the operator of a previously licensed facility when a change in ownership or location occurs, provided the operator applied for a license, pursuant to Section .0300, and Rule .0204(a) or (b) of this Subchapter, prior to the change in status.

(b) The temporary license shall be posted in a prominent place in the center.

(c) The temporary license shall expire after ninety days, or upon the issuance of a license or provisional license to the operator, whichever is earlier.

(d) An operator may obtain an administrative hearing on the denial of a temporary license in accordance with Section .2000 of this Subchapter.

History Note: Statutory Authority G.S. 110-88(10); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

SECTION .0500 - AGE APPROPRIATE ACTIVITIES FOR CENTERS

.0501 STAFF/CHILD RATIO

.0502 CAREGIVING ACTIVITIES FOR INFANTS AND TODDLERS

.0503 CAREGIVING ACTIVITIES FOR PRESCHOOL-AGED CHILDREN

.0504 CAREGIVING ACTIVITIES FOR SCHOOL-AGED CHILDREN

History Note: Repealed Eff. July 1, 1988.

.0505 DEVELOPMENTAL DAY CENTERS

Child day care centers which meet the criteria for developmental day centers, as defined in 10 NCAC 18M .0701 (contained in APSM 35-1, Standards for Area Programs and Their Contract Agencies, published by the Division of Mental Health, Mental Retardation and Substance Abuse Services), shall be determined in compliance with the provisions of Rules .0507 through .0511 of this Section by complying with the requirements for activities for developmental day centers set forth in 10 NCAC 18M .0707, .0708 and .0713.

History Note: Statutory Authority G.S. 110-91(2), (12); 143B-168.3
Eff. January 1, 1987;
Amended July 1, 1988.

.0506 WRITTEN SCHEDULE: CENTERS

(a) Centers shall have a schedule for each group of children posted for easy reference by parents and caregivers.

(b) The schedule shall show blocks of time usually assigned to types of activities and shall include periods of time for both active play and quiet play or rest.

(c) The activities and allotted times reflected in the schedule shall be age appropriate for the children in the group.

(d) When children two years old or older are in care, the schedule shall also reflect daily opportunities for both free-choice and teacher-directed activities.

History Note: Statutory Authority G.S. 110-91(2), (12); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

.0507 ACTIVITY PLAN: SMALL CENTERS

(a) Pursuant to G.S. 110-91(12), each small day care center shall have a written plan of age-appropriate activities which is made available to parents. The plan may be posted in the center or included in the operational policy literature given to parents when the child is enrolled.

(b) The written plan shall describe the type of program offered by the center and shall include a general description of the activities made available to the children.

History Note: Statutory Authority G.S. 110-91(12); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

.0508 ACTIVITY PLAN: MEDIUM AND LARGE CENTERS

(a) A written plan of age-appropriate activities designed to stimulate the social, emotional, intellectual and physical development of children shall be developed for each group of children in care.

(b) The activity plan shall always be current and accessible for easy reference by parents and caregivers.

(c) The activity plan shall include at least one daily activity for each developmental goal specified in Paragraph (a) of this Rule. Activities which allow children to choose to participate with the whole group, part of the group, or independently shall be identified. The plan shall reflect that the children have at least four different activities in which they may choose to participate on a daily basis.

History Note: Statutory Authority G.S. 110-91(12); 143B-168.3;
Eff. July 1, 1988.

.0509 ACTIVITIES: GENERAL REQUIREMENTS FOR CENTERS

(a) Each center providing care to children aged two years and older shall have equipment and materials available on a daily basis. The equipment and materials shall be appropriate for the ages of the children in care.

(b) The materials shall be sufficient in quantity to provide a variety of play experiences which stimulate the children's social, emotional, intellectual and physical development and the materials shall be easily accessible to the children.

(c) Teacher-made and home-made equipment and materials may be used if they are safe and functional.

(d) Age appropriate equipment and materials shall be provided for a variety of outdoor activities which allow for vigorous play and large muscle development. Each child shall have the opportunity for outdoor play each day that weather conditions permit. The facility shall provide space and time for vigorous indoor activities when children cannot play outdoors.

History Note: Statutory Authority G.S. 110-91(2), (12); 143B-168.3;
Eff. July 1, 1988.

.0510 ACTIVITY AREAS: PRESCHOOL CHILDREN TWO YEARS AND OLDER

(a) Each small, medium and large day care center shall have equipment and materials available in activity areas on a daily basis.

(b) An activity area is an identifiable space where related equipment and materials are kept in an orderly fashion which is accessible to the children.

(c) Each activity area shall contain enough materials to allow three related activities to occur at the same time. The materials and equipment shall be in sufficient quantity to allow at least three children to use the area regardless of whether the children choose the same or different activities.

(d) Each center shall make at least four of the activity areas listed in Paragraph (e) of this Rule available daily to preschool children two years or older as follows:

(1) Medium and large centers shall have at least four activity areas available in the space occupied by each group of children.

(2) Small day care centers shall have at least four activity areas available daily. In small centers, separate groups of children may share use of the same activity areas.

(e) Whenever one of these activity areas is available for use by children, it shall contain, at a minimum, the items specified in this Rule as follows:

(1) Art and other creative play materials:

(A) Each art activity area shall contain crayons and plain paper, paste or glue, and paint and paint brushes.

(B) In addition, each art activity area shall have three of the following items available to the children: scissors, construction paper, easel, clay or playdough, or collage materials.

(2) Children's books:

(A) Each book activity area shall have at least two age-appropriate books available for each child in the group (as defined in Rule .0102 of this Subchapter) to which the activity area is accessible. Books in other activity areas accessible to the same group of children may be counted in the minimum number of required books; or

- (B) The center shall have one book available to each child enrolled in the center.
- (C) In addition to books, the center shall make available at least two other items which are designed to promote language development, such as puppets, flannel boards (or similar items) and appropriate accessories, pictures, or language tapes.
- (3) Blocks and block building accessories:
 - (A) Each block activity area shall contain a minimum of 90 blocks consisting of unit blocks or table blocks, or a combination of the two, in at least three different shapes and sizes.
 - (B) In addition, the block area shall contain at least two different types of block-building accessories, such as vehicles, animals, human figures, or fences.
- (4) Manipulative materials:
 - (A) Each manipulative activity area shall contain a variety of manipulative materials designed to promote development of small muscle coordination.
 - (B) Each manipulative activity area shall have at least one item or set of items for each two children in the group (as defined in Rule .0102 of this Subchapter) to which the activity area is accessible. There shall be a minimum of ten items or sets of items in each activity area.
- (5) Housekeeping and dramatic play materials:
 - (A) Each housekeeping activity area shall have a sturdy child-sized play stove, table and chairs, and dolls.
 - (B) In addition, the activity area shall contain at least three of the following items: sturdy play sink, play refrigerator, doll bed, full-length mirror, dress-up clothes, or realistic accessories such as pots and pans, utensils, dishes, or doll clothes and linens.
- (f) In addition to the activity areas which are available each day, each center shall have materials and equipment in sufficient quantity, as described in Paragraph (c) of this Rule, to ensure that activities are made available at least once per month in each of the five program areas listed in Paragraph (e).
- (g) Each center shall provide materials and opportunities for music and rhythm activities, science and nature activities, and sand and water play for each group of children at least once per month.

History Note: Statutory Authority G.S. 110-91(6),(12); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. October 1, 1991.

.0511 ACTIVITIES FOR INFANTS AND TODDLERS

- (a) Each center providing care to infants and toddlers shall have three different age appropriate toys for each child under the age of two years.
- (b) The center shall provide time and space for sleeping, eating, toileting, diaper changing, and playing according to each child's individual need.
- (c) The caregivers shall provide opportunities for frequent interaction between the caregiver and each child.
- (d) Infants shall have their positions and locations changed throughout the day and shall have frequent opportunities each day to be outside the crib or playpen in addition to the time spent attending to their physical care. A safe, clean, uncluttered area shall be available to infants to crawl or creep.
- (e) Each child shall have the opportunity to be outdoors daily when weather conditions permit.
- (f) Children shall be toilet trained according to individual readiness.

History Note: Statutory Authority G.S.110-91(2),(12); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. October 1, 1991; January 1, 1991.

SECTION .0600 - SAFETY REQUIREMENTS FOR DAY CARE CENTERS

.0601 SAFE ENVIRONMENT

- (a) A safe indoor and outdoor environment shall be provided for the children in care.
- (b) All hazardous items, materials and equipment shall be used by children only when adult supervision is provided.
- (c) Each day care center shall provide equipment and furnishings that are child-size or which can be adapted for safe and effective use by children. Chairs and tables shall be of proper height for the children who will be using them.

History Note: Statutory Authority G.S. 110-85(2); 110-91(3), (6); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1991.

.0602 CONDITION OF EQUIPMENT AND FURNISHINGS

- (a) All equipment and furnishings shall be in good repair and shall be maintained in useable condition.
- (b) Equipment and furnishings shall be sturdy, stable, free of sharp edges, lead based paint, loose nails, splinters and other hazards that may injure children.
- (c) All stationary outdoor equipment must be firmly anchored.
- (d) All broken equipment or furnishings must be removed from the premises or must be stored so that they are not accessible to the children.

History Note: Statutory Authority G.S. 110-91(6); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1991.

.0603 OVERNIGHT FURNISHINGS

A safe and comfortable bed, crib, or cot, equipped with a firm waterproof mattress at least four inches thick, will be provided for each child who remains in the center after midnight.

History Note: Statutory Authority G.S. 110-91(6); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1991.

.0604 GENERAL SAFETY REQUIREMENTS

- (a) Potentially hazardous items, such as firearms and ammunition, hand and power tools, nails, chemicals, lawn mowers, gasoline or kerosene, archery equipment, propane stoves, whether or not intended for use by children, shall be stored in locked areas or with other appropriate safeguards, or shall be removed from the premises.
- (b) Electrical outlets not in use which are located in space used by the children shall be covered with safety plugs unless located behind furniture or equipment that cannot be moved by a child.
- (c) Electric fans shall be mounted out of the reach of children or shall be fitted with an appropriate mesh guard to prevent access by children.
- (d) All small electrical appliances shall be used only in accordance with the manufacturer's instructions.
- (e) Electrical cords shall not be accessible to infants and toddlers. Extension cords, except as approved by the local fire inspector, shall not be used. Frayed or cracked electrical cords shall be replaced.
- (f) All materials used for starting fires, such as matches and lighters, shall be kept in locked storage or shall be stored out of the reach of children.
- (g) Smoking shall not be permitted in space used by children when children are present. All smoking materials must be kept in locked storage or out of the reach of children.

(h) Fuel burning heaters, fireplaces and floor furnaces shall be provided with a protective screen attached securely to substantial supports to prevent access by children and to prevent objects from being thrown into them.

(i) Plants that are toxic shall not be in indoor or outdoor space that is used by or is accessible to children.

(j) Gates to the fenced outdoor play area shall remain securely closed while children occupy the area. When the facility uses areas outside the fenced outdoor play area for children's activities or takes children off the premises for play or outings, the parent of each child shall give written permission for the child to be included in such activities. The permission may be: (1) a one-time, blanket permission for all activities; (2) a one-time, blanket permission for a specific activity at any time; or (3) a one-time permission for a specific activity at a designated time. The facility shall maintain the signed permission in the child's record. When children are taken off the premises, staff accompanying the children shall have a list of the names of all children participating in the outing.

(k) Air conditioning units shall be located so that they are not accessible to children or shall be fitted with a mesh guard to prevent objects from being thrown into them.

(l) Gas tanks shall be located so they are not accessible to the children or shall be in a protective enclosure or surrounded by a protective guard.

(m) Cribs and playpens shall be placed so that the children occupying them shall not have access to cords or ropes, such as venetian blind cords.

History Note: Statutory Authority G.S. 110-85(2); 110-91(3), (6); 143B-168.3;
Eff. January 1, 1991;
Amended Eff. November 1, 1991.

SECTION .0700 - STAFF REQUIREMENTS AND STAFF/CHILD RATIOS

(For additional information about staff qualifications, please refer to G.S. 110-91(8) in your copy of the Child Day Care Law.)

.0701 HEALTH REQUIREMENTS

(a) Prior to the time of employment, all personnel, including the director, shall furnish a statement, signed by a licensed physician or an authorized health professional under his/her supervision, that indicates that the person is emotionally and physically fit to care for children. For the purposes of this Rule, an authorized health professional means a nurse practitioner or physician's assistant currently approved to perform medical acts by the North Carolina Board of Medical Examiners.

(b) The Section, or the director of the day care center, may request another evaluation of an employee's emotional and physical fitness to care for children when there is reason to believe that there has been deterioration in the person's emotional or physical fitness to care for children. The Section may request another evaluation of the center director's emotional and physical fitness when deemed necessary.

(c) An annual test showing each employee, including the director, to be free of active tuberculosis is required.

(d) Each employee, including the director, shall also annually submit a medical statement from a licensed physician or authorized health professional as defined in Paragraph (a), or must complete a health questionnaire giving information about the status of his/her health. This questionnaire will be prepared by the Section and approved by the Child Day Care Commission.

(e) Staff medical statements, proof of annual tuberculosis tests, and completed health questionnaires shall be included in the employee's individual personnel file in the center.

History Note: Statutory Authority G.S.110-91(1), (8), (9); 143B-168.3;
Eff. January 1, 1986.

.0702 HEALTH REQUIREMENTS FOR SUBSTITUTES AND VOLUNTEERS

(a) The substitute staff and volunteers who are counted in the child day care staff/child ratio shall comply with the health standards contained in this Section.

(b) All substitutes and volunteers not included in the child day care staff/child ratio shall complete the health questionnaire described in Rule .0701 of this Section prior to coming into contact with children at the center and will complete a health questionnaire annually thereafter as long as they continue to work in the center.

History Note: Statutory Authority G.S. 110-91(1), (8), (9); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. October 1, 1991.

.0703 GENERAL STATUTORY REQUIREMENTS

(a) Staff counted toward meeting the staff/child ratio requirements set forth in Rules .0712 and .0713 of this Section shall meet the requirements of G.S. 110-91(8). No one under 18 years of age shall have full responsibility for or be left in charge of a group of children.

(b) Anyone who is at least 13 years of age, but less than 16 years of age, may work in a day care center on a volunteer basis, as long as he or she is supervised by and works with a required staff person who is at least 21 years of age, and also meets the health standards for volunteers found in Rule .0702 of this Section. No one younger than 16 years old shall be left alone with children nor counted toward meeting the required staff/child ratio.

(c) The provisions of G.S. 110-91(8) which exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from

operating or being employed in a day care facility are hereby incorporated by reference in accordance with G.S. 150B-14(c) and shall also apply to any person on the premises with the operator's permission when the children are present. This exclusion does not include parents or other persons who enter the facility only for the purpose of performing parental responsibilities; nor does it include persons who enter the facility for brief periods for the purpose of conducting business with the operator and who are not left alone with the children.

History Note: Statutory Authority G.S. 110-85; 110-91(8); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1990; July 1, 1988; January 1, 1987.

.0704 PRESERVICE REQUIREMENTS FOR ADMINISTRATORS

(a) The on-site administrator who has overall responsibility for planning and administering the child care program shall meet the following requirements:

- (1) Be at least 21 years of age, and be literate; and
- (2) Have either a high school or general education diploma; and
- (3) Have two years of full-time verifiable child day care or early childhood experience; or an undergraduate, graduate, or associate degree, with at least 12 semester hours in child development, child psychology, early childhood education or directly related field; or a Child Development Associate Credential; or completion of a community or technical college curriculum program in the area of child care or early childhood; and
- (4) Have verification of having successfully completed, or be currently enrolled in, 3 quarter hours, or 33 clock hours, of training in the area of child care program administration; or, have one year experience performing administrative responsibilities; or, have one year experience performing administrative responsibilities and have another full-time staff person, who meets (1) through (3) of this Paragraph who is responsible for planning and implementing the daily program at the center to comply with Sections .0500 and .0600 of this Subchapter.

(b) The administrator of a child day care program who does not routinely work on site, or who is responsible for more than one child day care arrangement, shall have verification of having successfully completed, or be currently enrolled in, 3 quarter hours, or 33 clock hours, of training in child care program administration; or, have one year experience performing administrative responsibilities and have at least one full-time staff person on site at each center who meets the requirements of (1) through (3) of Paragraph (a) of this Rule.

(c) Any person who is at least 21 years old and literate who was employed as an on-site administrator in a day care program on or before September 1, 1986, shall be exempt from the provisions of Paragraphs (a) and (b) of this Rule.

History Note: Statutory Authority G.S. 110-91(8); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989; July 1, 1988; January 1, 1987.

.0705 SPECIAL TRAINING REQUIREMENTS

(a) At least one staff member shall be knowledgeable of and able to recognize common contagious and infectious diseases.

(b) The facility shall have on file verification that there is at least one staff person present at the center at all times children are in care who has successfully completed a course in basic first aid within the last three years. The basic first aid course at a minimum shall address principles for responding to emergencies and techniques for handling common childhood injuries, accidents and illnesses such as: choking, burns, fractures, bites and stings, wounds, scrapes, bruises, cuts and lacerations, poisoning, seizures, bleeding, allergic reactions, eye and nose injuries and sudden changes in body temperature.

(c) A first aid information sheet shall be posted in a prominent place for quick referral. Copies of this form may be requested from the Medical Society of the State of North Carolina, P.O. Box 27167, Raleigh, North Carolina, 27611.

(d) At least one person who has a current life saving training certificate, issued by the Red Cross or other issuing entity approved by the Section, appropriate for both the type of body of water and type of aquatic activities shall supervise the children whenever they are participating in swimming or other aquatic activities in or near a swimming pool or other body of water as required in Rule .1403 of this Subchapter.

(e) Each day care facility shall have at least one person on the premises at all times who is certified by either the American Heart Association or the American Red Cross to perform cardiopulmonary resuscitation appropriate for the ages of children in care.

History Note: Statutory Authority G.S. 110-91; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1992; January 1, 1991; January 1, 1987.

.0706 STAFF DEVELOPMENT PLAN

History Note: Repealed Eff. July 1, 1988.

.0707 IN-SERVICE TRAINING REQUIREMENTS

(a) Each day care center shall provide, or arrange for the provision of, training for staff to assure that each new staff person who has contact with the children will receive a minimum of ten clock hours of orientation within the first six weeks of employment. This orientation shall include training in their job-specific duties and responsibilities; a review of the child day care licensing law and regulations; a review of the individual center's personnel and operational policies, purpose, and goals; an explanation of the role of state and local government agencies, their effect on the center, their availability as a resource, and individual staff responsibilities to representatives of state and local government agencies; observation of center operations; maintaining a safe and healthy environment; and training to recognize symptoms of child abuse and neglect.

(b) The center director and any staff who have responsibility for planning and supervising a day care program, as well as staff who work directly with children, shall participate in in-service training activities annually, according to the individual's assessed needs. Staff may choose one of the following options for meeting the in-service requirement:

- (1) Each staff person shall complete in-service training activities which are related to child care or to the person's job responsibilities as specified in the following Subparagraphs:
 - (A) persons with a four-year degree in a child care-related field of study from a regionally accredited college or university shall complete five clock hours of training annually;
 - (B) persons with a two-year degree in a child care-related field of study from a regionally accredited college or university, or persons with at least fifteen years documented, professional experience as a teacher, director or caregiver in a licensed or registered child care arrangement and a cumulative total of more than fifty hours of approved in-service training shall complete eight clock hours of training annually;
 - (C) persons with a one-year certificate in a child care-related field of study from a regionally accredited college or university, or persons with at least ten years documented, professional experience as a teacher, director or caregiver in a licensed or registered child care arrangement and a cumulative total of more than fifty hours of approved in-service training, or persons with a Child Development Associate Credential shall complete ten clock hours of training annually;

(D) all other persons shall complete twenty clock hours of training annually; or

- (2) If the staff person has completed 6 quarter hours or 66 clock hours of early childhood education or child development and is enrolled in an early childhood or child development curriculum program, completion of or enrollment in a course which is required or approved for completion of that curriculum program will fulfill the annual in-service requirement.

(c) For staff working less than 40 hours per week on a regular basis and choosing the option for 20 hours of in-service training, the training requirement may be prorated as follows:

<u>WORKING HOURS PER WEEK</u>	<u>CLOCK HOURS REQUIRED</u>
0 - 10	5
11 - 20	10
21 - 30	15
31 - 40	20

(d) Clock hours of training or education related to child care may be accumulated for up to three years and counted toward the annual in-service training requirement.

History Note: Statutory Authority G.S. 110-91(11); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. October 1, 1991; November 1, 1989; July 1, 1988;
January 1, 1987.

.0708 MEETING IN-SERVICE REQUIREMENTS

Staff may meet the in-service training requirements by attending child care workshops, conferences, seminars, or courses provided each training activity satisfies the following criteria:

- (1) Prior approval from the Section is not required for training offered by an accredited college or university, government agency, or state or national professional organization or its recognized affiliates, provided the content complies with the provisions of Rule .0707(b).
- (2) Prior approval from the Section is required on an annual basis for training provided by agencies and organizations which have staff who provide, or who arrange for the provision of, training for child care operators and staff. To obtain such approval, the agency or organization shall submit its annual training plan to the Section.
- (3) Prior approval for each training event must be obtained from the Section by any organization, association, or individual not included in Paragraphs (1) and (2) of this Rule.
- (4) No more than five clock hours of the 20 clock hours of training required annually shall be provided on site by center staff. This restriction shall not apply if the center staff providing the training have been approved according to the criteria outlined in either Paragraph (1) or (2) of this Rule.

History Note: Statutory Authority G.S. 110-91(11); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989; July 1, 1988; January 1, 1987.

.0709 DOCUMENTATION OF INSERVICE TRAINING

Each center shall have a record of training activities in which each staff participates. That record shall include the subject matter, training provider, date provided, hours, and name of staff who completed the training. This documentation shall be on file and current.

History Note: Statutory Authority G.S. 110-91(9), (11); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 1988.

.0710 PRESERVICE REQUIREMENTS FOR TEACHERS AND AIDES

(a) The teacher-caregiver with responsibility for planning and implementing the daily program for each group of children shall be at least 18 years of age, literate, and have at least one of the following:

- (1) A high school or general education diploma and one of the following:
 - (A) One year of verifiable experience working in a child day care center;
 - (B) Twenty additional hours of training within the first six months of employment; or
 - (C) Successful completion of the Department of Public Instruction's Child Care Services Occupational Home Economics Program; or
 - (D) A passing grade in at least the equivalent of four semester hours in child development at a regionally accredited college or university.
- (2) A Child Development Associate Credential.
- (3) Graduation from a child care or early childhood curriculum program at a community college or technical college.
- (4) An undergraduate or graduate degree with at least the equivalent of four semester hours in child development.
- (5) Five years of verifiable experience working in child day care.

(b) An aide or person responsible to the teacher-caregiver for assisting with planning and implementing the daily program shall be at least 16 years old and literate.

History Note: Statutory Authority G.S. 110-91(8); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. October 1, 1991; November 1, 1989.

.0711 PRESERVICE REQUIREMENTS FOR OTHER STAFF

(a) Any person whose job responsibility includes driving a vehicle to transport children shall:

- (1) Be at least 18 years of age; or a duly licensed school bus driver; and
- (2) Have no conviction of Driving While Impaired (DWI) or other impaired driving offense within the last three years; and
- (3) Have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides.

(b) Non-caregiving staff or any person providing support to the operation of the program shall be at least 16 years of age; and meet the requirements of the local health department for food handlers, if applicable, when duties are related to food preparation or food service.

(c) Any teacher substitute shall be at least 18 years old and literate. Any substitute driver shall comply with the requirements of Paragraph (a) of this Rule.

History Note: Statutory Authority G.S. 110-91(8); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. October 1, 1991; November 1, 1989.

.0712 STAFF/CHILD RATIOS FOR SMALL CENTERS

(a) The staff/child ratios and group sizes for a small day care center are as follows:

<u>Age of Children</u>	<u># Children</u>	<u>#Staff</u>	<u>Group Size</u>
0 to 5 years	6	1	12
1 to 5 years	7	1	14
2 to 5 years	10	1	20
3 to 5 years	15	1	25
5 years and older	20	1	25

(b) When only one caregiver is required to meet the staff/child ratio, and children under two years of age are in care, that person shall not concurrently perform food preparation or other duties which are not direct child care responsibilities.

(c) When only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:

- (1) The center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or
- (2) There shall be a second adult on the premises who is available to provide emergency relief.

History Note: Statutory Authority G.S. 110-91(7); 143B-168.3;
Eff. December 1, 1988;
Amended Eff. January 1, 1992; August 1, 1990.

.0713 STAFF/CHILD RATIOS FOR MEDIUM AND LARGE CENTERS

(a) The staff/child ratios and group sizes for single-age groups of children in medium and large day care centers are as follows:

<u>Age of Children</u>	<u># Children</u>	<u># Staff</u>	<u>Group Size</u>
0 to 1 year	6	1	12
1 to 2 years	7	1	14
2 to 3 years	12	1	24
3 to 4 years	15	1	25
4 to 5 years	20	1	25
5 years and older	25	1	25

(b) In any multi-age group situation, the staff/child ratio for the youngest child in the group shall be maintained for the entire group.

(c) Children younger than two years old may be cared for in groups with older children at the beginning and end of the operating day provided the staff/child ratio for the youngest child in the group is maintained.

(d) A child two years of age and older may be placed with children under one year of age when a physician certifies that the developmental age of the child makes this placement appropriate.

(e) When determined to be developmentally appropriate by the operator and parent, a child age two or older may be placed one age level above his or her chronological age without affecting the staff/child ratio for that group. This provision shall be limited to one child per group.

(f) Except as provided in Paragraphs (c) and (d), children under one year of age shall be kept separate from children two years of age and over. Also, children between the ages of 12 months and 24 months shall not be routinely grouped with older children unless all children in the group are less than three years old.

(g) When only one caregiver is required to meet the staff/child ratio, and no children under two years of age are in care, that person may concurrently perform food preparation or other duties which are not direct child care responsibilities as long as supervision of the children as specified in Rule .0714(e) of this Section is maintained.

(h) When only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:

- (1) The center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or
- (2) There shall be a second adult on the premises who is available to provide emergency relief.

(i) Except as provided in Paragraph (g) of this Rule, staff members and administrators who are counted in meeting the staff/child ratios as stated in this

rule shall not concurrently perform food preparation or other duties which are not direct child care responsibilities.

History Note: Statutory Authority G.S. 110-91(7); 143B-168.3;
Eff. December 1, 1988;
Amended Eff. January 1, 1992; August 1, 1990; November 1, 1989.

.0714 OTHER STAFFING REQUIREMENTS

(a) Each day care center shall have an administrator on site on a regular basis. This requirement may be met by having one or more persons on site who meet the requirements for an administrator for the size center being operated according to the following schedule:

- (1) Each small center shall have an administrator on site for at least 20 hours per week.
- (2) Each medium center shall have an administrator on site for at least 25 hours per week.
- (3) Each large center shall have an administrator on site for at least 30 hours per week.

(b) At least one person who meets the requirements for an administrator or teacher as set forth in this Section shall be on site during the center's operating hours except that a person who is at least 18 years old and literate and who has a minimum of one year's experience working with children in a day care center may be on duty at the beginning or end of the operating day provided that:

- (1) No more than ten children are present.
- (2) The staff person has worked in that center for at least three months.
- (3) The staff person is thoroughly familiar with the center's operating policies and emergency procedures.

(c) At least one person who meets the requirements for a teacher set forth in Rule .0710 of this Section shall be responsible for each group of children as defined in Rule .0102 of the Subchapter except as provided in Paragraph (b) of this Rule.

(d) A teacher aide is a person who is responsible to the teacher and assists with planning and implementing the daily program. An aide shall not have full responsibility for a group of children except as provided in Paragraph (b) of this Rule.

(e) Children shall be supervised at all times. Supervision shall mean visual supervision with the exception of brief periods necessitated by emergencies and day-to-day child care responsibilities.

(f) For groups of children aged two years or older, the staff/child ratio during nap time is considered in compliance if at least one person is either in each room or is visually supervising all the children and if the total number of required staff are on the premises and within calling distance of the rooms occupied by children.

(g) Arrangements shall be made for qualified substitutes or temporary replacements when regular staff are absent. When regular staff fail to report to work or leave work for a reason which cannot be scheduled or planned, such as personal emergencies or illness, the person in charge of the center shall replace the absent staff with a substitute within two hours of the time the regular staff was scheduled to begin work or left work. Supervision of all children as specified in Paragraph (e) of this Rule shall be maintained, even if staff/child ratio and space occupancy requirements must be violated until the substitute arrives. This allowance does not apply to failure to return on time from regular lunch or break times. Notwithstanding the inability to plan or anticipate this situation, centers in which this allowance is used more than three times within a month will lose for three months the right to violate staff/child ratio or space occupancy requirements in such circumstances without penalty. When this provision is used, the circumstances that required its use shall be documented by the person in charge.

History Note: Statutory Authority G.S. 110-91(7),(8); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. October 1, 1991; November 1, 1989.

SECTION .0800 - HEALTH REQUIREMENTS FOR CHILDREN

(For additional information about health requirements for children, please refer to G.S. 110-91(1) in your copy of the Child Day Care Law.)

.0801 APPLICATION FOR ENROLLMENT

- (a) Each child in care shall have an individual application for enrollment completed and signed by the child's parent, legal guardian, or full-time custodian.
- (1) The completed, signed application shall be on file in the center on the first day the child attends and shall remain on file until the child is no longer attending.
 - (2) The completed application shall include emergency medical information as specified in Rule .0802(b).
 - (3) The completed application shall give the child's full name and indicate the name the child is to be called. In addition, the application shall include the child's date of birth and any allergies, particular fears, or unique behavior characteristics that the child has.
 - (4) The application shall include the names of individuals to whom the center may release the child as authorized by the person who signs the application.
- (b) Each child's application shall be readily available and easily accessible to caregiving staff during the time the children are present.

History Note: Statutory Authority G.S. 110-91(9); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

.0802 EMERGENCY MEDICAL CARE

- (a) Each day care center shall have a written plan which assures that emergency medical care is available or can be obtained for staff and children. This plan must give the procedures to be followed to assure that any child or staff person who becomes ill or is injured and requires medical attention while at the center, or while participating in any activity provided or sponsored by the center, receives appropriate medical attention. The following information shall be included in the center's emergency medical care plan:
- (1) The name, address, and telephone number of a physician, nurse, physician's assistant, nurse practitioner, community clinic, or local health department that is available to provide medical consultation;
 - (2) The name, address, and telephone number of the emergency room to be used when the parents or family physician cannot be reached or when transporting the ill or injured person to the person's preferred hospital could result in serious delay in obtaining medical attention;
 - (3) Designation of a means of transportation always available for use in the event of a medical emergency;
 - (4) The name of the person, and his or her alternate, at the center, responsible for determining which of the following is needed, carrying out that plan of action, and assuring that appropriate medical care is given:
 - (A) Simple first aid given at the center for an injury or illness needing only minimal attention;
 - (B) Advice from previously identified medical consultant in order to decide if care is to be given at the center or if the ill or injured person is to be transported to a designated medical resource; or
 - (C) Immediate transportation of the person to a designated medical resource for appropriate treatment;
 - (5) The person at the center who is responsible for:
 - (A) Assuring that the signed authorization described in Paragraph (c) of this Rule is taken with the ill or injured person to the medical facility;
 - (B) Accompanying the ill or injured person to the medical facility;

- (C) Notifying a child's parents or emergency contact person about the illness or injury and where the child has been taken for treatment;
 - (D) Notifying the emergency contact person when a staff person becomes ill or is injured to an extent requiring transportation to a medical facility;
 - (E) Notifying the medical facility about the ill or injured person being transported for treatment; and
 - (F) Obtaining substitute staff, if needed, to maintain required staff/child ratio and adequate supervision of children who remain in the center;
- (6) A statement giving the location of the telephone which is in good working condition and is always available for use in case of emergency. A telephone located in an office in the center that is sometimes locked during the time the children are present cannot be designated for use in an emergency.

(b) Emergency medical care information shall be on file for each individual child and staff person. That information shall include the name, address, and telephone number of the parent or other person to be contacted in case of an emergency, the responsible party's choice of health care provider, and preferred hospital; any chronic illness the individual has and any medication taken for that illness; and any other information that has a direct bearing on assuring safe medical treatment for the individual. This emergency medical care information shall be on file in the center on the child's first day of attendance or the staff person's first day of employment.

(c) Each child's parent, legal guardian, or full-time custodian shall sign a statement authorizing the center to obtain medical attention for the child in an emergency. That statement must be on file on the first day the child attends the center. It shall be easily accessible to staff so that it can be taken with the child whenever emergency medical treatment is necessary.

History Note: Statutory Authority G.S. 110-91(1),(2),(9); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. October 1, 1991; November 1, 1989.

.0803 ADMINISTERING MEDICATION

(a) No drug or medication shall be administered to any child without specific instructions from the child's parent, a physician, or other authorized health professional. No drug or medication will be administered after its expiration date.

- (1) Prescribed medicine must be in its original container bearing the pharmacist's label which lists the child's name, date the prescription was filled, the physician's name, the name of the medicine or the prescription number, and directions for dosage, or be accompanied by written instructions for dosage, bearing the child's name, which are dated and signed by the prescribing physician or other health professional. Prescribed medicine will be administered only to the person for whom it is prescribed.
- (2) Patent medicines, such as cough syrup, aspirin, or medication for intestinal disorders, shall be administered as authorized in writing by the child's parent, not to exceed amounts and frequency of dosage specified in the printed instructions accompanying the medicine. The parent's authorization must give the child's name, the name of the medicine, dosage instructions, the parent's signature, and the date signed. Patent medicine may also be administered in accordance with instructions from a physician or other authorized health professional.
- (3) When any questions arise concerning whether medication provided by the parent should be administered, that medication shall not be administered without signed, written dosage instructions from a licensed physician or authorized health professional.

(b) Any medication remaining after the course of treatment is completed must be returned to the child's parents.

History Note: Statutory Authority G.S. 110-91(1), (2), (9); 143B-168.3;
Eff. January 1, 1986.

.0804 INFECTIOUS AND CONTAGIOUS DISEASES

(a) Facilities may, but are not required to, care for a mildly ill child who has a temperature of less than 102 degrees Fahrenheit and who remains capable of participating in routine group activities; provided the child does not:

- (1) have the sudden onset of diarrhea characterized by an increased number of bowel movements compared to the child's normal pattern and with increased stool water; or
- (2) have two or more episodes of vomiting within a 12 hour period; or
- (3) have a red eye or eyes accompanied by a discharge that is not clear in color; or
- (4) have scabies or lice; or
- (5) have a physician's diagnosis requiring that the child be separated from other children.

(b) Facilities which choose to care for mildly ill children shall:

- (1) follow all procedures to prevent the spread of communicable diseases described in 15A NCAC 18A .2800, "Sanitation of Child Day Care Facilities", as adopted by the Health Services Commission;
- (2) separate from the other children any child who becomes ill while in care or who is suspected of having a communicable disease or condition other than as described in Paragraph (a) of this Rule until the child leaves the facility;
- (3) notify all parents at enrollment that the facility will be caring for mildly ill children;
- (4) immediately notify the parent of any child who becomes ill while in care or who is suspected of being ill with a communicable condition other than as described in Paragraph (a) of this Rule that the child is ill and may not remain in care;
- (5) immediately notify the parent of any sick child in care if the child's condition improves or worsens while the child is in care.

History Note: Statutory Authority G.S. 110-91(1), (2); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1991; November 1, 1989.

.0805 SANITARY FOOD SERVICE

(a) All food shall be served in a manner to minimize the possibility of contamination. In no instance shall any food be served directly on a table top, countertop, etc.

(b) No more than one child shall be fed with the same utensil, drink from the same cup or glass, or be fed from the same individual portion of food.

- (1) Each child shall be served individual portions of food on a plate or in another appropriate container.
- (2) Beverages shall be served to children in individual cups or glasses. Any child who is bottle-fed must be fed from the child's own bottle only.
- (3) Each child shall be fed with an individual spoon or other safe utensil.
- (4) Snack foods may be placed on an individual napkin or paper towel to be served to a child.

History Note: Statutory Authority G.S. 110-91(1); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

.0806 CLOTHING AND LINENS

(a) Diapers will be changed whenever they become soiled or wet and not on a shift basis.

(b) There must be clean clothes available so that when the clothes worn by a child become wet or soiled the child has clean clothes to put on. The change of clothing may be provided by the center or by the child's parents.

(c) A supply of clean linen must be on hand so that linens can be changed whenever they become soiled or wet.

History Note: Statutory Authority G.S. 110-91(1); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

SECTION .0900 - NUTRITION REQUIREMENTS

.0901 GENERAL NUTRITION REQUIREMENTS

(a) Meals and snacks served shall contain the food groups outlined in the Basic Four Food Guide which is based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The number and size of servings shall be appropriate for the ages and developmental levels of the children in care, as specified in the Appendices to the Licensing Manual, as approved by the Commission.

(b) Menus for nutritious meals and snacks shall be planned at least one week in advance. At least one dated copy of the current week's menu shall be posted where it can be seen easily by parents and food preparation staff when food is prepared or provided by the center. A variety of food shall be included in meals and snacks. Any substitution will be of comparable food value and will be recorded on the menu.

(c) When children bring their own food for meals or snacks to the center, or when food is catered, if the food does not meet the nutritional requirements specified in (a) of this Rule, the center must provide additional food necessary to meet those requirements.

(d) Drinking water must be freely available to children of all ages and offered at frequent intervals. Approved drinking fountains or individual drinking utensils shall be provided. When a private water supply is used, it must be tested by and meet the requirements of the Division of Health Services, Department of Human Resources.

(e) Children's special diets or food allergies shall be posted in the food preparation area and in the child's eating area.

(f) The food required by special diets may be provided by the center or may be brought to the center by the parents. If the diet is prescribed by a physician, written instructions will be provided by the child's parent, physician, or a registered dietitian.

(g) Food and beverages with little or no nutritional value, such as sweets, fruit drinks, soft drinks, etc., will be available only for special occasions and only in addition to nutritious meals and snacks.

History Note: Statutory Authority G.S. 110-91(2); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. October 1, 1991; November 1, 1989.

.0902 NUTRITION REQUIREMENTS FOR INFANTS

(a) The parent or physician of each child under 15 months of age shall provide the center an individual written feeding schedule for the child. This schedule must be followed at the center. This schedule must include the child's name and be dated when received by the center. Each infant's schedule shall be modified to reflect changes in the child's needs as he develops. The feeding instructions for each infant shall be posted for quick reference by the caregivers.

(b) Each infant will be held for bottle feeding until able to hold his or her own bottle. Bottles will not be propped. Older infants up to 24 months of age will be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed.

History Note: Statutory Authority G.S. 110-91(2); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

.0903 REQUIREMENTS FOR CHILDREN AGED 24 MONTHS AND OLDER

Meals and snacks shall be planned according to the number of hours a child is in the center. These rules apply in all situations except during sleeping hours and nighttime care:

- (1) For preschool-aged children in the center at least two hours but less than four hours, and for all school-aged children, one snack shall be provided unless the child is present during the time the center is serving a meal, in which case, a meal shall be provided.
- (2) For children in the center at least four hours, but less than six hours, one meal shall be provided equal to at least one-third of the child's daily food needs.
- (3) For children in the center at least six hours, but less than twelve hours, two meals and one snack or two snacks and one meal shall be provided equal to at least one-half of the child's daily food needs.
- (4) For children in the center more than twelve hours, two snacks and two meals shall be provided which are equal to at least two-thirds of the child's daily food needs.
- (5) No child shall go more than four hours without a meal or a snack being provided.
- (6) A nutritious evening meal must be provided to each child who receives second shift care (from approximately 3:00 p.m. to 11:00 p.m.) and who is present when the regularly scheduled evening meal is served.

History Note: Statutory Authority G.S. 110-91(2); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989; January 1, 1987.

SECTION .1000 - TRANSPORTATION REQUIREMENTS

.1001 SEAT RESTRAINTS

(a) All day care centers must abide by North Carolina law regulating the use of seat belts and child passenger restraint devices.

(b) All vehicles operated by a day care center staff person or volunteer, or under contract with a center to transport children, must be properly equipped with seat belts or child restraint devices which met applicable federal standards at the time of their manufacture.

(c) Whenever children are transported, each adult and child shall be restrained by an appropriate individual seat belt or restraint device when the vehicle is in motion. Only one person may occupy each seat belt or restraint device.

(d) Each child under three years of age shall be provided a child passenger restraint device appropriate for the child's size and age. Older children shall use child restraints or seat belts appropriate for their size.

(e) These restraint regulations do not apply to vehicles which are not required by state or federal law to be equipped with seat belts, except that children under one year of age shall never be transported outside an appropriate infant restraint device in any vehicle owned or operated under the auspices of the day care center.

History Note: Statutory Authority G.S. 110-91(13); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989; July 1, 1988;
January 1, 1987.

.1002 SAFE VEHICLES

(a) All vehicles used to transport children shall meet and maintain the safety inspection standards of the Division of Motor Vehicles of the Department of Transportation.

(b) Vehicles shall be insured for liability as required by state laws governing transportation of passengers.

(c) Vehicles used to transport children in snowy, icy, and other hazardous weather conditions must be equipped with snow tires, chains, or other safety equipment as appropriate.

History Note: Statutory Authority G.S. 110-91(13); 143B-168.3;
Eff. January 1, 1986.

.1003 SAFE PROCEDURES

(a) The center or other transportation provider shall comply with all applicable state and federal laws and regulations concerning the safe transportation of passengers.

(b) The driver or other adult in the vehicle shall assure that all children are received by a responsible person.

(c) Each center shall establish safe procedures for pick-up and delivery of children. These procedures shall be communicated to parents, and a copy shall be posted in the center where they can easily be seen.

(d) A first-aid kit shall be located in each vehicle used on a regular basis to transport children. The first-aid kit shall be firmly mounted or otherwise secured if kept in the passenger compartment.

(e) Emergency and identification information about each child must be in the vehicle whenever children are being transported.

(f) The driver shall be 18 years old or a duly licensed school bus driver and have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides and no conviction of Driving While Impaired (DWI) or any other impaired driving offense within the last three years.

- (g) Each person in the vehicle must be seated in the manufacturer's designated areas. No child shall ride in the load carrying area or floor of a vehicle.
- (h) Children shall never be left in a vehicle unattended by an adult.
- (i) Children shall be loaded and unloaded from curbside, or in a safe, off-street area, out of the flow of traffic, so that they are protected from all traffic hazards.

History Note: Statutory Authority G.S. 110-91(13); 143B-168.3;
Eff. January 1, 1986;
Amended October 1, 1991; January 1, 1987.

.1004 STAFF/CHILD RATIOS

(a) When children aged two years and older are being transported, the staff/child ratios required for compliance with day care center regulations as set forth in Section .0700 of this Subchapter shall apply.

(b) When three or more children under the age of two years are being transported, the staff/child ratio requirements for day care centers set forth in Section .0700 of this Subchapter for children under age two shall be maintained. The driver shall not be counted in the staff/child ratio.

History Note: Statutory Authority G.S. 110-91(13); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 1988.

SECTION .1100 - SANITATION INSPECTIONS

SECTION .1200 - SANITATION REQUIREMENTS FOR CENTERS

Effective July 1, 1991 Sections .1100 and .1200 were superceded by 15 A NCAC 18A .2800.

SECTION .1300 - BUILDING CODE REQUIREMENTS FOR DAY CARE CENTERS

.1301 REQUIREMENTS FOR CENTERS IN OPERATION PRIOR TO 4/1/72

For the purpose of carrying out the provisions of G.S. 110-91(4), the North Carolina Building Code standards for day care centers in operation prior to April 1, 1972 developed by the Building Code Council are hereby adopted by reference by the Child Day Care Commission. A copy of the North Carolina Building Code standards is on file at the Child Day Care Section, Division of Facility Services, 701 Barbour Drive, Raleigh, North Carolina, and will be available for public inspection during regular business hours.

History Note: Statutory Authority G.S. 110-91(4); 143B-168.3;
Eff. January 1, 1986.

.1302 BUILDING CODE REQUIREMENTS FOR DAY CARE CENTERS

For the purpose of carrying out the provisions of G.S. 110-91(4), the North Carolina Building Code standards for day care centers (more than 15 children) developed by the Building Code Council are hereby adopted by reference by the Child Day Care Commission. A copy of the North Carolina Building Code standards is on file at the Child Day Care Section, Division of Facility Services, 701 Barbour Drive, Raleigh, North Carolina, 27603, and will be available for public inspection during regular business hours.

History Note: Statutory Authority G.S. 110-91(4); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1987.

.1303 REQUIREMENTS FOR SMALL GROUP DAY CARE FACILITIES

For the purpose of carrying out the provisions of G.S. 110-91(4), the North Carolina Building Code standards for small group day care facilities (6-15 children) developed by the Building Code Council are hereby adopted by reference by the Child Day Care Commission. A copy of the North Carolina Building Code standards is on file at the Child Day Care Section, Division of Facility Services, 701 Barbour Drive, Raleigh, North Carolina and will be available for public inspection during regular business hours.

History Note: Statutory Authority G.S. 110-91(4); 143B-168.3;
Eff. January 1, 1986.

SECTION .1400 - SPACE REQUIREMENTS

.1401 INDOOR SPACE

(a) There shall be at least 25 square feet of indoor space for each child for which a day care center is licensed, exclusive of closets, passageways, kitchens and bathrooms.

(b) Indoor space on which licensed capacity is based will be referred to as "primary space". The licensing consultant will measure all primary space that will routinely be used by children who attend the center, except that the following will not be included: closets, hallways, storage areas, kitchens, bathrooms, utility areas; thresholds, foyers, space or rooms used for administrative activities or space occupied by adult-sized desks, cabinets, file cabinets, etc.; single-use rooms, including music rooms, isolation/sick rooms, gymnasiums, dining rooms, sleep rooms; any floor space occupied by or located under equipment, furniture, or materials not used by children; and any floor space occupied by or located under built-in equipment or furniture.

(1) Any single-use room used by the children for sleeping only, either during nap time or any other time, will also be measured by the Section's representative to assure that the available floor space provides 200 cubic feet of air space per child for the maximum number of children who will sleep in that room at any time.

(2) All measurements will be rounded off to the nearest inch.

(3) Total space on which the licensed capacity is based will be the sum of the measurements of all primary space to be used by the children. However, no room will routinely be occupied by more children than the primary space in that room will accommodate at 25 square feet of space per child. This is not meant to preclude grouping children together periodically for special activities, such as to view films or slides; for special presentations, such as puppet or magic shows, a special story teller, a discussion of safety practices by a fireman or nurse, etc. However, care must be taken to assure that during such special activities, the room used is not so overcrowded that the children and staff would be endangered in case of a fire or other emergency necessitating evacuation of the center.

(c) Paragraph (b) of this rule shall apply only to child day care centers initially licensed on or after February 1, 1985.

History Note: Statutory Authority G.S. 110-91(6); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

.1402 OUTDOOR SPACE

(a) When a center is licensed for six to twenty-nine children, inclusive, there shall be 75 square feet per child outdoor play area for the total number of children for which the center is licensed. In addition, the total number of children on the playground shall not exceed the number the space will accommodate at 75 square feet per child.

(b) When a center is licensed for 30 or more children, there shall be 75 square feet per child of outdoor play area for at least one-half of the total number for which the center is licensed, provided that the minimum amount of space on the outdoor play area must be enough to accommodate at least 30 children.

(c) Paragraphs (a) and (b) apply only to child day care centers initially licensed after April 1, 1984.

History Note: Statutory Authority G.S. 110-91(6); 143B-168.3;
Eff. January 1, 1986.

.1403 SWIMMING POOLS

(a) Except as provided in Paragraph (b) of this Rule, when children participate in swimming or other aquatic activities, a person who has a current life saving certificate, issued by the Red Cross or other issuing entity approved by the Section, appropriate for both the type of body of water and type of aquatic activities shall be present to supervise the children in or near the water and shall not be counted in the staff/child ratio.

(b) A person with lifeguard certification is not required when there are no more than 12 children present and the body of water has no portion deeper than 30 inches and the total surface area is not more than 400 square feet. The children shall be supervised by at least one adult who is certified to perform cardiopulmonary resuscitation appropriate for the ages of children in care.

(c) The staff/child ratios set forth in G.S. 110-91(7) shall be maintained whenever children participate in swimming activities, including swimming instruction.

(d) Any swimming pool deeper than 18 inches which is located on the day care center premises shall be enclosed by a fence and must be separated from the remaining outdoor play area by that fence.

History Note: Statutory Authority G.S. 110-88(5); 110-91(6); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1992; January 1, 1987.

SECTION .1500 - REQUIREMENTS FOR PART-TIME CARE

.1501 SCOPE

The regulations in this Section apply to centers offering temporary care exclusively and to the temporary care component of any other licensed child day care center. All regulations in this Subchapter pertaining to full-time child day care shall apply to temporary care arrangements, as defined in Rule .0102 of this Subchapter, except as provided in this Section.

History Note: Statutory Authority G.S.110-91(1); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

.1502 MEDICAL EXAMINATION

A medical examination report shall not be required for any child who receives only drop-in care, as defined in Rule .0102 of this Subchapter, or for any school-aged child who receives before/after-school care only.

History Note: Statutory Authority G.S. 110-91(1); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

.1503 BEDS, COTS, MATS AND LINENS

- (a) Neither a bed, cot, or mat and linen shall be required for any school-aged child who receives either before or after-school care or both, or seasonal care only.
- (b) When drop-in care is provided in combination with other types of care, a bed, cot, or mat must be provided for each preschool-aged child present during rest time.
- (c) Beds, cots, or mats do not have to be assigned to, or labeled for, each individual child.
- (d) Each bed, cot, or mat must be sanitized, in a manner approved by the local health department, after being used by one child and before being used by a different child.

History Note: Statutory Authority G.S. 110-91(1); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

.1504 ATTENDANCE RECORDS

Accurate daily records showing the arrival and departure times of each child receiving drop-in care shall be kept. When drop-in care is provided in combination with other types of care, the daily attendance records of children in the drop-in component shall be maintained separately from the attendance records of children in other components.

History Note: Statutory Authority G.S. 110-91(9); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

.1505 BUILDING APPROVAL FOR SCHOOL-AGED CARE

Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered an approved building to house any temporary care arrangement for school-aged children only. The operator of the arrangement will be responsible for obtaining and submitting copies of all applicable inspection reports to document such approval.

History Note: Statutory Authority G.S. 110-92; 143B-168.3;
Eff. January 1, 1986.

.1506 OUTDOOR PLAY AREA

If a day care center provides part-time or drop-in care exclusively, the center may choose to provide 35 square feet per child of indoor space in lieu of the outdoor play area as long as no child remains in care for more than a four-hour period per day.

History Note: Statutory Authority G.S. 110-91; 143B-168.3;
Eff. January 1, 1986.

SECTION .1600 - AA REQUIREMENTS

.1601 AA ADMINISTRATIVE POLICIES REQUIRED

Each AA center shall have administrative policies and practices which provide for responsible selection and training of staff, on-going communication with and opportunities for participation by parents, sound operational and fiscal management, and objective evaluation of the program, management and staff in accordance with the rules of this Section.

History Note: Statutory Authority G.S. 110-88(7); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989; July 1, 1988.

.1602 OPERATIONAL AND PERSONNEL POLICIES

(a) Each center shall have written policies which describe the operation of the center and the services which are available to parents and their children. The operational policies shall include at least the following information:

- (1) the days and hours the center operates;
- (2) age range of children served;
- (3) admission requirements and enrollment procedures;
- (4) parent fees and payment plan;
- (5) information about services provided by the center, i.e. number of meals served, before/after school care, transportation;
- (6) items, if any, to be provided by parents.

(b) Operational policies shall be discussed with parents at the time they inquire about enrolling their child in the day care center. A copy of the policies shall be given to the parents when their child is enrolled and they shall be notified in writing of all changes.

(c) Copies of the operational policies and any subsequent changes to those policies shall be distributed to the staff.

(d) Each center in which more than two staff are required to meet the AA staff/child ratios shall have written personnel policy which includes at least the following information:

- (1) job descriptions for each position;
- (2) minimum qualifications for each position including reference checks;
- (3) health and medical requirements;
- (4) requirements and provisions for inservice training;
- (5) provisions for leave time and other absence;
- (6) procedures for on-going supervision and regular evaluation of work performance; and
- (7) resignation and termination procedures.

(e) Personnel policies shall be discussed with each employee at the time of employment and a copy of the policies shall be available to all staff. Staff shall be notified in writing of any changes in personnel policies.

History Note: Statutory Authority G.S. 110-88(7); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 1988.

.1603 ADMINISTRATIVE RECORDS: PERSONNEL RECORDS

History Note: Repealed Eff. July 1, 1988.

.1604 PHYSICAL FACILITY AND EQUIPMENT FOR AA CENTERS

(a) There shall be at least 30 square feet inside space per child present at any one time and 100 square feet outside space per child present at any one time. Or, there shall be at least 35 square feet inside space per child present at any one time and 100 square feet outside space per child for at least 50 percent of the total number of children present at any one time.

(b) There must be an area which can be arranged for administrative and private conference activities.

History Note: Statutory Authority G.S. 110-88(7); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 1988.

.1605 HEALTH STANDARDS

History Note: Repealed Eff. July 1, 1988.

.1606 STAFF/CHILD RATIOS IN AA CENTERS

(a) The center shall comply with the staff/child ratios and group sizes set below:

Age	<u>Staff</u>	<u>Number of Children</u>	<u>Group Size</u>	<u>Staff</u>
Birth to 12 months	1	5	10	2
1 to 2 years	1	6	12	2
2 to 3 years	1	9	18	2
3 to 4 years	1	10	20	2
4 to 5 years	1	13	25	2
5 to 6 years	1	15	25	2
6 and older	1	20	25	2

(b) In any multi-age group situation, the staff/child ratio for the youngest child in the group shall be maintained for the entire group.

(c) The provisions of Paragraphs (c) through (h) of Rule .0713 shall apply to AA centers.

History Note: Statutory Authority G.S. 110-88(7); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. August 1, 1990; July 1, 1988.

.1607 STAFF/CHILD RATIOS FOR 6-16 CHILDREN INCLUSIVE

.1608 STAFF DEVELOPMENT

.1609 SPACE FOR INFANTS

.1610 INFANT CARE HEALTH AND SAFETY

.1611 SCHOOL AGE CARE

History Note: Repealed Eff. July 1, 1988.

.1612 AA CAREGIVING ACTIVITIES FOR PRESCHOOL-AGED CHILDREN

(a) Each center which provides care at the AA level shall comply with the requirements in Rule .0506 for written schedule, in Rule .0508 for written activity plans, and in Rule .0509 for general activity requirements.

(b) Each AA center providing care to preschool-age children aged two years old or older shall comply with the requirements for activity areas for preschool-age children in Rule .0510 except that all five of the activity areas listed in Paragraph (e) of Rule .0510 shall be available each day and the activities listed in Paragraph (g) of Rule .0510 shall be offered for each group of children at least once per week.

(c) The requirements for activities for infants and toddlers set forth in Rule .0511 shall apply to all AA centers providing care to children under two years of age.

History Note: Statutory Authority G.S. 110-88(7); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. October 1, 1991; July 1, 1988.

.1613 PARENT PARTICIPATION

(a) Each center shall have a plan which will encourage parent participation and inform parents about the program and its services. The plan shall be discussed with parents at the time the child is enrolled and shall be posted in the center or a copy shall be given to parents at the time of enrollment.

(b) The plan shall include the following:

- (1) a procedure for registering a child for day care which involves both parents or parent substitutes when possible and which encourages a visit to the center by the child and the child's parent before the child begins attending the center;
- (2) opportunities for caregiving staff to meet with parents on a regular basis to discuss their child's needs and progress and to exchange information about the program;
- (3) activities which provide parents opportunities to participate in the center's program on an individual basis and as a group;
- (4) a procedure for parents who need information or have complaints about the child care program.

History Note: Statutory Authority G.S. 110-88(7); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989; July 1, 1988.

.1614 FAMILY SERVICE PROGRAM

History Note: Repealed Eff. July 1, 1988.

.1615 NIGHT CARE

(a) A variety of activities and experiences shall be available for children during the evening hours. Quiet activities will be planned just before bedtime. Children shall have opportunities to develop good personal care and health habits through routines.

(b) Schedules for the children receiving nighttime care must be flexible and individually planned.

(c) When possible, children shall be left for care and picked up before and after their normal sleeping period so that there is minimal disturbance of the child during sleep.

History Note: Statutory Authority G.S. 110-88(7); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1991.

SECTION .1700 - SMALL DAY CARE HOME REQUIREMENTS

.1701 GENERAL PROVISIONS RELATED TO REGISTRATION OF HOMES

- (a) All child day care homes as defined by Rule .0102(8) of this Subchapter shall register and comply with the standards for registration set forth in this Section.
- (b) At the beginning of each fiscal year, the Section shall prepare a written plan explaining the guidelines for making randomly-selected unannounced compliance visits to registered day care homes. The plan shall be dated and signed by the Section Chief and shall be kept in a confidential file by the Section Chief.
- (c) When a day care home exists, all preschool-aged children shall be counted in the registered capacity. This includes the caregiver's own preschool-aged children. The preschool-aged child of an emergency caregiver need not be counted in the registered capacity for the first day of the emergency caregiver's service.
- (d) The caregiver's own school-aged children shall include school-aged children who reside at the location of the day care home, and they shall not be counted to determine if a day care home exists, nor shall they be counted in the registered capacity.
- (e) The provisions of G.S. 110-90.1 which exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from operating or being employed in a child day care home are hereby incorporated by reference in accordance with G.S. 150B-14(c) and shall also apply to any person on the premises with the operator's permission when the children are present. This exclusion shall not apply to parents or other persons who enter the home only for the purpose of performing parental responsibilities; nor does it include persons who enter the facility for brief periods for the purpose of conducting business with the operator and who are not left alone with the children.

History Note: Statutory Authority G.S. 110-85; 110-86(4); 110-88(3); 110-90.1; 110-101; 110-105.1; 110-106.1; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1991; January 1, 1990; July 1, 1988;
January 1, 1987.

.1702 INITIAL REGISTRATION

- (a) Any person who plans to operate a day care home shall complete a Day Care Home Application for Registration as described in Rule .2313. The applicant shall submit the completed application, which complies with the following, to the Section.
- (1) Only one registered day care home shall be operated at the location address of that registered day care home.
 - (2) The applicant shall list each location address where the day care home will operate.
- (b) When a registrant operates a day care home at more than one location address by cooperative arrangement among two or more families, the following procedures shall apply:
- (1) One parent whose home is used as a location address shall be designated the coordinating parent and shall co-sign the application with the registrant.
 - (2) The coordinating parent is responsible for knowing the current location address at all times and shall provide the information to the Section upon request.
- (c) Upon receipt of an acceptable application, the Section may issue written permission to operate on a temporary basis. A person is not able to operate legally until he or she has received either temporary permission to operate or a registration certificate.
- (d) A representative of the Section shall make an announced visit to each home operating on a temporary basis. The purpose of this visit shall be to determine compliance with the standards, to offer technical assistance when needed, and to provide information about local resources.
- (1) If the home is found to be in compliance with the applicable requirements of G.S. 110 and this Section, a Certificate of Registration shall be issued.

- (2) If the home is not in compliance but has the potential to comply, the Section representative shall establish with the operator a reasonable time period for the home to achieve full compliance. If the Section representative determines that the home is in compliance within the established time period, a Certificate of Registration shall be issued.
- (3) If the home is not in compliance, cannot potentially comply, or fails to comply within the appropriate time, the Section shall deny the application and terminate the temporary permission to operate.
- (e) Use of the certificate is limited to the following conditions:
 - (1) A Certificate of Registration remains valid for a period of two years unless terminated, revoked, or suspended.
 - (2) The Certificate of Registration cannot be bought, sold, or transferred from one individual to another.
 - (3) The Certificate of Registration is valid only for the location address/addresses listed on it.
 - (4) The Certificate of Registration is the property of the State of North Carolina. It must be returned to the Section in the event of termination or revocation of registration.
 - (5) The Certificate of Registration shall be available and shall be shown to each child's parent or guardian when the child is enrolled.
- (f) A registrant is responsible for notifying the Section whenever a change occurs which affects the information shown on the Certificate of Registration.

History Note: Statutory Authority G.S. 110-88(3); 110-101; 143B-168.3;
 Eff. January 1, 1986;
 Amended Eff. January 1, 1991; November 1, 1989; January 1, 1987.

.1703 RENEWAL OF REGISTRATION

- (a) Each registrant shall apply for renewal of registration every two years.
 - (1) The Section shall notify the registrant of the need to renew by sending the registrant the appropriate forms, which shall include a self-check questionnaire, not less than 60 days from the expiration date of the current Certificate of Registration.
 - (2) The registrant shall return the completed forms to the Section not less than 30 days prior to the expiration date of the current Certificate of Registration.
 - (3) Representatives of the Section shall make announced and scheduled visits to a random selection of registered homes prior to renewal, in accordance with the Section's plan developed pursuant to G.S. 110-105.1. The purpose of these visits shall be to determine continued compliance with the registration requirements.
- (b) When the Section determines that the registered home continues to comply with applicable requirements, a new Certificate of Registration shall be issued.
- (c) Failure to apply for renewal of registration shall be grounds for termination of registration.

History Note: Statutory Authority G.S. 110-88(3); 110-101; 143B-168.3;
 Eff. January 1, 1986;
 Amended Eff. November 1, 1989; January 1, 1987.

.1704 CHANGES AFFECTING REGISTRATION

History Note: Repealed Eff. January 1, 1987.

.1705 HEALTH STANDARDS FOR DAY CARE HOME OPERATORS

- (a) Each day care home operator shall complete and keep on file a health questionnaire which attests to the operator's physical and emotional ability to care for children. The Section may require a written statement or medical examination report signed by a licensed physician or other authorized health professional if there is reason to believe that the caregiver's health may adversely affect the care of the children.

(b) Each day care home operator shall complete the health questionnaire initially and prior to each renewal.

(c) Each operator shall obtain written proof that he or she is free of active tuberculosis prior to initial registration and each renewal of registration.

History Note: Statutory Authority G.S. 110-88(3); 110-101; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989; January 1, 1987.

.1706 MEDICAL AND IMMUNIZATION REPORTS FOR CHILDREN

.1707 CHILD'S APPLICATION FOR ENROLLMENT

.1708 EMERGENCY CARE PROCEDURES

.1709 NUTRITION

.1710 ADMINISTERING MEDICATIONS

.1711 DISCIPLINE POLICY

.1712 GENERAL HEALTH PROVISIONS

.1713 SAFE ENVIRONMENT

.1714 SAFE TRANSPORTATION PROCEDURES

.1715 SANITATION STANDARDS

History Note: Repealed Eff. January 1, 1987.

.1716 FAILURE TO MEET AND MAINTAIN REQUIREMENTS

(a) If the Section determines that a day care home operator fails to meet and maintain compliance with the requirements for registration, the Section may establish a reasonable time period to allow the operator to achieve compliance.

(b) If the operator fails to achieve compliance within the established time period, the Section may deny, suspend, terminate, or revoke the registration. The operator may appeal any such action pursuant to the provisions of G.S. 150B.

(c) The Section may recommend imposition of a civil penalty in accordance with the procedures set forth in Rules .2201 through .2205 of this Subchapter and according to the following schedules:

- (1) A civil penalty in an amount up to one thousand dollars (1000.00) may be imposed when the Section has substantiation that a child was abused or neglected while in the care of the day care home.
- (2) A civil penalty in an amount up to two hundred dollars (\$200.00) may be imposed for the following violations:
 - (A) A history of exceeding the number of children allowed in a registered day care home;
 - (B) Repeated incidences where there has been a lack of supervision of the children; or
 - (C) Willful, repeated pattern of noncompliance with any requirement contained in this Subchapter or in the General Statutes.
- (3) A civil penalty in an amount up to one hundred dollars (\$100.00) may be imposed for the following violations:
 - (A) Denial of entry to an authorized representative of the Department or Section;
 - (B) Documented noncompliance with the number of children allowed in a registered day care home;
 - (C) Lack of supervision of the children in care; or
 - (D) Failure to comply with a corrective action plan designed by the Section to correct noncompliance with any applicable requirement in this Subchapter or in the General Statutes.

History Note: Statutory Authority G.S. 110-86(4); 110-88(3), (5), (6a); 110-98; 110-101; 110-103.1; 110-105.1; 110-106.1; 143B-168.3; 150B-23;
Eff. January 1, 1986;
Amended Eff. January 1, 1991; January 1, 1987.

.1717 HEALTH, SAFETY AND SANITATION REQUIREMENTS

(a) Each day care home shall comply with the following standards in order to maintain a safe, healthy and sanitary environment for children:

- (1) To assure a healthy environment, the operator shall:
 - (A) have on file, for each child who attends on a regular basis, a health and emergency information form completed and signed by the child's parents or guardian. The completed form must be on file on the first day the child attends. A recommended form is available from the Section. However, the operator may use another form provided that form includes the following information:
 - (i) the child's name, address, and date of birth;
 - (ii) the names of individuals to whom the child may be released;
 - (iii) the general status of the child's health;
 - (iv) any allergies or restrictions on the child's participation in activities with specific instructions from the child's parent or physician;
 - (v) the names and phone numbers of persons to be contacted in an emergency situation;
 - (vi) the name and phone number of the child's physician and preferred hospital;
 - (vii) authorization for the operator to administer specified medication according to the parent's instructions, if the parent so desires;
 - (viii) notarized authorization for the operator to seek emergency medical care in the parent's absence.
 - (B) serve nutritious meals and snacks appropriate in amount and type of foods served for the ages of the children in care.
 - (C) provide frequent opportunities for outdoor play or fresh air.
 - (D) provide adequate and individual space for each child to rest comfortably.
 - (E) be able to recognize symptoms of childhood illnesses.
 - (F) provide a quiet, separate area which can be easily supervised for children too sick to remain with other children. Parents must be notified immediately if their child becomes too sick to remain in care.
 - (G) visually supervise all children who are awake and be able to hear and respond quickly to those children who are sleeping or napping.
 - (H) successfully complete basic multimedia first aid course prior to registration.
 - (I) complete a course by the American Heart Association or the American Red Cross in CPR appropriate for the ages of children in care prior to registration.
- (2) To assure each child's health and well-being, no child shall be subjected to any form of corporal punishment by the day care home operator, substitute caregiver, or any other person in the home, whether or not these persons reside in the home.
 - (A) No child shall be handled roughly in any way, including shaking, pushing, shoving, pinching, slapping, biting, kicking, or spanking.
 - (B) No child shall ever be placed in a locked room, closet, or box.
 - (C) No discipline shall ever be delegated to another child.
 - (D) Discipline shall in no way be related to food, rest or toileting;
 - (i) No food shall be withheld, or given, as a means of discipline.
 - (ii) No child shall ever be disciplined for lapses in toilet training.
 - (iii) No child shall ever be disciplined for not sleeping during rest period.
- (3) To assure a safe environment, the home operator shall:
 - (A) keep all areas used by the children, indoors and outdoors, reasonably clean and orderly and free of items which are potentially hazardous to children. This includes the removal of small items that a child can swallow. In addition, loose nails or screws and splinters must be removed on inside and outside equipment.

- (B) safely store equipment and supplies such as lawnmowers, power tools, nails, etc.
 - (C) securely anchor outdoor stationary play equipment.
 - (D) securely mount electric fans out of the reach of children or have a mesh guard on each fan.
 - (E) cover all electrical outlets not in use and remove old, cracked or frayed cords in occupied outlets.
 - (F) separate firearms and ammunition and store both in areas inaccessible to children.
 - (G) keep items used for starting fires, such as matches and lighters, out of the children's reach.
 - (H) keep all medicines in locked storage.
 - (I) keep hazardous cleaning supplies and other items that might be poisonous out of reach or in locked storage when preschool-aged children are in care, e.g., toxic plants.
 - (J) keep first-aid supplies in a place easily accessible to the operator.
 - (K) keep the equipment and toys in good repair and appropriate for the ages of children in care.
 - (L) have a working telephone within close proximity of the day care home. Emergency phone numbers shall be readily available.
 - (M) have access to a means of transportation that is always available for emergency situations.
 - (N) have solid, safe and railed stairs and steps if these are used by the children. Indoor stairs with more than two steps shall be guarded if any children in care are two years of age or younger.
 - (O) maintain any swimming pools or wading pools on the premises in a manner which will safeguard the lives and health of the children.
 - (P) enclose any in-ground swimming pools 18 inches or deeper by a fence approximately four feet high to prevent chance access by children. The swimming pool shall be separate from the play area. Access to the water in above ground swimming pools must be prevented by locking and securing the ladder in place or storing the ladder in a place inaccessible to the children.
 - (Q) complete a form which explains the operator's procedures in emergency situations. The form shall be supplied by the Section.
 - (R) practice and maintain records of monthly fire drills giving the date each drill is held, the time of day, and the length of time taken to evacuate the home.
 - (S) make all necessary efforts to provide a safe indoor and outdoor environment for the children in care. Animals that are potentially dangerous to children, such as pit bulldogs and rottweilers or other animals determined by the Section to be dangerous, are not permitted on the premises of a day care home.
- (4) To assure the safety of children whenever they are transported, the operator, or any other transportation provider, shall:
- (A) have written permission from a parent or guardian to transport his or her child and notify the parent when and where the child is to be transported.
 - (B) comply with all applicable state and federal laws and regulations concerning the transportation of passengers. All children, regardless of age or location in the vehicle, shall be restrained by individual seat belts or child restraint devices.
 - (C) have a valid driver's license issued by the Division of Motor Vehicles, not including a limited permit.
 - (D) assure that each child is seated in a manufacturer's designated area.
 - (E) never leave children in a vehicle unattended by an adult.
 - (F) have emergency and identification information about each child in the vehicle whenever children are being transported.

- (5) To assure a sanitary environment, the operator shall:
- (A) collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services prior to registration and before each renewal. Results of the analysis shall be on file in the home.
 - (B) have sanitary toilet, diaper changing and handwashing facilities.
 - (C) place soiled diapers in a covered, leak-proof container which is emptied and cleaned daily.
 - (D) wash his or her hands before handling food and feeding the children.
 - (E) wash his or her hands before, as well as after, diapering each child.
 - (F) use acceptable sanitary procedures when preparing and serving food.
 - (G) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature.
 - (H) label all bottles for each individual child, except when there is only one bottle-fed child in care.
 - (I) serve only pasteurized milk and milk products.
 - (J) have a house that is free of rodents.
 - (K) screen all windows and doors used for ventilation.
 - (L) have all household pets vaccinated with up-to-date vaccinations as required by North Carolina law and local ordinances. Rabies vaccinations are required for cats and dogs.
 - (M) store garbage in water proof containers with tight fitting covers.
 - (N) provide individual linens for rest time for each child in care for more than four hours. The linens shall be changed weekly or whenever they become soiled or wet.

(b) The operator shall assure that the structure in which the day care home is located complies with the following requirements:

- (1) Comply with Section 509.2 of the North Carolina Building Code or have written approval for use as a day care home by the local building inspector as follows:
 - (A) Meet Volume I-B Uniform Residential Building Code or be a manufactured home bearing a third party inspection label certifying compliance with the Federal Manufactured Home Construction and Safety Standards or certifying compliance with construction standards adopted and enforced by the State of North Carolina. Homes shall be installed in accordance with North Carolina Manufactured/Mobile Home Regulations published by the North Carolina Department of Insurance. Exception: Single-wide manufactured homes will be limited to a maximum of three preschool-aged children (not more than two may be two years of age or less) and two school-aged children.
 - (B) All children shall be kept on the ground level with an exit at grade.
 - (C) All homes shall be equipped with an electrically operated (with a battery backup) smoke detector, or one electrically-operated and one battery operated smoke detector located next to each other.
 - (D) All homes shall be provided with at least one five lbs. 2-A:10-B:C type extinguisher readily accessible for every 2,500 square feet of floor area.
 - (E) Fuel burning space heaters, fireplaces and floor furnaces which are listed and approved for that installation and are provided with a protective screen attached securely to substantial supports will be allowed. However, unvented fuel burning heaters and portable electric space heaters of all types are prohibited.

- (2) Assure that all indoor areas used by children are adequately heated in cool weather and ventilated in warm weather.
- (3) Cover or insulate hot pipes or radiators which are accessible to the children.

History Note: Statutory Authority G.S.110-88(3); 110-101; 143B-168.3;
Eff. January 1, 1987;
Amended Eff. January 1, 1992; January 1, 1991; November 1, 1989.

SECTION .1800 - DISCIPLINE

.1801 DISCIPLINE POLICY

(a) The person who conducts the enrollment conference shall provide a written copy of and explain the center's discipline practices to each child's parents, legal guardian, or full-time custodian at the time of enrollment. Each parent, legal guardian, or full-time custodian must sign a statement which attests that a copy of the center's written discipline policies were given to and discussed with him or her. That statement must bear the child's name, the date of enrollment, and if different, the date the parent, legal guardian, or full-time custodian signs the statement. The signed, dated statement must be in the child's record and must remain on file in the center as long as the child is enrolled. If a center changes its discipline policy at any time, it must give written notice of such a change to the child's parent, guardian, or full-time custodian 30 days prior to the implementation of the new policy and the parent, guardian, or full-time custodian must sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the child's file.

(b) No child shall be subjected to any form of corporal punishment by the owner, operator, director, or staff of any day care facility. For purposes of this rule, "staff" shall mean any regular or substitute caregiver, any volunteer, and any auxiliary personnel, such as cooks, secretaries, janitors, maids, vehicle drivers, etc.

- (1) No child shall be handled roughly in any way, including shaking, pushing, shoving, pinching, slapping, biting, kicking, or spanking.
- (2) No child shall ever be placed in a locked room, closet, or box.
- (3) No discipline shall ever be delegated to another child.
- (4) Discipline shall in no way be related to food, rest or toileting:
 - (A) No food shall be withheld, or given, as a means of discipline.
 - (B) No child shall ever be disciplined for lapses in toilet training.
 - (C) No child shall ever be disciplined for not sleeping during rest period.

History Note: Statutory Authority G.S. 110-91(10); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

SECTION .1900 - SPECIAL PROCEDURES FOR ABUSE/NEGLECT IN DAY CARE

.1901 NOTIFICATION TO COUNTY DEPARTMENT OF SOCIAL SERVICES

Any allegation of abuse or neglect received by the Section shall be referred to the county department of social services within 24 hours of receipt of the complaint or on the next working day. Even if the county department of social services determines the allegation does not warrant investigation according to G.S. 7A-544, the complaint shall be investigated by the Section.

History Note: Statutory Authority G.S. 110-88(5); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989.

.1902 UNANNOUNCED VISITS

History Note: Repealed Eff. November 1, 1989.

.1903 INVESTIGATION PROCEDURES

(a) The investigation shall include interviews with the registrant, operator, staff, parents, or any other adult who has information regarding the allegation. Reports from law enforcement officers and other professionals, as well as photographs and other investigative tools, may be used as appropriate.

(b) The Section's representative may interview the child or children about the allegations of abuse or neglect only in those cases where the county department of social services does not conduct an investigation.

(c) The Section shall share information related to investigations with departments of social services, as appropriate. However, any information subject to confidentiality laws or regulations shall be handled so as to preserve the confidential nature of the material.

(d) At any time during the investigation, the representative of the Section may conduct an evaluation for compliance with all licensing requirements.

(e) The Section shall make a written report to the licensee/registrant and the county department of social services when the investigation is completed. The Section may also report to law enforcement officers and other professionals that were involved in the investigation. This report shall explain the Section's findings and what further action will be taken, if any.

(f) The final written report of findings and further action shall be made within ninety days of receipt of the allegation. If the investigation is not complete at that time, an interim report explaining the status of the investigation shall be made to the operator ninety days after receipt of the allegation and every thirty days thereafter until the final report is made. The county department of social services shall be sent a copy of each interim report.

History Note: Statutory Authority G.S. 7A-543; 110-88(5); 110-105; 110-105.1;
143B-168.3;
Eff. January 1, 1986;
Amended Eff. October 1, 1991; July 1, 1988; January 1, 1987.

.1904 ADMINISTRATIVE SANCTIONS

(a) A special provisional license or registration may be issued for a six-month period when the Section determines that abuse or neglect occurred in a child day care center or home. The following provisions shall apply:

- (1) The special provisional license or registration and the reasons for its issuance shall be posted in a prominent place in the center or home as soon as they are received by the licensee or registrant.
- (2) The special provisional license or registration and reasons for issuance shall remain posted for the entire six months covered by the license or registration, and also during the time of any administrative proceedings.

- (3) No new children shall be enrolled in the center or home until the Section is satisfied that the abusive or neglectful situation no longer exists and gives the operator written permission to accept new children.
- (4) A licensee or registrant may obtain an administrative hearing on the issuance of a special provisional license or registration in accordance with the provisions of G.S. 150B-23.
 - (b) A written warning specifying corrective action to be taken by the operator of the day care center or home may be issued when the investigation is concluded and the Section determines that abuse or neglect occurred in a center or home and the situation does not warrant issuance of a special provisional license or registration.
 - (c) A civil penalty, in accordance with the schedules listed in Rules .1716 and .2206 of this Subchapter, may be levied against the operator of a day care home or center when the Section determines that child abuse or neglect has occurred while the child was in the care of the home or center. In addition, any violation of the terms of a special provisional license or registration may result in the assessment of a civil penalty as provided in Rule .1716 and Rules .2202 through .2206 of this Subchapter.
 - (d) Failure to implement the corrective action plan required by a written warning pursuant to G.S. 110-88(6a) may result in either the assessment of a civil penalty as provided in Section .2200 of this Subchapter or the issuance of a special provisional license or registration or may result in both actions being taken.
 - (e) The type of sanction imposed by the Section shall be determined by one or more of the following criteria:
 - (1) severity of the incident;
 - (2) probability of reoccurrence;
 - (3) prior incidents of abuse or neglect in the center or home;
 - (4) history of compliance with child day care requirements;
 - (5) the Section's assessment of the operator's response to the incident.
 - (f) Nothing in this Rule shall restrict the division from using any other statutory or administrative penalty available pursuant to G.S. 110-102.2 and Section .2000 of this Subchapter, or the provisions in 150B-3(c) to summarily suspend a license or registration if the health, safety or welfare of any child is in jeopardy.

History Note: Statutory Authority G.S. 110-88(5); 110-88(6a); 110-102.2;
110-103.1; 143B-168.3; 150B-3; 150B-23;
Eff. January 1, 1986;
Amended Eff. August 1, 1990; November 1, 1989; July 1, 1988.

SECTION .2000 - RULEMAKING AND OTHER ADMINISTRATIVE PROCEDURES

.2001 PETITIONS FOR RULEMAKING

.2002 RULEMAKING PROCEDURES

.2003 DECLARATORY RULINGS

.2004 CONTESTED CASE PROCEDURES

History Note: Repealed Eff. November 1, 1989.

(Please refer to Subchapter 3B - "Procedural Rules" at the end of this booklet for the current rules regarding rulemaking and contested case procedures.)

.2005 REPORTS TO THE COMMISSION

History Note: Repealed Eff. January 1, 1987.

.2006 ADMINISTRATIVE PENALTIES: GENERAL PROVISIONS

(a) Pursuant to G.S. 110-102.2, the Secretary or designee may order one or more administrative penalties against any licensee or registrant who violates any provision of Article 7 of Chapter 110 of the General Statutes or of this Subchapter.

(b) Nothing in this Section shall restrict the Division from using any other statutory or civil penalty available. A civil penalty in accordance with G.S. 110-103.1 and Section .2200 of this Subchapter may be imposed in conjunction with any other administrative activity.

(c) The issuance of an administrative penalty may be appealed pursuant to G.S. 150B-23.

History Note: Statutory Authority G.S. 110-102.2; 110-103.1; 143B-168.3; 150B-23;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

.2007 WRITTEN WARNINGS

(a) A written warning and a request for compliance may be issued in regard to any violation to allow the licensee or registrant an opportunity to demonstrate compliance with all requirements.

(b) The written warning and request for compliance shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated. It shall also describe those actions necessary for the licensee or registrant to be in full compliance with requirements and shall specify a time period for compliance to be achieved.

(c) If the licensee or registrant fails to achieve compliance during the specified time period, the Section shall employ more restrictive action to achieve compliance or shall revoke the license or registration.

History Note: Statutory Authority G.S. 110-102.2; 143B-168.3;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

.2008 WRITTEN REPRIMANDS

(a) An official written reprimand may be issued to censure any violation which the Section determines to have been a brief uncustomary event which is unlikely to recur in the ordinary operation of the center or home.

(b) The reprimand shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated.

History Note: Statutory Authority G.S. 110-102.2; 143B-168.3;
Eff. July 1, 1988;
Amended Eff. August 1, 1990; November 1, 1989.

.2009 PROBATIONARY STATUS

(a) A license or registration may be placed in probationary status for a period of time not to exceed one year when, in the section's determination, violation of any section of the statutes or rules has been willful, continual, or hazardous to health or safety.

(b) The document ordering probation shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated and shall specify the period of probation. It shall also specify terms of probation with which the licensee or registrant must comply to retain the license or registration.

(c) The order of probation shall be posted in a prominent place in the center or home during the probationary period. If probation is stayed pending appeal, the probation order shall remain posted in the center or home pending final action.

(d) Failure of the licensee or registrant to comply with the terms of probation shall result in the commencement of proceedings to suspend or revoke the license or registration.

History Note: Statutory Authority G.S. 110-102.2; 143B-168.3;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

.2010 SUSPENSION

(a) Suspension of a license or registration for a period of time not to exceed 45 days may be ordered when, in the section's determination and with the concurrence of the Division of Facility Services' Negative Action Review Committee, violation of any section of the statutes or rules has been willful, continual, or hazardous to health or safety, and/or the licensee or registrant has not made reasonable efforts to conform to standards.

(b) The licensee or registrant shall be notified in advance of the Section's determination to suspend the license and the reasons for such action. The licensee or registrant may request an agency review of the situation and shall be given an opportunity to show compliance with all requirements for retention of the license or registration.

(c) The suspension order shall specify the period of suspension and the reasons for its issuance. The licensee or registrant shall surrender the license or registration to the Section on the effective date of the suspension order and shall refrain from operating a center or home during the suspension period.

(d) If suspension is stayed pending appeal, the suspension order shall be posted in a prominent place in the center or home pending final action.

(e) Failure to comply with the suspension order shall result in civil action in accordance with G.S. 110-103.1 and/or criminal penalty in accordance with G.S. 110-103. The Section may also seek injunctive relief in accordance with G.S. 110-104.

History Note: Statutory Authority G.S. 110-102.2; 143B-168.3; 150B-3;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

.2011 REVOCATION

(a) Revocation of a license or registration may be ordered when, in the section's determination and with the concurrence of the Division of Facility Services' Negative Action Review Committee, violation of any section of the statutes or rules has been willful, continual, or hazardous to health or safety, or the licensee or registrant has not made reasonable efforts to conform to standards or is unable to comply.

(b) The licensee or registrant shall be notified in advance of the Section's determination to revoke the license and the reasons for such action. The licensee or registrant may request an agency review of the situation and shall be given an opportunity to show compliance with all requirements for retention of the license or registration.

(c) The revocation order shall specify the reasons for its issuance and the effective date of revocation and shall be posted prominently in the center or home immediately upon receipt. The licensee or registrant shall surrender the license or registration on the effective date of the revocation order and shall refrain from operating the center or home thereafter.

(d) Failure to comply with the revocation order shall result in civil action in accordance with G.S. 110-103.1 or a criminal penalty in accordance with G.S. 110-103, or both. The Section may also seek injunctive relief in accordance with G.S. 110-104.

(e) The operator may not apply for a new license or registration for that facility or home for at least 90 days from the effective date of the revocation order or, when administrative or judicial review is requested, from the date the final agency decision or judicial determination is rendered, whichever is later.

History Note: Statutory Authority G.S. 110-102.2; 143B-168.3; 150B-3;
Eff. July 1, 1988;
Amended Eff. August 1, 1990; November 1, 1989.

.2012 SUMMARY SUSPENSION

(a) Summary suspension of a license or registration may be ordered in accordance with G.S. 150B-3(c) when, in the Section's determination, emergency action is required to protect the health, safety, or welfare of children in a licensed day care facility or registered day care home.

(b) The suspension order shall specify the reasons for its issuance including identification of the specific section of the statutes and rules violated and the determination of the need for emergency action. The order shall be effective on the date specified in the order. The order shall be effective during proceedings to suspend or revoke the license or registration.

(c) The licensee or registrant shall surrender the license or registration on the effective date of the order and shall refrain from operating a center or home until final action is determined.

(d) Failure to comply with the summary suspension order shall result in civil action in accordance with G.S. 110-103.1, and/or criminal penalty in accordance with G.S. 110-103. The Section may also seek injunctive relief in accordance with G.S. 110-104.

History Note: Statutory Authority G.S. 110-102.2; 143B-168.3; 150B-3;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

SECTION .2100 - CHURCH CENTER REQUIREMENTS

.2101 CENTERS OPERATING UNDER G.S. 110-106

(a) At least 30 days prior to the first day of operation of a new church day care center, the prospective operator shall send a "Letter of Intent to Operate" to the Section. That letter shall include the name, address, and telephone number of the operator and the center, if known; the proposed number and age range of children to be served; and the center's scheduled opening date. A representative of the section shall contact the prospective operator no later than seven calendar days after the Letter of Intent is received to advise the operator of the applicable requirements and procedures.

(b) Church day care centers shall comply with all day care center requirements in this Subchapter except for the rules regarding age-appropriate activities in Rules .0505 - .0511(a) and Rules .0704, .0707-.0711 and Paragraphs (a) through (d) of Rule .0714 regarding staff qualifications and training requirements. Compliance shall be documented at least annually using the same forms and in the same manner as for all other centers.

(c) The Section shall notify the operator in writing as to whether the center complies or does not comply with the requirements.

History Note: Statutory Authority G.S. 110-106; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1991; November 1, 1989; July 1, 1988;
January 1, 1987.

SECTION .2200 - CIVIL PENALTIES

.2201 SCOPE AND PURPOSE

Any operator/registrant who violates any provision of Article 7 of Chapter 110 of the General Statutes or of this Subchapter who fails to take corrective action after being provided adequate written notice by the section shall be considered to be in willful violation of the licensing law and a civil penalty may be levied against the operator by the secretary or designee pursuant to rules and schedules of penalties adopted by the commission.

History Note: Statutory Authority G.S. 110-90(9); 110-103.1; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989; January 1, 1987.

.2202 AMOUNT OF PENALTY

(a) The amount of the penalty assessed shall be based upon the following factors: willful or negligent noncompliance by the operator, history of noncompliance, extent of deviation from the regulation, evidence of good faith effort to comply and any other factors relevant to the unique situation.

(b) The amount of the penalty, within the limitations established by G.S. 110-103.1, shall be in accordance with the following schedule:

- (1) Where a violation presents a clear and imminent danger to the safety of the children, a civil penalty up to \$1000 may be imposed;
- (2) Where a violation endangers, or has the potential to endanger the children's health, safety, to well-being, a civil penalty up to \$500 may be imposed;
- (3) Where a violation does not directly endanger the children, a civil penalty of up to \$250 may be imposed.

(c) A separate penalty may be imposed for each violation.

History Note: Statutory Authority G.S. 110-90(9); 110-103.1; 143B-168.3;
Eff. January 1, 1986.

.2203 NOTICE OF ASSESSMENT

The operator shall be notified by registered or certified mail of the amount of and reasons for the assessment of the civil penalty. The notice shall specify the factors used to determine the amount of the penalty and a time period by which payment must be received by the division.

History Note: Statutory Authority G.S. 110-90(9); 110-103.1; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 1988.

.2204 RIGHT TO A HEARING

Any operator contesting a penalty is entitled to an administrative hearing and judicial review in accordance with Chapter 150B of the General Statutes, the Administrative Procedures Act.

History Note: Statutory Authority G.S. 110-90(9); 110-103.1; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1987.

.2205 FAILURE TO PAY ASSESSED PENALTY

Failure to pay the assessed penalty or to exercise appeal rights within thirty days after receipt of the notice of assessment may result in civil action in accordance with the provisions of G.S. 110-103.1(c).

History Note: Statutory Authority G.S. 110-90(9); 110-103.1; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 1988.

.2206 SCHEDULE OF CIVIL PENALTIES FOR DAY CARE FACILITIES

(a) The following penalties may be assessed against child day care facilities as defined in G.S. 110-86(3):

(b) A civil penalty in an amount up to one thousand dollars (\$1000) may be imposed for the following violations:

- (1) Noncompliance with the standards for:
 - (A) Staff-child ratios;
 - (B) Adequate supervision of children;
 - (C) Transportation of children; or
 - (D) Use of swimming pools and other swim areas.
- (2) Disapproved fire safety, building or sanitation inspection reports;
- (3) Exceeding licensed capacity of facility, or use of unauthorized space;
- (4) Change of ownership or relocation of facility without prior notification to the section;
- (5) Substantiation that a child (or children) was abused or neglected while in the care of the facility; or
- (6) Willful, repeated pattern of noncompliance with any requirement over extended period of time.

(c) A civil penalty in an amount up to \$500 may be imposed for the following violations:

- (1) Noncompliance with the standards for:
 - (A) Staff health requirements;
 - (B) Staff qualifications;
 - (C) Children's health requirements;
 - (D) Proper nutrition;
 - (E) Sanitation and personal hygiene practices;
 - (F) Discipline of children;
 - (G) Indoor or outdoor space; or
 - (H) Emergency medical plan.
- (2) Failure to comply with a corrective action plan;
- (3) Denial of entry to an authorized representative of the Department or Section.

(d) A civil penalty in an amount up to \$250 may be imposed for the following violations:

- (1) Noncompliance with the standards to provide:
 - (A) Age-appropriate activities, or
 - (B) Staff development.
- (2) Failure to post provisional license; or
- (3) Failure to maintain accurate records.

(e) Violation of other standards may result in the assessment of a penalty according to the effect or potential effect of the violation on the safety and well-being of the child.

History Note: Statutory Authority G.S. 110-90(9); 110-103.1; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. October 1, 1991.

SECTION .2300 - FORMS

- .2301 INFORMATION SHEET
- .2302 APPLICATION FOR A DAY CARE CENTER LICENSE
- .2303 SANITATION STANDARDS EVALUATION FORM
- .2304 BUILDING INSPECTION REPORT: SMALL GROUP FACILITIES
- .2305 BUILDING INSPECTION REPORT: MORE THAN 15 CHILDREN
- .2306 FIRE INSPECTION REPORT
- .2307 EVACUATION PLAN AND FIRE DRILL REPORT
- .2308 CHILD'S APPLICATION FOR DAY CARE
- .2309 CHILDREN'S MEDICAL REPORT
- .2310 STAFF MEDICAL REPORT
- .2311 THE ATTENDANCE REPORT FOR CHILDREN
- .2312 THE REPORT ON STAFF
- .2313 DAY CARE HOME APPLICATION FOR REGISTRATION
- .2314 HEALTH QUESTIONNAIRE
- .2315 REQUEST FOR PRE-LICENSING CONSULTATION
- .2316 WHERE TO OBTAIN FORMS
- .2317 USE OF FORMS

History Note: Repealed Eff. November 1, 1989.

.2318 RETENTION OF FORMS AND REPORTS BY AN OPERATOR

Each operator must keep on file in the center copies of all forms, inspection reports, letters and other correspondence which serve as documentation of compliance or noncompliance for as long as the license to which they pertain remains valid.

History Note: Statutory Authority G.S. 110-91(9); 143B-168.3;
Eff. January 1, 1986.

SECTION .2400 - DAY CARE FOR SICK CHILDREN

.2401 SPECIAL PROVISION FOR CARE OF SICK CHILDREN

Until such time as the Commission adopts rules for the care of sick children in day care centers and homes, a licensed day care center or large home or a day care arrangement operating under the provisions of G.S. 110-106 may apply to the Section Chief for a special exemption from Rule .0804 of this Subchapter. The day care arrangement, center or home shall provide a satisfactory plan of operation which includes sufficient medical and nursing coverage with due regard to communicable disease control.

History Note: Statutory Authority G.S. 110-88(11); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

SECTION .2500 - DAY CARE FOR SCHOOL-AGE CHILDREN

.2501 SCOPE

The regulations in this Section apply to large day care homes and all child day care facilities offering care to six or more school-age children exclusively or as a component of any other program. All regulations in this Subchapter pertaining to full-time, part-time, or seasonal child day care shall apply to programs for school-age children except as provided in this Section.

History Note: Statutory Authority G.S. 110-86(3); 110-91; 143B-168.3;
Eff. July 1, 1988;
Amended Eff. September 1, 1990.

.2502 SPECIAL PROVISIONS FOR LICENSURE

A facility providing care for school-age children exclusively shall be issued a license restricting care to school-age children as defined in Rule .0102 of this Subchapter. The license shall be issued for the time period the facility will operate, not to exceed a maximum of twelve months. A facility providing care for school-age children exclusively on a seasonal basis between May 15 and September 15 shall be licensed as a summer day camp.

History Note: Statutory Authority G.S. 110-88(1); 110-91; 143B-168.3;
Eff. July 1, 1988;
Amended Eff. September 1, 1990.

.2503 BUILDING CODE REQUIREMENTS

(a) Building code requirements adopted by reference in Section .1300 of this Subchapter shall apply for a facility providing care to school-age children when any preschool-age child is also in care.

(b) Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered an approved building to house a facility serving school-age children exclusively. The operator shall be responsible for obtaining and submitting copies of all applicable inspection reports.

(c) For the purpose of carrying out the provisions of G. S. 110-91(4) for summer day camps not covered by Paragraphs (a) or (b) of this Rule, the following North Carolina Building Codes shall apply to the structure described in Rule .2504(b):

- (1) When the authorized capacity of the facility is less than 30 children, the structure shall, at the minimum, meet the requirements for residential occupancy as prescribed in Volume IB of the North Carolina Building Code. Children may use only those floors which have at least one grade level exit.
- (2) When the authorized capacity of the facility is more than 29 children, but less than 100 children, the structure shall, at the minimum, meet the North Carolina Building Code requirements for business occupancy.
- (3) When the authorized capacity of the facility is more than 99 children, the structure shall, at the minimum, meet the North Carolina Building Code requirements for assembly occupancy, or educational occupancy or institutional occupancy.

(d) A copy of the North Carolina Building Code is on file at the Child Day Care Section at the address given in Rule .0102 of this Subchapter and shall be available for public inspection during regular business hours.

History Note: Statutory Authority G.S. 110-88(2); 110-91(4); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. September 1, 1990.

.2504 SPACE REQUIREMENTS

(a) All space requirements specified in Section .1400 apply when a facility provides care for school-age children and any preschool child is also in care, or when a program which provides care exclusively for school-age children routinely operates indoors in a permanent structure for more than 25% of each day. A gymnasium or other single use room may be included in the space measured for licensed capacity when used as primary space.

(b) A facility licensed as a summer day camp shall have a permanent structure located at the home base which is the primary site of the day camp activities. The permanent structure may be a building or permanent roofed shelter with overhang. The day camp shall meet one of the following space requirements:

- (1) When activities for children are routinely conducted outdoors or off the premises for at least 75% of each day, a minimum of 10 square feet per child of indoor space, exclusive of kitchens, hallways, restrooms, closets, and storage areas, shall be provided.
- (2) When the camp's home base does not provide 10 square feet of primary space indoors, the camp shall provide notarized copies of all letters, agreements, or contracts with other facilities which guarantee that children will be accommodated comfortably indoors in the event of inclement weather.

History Note: Statutory Authority G.S. 110-91(3), (6); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. September 1, 1990.

.2505 HEALTH REQUIREMENTS FOR CHILDREN

(a) All requirements of Section .0800 of this Subchapter apply to school-age child care arrangements with the following exceptions:

- (1) A medical examination report shall not be required for any child enrolled in an accredited or approved public or private school.
- (2) Rule .0806 does not apply.
- (3) If the day camp maintains its master records for children and staff in a central location, emergency information for each staff person and child shall always be on site. The emergency information on site shall include the name and telephone numbers of the child's parent or other responsible person, the child's or staff person's physician or preferred hospital, any chronic illnesses and medication taken for that illness, any allergy and recommended treatment for that allergy, and any other information that has a direct bearing on medical treatment and safe care. The parent's signed permission to obtain medical attention must also be on site with the child.

(b) All requirements specified in Section .0900 of this Subchapter apply when any preschool child is in care or when food is provided by the facility.

(c) If food is prepared at the summer day camp, the regulations regarding sanitary facilities, food preparation and service for summer camps as adopted by the Health Services Commission and codified in 10 NCAC 10A .1000 shall apply.

(d) If food is brought from home by children or catered, the following requirements apply:

- (1) Sanitary cold storage shall be provided for perishable snacks or lunches brought from home.
- (2) Safe drinking water shall be made available at all times regardless of where activities are provided.

History Note: Statutory Authority G.S. 110-91(1), (2); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. September 1, 1990.

.2506 GENERAL SAFETY REQUIREMENTS

- (a) First aid equipment shall always be available regardless of where activities are provided.
- (b) All regulations in Rule .1403 regarding swimming pools apply.
- (c) Potentially hazardous items, such as archery equipment, firearms and ammunition, hand and power tools, propane stoves, or chemicals shall be used by children only when adult supervision is provided. Such potentially hazardous items, whether or not intended for use by the children, shall be stored in locked areas or with other appropriate safeguards, or shall be removed from the premises.
- (d) All equipment, materials and facilities used by children shall be in good repair, of safe design, and properly installed.
- (e) Children shall wear life jackets whenever they participate in boating, rafting or canoeing activities.

History Note: Statutory Authority G.S. 110-91; 143B-168.3;
Eff. July 1, 1988;
Amended Eff. September 1, 1990.

.2507 OPERATING POLICIES

- (a) Written permission from parents shall be obtained before transporting children on field trips or leaving the premises.
- (b) Blanket permissions from parents for field trips or leaving the premises are acceptable only when a schedule of activities to be conducted off the premises is posted in a conspicuous place for review by parents and staff in advance on a weekly basis. The schedule shall include the location, purpose, time and date, person in charge, and telephone number or method for contacting the person in charge.
- (c) Cots, beds, or mats with linens shall not be required for school-age children. However, provision shall be made for children who wish to rest or who are sick to rest in a comfortable place.

History Note: Statutory Authority G.S. 110-91; 143B-168.3;
Eff. July 1, 1988.

.2508 AGE APPROPRIATE ACTIVITIES

- (a) Child day care facilities which provide care to school-age children shall provide activities appropriate to the age and interests of the children.
- (b) Facilities, other than those operating under the provisions of G.S. 110-106, which routinely operate a program of care indoors for school-age children for more than 25% of each day in space designated and approved by the Section for that purpose shall make activities which are appropriate for the ages of children in care available on a daily basis. Facilities which operate a school-age component for three or fewer hours per day shall make at least three of the following activities available daily; those which operate a school-age component for more than three hours per day shall make at least four of the following activities available daily:
 - (1) active outdoor play,
 - (2) arts and crafts,
 - (3) block play,
 - (4) books and language,
 - (5) carpentry,
 - (6) community awareness,
 - (7) creative art,
 - (8) cultural studies,
 - (9) dramatic play,
 - (10) environmental studies,
 - (11) field trips,
 - (12) food experiences,
 - (13) games for individuals and small groups,
 - (14) health and safety,
 - (15) life-related chores,

- (16) money-making projects,
- (17) music, rhythm and creative movement,
- (18) number concepts,
- (19) problem solving,
- (20) sand and water play,
- (21) science and nature,
- (22) self help skills,
- (23) sewing.

(c) When activities for children are routinely conducted outdoors or off the premises for at least 75 percent of each day, equipment and materials shall be provided to enable children to participate in at least three different activities each day.

(d) All equipment and materials used by school-age children shall be appropriate for the age and size of the children using the items.

History Note: Statutory Authority G.S. 110-91(6), (12); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. October 1, 1991; September 1, 1990.

.2509 ACTIVITIES: OFF PREMISES

(a) The requirements of this Rule apply when activities for children are routinely conducted outdoors or off the premises for at least 75% of each day.

(b) The facility shall develop a schedule of activities which is posted in a conspicuous place in the home base or given to the parents.

(c) The schedule shall be current and shall contain the information listed in Rule .2507(b).

(d) Activities shall be planned to accommodate a variety of individual interests and shall provide opportunities for choice.

History Note: Statutory Authority G.S. 110-91(6); (12); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. September 1, 1990.

.2510 STAFF QUALIFICATIONS

(a) The staff requirements in Section .0700 shall apply to any school-age program which is operated on a full year basis as a unit of a facility which also provides care to preschool-age children.

(b) Each day camp or before or after-school program shall have an administrator on site who is at least 21 years old and has at least one year of full-time experience or two summers' experience working with school-age children in a day care or day camp setting.

(c) There shall be at least one staff person who is at least 18 years old and literate for each group of 25 children present.

(d) The special training requirements in Rule .0705 shall apply to all programs for school-age children.

(e) Whenever children participate in swimming or other aquatic activities, the following provisions shall apply:

(1) The children shall be supervised by persons having life saving certificates, issued by the Red Cross or other issuing entity approved by the Section, appropriate for the type of body of water and type of aquatic activities:

(A) One lifeguard is required for groups of 25 or fewer children.

(B) Two lifeguards are required for groups of 26 or more children.

(2) A person with lifeguard certification is not required when there are no more than 12 children present and the body of water has no portion deeper than 30 inches and the total surface area is not more than 400 square feet. The children shall be supervised by at least one adult who is certified to perform cardiopulmonary resuscitation appropriate for the ages of children in care.

(f) All staff shall participate in at least six hours of documented orientation related to the program's policies, activities and child safety prior to assuming responsibility for supervising a group of children.

(g) The health requirements for staff and volunteers in Rules .0701-.0702 shall apply.

History Note: Statutory Authority G.S. 110-91(8), (11); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. January 1, 1992; September 1, 1990.

.2511 OTHER STAFF REQUIREMENTS

(a) The staff/child ratios required in this Subchapter for school-age children shall always be maintained. The required lifeguards shall not be counted in the number of staff required to meet the staff/child ratio.

(b) In addition to the requirements of Rule .2510(e)(1) of this Subchapter, the staff/child ratio shall be one adult to each 12 children in bodies of water other than swimming pools.

History Note: Statutory Authority G.S. 110-91(8),(11); 143B-168.3;
Eff. September 1, 1990.

SECTION .2600 - REQUIREMENTS FOR LARGE DAY CARE HOMES

.2601 SCOPE

The rules in this Section apply to large child day care homes. A large child day care home or large home shall routinely provide care to no more than 12 children when any preschool-age child is in care, or when all children present are school-age, to no more than 15 children, except as allowed by Rule .0102 of this Subchapter. All children present, except the operator's own school-age children, shall be included in the maximum number of children allowed to be present.

History Note: Statutory Authority G.S. 110-86(3); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. October 1, 1990.

.2602 GENERAL PROVISIONS FOR LICENSURE

(a) The provisions contained in Section .0200 for licensing child day care centers shall apply to large homes.

(b) The individual legally responsible for the operation of the home shall apply for a license and for annual renewal of the license using forms provided by the Section.

(c) The applicant/operator is responsible for arranging for inspections of the home by the local sanitarian, building and fire safety inspectors in accordance with the provisions of Rules .0302(b) and .0303(a).

(d) The applicant/operator is responsible for compliance with all other state laws and local ordinances which apply to the operation of a child day care facility.

(e) When the operator of a large home has demonstrated compliance with all applicable requirements, a license shall be issued for a period of time not to exceed twelve consecutive months.

(f) When a large home does not comply in every respect with the licensing requirements, and the Section determines that the applicant/operator is making a reasonable effort to comply, the Section may issue a provisional or a temporary license in accordance with the provisions of Section .0400.

History Note: Statutory Authority G.S. 110-88; 110-93; 143B-168.3;
Eff. July 1, 1988.

.2603 LICENSING PROCESS

(a) A representative of the Section shall make one or more announced visits to the home to determine compliance with the requirements prior to issuance of the initial license.

(b) Before the initial license is issued, the applicant must demonstrate compliance in the following manner:

(1) The applicant shall submit a completed, signed application to the Section.

(2) The applicant shall make written information available to verify compliance with the requirements for emergency care plans, discipline policy, daily schedules, and a description of activities.

(3) The applicant shall provide documentation of his or her and any other staff's concurrence with the requirements for staff education and experience, health condition and, if requested, minimum age.

(4) The applicant shall provide information which demonstrates how compliance will be achieved with the requirements for records of children's health conditions, immunizations, and emergency information, daily attendance and records of monthly fire drills.

(5) The applicant shall have available or provide a description of the plans to obtain equipment and play materials in sufficient quantity to comply with the requirements for age-appropriate activities.

(6) The applicant shall ensure that approved fire, building and sanitation reports are obtained and provided to the Section.

(c) A representative of the Section shall measure floor space in the part of the home which is used for day care to assure compliance with the space requirements.

(d) If the large home is found to be in compliance with the applicable requirements of G.S. 110 and this Section, a license shall be issued.

(e) If the large home is not in compliance with the requirements, the Section may issue a provisional or a temporary license or may deny the application.

History Note: Statutory Authority G.S. 110-88; 110-92; 143B-168.3;
Eff. July 1, 1988;
Amended Eff. November 1, 1989.

.2604 LICENSE RENEWAL PROCESS

(a) Each large home operator shall apply for renewal of the license annually according to the procedures described in Rule .0303(a).

(b) The operator shall submit a completed, signed application for renewal and approved inspection reports to the Section at least 30 days before the expiration date of the current license.

(c) A representative of the Section shall make one or more announced visits to the home to determine compliance with the requirements.

(d) If the Section determines that the home continues to comply with all applicable requirements, a new license shall be issued to the home operator.

(e) If the Section determines that the home does not comply with all requirements, the Section may issue a provisional license or may deny the application for renewal.

History Note: Statutory Authority G.S. 110-88; 110-93; 143B-168.3;
Eff. July 1, 1988.

.2605 MAINTAINING COMPLIANCE

(a) Each large home operator is expected to maintain compliance with all the requirements for licensure at all times.

(b) If a representative of the Section documents noncompliance with any requirement in a licensed large home, the home operator shall be given written notification of the area of noncompliance and the action needed to correct it. Unless conditions in the home pose an immediate threat to the health or safety of the children, the home operator will be given a reasonable period of time to correct the noncompliance.

(c) If the home operator fails to comply or fails to achieve compliance within the specified time period, the Section may initiate appropriate administrative action in accordance with the rules for administrative penalties in Section .2000.

(d) The operator may appeal such action in accordance with the provisions of G.S. 150B-23.

History Note: Statutory Authority G.S. 110-88; 110-98; 143B-168.3;
Eff. July 1, 1988.

.2606 STAFF REQUIREMENTS

(a) The operator of a large home shall be the person who is on site and has the primary responsibility for the daily operation of the day care home.

(b) The operator shall be at least 21 years old and literate and shall have completed at least one year of full-time caregiving experience in a registered or licensed child day care home or center or have equivalent child care experience that can be verified.

(c) All other staff required to meet the staff/child ratios specified in Rule .2607 shall be at least 16 years old and literate; and if less than 18 years old, shall work under the direct supervision of the operator or other staff person who is at least 21 years old.

(d) No one who is under the age of 18 years shall be left in charge of the home or shall be solely responsible for the care of children.

(e) All staff shall meet the health standards for staff set forth in Rule .0701 of this Subchapter.

(f) The operator of each large home shall comply with the special training requirements in Rule .0705 in this Subchapter.

(g) The operator and each staff person required to meet the staff/child ratio shall participate in in-service training activities in accordance with the provisions of Paragraphs (b), (c) and (d) of Rule .0707, and with Rule .0708 of this Subchapter.

History Note: Statutory Authority G.S. 110-86(3); 110-91(8), (11); 143B-168.3; Eff. July 1, 1988; Amended Eff. October 1, 1991; October 1, 1990.

.2607 STAFF/CHILD RATIOS AND SUPERVISION

(a) The staff/child ratios and group sizes for a large child day care home are as follows:

<u>Age of Children</u>	<u># Children</u>	<u>#Staff</u>	<u>Group Size</u>
0 to 4 years	6	1	12

<u>Age of Children</u>	<u># Children</u>	<u>#Staff</u>	<u>Group Size</u>
0 to 13 years	8	1	14

(No more than three children may be less than 12 months old)

<u>Age of Children</u>	<u># Children</u>	<u>#Staff</u>	<u>Group Size</u>
2 to 13 years	10	1	14
3 to 13 years	12	1	14
School-aged	15	1	17

(b) When only one caregiver is required to meet the staff/child ratio, the operator shall make available to parents the name, address and phone number of an adult who is nearby and available for emergency relief.

(c) Children shall be supervised at all times. All children who are not asleep or resting shall be visually supervised. Children may sleep or rest in another room so long as a caregiver can hear them and respond immediately.

History Note: Statutory Authority G.S. 110-86(3); 110-91(7); 143B-168.3; Eff. July 1, 1988; Amended Eff. October 1, 1990.

.2608 AGE APPROPRIATE ACTIVITIES AND EQUIPMENT

(a) Each large home shall have a written schedule posted for easy reference by parents and caregivers.

(b) The schedule shall show blocks of time usually assigned to types of activities and shall indicate a balance between periods of active play and periods of quiet play or rest. The activities and allotted times reflected in the schedule shall be appropriate for the ages of the children in care.

(c) When children two years old or older are in care, the schedule shall also reflect daily opportunities for both free-choice and caregiver-directed activities.

(d) Each home providing care to children aged two years and older shall have equipment and materials available on a daily basis. The equipment and materials shall be appropriate for the age and size of the children in care.

(e) Home-made equipment and materials may be used if they are safe and functional.

(f) Each large home shall have items for each of the following types of activities: art and other creative play materials; children's books; manipulative toys; and dramatic play materials. The home shall have materials and equipment in sufficient quantity to allow at least three children to choose the same type of activity.

(g) The home shall make equipment and materials available for at least three of the types of activities designated in Paragraph (f) of this Rule each day. A variety of toys and materials in sufficient quantity to allow at least three related activities to occur at the same time shall be easily accessible to the children.

(h) Age appropriate equipment and materials shall be provided for a variety of outdoor activities which allow for vigorous play and large muscle development. Each child shall have the opportunity for outdoor play each day that weather conditions permit. The home shall provide space and time for vigorous indoor activities when children cannot play outdoors.

(i) The requirements for activities for infants and toddlers as specified in Rule .0511 of this Subchapter shall also apply to large homes which provide care to children under two years of age.

History Note: Statutory Authority G.S. 110-86(3); 110-91(6), (12); 143B-168.3; Eff. July 1, 1988.

.2609 OTHER CAREGIVING REQUIREMENTS

(a) Meals and snacks shall be served in accordance with the requirements of Section .0900 of this Subchapter except that Rules .0901(b) and .0902(a) do not apply.

(b) All food shall be prepared and served in a sanitary manner. All food shall be served on an individual sanitary plate or other appropriate container. Snack foods may be placed on an individual napkin or paper towel. No food shall be placed directly on a countertop, table top or other such surface.

(c) No more than one child shall be fed with the same utensil or drink from the same cup or glass.

(d) The requirements related to written discipline policies and inappropriate discipline techniques as specified in Rule .1801 shall apply to large homes.

(e) Diapers shall be changed whenever they are soiled or wet.

(f) Children shall be toilet trained according to individual readiness.

(g) Each preschool-age child shall be given time and a place to rest or nap comfortably each day. Each preschool-age child shall have an individual bed, crib, cot or two-inch mat with clean linens.

(h) A comfortable place with clean linens shall be made available to each school-aged child who wants to rest or who is ill.

History Note: Statutory Authority G.S. 110-91(1), (2), (10); 143B-168.3; Eff. July 1, 1988; Amended Eff. November 1, 1989.

.2610 HEALTH AND EMERGENCY CARE REQUIREMENTS

(a) The large home shall have on file medical statements and records of immunizations for each child in accordance with the provisions of G.S. 110-91(1).

(b) The home shall have the following information in written form for each child in care, including drop-in, part-time and part-day children. The information shall be on file from the first day the child attends and shall be easily accessible to caregiving staff.

(1) The child's full name, date of birth, allergies, if any, any chronic illness the child may have, any medication the child may be taking; and any special fears or behavior characteristics that could affect the child's care.

(2) The names of individuals to whom the child may be released.

(3) Emergency medical care information to include the name, address and telephone number of the parent or other person to contact in an emergency; the name and telephone number of the child's physician; and name of preferred hospital.

(4) A statement signed by the child's parent or guardian authorizing the home operator to obtain emergency medical attention for the child.

(c) Each large home shall complete a form provided by the Section which describes the procedures for obtaining emergency medical care for staff and children. The following information shall be included:

- (1) The name, address and telephone number of a physician, other health professional or local health agency which is available to provide medical consultation.
- (2) The name and telephone number of the local emergency medical service.
- (3) Designation of a means of transportation which is always available in the event of an emergency.
- (4) The name, address, and phone number of the person who has agreed to be available to provide emergency relief when the conditions stated in Rule .2607(b) exist.

(d) Each large home shall have a working telephone on the premises which is always accessible to caregiving staff. Telephone numbers for the fire department, law enforcement office, emergency medical service, poison control center and emergency relief person, when required, shall be posted near the telephone.

(e) Administration of medications shall be in accordance with the provisions of Rule .0803.

History Note: Statutory Authority G.S. 110-91(1); 143B-168.3;
Eff. July 1, 1988.

.2611 PHYSICAL FACILITY AND SPACE REQUIREMENTS

(a) Each large home shall comply with the North Carolina Building Code requirements for small group day care facilities caring for 6-15 children pursuant to G.S. 110-91(4) and Rule .1303 of this Subchapter.

(b) Each large home shall be inspected prior to the issuance of the initial license and at least annually thereafter by a local fire safety official for compliance with fire safety measures.

(c) Each large home shall be inspected prior to issuance of the initial license and at least annually thereafter by a sanitarian for compliance with appropriate sanitation requirements as codified in Section .1200.

(d) The home shall have at least two remotely located exits directly to the outside.

(e) Firearms and other weapons on the premises shall be secured so that they are inaccessible to the children.

(f) Each large home shall have at least 25 square feet of indoor space for each child for which the home is licensed. The indoor space shall be measured by a representative of the Section and shall include only those areas of the home which are routinely made available to the children. The indoor space shall not include closets, bathrooms, storage areas, utility rooms, kitchens or space occupied by furniture or equipment that is not used by the children. The dining area of a kitchen may be counted if it is routinely used for children's activities in addition to eating.

(g) Each large home shall have an outdoor play area which provides at least 75 square feet of play area for each child present. The play area shall be fenced or afford adequate protection by some other means as determined by the Section.

(h) The outdoor play area shall be free of equipment, litter, animals and other objects which may be hazardous to children.

(i) The requirements set forth in Rule .1403 for the use of swimming pools on or off the premises shall apply to large homes.

(j) The requirements relating to hazardous items, materials and equipment as specified in Rule .0601(b) of this Subchapter shall apply to large homes.

(k) The requirements relating to safety as specified in Rule .0604 of this Subchapter shall apply to large homes.

History Note: Statutory Authority G.S. 110-86(3); 110-91(3), (4), (5), (6);
143B-168.3;
Eff. July 1, 1988;
Amended Eff. January 1, 1992, August 1, 1990.

.2612 TRANSPORTATION REQUIREMENTS

(a) The requirements set forth in Rule .1717(a)(4) for transportation of children in child day care homes shall apply to large homes.

(b) In addition, the staff/child ratios in Rule .2607 of this Section shall be maintained. If children under age two are being transported, the driver shall not be counted in the staff/child ratio.

History Note: Statutory Authority G.S. 110-86(3); 110-91(13); 143B-168.3;
Eff. July 1, 1988.

**SUBCHAPTER 3B - PROCEDURAL RULES
(EFFECTIVE NOVEMBER 1, 1989)**

SECTION .0600 RULEMAKING: CHILD DAY CARE COMMISSION

.0601 PETITIONS FOR RULEMAKING

(a) Any person wishing to request the adoption, amendment, or repeal of a rule made by the Child Day Care Commission (hereinafter referred to as the Commission) shall make the request in a written petition to:

Administrative Procedures Coordinator
Division of Facility Services
701 Barbour Drive
Raleigh, North Carolina 27603

(b) The petition shall contain either a draft of the proposed rule or a summary of its contents, the reasons for the proposal, and the name and address of the petitioner. The petition shall also include any of the following items known to the petitioner:

- (1) the statutory authority for the Commission to promulgate the rule;
- (2) the effect on existing rules;
- (3) any data supporting the proposal;
- (4) the effect of the proposed rule on existing practices in the area involved, including cost factors; and
- (5) the names and addresses of those most likely to be affected by the proposed rule.

(c) The division director or designee shall present the petition, plus any additional information or recommendations deemed relevant, to the Commission to determine whether the public interest will be served by granting the petition.

(d) The Commission shall render a decision as to whether to deny or approve the petition at its next scheduled meeting, which may be no later than 120 days after submission of the petition. If the decision is to deny the petition, the division director or designee shall notify the petitioner in writing, stating the reasons for the denial. If the decision is to approve the petition, the Commission shall initiate a rulemaking proceeding by issuing a rulemaking notice, as provided in these rules.

History Note: Statutory Authority G.S. 143B-168.3; 150B-16;
Eff. November 1, 1989.

.0602 RULEMAKING PROCEDURES

(a) The rulemaking procedures for the Secretary of the Department of Human Resources codified in 10 NCAC 1B .0102 through .0107 are hereby adopted by reference pursuant to G.S. 150B-14(c) to apply to the actions of the Commission, with the following modifications:

- (1) Correspondence related to the Commission's rulemaking actions shall be submitted to:

Administrative Procedures Coordinator
Division of Facility Services
701 Barbour Drive
Raleigh, North Carolina 27603

- (2) The "secretary's designee" shall mean the Director of the Division of Facility Services (hereinafter referred to as the Division).
- (3) "The Division" shall be substituted for the "Office of Legislative and Legal Affairs" in 10 NCAC 1B .0106 and .0107.
- (4) "Hearing officer" shall mean the Chairman of the Child Day Care Commission or designee.

(b) Copies of 10 NCAC 1B .0102 - .0107 may be inspected in the Division at the address given in Subparagraph (a)(1) of this Rule. Copies may be obtained from the Office of Administrative Hearings, 424 North Blount Street, Raleigh, North Carolina 27601.

History Note: Statutory Authority G.S. 143B-168.3; 150B-11; 150B-14;
Eff. November 1, 1989.

.0603 DECLARATORY RULINGS

(a) The Commission shall have the power to make declaratory rulings. All requests for declaratory rulings shall be by written petition and shall be submitted to:

Child Day Care Section
Division of Facility Services
701 Barbour Drive
Raleigh, North Carolina 27603

(b) Every request for a declaratory ruling must include the following information:

- (1) the name and address of the petitioner;
- (2) the statute or rule to which the petition relates;
- (3) a concise statement of the manner in which the petitioner is aggrieved by the rule or statute or its potential application to him or her; and
- (4) the consequences of a failure to issue a declaratory ruling.

(c) Where a declaratory ruling is deemed to be in the public interest, the Commission shall issue the ruling within 60 days of the receipt of the petition.

(d) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be deemed appropriate, in the discretion of the Commission, in the particular case.

(e) The Commission may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing.

(f) A record of all declaratory ruling proceedings shall be maintained by the Division and shall be available for public inspection during regular business hours. This record shall contain:

- (1) the original request;
- (2) the reasons for refusing to issue a ruling;
- (3) all written memoranda and information submitted;
- (4) any written minutes or audio tape or other record of the oral hearing, and
- (5) a statement of the ruling.

History Note: Statutory Authority G.S. 143B-168.3; 150B-11; 150B-17;
Eff. November 1, 1989.

SECTION .0700 - CONTESTED CASES

.0701 DEFINITIONS

The following terms shall have the following meaning unless the context of the rule requires a different interpretation:

- (1) "Department" means the Department of Human Resources;
- (2) "Director" means the Director of the Division of Facility Services;
- (3) "Hearing" means a contested case hearing as provided in G.S. 150B-2(2) and 150B-23;
- (4) "OAH" means the Office of Administrative Hearings.

*History Note: Statutory Authority G.S. 143B-10; 150B-11;
Eff. November 1, 1989.*

.0702 REQUEST FOR DETERMINATION

(a) In accordance with G.S. 150B-2(2), any person may request a determination of his legal rights, privileges, or duties as they relate to laws or rules administered by the Department. All requests must be in writing and contain a statement of the facts prompting the request sufficient to allow for appropriate processing by the Department.

(b) Any person seeking such a determination must exhaust all informal procedures available before requesting a hearing under G.S. 150B-23.

(c) All petitions for hearings regarding matters under the control of the Department shall be filed with the OAH in accordance with G.S. 150B-23 and 26 NCAC 3 .0003. In accordance with G.S. 1A-1, Rule 4(j)-4, the petition shall be served on a registered agent for service of process for the Department. A list of registered agents may be obtained from the Office of Legislative and Legal Affairs at 101 Blair Drive, Raleigh, North Carolina, 27603.

*History Note: Statutory Authority G.S. 143B-10; 150B-11; 150B-22; 150B-23;
Eff. November 1, 1989.*

.0703 RECORD

(a) The official record of a hearing shall be maintained in the Division Office, Division of Facility Services, 701 Barbour Drive, Raleigh, North Carolina, 27603.

(b) Any person wishing to examine the hearing record shall submit such request in writing to the Division Office, Division of Facility Services, 701 Barbour Drive, Raleigh, North Carolina 27603. Such request must be given in sufficient time to allow the record to be prepared for inspection.

*History Note: Statutory Authority G.S. 143B-10(j)(3); 150B-11; 150B-23(e); 150B-29(b);
Eff. November 1, 1989.*

.0704 EXCEPTIONS TO RECOMMENDED DECISION

(a) Upon receipt of the official record as defined in G.S. 150B-37, the Director shall notify the parties to the contested case of receipt of the record and provide them an opportunity to file exceptions to the decision recommended by the administrative law judge and to present written arguments in accordance with G.S. 150B-36.

(b) The time provided to submit arguments and exceptions shall be specified in the notice and shall be at least 15 days from the date the notice was mailed.

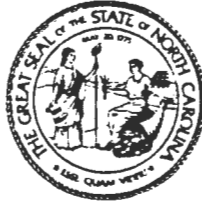
(c) No new evidence may be included in the exceptions and arguments presented for consideration by the final decision-maker.

*History Note: Statutory Authority G.S. 143B-10; 150B-11; 150B-36; 150B-37;
Eff. November 1, 1989.*

APPENDIX D

AGENDAS

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



LEGISLATIVE RESEARCH COMMISSION STUDY COMMITTEE ON CHILD
CARE ISSUES

February 12, 1992, 10:00 a.m.; Room 1228, Legislative Building

10:00 a.m.

- I Welcome by Chair
- II Staff Presentations:
 - Approval of Budget, Susan Sabre
 - LRC Rules, Susan Sabre
 - Background Child Care Legislation:
 - (1) 1991 Legislation Affecting Child Care, Susan Sabre
 - (2) Legislative History Of Committee, Susan Sabre
 - (3) Committee Charge, Susan Sabre
 - Fiscal Background for Child Care, Manny Marbet
- III Presentation by Secretary Flaherty, Department of Human Resources
- IV Presentation by Catherine Sonnier, Senior Policy Specialist for Children, Youth, and Families. National Association of State Legislatures
- V Presentations from the Public:
 - (1) Bill Batts, Wayne County Professional Child Care Association
 - (2) Stephanie Fanjul, North Carolina Day Care Association
 - (3) Kathy Hykes, Alamance Child Care Resource and Referral
 - (4) Jennie Megginson, large family home provider
 - (5) Lynne Myers, N.C. Child Care Resource and Referral Network
 - (6) Ruby Rideout, Rideout's Nursery and Kindergarten
 - (7) Michele Rivest, Vice President for programs, N.C. Child Advocacy Institute
 - (8) Louise Romanow, Child Care Resource and Referral
 - (9) Betsy Thigpen, Headstart
 - (10) Barbara Vandenberg, N.C. Association for Education of Young Children
- VI Presentations by Letter, (to be passed out)
 - (1) Darriss G. Moody
 - (2) Una Jester
- VII Additional Presentations
- VIII Committee Discussion
- IX Selection of Next Meeting Date
- X Directions to Staff
- XI Adjournment

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



LEGISLATIVE RESEARCH COMMISSION STUDY COMMITTEE ON CHILD CARE ISSUES

March 10, 1992, 10:30 a.m.; Room 544, Legislative Office Building

10:30 a.m.

I Welcome by Chair

II Approval of Minutes

III Staff Presentations:

Presentation of Specific Information Requested at Last Meeting, Susan Sabre
Fiscal Sources of Child Care Administered by the Department of Human
Resources, Manny Marbet:

Update on NCSL Grant, Gregory Berns, Fiscal Research Division.

IV Agency Presentations:

Child Care Administered by the Department of Public Instruction, including
child care services administered pursuant to the memorandum of Agreement between
the Department of Human resources and the Department of Public Instruction, dated
August 8, 1991, Laura Mast, Staff Consultant for Elementary Grades;

Essential Child Care Issues for the 1992 Short Session and for the 1993
General Assembly, staff of the Department of Human Resources;

Child Care Block Grant Set-Aside for Children with Special Needs, Duncan
Munn, Developmental Disabilities Section, Division of Mental Health, Developmental
Disabilities, and Substance Abuse Services, Department of Human Resources.

**V Presentation by Lana Hostetler, President, National Association for the Education
of Young Children;**

VI Setting the Agenda for the Child Care Issues Committee/Committee Discussion:

Identification of any essential issues that must be recommended to the 1992
Short Session;

Identification of essential issues that must be studied for recommendations
to the 1993 General Assembly.

[Major study issues presented at last meeting, with staff designation as 'ST' (Short
Term - requiring little study/meeting time, and 'LT' (Long Term - requiring much
study/meeting time and, in some cases, requiring more new appropriations than are
likely to be made in the short session:

ADMINISTRATION

(ST) Changing of definition of day care to exclude such care as is provided in malls
and bowling alleys. (This issue could be handled by a special provision in the coming
short session's Appropriations Bill.)

(LT) Study of proposed State voucher and day care payment plan.

(LT) Study of whether DPI and DHR agreement on child care in public schools hurts private day care unfairly so as to violate 'Umstead' Act.

QUALITY

(LT) Lowering of staff/child ratios, including a detailed cost analysis.

(LT) Study of day care provider education and compensation, including study of coordination problems and methods of eliminating them.

(LT) Study of methods to encourage "readiness" of all children in child care to succeed in public school.

AFFORDABILITY

(ST) Support for appropriation of sufficient new funds (16 million dollars) to provide matching funds for the Family Support Act day care program. Presently, 16 million dollars of State funds originally earmarked for child care subsidy for employed parents of abused or neglected children have had to be used as FSA matching funds. (This support could be demonstrated by a Committee letter to the Appropriations Chair.)

(LT) Study of the need to increase eligibility for the State child care subsidy program.

ACCESSIBILITY

(LT) Study of payment rates.]

VI Selection of Next Meeting Date

VII Directions to Staff

VIII Adjournment

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



LEGISLATIVE RESEARCH COMMISSION STUDY COMMITTEE ON CHILD
CARE ISSUES

April 8, 1992, 10:00 a.m.; Room 544, Legislative Office Building

I Welcome by Chair

II Adoption of Minutes

III Presentations:

(1) Proposed Voucher System, Secretary Flaherty, Department of
Human Resources;

(2) Child Day Care Payment Rates

and

Allocation of Non-FSA Funds for the Subsidized Child Day
Care Program, Ron Penny, Day Care Section, Division of
Facility Services, Department of Human Resources;

(3) H466 and committee substitute - Criminal Record Checks of
Child Care Providers, Susan Sabre, Tim Hovis, General
Research;

(4) Revision of Chapter 593, 1991 Session Laws, - SBI day Care
Abuse Task Force: (This item was presented briefly at
the last meeting. As the Joint Legislative Commission

on Governmental Operations was to review it, the Committee moved to wait to consider it until after it was heard by Governmental Operations heard it. Governmental Operations received the report but took no action to recommend the changes requested so the issue comes back before this Committee.)

1. Task Force Report, Jane Gray, Deputy Attorney General;
2. Department of Human Resources' Alternative, Susan Sabre;

(5) Revision of Definition of Day Care to Exclude Drop-In Care; Susan Sabre;

(6) Proposed Legislative Study Commission on Child Care Issues; Susan Sabre.

IV Committee Discussion on whether to report to the short session. if the Committee decides to report, the remainder of the meeting will be used to develop the specific recommendations to be included.

V Selection of Next Meeting Date if the Committee has decided to report to the short session. Staff would suggest April ~~28~~ for the meeting to approve the report.

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VI Directions to staff

VII Adjournment

Child Care Issues Subcommittee /Equity in Funding
April 16, 1992 Voucher /Dual Rate Problems
Room 605, LOB

1. Introduction

2. Department of Human Resources
-Office of Child Day Care-Ron Penney

3. Other Options from FRD Staff
Manny Marbet

4. Discussion and Recommendations to Full Committee

5. Adjourn

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



**LEGISLATIVE RESEARCH COMMISSION STUDY COMMITTEE ON CHILD
CARE ISSUES**

April 27, 1992, 10:00 a.m.; Room 643, Legislative Office Building

I Welcome by Chair

II Adoption of Minutes

III Presentations:

(1) April 16, 1992 Subcommittee Meeting Report, Senator Russell Walker;

(2) Fiscal Report on (i) Costs of Supplementing above Market Rate to Meet Provider Charge;

(ii) Costs of providing Subsidized Care if Negotiations are Stopped with Federal Government;

(iii) Concept and costs of developing a minimum rate of subsidy, a "floor" rate all facilities would receive;

Dr. Nancy Sampson, Child Day Care Section, Division of Facility Services, Department of Human Resources.

(2) Child Care Issues Draft Report, Susan Sabre

IV. Committee Discussion; Action on Draft Report: Additions, Deletions, Corrections.

V. Consideration of Motion to request Senator Russell Walker to request the Legislative Research Commission allocate an additional \$15,000 to this Committee to enable it to continue its work and to report to the 1993 General Assembly.

VI. Adjournment.

APPENDIX E

MINUTES

APPENDIX E

LRC COMMITTEE ON CHILD CARE ISSUES

MINUTES

FEBRUARY 12, 1992

The LRC Committee on Child Care Issues met on February 12, 1992 in Room 1228 of the Legislative Building. Co-Chair Senator James Richardson called the meeting to order and asked members and visitors to introduce themselves. Co-Chair Rep. Easterling welcomed the committee members and expressed her hope that the committee would effectively examine the entire spectrum of child care issues, to the benefit not only to North Carolina's children, but to all the people of North Carolina. The following members were present:

Representative Ruth Easterling, Representative Charlotte Gardner, Senator James Forrester, Senator Helen Marvin, Representative Margaret Jeffus, Representative Eugene Rogers, Ms. Debbie L. Parker, and Ms. Marjorie Warlick. Senator Richardson informed the Committee that the first meeting was designed to introduce the members to current issues affecting child care in North Carolina and stressed that the most pressing of these issues would be examined in detail in future meetings.

Susan Sabre, Committee Counsel, presented the proposed budget. A motion was made by Rep. Easterling to adopt the

proposed budget. Motion carried. (Committee Notebook - Budget Tab)

Ms. Sabre continued by presenting to the Committee the Legislative Research Commission Rules, 1991 legislation affecting child care, legislative history of the committee, and the committee charge. She also directed the committee's attention to that portion of Chapter 110 that deals with day care. (Committee Notebook - Authorizing Legislation and Background Legislation) Manny Marbet of the Fiscal Research Division was recognized to give the Committee a fiscal background for child care. (Attachment I) Representative Rogers requested that a detailed analysis of all child care funding sources be presented at the next meeting.

The Committee then received the following presentations that were designed to inform the members on the most pressing child care issues:

(1) Secretary Flaherty, Department of Human Resources, Child Day Care Information (Attachment II)

Secretary Flaherty spoke to the issue of the 44.7 million dollars allocated to the Department in 1990 for a multitude of day care programs collectively called "Uplift Child Care", and the distribution of those funds to avoid duplication. The Department of Human Resources worked out an agreement, to be presented at the committee's next meeting, with the

Department of Public Instruction to utilize existing staffs to allocate the funds efficiently. Secretary Flaherty recognized the people from the department who administer the programs and who will serve as vital resources to the committee. He passed out the document, Child Day Care to be used as a ready reference and summary by the committee.

(2) Gregory Berns with the Fiscal Research Division was recognized to update the Committee about the \$10,000 technical assistance grant award awarded to North Carolina by the National Conference of State Legislatures to study selected day care issues. It was pointed out that Representative Gardner had initiated the contact that ultimately led to the State being awarded the grant. Mr. Berns told the committee that the details of the grant proposal and how it would mesh not only with the committee's study, but also with other studies and with agency needs, would be presented at a future committee meeting.

(3) Catherine Sonnier, Senior Policy Specialist for Children, Youth, and Families, National Association of State Legislatures was introduced to the Committee to give information about the grant. (Attachment III)

(4) Bill Batts, Wayne County Professional Child Care Association. (Attachment IV)

Mr. Batts' presentation addressed the impact of House Bill 1062 and (Staff handout - Legislative History of the Committee) the effect of lowering the staff/child ratios

(requiring one staff to provide care to fewer children) at the day care he represented. He spoke against any lowering of the ratios because lowering would force day care operators to hire more staff for the same number of children and would force operators to charge the working parents more than they could afford.

(5) Stephanie D. Fanjul, North Carolina Day Care Association (Attachment V)

Ms. Fanjul addressed the North Carolina Day Care Association's legislative goals to improve the administrations' child care plan call "Uplift Child Care", including increasing effective child care providers input in the development of the voucher system, proper and immediate allocation of resource and referral money, and improving day care of quality by lowering staff/child ratios.

(6) Kathy Hykes, Alamance Child Care Resource and Referral (Attachment VI & VII)

Ms. Hykes described the Child Care Resource and Referral of Alamance County that assists parents in finding quality day care. She also summarized research findings that identify factors associated with high quality child care programs and strongly encouraged the Committee to implement the findings. These findings include lower staff/child ratios, smaller group size, specific training in early childhood development,

and real attention paid to basic health and safety standards, including adequate nutrition.

(7) Genevieve R. Megginson, Family Home Provider
(Attachment VIII)

Ms. Megginson spoke to the issue of the lack of available day care in North Carolina and to the need to continue to improve day care quality. She stressed that it was not necessarily true that lower staff/child ratios meant that parents would not afford day care, because she always had a waiting list of parents eager for such quality day care.

(8) Lynne Myers, North Carolina Child Care Resource and Referral Network (Attachment IX)

Ms. Myers addressed the issues of affordability of care and parental choice. She reported that economists have developed a rule of thumb that child care costs should not exceed 10% of any family's gross income or they will begin crowding out basic necessities. The Network strongly supports the continued development of a system that helps all families to afford child care and also supports parental choices in child care.

(9) Ruby Ridoutt, Ridoutt's Nursery and Kindergarten
(Attachment X)

Ms. Ridoutt spoke against lowering the staff/child ratios because it would create a hardship on working parents who, she said, could not afford the increasingly expensive care. She

also requested information on the role that the Department of Public Instruction was playing in day care, as she told the Committee she believed the schools were unfairly drawing three and four year olds away from private day care providers. Information regarding the school role in day care will be presented at the next meeting.

(10) Michele Rivest, Vice-President for Programs, North Carolina Child Advocacy Institute (Attachment XI & XII)

Ms. Rivest addressed the need to lower staff/child ratios, to enhance day care teacher credentialing, to improve training of day care teachers, to improve the salaries of all day care workers, and to increase both the availability and affordability of quality child care. She told the Committee that the Institute would be a ready resource for its work.

(11) Louise Romanow, Parents for Quality Day-Care (Attachment XIII)

Ms. Romanow spoke to the concern about quality, and affordability of child care. She stressed that lowering staff/child ratios is critical to improving child care quality and noted that a lower staff/child ratio encouraged staff to be more professional and more positive. Lower ratios clearly encouraged childrens' social and cognitive development. She acknowledged that increasing the quality of care would cost more but she stated: "North Carolina cannot afford to shortchange children and their families. The price

for not providing good care is far greater than the cost we must reckon with to upgrade the standards of care in North Carolina."

(12) Betsy Thigpen, President, North Carolina Headstart Association (Attachment XIII)

Ms. Thigpen commented on the Uplift Day Care Plan, discussed earlier which addresses the needs of children and their families, and the Head Start Programs' development. She stressed the need to ensure that all child care programs produce children who are "ready" for school. Such readiness must be reached through child care programs that provide integrated and comprehensive services, developmentally appropriate activities, parental involvement and family-focused policies and sources, and well-trained and adequately compensated staff.

(13) Barbara Vandenburg, North Carolina Association for Education of Young Children (Attachment XV)

Ms. Vandenburg stressed the benefits to all children that receive quality child care. Such care produces children who are better prepared to enter kindergarten, who show greater motivation for learning, and who are successful in school. She emphasized that quality care includes low staff/child ratios and group sizes, activities developmentally appropriate for the children, and staff who are well-trained and adequately compensated.

(14) The last three presentations were letters to the Committee. Staff read them into the record and presented the signed petitions that accompanied the last two letters. All the letters requested the committee not to recommend the lowering of staff/child ratios as was proposed in House Bill 1062.

Darriss G. Moody (Attachment XVI)

Una Jester (Attachment XVII)

Clarence Holder (Attachment XVIII; Petition on Committee Record)

Tara Mattheson, Pamela Honeycutt (Attachment XVIII; Petition in Committee Record)

Senator Forrester requested copies of the North Carolina Medical Journal's article "Issues in Child Day Care in the United States and North Carolina" for the Committee to review as well as any materials staff had ready before the next meeting. Senator Forrester also requested the regulations affecting health in day care, which will be presented at the next meeting.

The next meeting was set for 10:30 a.m., Tuesday, March 10, 1992 in Room 544 of the Legislative Office Building. With no further business, the meeting adjourned.

Senator James F. Richardson
LRC Committee Co-Chair

Irma J. Avent
Committee Clerk

LRC COMMITTEE ON CHILD CARE ISSUES

MINUTES

MARCH 10, 1992

The LRC Committee on Child Care Issues met on March 10, 1992 in Room 544 of the Legislative Office Building. Co-Chair, Representative Ruth Easterling called the meeting to order. Representative Easterling asked the Committee if there were changes, suggestions, or comments about the minutes that were sent to each member. A motion was made by Senator Richardson to approve the minutes. The motion carried. The following members were present: Representative Ruth Easterling, Senator James Richardson, Representative Charlotte Gardner, Representative Howard Hunter, Senator Helen Marvin, Representative Maggie Jeffus, Senator Clark Plexico, Representative Eugene Rogers, Senator Russell Walker, and Ms. Marjorie Warlick.

Representative Easterling recognized Susan Sabre, Committee Counsel, to begin staff presentations of information requested from the previous meeting. Ms. Sabre asked the Committee to note that a copy of all the day care regulations

effective January 1, 1992 had been placed in each member's notebook (See Tab - Background Legislation). Ms. Sabre told -

the Committee that the article on child care issues in the North Carolina Medical Journal requested by Senator Forrester for the Committee had not been found. Staff will consult with Senator Forrester about the article and bring it to the Committee at a later date.

Ms. Sabre passed out several pieces of information that had been requested at the last meeting. Ms. Sabre referred to information received from child advocates on the staff child ratios that suggests the number of children in a group and the number of children supervised by only one staff need to be limited to facilitate constructive interaction and activity. Many believe that infants' groups should not exceed 6 to 8 children. Although they allow that group size it may increase with age, it should not exceed 20 or older preschool children and 28 for school - age children.

(Attachment 1)

Ms. Sabre continued by discussing to the publication "Who Knows How Safe?, The Status of State Efforts to Ensure Quality Child Care", an article compiled by the Children's Defense Fund in Washington, D.C. The key findings suggests that good quality child care can be provided only if the caregiver is not responsible for too many children. Yet more -

than one-third of the states have child-to-staff ratios for child care centers that exceed recommended levels for infants, nearly half have levels higher than recommended for toddlers, and two thirds have ratios for preschool-age children that exceed recommended levels. (Attachment 2) Another item that had been requested by the Committee was a list of Statewide Child Advocacy Groups (Attachment 3). The last item requested by the Committee was information about the Umstead Act (Chapter 66 of the General Statues) and its possible relationship to day care being provided by the Department of Public Instruction. Staff suggested the Committee might want to request information from the Attorney General's Office on clarification of its relevance to 3 and 4 year olds in the Public Schools. A request was made by Senator Marvin for Staff to ask the Attorney General to give the Committee its opinion on the Umstead Act and how, if at all, it may relate to the provision of daycare by the public schools. Senator Marvin moved to request the opinion. Representative Easterling recognized Manny Marbet with Fiscal Research to update the Committee on the major child care expenditures (Headstart, Development Day, Social Service Block Grant, Title IV-A at-Risk, Family Support Act, CCDBG-Regular Day Care, CCDBG-Head ^{Start} ~~Stat~~ Wrap-Around, State Subsidy, Development Day Care Pre-School, Pre-School

Handicapped, Chapter I-Handicapped, and Community Residential) and the children served through funds administered by the Department of Human Resources. (Attachment 5,6,7, & 8) The Committee asked staff to provide a copy of federal requirements regarding day care matching funds to the Committee at the next meeting.

Representative Easterling recognized Gregory Berns, Fiscal Research, to update the Committee on the grant from the National Conference of State Legislatures. That update centered around the issues involved in creating a "seamless" system of day care in North Carolina. The issues and problems that need to be addressed before that becomes a reality are listed below:

(1) Variations in program administration at county level. This situation poses special challenges for State level administration of the program and makes integration of policy at the State level a critical factor in the effective delivery of services.

(2) Integration of day care policy development and administrative direction at the State level. Presently, the goals, policies, and eligibility requirements from the many -

programs vary and sometimes conflict with one another. No single rulemaking body or Division reviews day care policy in order to integrate and simplify State level policy and administration.

Mr. Berns continued by stating how the request for the technical assistance grant would help North Carolina address many of the questions and problems associated with day care. North Carolina could benefit greatly from the experiences of other states in their efforts to fund and administer a quality seamless day care service program. The National Conference of State Legislature's technical assistance grant would be well utilized by North Carolina and would demonstrate that significant returns can be achieved on modest investments. The Frank Porter Graham Center in Chapel Hill was mentioned as the technical resource that NCSL might contract with, in cooperation with North Carolina, to develop a day care management system at the State and local level. Representative Easterling recognized Laura Mast, Staff Consultant for Elementary Grades, Department of Public Instruction, to update the Committee on the Memorandum of Agreement between the Department of Human Resources and the Department of Public Instruction. (Attachment 10) The Agreement provides a system of child day care services that -

combines a variety of State and federal funding sources for the benefit of low income working families, children with special needs, and children in other high risk situations. The intent of the Memorandum of Understanding is to establish the basic responsibilities of and relationship between the Department of Human Resources (DHR) and the Department of of Public Instruction (DPI) so as to ensure the continuity and consistent quality of the child care services provided. To become part of this program, a local initiative begins the process. One program that is part of this agreement is the Even Start Program which presently operate in six counties. The Kenan Foundation Program is another program that operates on similar initiatives as the Even Start Program.

Mr. Duncan Munn with the Developmental Disabilities Section, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Human Resources, was recognized to provide information on the child care developme ntal block grant set-aside for children with special needs. Mr. Munn identified special needs children as certain children from birth to five years of age. Special needs infants and toddlers, from birth to three years of age are those with developmental delay or disability mental retardation, cerebral palsy, autism, or vision/hearing -7-

impairments, those with atypical development (behavioral/emotional disorders), and those at risk for a developmental delayed disability or atypical development. Preschool children with special needs age three and four are those with specific types of developmental disabilities or atypical development. Mr. Munn talked about mainstreaming and specific approaches that are placing children with special needs in existing child care programs such as licensed day care centers, family day care homes, and preschools, with ongoing support and consultation provided by specialized early intervention personnel. Mainstreaming research has shown that many children show more progress in areas like social and language skills and that there are not negative effects on the children whether, with or without special needs.

Representative Easterling recognized Mr. Elliott Wurtzel, Real Estate Broker, to make a presentation to the Committee. Mr. Wurtzel identified himself as the father of a 18 month child, who is concerned about the problems of child care. He also stated his concern about future needs of child care and how availability and quality child care must be a priority. Even if lowering staff/child ratios would cost more, Mr. Wurtzel stressed, the cost must be borne.

Representative Easterling recognized Susan Sabre, Committee Counsel, to summarize letters from Day Care Operators. The letters expressed concern about House Bill 1062 and its negative impact on day care. The letters also stressed the need to examine the bill more closely and seek other alternatives to improving the quality of child care by lowering staff child ratios. All the letters strongly opposed lowering the ratios.

Ms. Lana Hostetler, President of the National Association for the Education of Young Children, was recognized by Representative Easterling to give a presentation to the Committee. Ms. Hostetler's Association is a membership organization that serves as a resource agency for parents, advocates, and any individuals that are concerned about children's issues. Ms. Hostetler told the Committee that high quality day care is a concern that is nation wide. Many businesses are now providing quality day care for their employees. She stated that many studies are ongoing on day care and that she would provide the Committee with current completed statistics and an executive summary from her organization. She stressed the components of quality day care, which include low staff/child ratios, health care, and

properly trained staffs that are adequately compensated and that work in well - equipped facilities.

Representative Easterling recognized Senator Marvin who made a motion that the Committee request the Department of Human Resources delay implementation of the child care voucher plan, including any proposal requests and letting of contracts, until the Committee has been able to study the issue further. Senator Richardson asked to include in the motion the inviting of Secretary Flaherty to the next meeting to discuss the child care voucher plan. Motion was seconded by Representative Eugene Rogers. Motion carried.

Representative Easterling recognized Dr. Nancy Sampson who spoke briefly about the child care voucher plan. She stated that almost every one involved in providing child care, including providers, parents, grandparents, and departments of social services, had been talked with about the voucher plan. The Department of Human Resources' meeting and results of all the input are slated to be presented at a departmental meeting on March 13, 1992. The Committee asked that those results be brought to the Committee's next meeting. There were concerns from members of the Committee about the hasty timetable of implementing the voucher plan. Questions were asked about the possible adjusting of the present system rather than implementing a new system.

Representative Easterling recognized Stepanie Fanjul, President with the North Carolina Day Care Association and representative of day care providers, stated that her association had been alarmed about the hasty implementation of a new voucher system. Her association advocates adjustments in the present system. (Attachment 12)

Representative Easterling called for discussion from the Committee on whether the Committee will report to the 1992 Short Session. Discussion from the Committee included the requesting through Committee's Legislative Research Commission member, Senator Walker, additional funds for the Committee's study after the Short Session in case all its current funds had to be expended producing a report. The Committee also discussed the formation of an on-going Commission on Child Care Issues, which could examine ongoing and long-term child care issues and solutions.

Representative Easterling recognized Senator Richardson who stated that the Committee possibly discuss short term issues (requiring little study/meeting time) at the next meeting and hold long term issues (requiring much study/meeting time) for after the Short Session. Representative Easterling recognized Representative Eugene Rogers who asked that the -1

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Representative Pete Thompson's bill House Bill 466, on criminal record checks of child care providers, be brought to the Committee for discussion and recommendations at the next meeting, in case the bill might not be considered "live" for the short session. He also asked that information about the subsidy plan and methods of determining payments be brought to the Committee from the Department of Human Resources. Mr. Ronald Penney with Facility Services, Department of Human Resources was asked to bring this information to the Committee's next meeting.

Representative Easterling recognized Representative Gardner who asked that information about the state subsidy funds being reverted back to the federal government due to lack of available slots and about counties that have reverted funds and currently are reverting funds be brought to the Committee.

Representative Easterling recognized Susan Sabre, Committee Counsel, who advised the Committee that in order to make an interim report the Committee will have to have a total of four meetings with the last meeting before April 29, 1992. Ms. Sabre continued by giving an update on long-term items. Those items include the Committee's request to have staff -12

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draft letter to the Attorney General's office to get opinion on the Umstead Act and whether the Department of Public Instruction and Department of Human Resources Agreement on child care in the public schools unfairly hurts private day care; staff/child care ratios, including detailed cost analysis; and day care provider education and education coordination.

Dr. Nancy Sampson presented two requests for legislation for the Short Session. The first requested a definition of "Child Day Care" excluding drop-in care arrangements provided for children while their parents are participating in non-employment related activities on the premises such as in shopping malls, exercise studios, resort hotels, bowling alley, health spas, church child care provided during church activities and other similar arrangements. (Attachment 13) Representative Easterling recognized Representative Gardner who asked Dr. Nancy Sampson from the Division of Facility Services about the types of child care that do not require registration or certification. Upon recommendation by Dr. Sampson, Representative Hunter made a motion to exclude mall care, drop-in care, and other similar care as requested in the revision of the definition of child day care. The Committee voiced concern about the lack of monitoring for -13

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operators of these facilities. However, the Committee recognized the lack of funds to monitor these programs adequately while regulating all those day care facilities and homes that are licensed and registered. The Committee expressed the need to remove these facilities from daycare and to have an ongoing Commission of Child Care Issues if formulated, study the long-term issue of how to ensure that all children in any kind of care outside the home receive adequate care.

The second request proposed amendments to House Bill 597, Chapter 593 of the 1991 Session Laws, which requires notification of the SBI whenever child sexual abuse is suspected and encourages the SBI to establish a task force to investigate sexual abuse allegations in daycare. This amendment would clarify some of the reporting and investigatory procedures when child sexual abuse is suspected to have occurred in a day care arrangement. The Committee asked that this amendment be held due to the fact it is slated to be reviewed and discussed by the Governmental Operations Commission. The Division of Facility Services will have the opportunity to have the amendment reviewed by this committee if the Governmental Operations Commission does not take action on it. (Attachment 14).

With no further business, the meeting adjourned. The next meeting will be Wednesday, April 8, 1992 at 10:00 in Room 544 of the Legislative Office Building. The Chair stressed that this meeting would most likely be a very long one and could determine whether the Committee will report to the Short Session and what it would report.

Representative Ruth Easterling
LRC Committee Co-Chair

Irma J. Avent
Clerk

LRC COMMITTEE ON CHILD CARE ISSUES

MINUTES

APRIL 8, 1992

The LRC Committee on Child Care Issues met on April 8, 1992 in Room 544 of the Legislative Office Building. Co-Chair, Senator James Richardson called the meeting to order. Senator Richardson asked the Committee if there were changes or comments about the minutes that were sent to each member. A motion was made by Representative Easterling to approve the minutes. The motion carried.

The following members were present: Senator James Richardson, Representative Ruth Easterling, Representative Charlotte Gardner, Senator James Forrester, Representative Howard Hunter, Jr., Representative Maggie Jeffus, Representative Eugene Rogers, Senator Russell Walker (LRC Member), Ms. Debbie Parker, and Ms. Marjorie Warlick.

Senator Richardson recognized Representative Pete Thompson, who presented to the Committee House Bill 466, Day Care Provider Records, which is an act to mandate criminal record checks of child day care providers (See Attachment I).

Representative Thompson expressed the hope that this Committee would sponsor the bill during the short session.

Questions were asked regarding whether the bill is currently still alive.

Senator Richardson recognized Susan Sabre, Committee Counsel, to explain the bill and the committee substitute (See Attachment I).

Ms. Sabre told the Committee that there is a difference of opinion on whether the bill is still alive in Judiciary II. Under old adjournment resolutions, up until this year, any bill that directly affected the state budget would be viable even if it had not met the cross-over deadline and HB466 clearly has such a direct effect. However, the new adjournment resolution states that such a bill must directly and primarily affect the state budget before it can be introduced or continue under consideration. It would definitely be eligible for consideration if recommended by this study committee. Ms. Sabre continued to explain the bill by stating that this bill and the process involved was reviewed by the Juvenile Law Study Commission. This process begins with a employer getting an applicant to the local sheriff or municipal police for fingerprinting. The fee of not more than \$5.00 is charged for the fingerprinting. The employer pays the fee. The employer is responsible for getting to the Department two fingerprint cards along with a

complete standardized record check form from the clerk of superior court reflecting a check of any conviction of misdemeanor or felony child abuse. The employer receives the two fingerprint cards and the records checks and then forwards the applicant card along with the required fees to the State Bureau of Investigation (SBI), the Federal Bureau of Investigation (FBI), and the police information network (PIN) for a manual fingerprint check of any conviction of misdemeanor and felony child abuse. When the SBI and FBI have finished, they notify the employer as to whether the applicant qualifies for continued employment. If the applicant continues to work for the employer, the employer may lose the license to operate. Questions arose regarding the constitutionality of the bill and how would it affect those people that may have made a mistake but deserve another chance. Representative Gardner stated that she did have some problems with day care providers that have a DWI level 1 conviction working in day care. Representative Rogers asked whether the criminal record check could be used to get information regarding arrests as well as convictions. All stated that this information should remain on file. Ms. Sabre stated that she would have to research the constitutionality of any information other than of a conviction being available to employers and of information on convictions of crimes rather than those of child abuse and

would bring that information back to Representative Gardner, Representative Rogers and other members of the committee.

Senator Richardson recognized Tim Hovis, General Research to discuss the House Bill 466 committee substitute to House Bill 466. This bill substitute does two major things, it first excludes all existing day care providers from the provisions of the bill unless they change their place of employment and it includes all spouses of day care providers. These changes do increase the appropriation required.

Senator Richardson called for discussion of the bill by the Committee. Although Representative Gardner suggested the bill be a long term goal, to be studied when there is suitable time to discuss the bill, the Committee decided to strongly endorse and support Representative Thompson's efforts to pass the bill. Representative Thompson stated that he would handle the bill but if he ran into problems he would pull the bill and hold it until the long session. A motion was made by Representative Rogers to recommend this bill be a part of the the interim report to the short session. Motion carried.

Representative Gardner asked to have information on what other states were doing in the area of criminal record checks

of day care providers. Catherine Sonnier of NCSL was present at the meeting and was able to get the information requested to the committee after the break. (See Attachment II).

Senator Richardson recognized Secretary David Flaherty, Department of Human Resources. (Attachment III & IV) Secretary Flaherty began his presentation by stating that a group of small private for-profit day care operators had approached him with the problem about the strict interpretation of the federal policies, which results in children not receiving the USDA supplemental food monies that they should be getting. He stated that, because of the way the policy is written, children under the Family Support Act did not qualify for USDA monies. After talking with the Department of Public Instruction and federal authorities, it was determined that, if the Human Resources Department could reallocate one dollar of the block grant funds, many additional children could get hot meals. Secretary Flaherty asked for the Committee's support in doing this. After Committee discussion, the Committee strongly supported this action and a motion was made by Representative Easterling to include this support as a recommendation in the interim report. Motion carried.

Secretary Flaherty then explained the voucher system progress. He explained that the Department has the same concerns about implementing of the voucher system as had the Committee (See Minutes March 10, 1992). He concluded by saying that the system would be in place by the federal deadline but discussion will be continuing on the payment plan which needs more review before implementing. He also promised that all concerned groups would continue to be involved in all stages of the plan's development.

Senator Richardson recognized Dr. Nancy Sampson and Mr. Ron Penny with the Day Care Section, Division of Facility Services, Department of Human Resources, to explain the child day care payment rates and allocation of non-FSA funds for the subsidized child day care program. (Attachment V) Dr. Sampson explained that the Committee had asked for information about the market rates and allocation for day care funds. Dr. Sampson cited in the handout the overview of day care rates on page 1, which gives the State funding sources. The majority of day care facilities fall into one of the following two categories:

1. Facilities which serve more nonsubsidized children than subsidized children; (Type A) or
2. Facilities in which at least half of the children are subsidized (Type B).

In addition to the options described above, day care home and day care facilities may be paid higher rates for children with special needs. More information about rates for children with special needs is included below in the section titled "Rates for Children with Special Needs".

The rate actually paid to the provider is determined by the provider and the county department of social services. The special provision language encourages county departments to negotiate lower rates with providers. Some counties negotiate rates; others don't. Some counties pay a flat rate across the board to all providers; some pay a percentage of the provider's approved rates; other negotiate according to the particular child's needs. In some instances, counties have negotiated to pay higher rates, using county funds to supplement the amount established by the State.

Dr. Sampson told the Committee that in light of the State's goal of maximizing parental choice in determining who the child's day care provider will be, there are problems with the current rate structure. The statute encourages the negotiation of lower rates, when possible, with center operators. Lower rates, clearly, make it more difficult to attract to and hold providers in the subsidized day care system; parental choice is diminished. Inconsistent rate

negotiation, within as well as between counties, has led to obvious inequities. Placing the market rate maximum payment on some providers (Type B providers), is obviously restrictive.

The Department of Human Resources has asked the Committee to help them find the solutions that : (1) encourage parental choice, (2) are fair and equitable for providers, and (3) use subsidy funds as efficiently as possible.

Senator Forrester asked about special needs children and how they are provided for in day care. Dr. Sampson stated that they are currently looking at providing an additional 10% supplement over the current market rate for day care providers who take care of special needs children. Dr. Sampson stated that, although this supplement is not enough to cover costs they are reviewing the possibility of increasing this percentage.

Senator Richardson expressed concern about the present day care rate subsidy system's excluding low income children. Representative Rogers asked that Dr. Sampson explain the concept of "market rate", how it came about, and what the mandate requires. The question was referred to Mr. Ron Penny, Divison of Facility Services, who explained that the

concept was devised in the General Assembly in 1975. The concept has been used since 1986. Representative Rogers expressed concern about the unevenness of the market rate concept and how poor children are effected by the market rate. He also asked if it is mandated by the federal government that we must use the market rate. Mr. Ron Penny stated that it is a federal mandate and is required for receipt of most federal child care funds such as IV-A federal funds. After discussion about how the Committee can provide direction and recommendations to the Department of Human Resources, Senator Richardson told the Committee that he would appoint a subcommittee to discuss the issues of market rate and other rate formulas and to formulate some suggestions. Senator Richardson also asked Secretary Flaherty to appoint three members of his staff to work with the subcommittee to formulate those suggestions. Senator Richardson appointed Senator Walker, Representative Rogers, and Ms. Marjorie Warlick to meet as a subcommittee with representatives from the Department on Thursday, April 16, 1992, at 9:30 a.m. in Room 605.

Dr. Sampson continued her presentation by giving an overview of the allocation of funds. The child day care funds for services have been allocated to counties using a statutory "fair share formula" since 1986. The formula has always had

a "hold harmless" clause, which prevents a county's allocation from falling below the previous year's initial allocation. The hold harmless clause, however, does not prevent the formula amount for the new year from falling below the previous year's expenditure. The 1990 session of the General Assembly enacted a new allocation formula for child day care funds. A copy of the House Bill 83 Special Provision describing the formula is attached. The formula stipulates that the funds shall be allocated using the following three factors:

- (1) One-third of the allotted funds shall be distributed according to the county's population in relation to the total population of the State;
- (2) One-third shall be distributed according to the number of children under 6 years of age in a county who are living in families whose income is below the State poverty level in relation to the total number of children under 6 in the State in families whose income is below the poverty level; and
- (3) One-third shall be distributed according to the number of working mothers and children under 6 years of age in a county in relation to the total number of working mothers with children under 6 years of age in the State.

Senator Richardson then recognized Ms. Jane Gray, Deputy Attorney General, who present a revision of Chapter 593, 1991 Session Laws - SBI Day Care Abuse Task Force. (Attachment VI). The intent and purpose of House Bill 597 was to provide for notification to the State Bureau of Investigation by local Departments of Social Services of

allegations of child sexual abuse in a day care setting. House Bill 597, as enacted, provides for that notification to be made after the local Department of Social Services has done an initial investigation.

The Attorney General's Office recommends that this provision be changed to provide for immediate notification (within 24 hours), to be made before any DSS investigation. This revision is contained in a report was prepared in response to the mandate in HB 597, directing the SBI and the Day Care Task Force to make a joint report in writing as to whether any legislation needs to be changed to effect this act.

Senator Richardson recognized Susan Sabre, Committee Counsel, who presented the Department of Human Resources' alternative to the revision requested by the Attorney General's office. (Attachment VII) Ms. Sabre explained that the difference is the Departments' insertion "of physical" every place that the word "sexual" occurs. The Department revision of House Bill 597 would result in the cost of \$77,166 per agent because it would substantially expand the acts' investigative scope. The SBI and the Day Care Task Force revision had no increase in funds. After discussion of both reports the Committee Senator Walker made a motion to include the Attorney

General's report in the interim report. The motion was seconded by Representative Easterling. Motion carried.

Senator Richardson recognized Susan Sabre, Committee Counsel, who explained the revision of an act to clarify the definition of child day care. (Attachment VIII) After discussion, the Committee decided to add church care programs to the recommended drop-in care exclusion from regulation. A motion was made by Senator Forrester to approve, as amended, "An Act to Clarify the Definition of Child Day Care." Motion carried.

Ms. Sabre presented to the Committee a draft bill establishing a Child Care Commission. After discussion of the bill, the Committee changed the date of the first Commission meeting to December 1, 1992, in order not overlap with the existing LRC Child Care Issues Committee. The Committee also expressed concern that Commission membership reflect urban areas and different areas of the state. Ms. Sabre stated that specificity of appointees could be spelled out. The Committee also changed the language relating to appointments by the president Pro-Tempore of the Senate to reflect the agreement about appointing authority reached by Senate in the 1991 long session. Representative Rogers made a motion to approve the bill, as amended, and to include it

in the report. Motion carried. Senator Richardson recognized Representative Gardner who gave the Committee information on special needs children.

The meeting adjourned. LRC Committee on Child Care Issues, Subcommittee will meet on Thursday, April 16, 1992, at 9:30 a.m. in Room 605 of the Legislative Office Building. The next meeting of the LRC Committee on Child Care Issues will meet on April 27, 1992 at 10:00 a.m. in Room 643 of the Legislative Office Building. Staff will be sending out the draft interim report to the members by Tuesday, April 21, so that members will have time to review it prior to the April 27 meeting.

Senator James F. Richardson
Co-Chair

Irma J. Avent
Clerk

LRC SUBCOMMITTEE ON CHILD CARE ISSUES

MINUTES

APRIL 16, 1992

The LRC Subcommittee on Child Care Issues met on April 16, 1992 in Room 605 of the Legislative Building. Members appointed by Senator James Richardson, Co-Chair of the LRC Committee on Child Care Issues were: Senator Russell Walker, Legislative Research Commission member, Representative Eugene Rogers and Ms. Marjorie Warlick. Senator Russell Walker chaired the meeting. Representatives from the Department of Human Resources were Mr. Ron Penny, Day Care Section, Division of Facility Services, Dr. Nancy Sampson, Division of Facility Services, Ms. Lynda McDaniel, Division of Facility Services and Ms. Margaret Guess, Division of Facility Services.

Senator Walker recognized Mr. Manny Marbet, Fiscal Research to update the subcommittee and its purpose for meeting. The subcommittee was appointed to review the rate options and the current market rate structure. After this review the subcommittee will formulate recommendations, to be presented to the full LRC Committee on Child Care Issues on April 27, 1992 and to be incorporated into the Committee's interim report. Senator Walker recognized Mr. Ron Penny to explain the current

rate options for child day care. (Attachment I) There are several criteria, or guiding principles currently being use. Those principles are; parental choice should be maximized to the extent possible; the dual rate structure, i.e., A and B center rates, should be eliminated; clients and providers should be treated equitably; the State must comply with federal regulations; and the program must live within its budget. He continued by providing the current rate structure:

1. Category A providers: Day Care centers and large homes which are paid their on charge, regardless of whether their charge is below or above the market rate. Category A providers serve mostly nonsubsidized children.
2. Category B providers; Centers and large homes which are paid the county market rate. Category B providers serve mostly subsidized children.
3. Day care homes: Small day care homes and non-State regulated day care arrangements in a homebased setting which are paid the county market rate. Day care homes serve any combination of subsidized and nonsubsidized

children. Some exist only to provide day care for a friend or relative; others are state-regulated and provide care for up to 8 children on a regular basis.

Mr. Penny also reviewed the minimum rate and the concept of market rates. Senator Walker asked Mr. Penny how the allocations for the counties are distributed. Mr. Penny stated that allocations of money to the counties are based on general population, number of poor children under six, number of working mothers with children under six.

Senator Walker recognized Mr. Manny Marbet, Fiscal Research to explain other options for the subcommittee to review and the Day Care Session Laws (Attachment II) Those options are as follows:

- A. The Department already has the legislative authority to address low rate for rural counties in the 1991 Session Laws. It is suggested that the Department address the legislative mandate and submit a calculated statewide market rate for each age category to the Child Day Care Issues Committee prior to the '93 Session.

B. Dual rate structure not be eliminated until such time as final regulations are made available to the State. It is suggested that if feds require the elimination of dual rate that:

1. General Assembly be notified in writing with a copy of letter from the feds citing exact citation in rules prohibiting such a structure.
2. The Department enter into negotiations w/feds on dual rate structure until such time as the Child Day Care Issues Committee and/or the General Assembly can recommend an alternative.

C. Possibility of a negotiating a waiver from the federal government to continue the dual rate structure.

D. Subcommittee continues to work on issues and recommendations of rates and report to the full committee that will report to the 1993 General Assembly.

After questions regarding the current rates and payments, how the current structure was established, its affect on day care centers and state-wide inequities in the present system, the committee decided to suggest keeping the present system, to seek a waiver from the federal government and to continue to address the current problems in the subcommittee and incorporate the findings from the subcommittee into the committee's report to the 1993 General Assembly. The subcommittee asked the Department of Human Resources to provide information about the amount of money that would have to come out of the general fund to leave the present rate system in place.

The meeting adjourned. The LRC Committee on Child Care Issues next meeting will be April 27, 1992 in Room 643 of the Legislative Office Building.

Senator Russell Walker
Subcommittee Chair

Irma J. Avent
Clerk

LRC COMMITTEE ON CHILD CARE ISSUES

MINUTES

APRIL 27, 1992

The LRC Committee on Child Care Issues met on April 27, 1992 in Room 643 of the Legislative Office Building. Representative Ruth Easterling, Co-Chair called the meeting to order. Representative Easterling called for the adoption of the minutes. A motion was made by Ms. Marjorie Warlick to approve the minutes. Motion carried.

The following members were present: Representative Ruth Easterling, Senator James Richardson, Representative Charlotte Gardner, Representative Maggie Jeffus, Representative Eugene Rogers, Ms. Margorie Warlick and Senator Russell Walker (LRC member).

Representative Easterling recognized Ms. Susan Sabre, Committee Counsel to report on the subcommittee meeting of April 16, 1992. The subcommittee was appointed at the April 8, 1992 Committee meeting to examine in detail the need to make any changes in the current subsidized rate structure in the coming short session. The subcommittee found that it would be premature to change North Carolina's dual rate structure, which had taken a number of years to develop, based on federal interim, not final rules.

Subsidizing at market rate, regardless of provider charge would, it found seriously impair the provision of quality child care to low income children in counties where many subsidized providers were charging above market rate to non-subsidized children. It also found that the Department should enter into negotiations with the federal government to accept North Carolina's dual structure or to allow a waiver.

Representative Easterling recognized Mr. Ron Penny, Child Day Care Section, Division of Facility Services, Department of Human Resources to give a fiscal report on (1) cost of supplementing above market rate to meet provider charge; (2) costs of providing subsidized care if negotiations are stopped with federal government; (3) concept and costs of developing a minimum rate of subsidy, a "floor" rate all facilities would receive. (Attachment II) A motion was made by Representative Jeffus to submit a recommendation to the Legislative Research Commission to support continued and additional study on a "floor" rate for all facilities. Motion was seconded by Senator Richardson. Motion carried. Representative Easterling recognized Susan Sabre to review the Child Care Issues Draft Report. After reviewing the recommendations in the report, a

motion was made by Senator Richardson to accept all the recommendations. Motion carried. A second motion was made by Senator Walker to give staff the authority to make any changes relating to technical and grammatical errors. Seconded by Ms. Warlick. Motion carried. A request was made by the Attorney General's office to change in the proposed draft bill "Amend SBI Task Force Law" the date the act would become effective, back to July 1, 1992 rather than October 1, 1992. The Committee, by consensus approved this change.

Ms. Sabre continued by presenting a request by the Committee, from Senator Walker, (LRC member) to the Legislative Research Commission, a request to allocate an additional \$15,00 to enable the Committee to continue its work and to report to the 1993 General Assembly. The Committee agreed by consensus to ask Senator Walker to make the request.

With no further business the meeting adjourned.

Representative Ruth Easterling
Co-Chair

Irma J. Avent
Clerk

APPENDIX F

PEOPLE ATTENDING AND TESTIFYING

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD DAY CARE ISSUES

2-12-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

* Please check and add Full mailing address if you wish to be on mailing list
 NAME FIRM OR AGENCY AND ADDRESS

✓ C.P. Holden	HUCKLEBERRY'S Friends Child Day Care 1000 Sawdust Street, Garner, N.C. 27527
Barbara Vandenberg	NC-aceyc 3424 Huckleberry Circle Raleigh, N.C. 27612
Kathy Hyles	CCR+R of Alamance PO Box 563 Burlington NC 27216
Barbara Bourton	Central Carolina Comm College 502 W 3rd St. New City N.C.
AC Payne	NR
Charles Ridoutt	Ridoutt's Nursery Kindergarten
Ruby Ridoutt	Ridoutt's Nursery + Kindergarten
✓ Tara Mattison	Garner's New Beginnings 27530 P.O. Box 1532 Garner N.C.
✓ Jane Clark	YWCA of Wake Co. 1012 Oberlin Rd., Raleigh, NC 27605
✓ Betty Thigpen	P.O. Box 1438 Goldsboro, NC 27530
Ann P. Rodes	DHR
Nancy Sampson	DHR/DFS/CDCS

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD DAY CARE ISSUES

2-12-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
Barbara Spaulding	Child Day Care Section
Nancy D. Guy	N.C. Division of Social Services
Jeanne B. Marlowe	Child Day Care Section
Rash Benney	same as above
116 W. Jones St. Raleigh, N.C. Bryan Woodard	OSBM
Janet Pittard	OSBM
Virginia J. Linn	Ken-Le Child Care Center, Inc. 3000 Cameron Dr. Sanford, N.C. 27330
Patricia Austin	Central Carolina Community College 502 W. 2nd Street, Silas C. Mc 2013440
MP	1014 North Street Day Care Workers, Smithfield, NC 27579
Stephanie Taylor	40 3344 Hullborough St. Pres. NC Day Care Assoc. Raleigh, NC 27605
Ann Haddell	DHR Budget & Analysis
Jenny Morrison	The Kid's Place P.O. Box 939 Family Day Care Home, Pittsboro, NC

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD DAY CARE ISSUES

2-12-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Diana Jones Wilson

1114 Beaver St. Raleigh, NC 27601
NC Rural Edu. Dev. Center
2708 E. Ash St, GOLDSBORO, NC 27534

BILL BATTS

SMALL WORLD CHILD CARE - ^{WAKE CO.} Professional Child Care Assn.

ELLIOTT WURTZEL

25 ROGERSON DR.
CHAPEL HILL, NC 27514

Patricia A. Yancey
Mailing List Please

N.C. Coalition on Adolescent & Preg. Prevention
5486 Pine Top Circle Raleigh, 27612

Louise Romanow ✓

Parents for Daycare Quality
my address: 1010 Reedy Creek Rd
Cary NC 27513

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

3-10-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Ann Beilan	DPI
Laura Mast	DPI
Lucy Roberts	DPI
Beckie Street	Parker, Pae Adams, Berstein
Nancy Guy	Div. of Social Services
C.P. Holden	1000 Lowndale St., Conner, A.C. 27529
ELLIOTT WURTZEL	25 ROGERSON DR. CHAPEL HILL, NC 27514
Charles Ridoutt	Ridoutt's Nursery + Kindergarten 606 ST. MARY'S ST. GARNER 275
Ruby Ridoutt	SAME AS ABOVE
Barbara Vandenberg	NC Assn. for the Education of Young Child
Louise Ramanon	Parents for Daycare Quality
Steven P. Rider	DHR

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

3-10-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Lein Harris

Speakers Office

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

4-8-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Catherine Sonnier	NCSL 1560 Broadway Denver
Nancy D. Gray	N.C. Division of Social Services
Theresa Rader	DHR General Counsel
Darrell Rouse	DHR - Economic Oppt.
Jane Gray	DO Justice
Donna Bryant	NC Child Day Care Commission
Ann May	Child Day Care Section
Jana Fleming	UNC-CH Frank Porter Graham Child Development C.
Judy H. Bode	citizen
Sue Russell	Day Care Services Association
Patti Stout	Child Care Resources Inc
Ellen Scouten	Attorney General's office

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Stan Lewis	SBI DCI 407 N. Blount St.
William Cray	SBI/DCI 407 N. Blount St
Reta Anderson	DOJ
Stephanie Axin	DOJ
Leslie Bailey	student - 107 Potrat Meredith College.
Renee Boushond	student - 105 Potrat Meredith College
WILLIAM R. BATTIS	1411 E. WALKER ST GOLDSBORO, NC 27530
Lynne W Myers	Child Care Resource and Referral of Wake Co. 3901 Barrett Dr Suite 104 Raleigh NC 27609
Neila Kufe	Southwestern Child Dev. Comm. P.O. Box 250, Webster, NC 28788

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

4-16-92

Name of Committee

- Subcommittee -

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Danell Rouse	DHR - Econ. Oppt.
Anna Wasdell	DHR - Budget + Analysis
Lynda McDaniel	DFS - Division of Facility Service
Joyce Johnson	DHR - Controller's Office
Nancy Johnson	DHR / DFS / CDCS
Margaret Guess	DHR / DFS / Child Day Care
Vicki Carr	DHR / DSS / Public Assistance
Jeanne Downs	Child Care Resources, Charlotte
Nancy Wilson	DHR / DFS / Child Day Care Section
Susan Lake	Counsel

Payment Rate

Child Care Issues Staff
meeting
April 14, 1992,
9:00 a.m.,
634

List of Attendees

Nancy Simpson	CDCS
Sarah Lake	Committee Council
Joyce Johnson	DHR Controller's Office
Rod Penney	CDCS
Sue Russell	DSS Director's Day Care Committee
Lynda Mc Daniel	DFS
Anna Woodell	DHR - Budget + Analysis
Margaret Guess	DFS - Child Day Care Sect.
Victor Lam	OSS - Public Assistance section
Nancy D. Guy	DSS - Emp. Programs Section
Nancy Wilson	DFS - Child Day Care Section
Mary Barber	

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

4-27-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Barbara Jordan	Division of Economic Opportunity (DHE) Oaktree Blvd. Ral.
Nancy D. Guy	N.C. Div. of Social Services
Victor H. Carr	N.C. Div. of Social Services
Stephanie Jaxil	NC Day Care Assoc
Sue Russell	Day Care Services Assn
Jane Gray	Atty Gen. Office
Pat Yancy	NCCAP
Bill Batts	1411 E. WALNUT ST, ²⁷⁵³⁰ GOLDSBORO
Kat Verdery	Wayne Co. Professional Child Care Assn 106 E Lockham Dr. Goldsboro
Anna Wasdell	DHR - Budget + Analysis
Lynda McDaniel	DHR - Facility Services

APPENDIX G

ESSENTIAL MATERIALS PRESENTED

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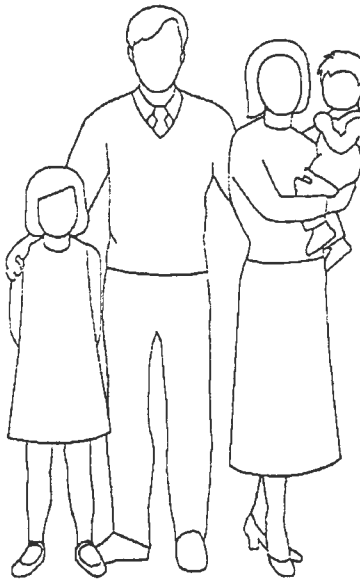
(The many endorsements of and oppositions to lowering staff/child ratios are included in the Committee Notebook on file in the Legislative Library.)	
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**Department of Human Resources
Secretary's Office - State Head Start Funds**

- o The Federal Head Start Program is providing an additional \$7 million of expansion funding for new North Carolina Head Start slots across the state and the General Assembly approved the allocations of over \$3.8 million of Federal Block Grant money for "wrap-around" day care for Head Start classes.
- o Approximately 135 new classroom spaces are needed to provide quality facilities for these children in the existing 44 Head Start programs in the State.
- o The General Assembly approved the allocation of \$1.6 of State Capital Facilities Legislative Bond funds for the purpose of awarding grants equivalent to one modular classroom or renovations to existing facilities to serve additional children through the Head Start Program.
- o Each of the 44 programs will receive no more than \$36,364 from the proceeds of bonds and notes issued for Head Start purposes.
- o The Federal Head Start program serves approximately 12,000 economically disadvantaged North Carolina children at a cost of over \$31 million in federal funds; this equates to about \$2,500 per child per year.

Child Day Care Information
for the
Legislative Research Commission
Child Day Care Issues
February 12, 1992



Prepared by
Child Day Care Section
Division of Facility Services
Department of Human Resources

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Child Day Care Information
for the
Legislative Research Commission
Child Day Care Issues
February 12, 1992

Prepared by
Child Day Care Section
Division of Facility Services
Department of Human Resources

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EXECUTIVE SUMMARY

North Carolina's child day care program has a diverse and complex nature. Most individuals at some time or other come in contact with day care -- as a consumer, caregiver, volunteer, trainer, regulator or interested party. This report focuses on the Department of Human Resources' administrative responsibilities for child day care and the issues related to those responsibilities.

The Department has primary responsibility for the monitoring, regulation and licensure of child day care providers, for investigation of all allegations of child abuse or neglect in child day care and for managing the subsidized child day care program.

In January, 1991, Governor Martin introduced Uplift Day Care, North Carolina's plan to coordinate existing and anticipated day care and Head Start resources to assist low income parents toward employment and career development and to improve the quality and the availability of child care for all children. Because of our responsibilities for child day care, the Department has lead responsibility for implementing the Uplift Day Care Plan which includes the administration of the new Federal Child Care and Development Block Grant and the entitlement child care required by the Family Support Act.

North Carolina's large number of working mothers and single heads of household has created a growing demand for subsidized child care. Therefore, a major emphasis of Uplift Day Care is providing care to more children. In that effort we have been very successful. The number of children who will receive subsidized care in SFY 91/92 is 51,400 versus the 34,400 in care during SFY 90/91. Further, the number of unserved children on county waiting lists has decreased from 14,500 in November 1990 to 7,800 in November 1991.

We have also made strides in addressing the quality of child care through the basic child care curriculum for day care staff, the comprehensive child care services offered to children and their families in five Early Start Programs, and a planned study of child day care staff salaries. Start-up loans, local day care coordinators and Head Start Wrap Around programs will help develop slots in underserved portions of the State.

Recent legislation improved regulation of day care by shortening the time period for contested cases, improving access to illegal operations, authorizing the use of temporary permits for new operations, and authorizing the SBI to use a task force to investigate child sexual abuse in day care. In addition, legislative changes have increased the rates for subsidized care in homebased arrangements, added child and working mother population factors to the county allocation formula, and allowed the State to use one set of market rates for all funding sources.

We can all be proud of how the Executive and Legislative Branches have worked effectively together to improve the quality of child day care and to extend child day care services to more low income families.

CHILD DAY CARE SECTION

Division of Facility Services
Department of Human Resources

The Child Day Care Section is the state agency responsible for child day care administration. The Section acts cooperatively with a number of other state and local agencies to regulate child day care in North Carolina. The four major responsibilities of the Section are:

1. the regulation of child day care centers and homes;
2. the investigation of abuse and neglect in child day care programs;
3. the administration of the publicly subsidized day care programs; and
4. the coordination of training for and the provision of information about child day care to providers, parents, public and private agencies, and the general public.

The mission of the Child Day Care Section is to maintain and improve the quality of child day care provided for children in North Carolina and ensure that good care is available, accessible, and affordable to all who need child day care services. Three major organizational structures responsible for carrying out the Section's mission are:

the Administrative Branch which has the responsibility for policy, planning, and reporting and administration of the state subsidized child care program;

the Operations Branch which has the responsibility for licensure and regulation of 6,330+ child day care centers and family day care homes, serving approximately 128,000 children, as well as providing consultation, technical assistance, and investigating complaints and reports of child abuse and neglect; and

the Program Management Branch which has the responsibility for program planning and quality assurance, training and trends development, grants development and management, and day care development.

An organizational chart which shows each staff position in the Child Day Care Section is included as Attachment 1 in this report.

OVERVIEW OF NORTH CAROLINA'S SUBSIDIZED DAY CARE PROGRAM

Using state funds and a variety of federal funds, North Carolina provides subsidized child day care to a large number of low income and other needy families. Parents may choose the type of provider which best fits their circumstances. The amount the state pays for each child depends on the family's situation, the family's income, the cost of the care provided and the type of public funds from which the payment is made. This overview describes the circumstances which make a family eligible for day care assistance, the types of providers eligible to receive public funds, and summarizes the requirements of each of the funding sources.

ELIGIBLE CHILDREN

Subsidized child care can be provided to children who need child care for one or more of the following reasons:

- the child's parents are working or are attempting to find work;
 - the child's parents are in school or in a job training program;
 - the child is receiving child protective services;
 - the child is receiving other child welfare services, such as foster care; or
 - the child is developmentally delayed, or is at risk of being delayed.
- These categories of eligible children are sometimes referred to as target populations.

FAMILY INCOME

Except when day care assistance is provided to children receiving protective services or other child welfare services, the parents' income must be within the State's income limits for subsidized child care. The amount of income a family may have depends on the number of persons in the family. The maximum gross annual income for a family of four to be eligible for subsidized child care is \$16,252. Parents with incomes in the upper range of the income scale must pay part of the cost of the care.

ELIGIBLE PROVIDERS

Parents may choose their provider from among day care centers and day care homes which meet state regulations and which choose to make their services available for public funds. Parents may also elect to use some types of informal care arrangements. For most funding sources, providers must meet some type of regulations and agree to the conditions for the receipt of public funds. These are called approved providers. In all situations, the provider must be operating legally.

The source of funds used to subsidize the care is limited in some instances by the type of provider selected by the parent. Conversely, the family's circumstances may determine the source of funds to be used, thereby limiting the choice of provider.

PAYMENT RATES

The payment rate structure is based on county market rates. Market rates for center-based care and homebased care are calculated annually for each county by the Child Day Care Section. The market rates vary by age of child and are calculated from data provided throughout the year by day care centers and homes regulated by the Child Day Care Section.

All payments for homebased care are limited to the county market rate. As required by state law, the maximum payment to a day care center depends on the ratio of subsidized to nonsubsidized children enrolled. When the majority of children are nonsubsidized (category A centers), the subsidized care rate may be the same rate the center charges for nonsubsidized care.

When at least half of the children are subsidized with public funds (category B centers), the state payment is limited to the county market rate.

The majority of payments for child care are made from multiple funding sources. A combination of state and federal regulations and county options determine how much of each payment rate is fundable by each funding source.

FUNDING SOURCES

State Day Care Funds: State day care funds are appropriated annually and are used either alone or in combination with one or more federal funds to subsidize the cost of care for a child. State funds are used to pay the required state share for all of the Title IV-A federal funds described below. State funds are also used by county option to supplement the payment amount when federal fund participation is limited to less than the amount the provider charged for the service.

Federal Social Services Block Grant (SSBG): Funds from the SSBG which have been allocated for child day care services can be used to pay for children in all target populations except those children receiving Child Welfare Services other than protective services and in all other families whose circumstances and income make them eligible for subsidized day care. Providers must meet state regulations and be approved to receive public funds. Payment rates are limited to county market rate or, in the case of Category A centers, to the provider's own rate. No state match is required.

Federal Child Care and Development Block Grant (CCDBG): CCDBG funds have been available in North Carolina since October, 1991. These funds may be used to pay for child care for children of low income parents who are working, seeking employment, or who are in school or in job training programs. Providers must be either approved day care centers or relative caregivers. Relative caregivers are unregulated arrangements in which the child's grandparent, aunt or uncle is the day care provider. Payments are limited to the provider's actual charge not to exceed the county market rate. No state match is required. The state allocation is subject to federal maintenance of effort requirements.

Federal Title IV-A Family Support Act Child Care Funds: The Family Support Act (FSA), implemented in 1990, guarantees child care support to certain AFDC recipients and former recipients who are working or in school. In North Carolina, the individuals eligible to receive FSA child care assistance are:

- AFDC applicants and recipients who are employed or seeking employment;
- AFDC applicants and recipients who are participating in the State Job Opportunities and Basic Skills Training (JOBS) Program;
- AFDC recipients who are teenage parents attending school; and
- recent recipients who became ineligible for AFDC because of earned income.

Any legal day care operation or individual may be chosen by the parent. Payments are limited to the provider's actual charge, not to exceed the county market rate. The state matching rate is approximately one-third of the total payment.

Federal Title IV-A At-Risk Child Care Funds: In 1991, new Title IV-A funds became available to pay for day care for non-AFDC families who need child care assistance in order for the parents to work and who would be at risk of welfare dependency without such help. Currently, low-income working parents who are eligible for SSBG and CCDBG funds are eligible for At-Risk child care funds. Any approved provider is eligible. Payment rate limitations and state match rate requirements are the same as for FSA Title IV-A funded child care.

SUMMARY OF TRENDS IN CHILD DAY CARE

Section VI of this report contains a series of charts depicting data about child day care arrangements and children served. This summary highlights the trends displayed in the charts.

The Child Day Care Section regulates two categories of day care arrangements: licensed facilities, which include day care centers and large day care homes, and registered family day care homes, also referred to as small day care homes. For the time period covered by the attached charts the number of facilities operating within the state has increased by 95 (3%) and the number of family day care homes has increased by 70 (2%). Licensed capacity (the maximum number of slots available) within facilities has increased by 81,784 (45%) over this time period. This, in part, reflects a trend toward upgrading existing facilities to increase their licensed capacity and in part a trend toward opening larger facilities. It should be noted that although licensed capacity has increased statewide, this increase has not been evenly distributed and there are still areas throughout the state experiencing a shortage of child care slots. The decrease noted on the chart portraying capacity for family day care homes does not represent an actual decrease, but rather a cleaning up of the Section's database. Enrollment within facilities has remained fairly constant, whereas enrollment in family day care homes has increased nearly 6%.

Approximately 59% of all licensed facilities and 19% of all registered homes in the state are approved to participate in the subsidized day care program. Within the time period covered by the respective charts, the number of licensed facilities approved to participate in the state's subsidized day care program increased by 245 (16%) and the number of family day care homes increased by 92 (17%). The number of licensed facilities reimbursed under the subsidized day care program increased by 357 (29%) and the number of family day care homes increased by 66 (39%).

Total funding for the subsidized care program in SFY 1990 - 1991 was \$36,558,845. As indicated on the attached chart, there was a slight decrease (1.5%) in the number of children subsidized through non-Family Support Act funds. The reason for this decrease was that some non-FSA funds were transferred over to meet the state's match for the FSA program, reducing the amount available to purchase care for non-FSA clients. Overall, however, the number of children subsidized during the time period covered by the chart increased significantly, with 8466 being subsidized under FSA funds.

SUMMARY OF 1990 and 1991 CHILD DAY CARE LEGISLATION

A number of events related to child day care have spurred recent legislative changes. Increased federal funding with various sets of regulations, a nationally publicized child sexual abuse case, and an increased awareness of the needs of children and families have all contributed to changes in child day care regulation and subsidized services. Following is a summary of child day care legislation enacted by the North Carolina General Assembly in 1990 and 1991. (See also legislative chart - Attachment 5)

Legislation enacted by the General Assembly in 1990 changed the payment rates for registered day care homes and individual child care arrangements (ICCA's) and the method for allocating state day care funds to the counties. The increased rates for day care homes and ICCA's, implemented on July 1, 1991, have resulted in a slow, but steady growth in the number of these arrangements approved to participate in the subsidized day care program. The new day care allocation formula, changed to distribute State day care funds more equitably, resulted in 64 counties receiving additional funds.

In the 1991 Legislative Session, several bills related to child day care were ratified. One bill made technical and clarifying changes to the child day care law, resulting in improved enforcement capabilities. Another piece of legislation prohibits corporal punishment in day care facilities or day care homes unless they are church operated. A bill entitled "Day Care Encouragement", was enacted to allow state agencies and local boards of education to establish child day care facilities in state buildings or public schools. The 1991 Legislature also enacted a law which requires local departments of social services to notify the SBI when sexual abuse in a child day care facility has been indicated.

In 1991, a change in the special provisions for use of child day care funds authorized the development of special payment rates to benefit counties where the market rate is too low to attract or retain providers for the subsidized day care program. More information about market rates is included in Section V of this report, "Prospective Legislative Issues." The 1991 Legislature also set the budget for the Child Care and Development Block Grant. An update on the CC&DBG activities as well as other components of the Governor's Uplift Day Care Plan follows this legislative summary.

UPLIFT DAY CARE

Project Update

January 1992

In January, 1991, Governor Martin unveiled North Carolinas Uplift Day Care Plan. The initiatives in the Uplift plan were developed to address the issues of accessibility, affordability, and quality of child day services. A number of funding sources were identified for the components of the Plan, the largest being the Child Care and Development Block Grant. Other funding sources include the Family Support Act (FSA), Titles IV-A and XX of the Social Security Act, and new Head Start funds.

A budget chart for the total Uplift Plan is included, as well as a budget chart for Child Care and Development Block Grant funds. The Block Grant budget chart depicts the differences in Block Grant funds the General Assembly appropriated for various programs, based on anticipated funds, as opposed to the actual federal funds received for the current state fiscal year. Summaries of the various components of the Uplift Plan, including sources of funding and current status, are attached as follows:

UPLIFT DAY CARE BUDGET (includes CC&DBG funds, existing day care programs, and other day care programs not administered by Child Day Care Section)

CHILD CARE AND DEVELOPMENT BLOCK GRANT INITIATIVES:

- Child Care and Development Block Grant Budget
- Child Day Care Services
 - (waiting list, income eligibility levels, staff/child ratios)
- Head Start Wrap-Around Program
- Revolving Loan and Grant Fund
- County Day Care Coordinator Grants
- Child Care Worker Compensation Study
- Child Care Worker Credential
- Child Care Resource and Referral
- Facility Services Administration

EXISTING DAY CARE PROGRAMS:

- State Day Care Program
- Family Support Act (FSA) Day Care

OTHER UPLIFT INITIATIVES NOT ADMINISTERED BY CHILD DAY CARE SECTION:

- Early Start: Parent-Child Center Project
- Head Start Program

Project	Proposed Use of Existing and New Funds										SFY 1991-92
	Existing	Current FSA	Expanded FSA	CCDBG *	IV-R Non AFD	Existing Head Start	New Head Start	Total Existing	Total New	Grand Total	Current Budget
Subsidized Day Care	\$26,254,057							\$25,654,057	\$0	\$25,654,057	\$25,654,057
HeadStart Wrap-around				\$4,500,000					\$4,500,000	\$4,500,000	\$2,557,068
Early Start							\$1,000,000	\$600,000	\$1,000,000	\$1,600,000	\$1,094,888
Serve Waiting List				\$8,549,500	\$7,335,571			\$0	\$15,885,071	\$15,885,071	\$13,392,455
Increase Income Eligib.				\$10,100,500				\$0	\$10,100,500	\$10,100,500	\$0
Quality & Availability											
Reduce infant staff/child ratio by one child				\$250,000				\$0	\$250,000	\$250,000	\$159,616
Day Care Coordinators				\$800,000				\$0	\$800,000	\$800,000	\$357,980
Resource and Referral	\$107,170			\$650,000				\$107,170	\$650,000	\$757,170	\$712,354
Revolving Loans/Grants				\$1,000,000					\$1,000,000	\$1,000,000	\$383,189
Child Care Credential				\$250,000					\$250,000	\$250,000	\$76,628
Worker Compensat. Study											
State Staff				\$350,000					\$350,000	\$350,000	\$154,829
FSA CHILD CARE		\$10,028,790	\$2,988,643					\$10,028,790	\$2,988,643	\$13,017,433	\$30,984,193
HEAD START						\$25,000,000	\$7,000,000	\$25,000,000	\$7,000,000	\$32,000,000	\$32,700,000
Total Requirements **	\$26,361,227	\$10,028,790	\$2,988,643	\$26,450,000	\$7,335,571	\$25,000,000	\$8,000,000	\$61,390,017	\$44,774,214	\$106,164,231	\$108,303,635
Federal funds	\$12,424,930	\$6,679,174	\$1,988,643	\$26,450,000	\$7,335,571	\$25,000,000	\$8,000,000	\$44,104,104	\$43,774,214	\$87,878,318	\$89,084,723
State funds	\$13,936,297	\$3,349,616	\$1,000,000					\$17,285,913	\$1,000,000	\$18,285,913	\$19,219,112

* Federal funds available for 18 months - from 9/91 through 9/92.

Child Care and Development Block Grant SFY 1991-92 Budget

Item	Recommended Appropriation	Appropriation	Current Budget
Child Day Care Services	\$14,750,000	\$14,752,146	\$11,304,240
Head Start Wrap-Around	3,337,000	3,337,000	2,557,068
Revolving Loans/Grants	500,000	500,000	383,139
County Day Care Coordinators	467,167	467,167	357,980
Staff/Child Ratio Reduction	208,300	208,300	159,616
Study of Day Care Salaries	100,000	100,000	76,628
Child Care Worker Credential	100,000	100,000	76,628
Resource and Referral	650,000	650,000	498,080
Facility Services Administration	202,054	202,054	154,829
Salary Compensation Increase	2,146	---	
TOTAL	20,316,667	20,316,667	15,568,208
NOTES	<p>At the time allocations were recommended to the General Assembly in March, 1991, proposed funding included two federal appropriations covering the thirteen-month period 9/1/91 - 9/30/92: \$22.4 million available on a prorated basis for FFY 1991, and \$24.6 million available for FFY 1992. The recommended SFY 1991-92 budget was derived, therefore, by adding one-twelfth of \$22.4 million (\$1,866,667) and nine-twelfths of \$24.6 million (\$18,450,000).</p>	<p>In light of the state budget shortfall and the resulting elimination of appropriations for employee raises in SFY 1991-92, the planned salary increases for block grant staff were eliminated. The \$2,146 for salary increases was added to the allocation for child day care services.</p>	<p>When the grant application was prepared in July, 1991, proposed federal legislation provided only a single appropriation for North Carolina of \$20,757,611 for the period 9/7/91 - 9/30/92. The revised budget is based on nine-twelfths of that amount, a total of \$15,568,208, 76.628% of the state appropriation. In accordance with the provisions of the state appropriation, the budget for each item has been reduced proportionately.</p>

01-2-10

CHILD CARE AND DEVELOPMENT BLOCK GRANT ACTIVITIES

Child Day Care Services

Child Care and Development Block Grant Funds FFY 1991-92: \$14,710,032

Child Care and Development Block Grant Budget SFY 1991-92: \$11,463,856

Purpose: Funds to provide assistance with the cost of child care for eligible families were targeted to three areas:

1. Reduce by one the number of infants which may be in the care of one caregiver. (Accomplished)
2. Serve the waiting list for subsidized care. (On-going)
3. Increase the income eligibility level to 75% of the state's current median income. (Not Accomplished)

Status

The current Child Care and Development Block Grant (CCDBG) budget for direct services includes both the funds appropriated to Child Day Care Services and those appropriated to Staff/Child Ratio Reduction. In order to understand the current status of block grant direct service funding, an examination of all sources of funding is required. The Family Support Act day care program (JOBS, AFDC Employed and Transitional) has grown much faster than anticipated. In fact, the FSA day care program probably will be more than twice as big as anticipated. Because no new state funds were appropriated with which to match FSA expenditures, the existing day care budget, as well as other sources of state funds within DHR, may have to contribute as much as \$10.4 million to FSA matching funds. The income eligibility level for subsidized child day care has not been raised because of the reduction in federal funding and the growth of FSA day care. The number of children on waiting lists as of November 1, 1991 (7,813), was only about 54% of what it was November 1, 1990 (14,449). Clearly, children have been removed from the waiting lists and served. In order to give priority to children with special needs, all county departments of social services have been required to set aside 4.5% of their day care allocation for such children.

The Block Grant requires that certain unregulated providers (those not required to receive an operating permit) be eligible to be chosen by parents receiving care with Block Grant funds. These providers must meet only minimal health and safety requirements. A task force is developing standards for this class of provider as well as policies and procedures for their approval and payment. Some of the necessary materials have been drafted. Final materials will be issued in June, 1992 so that these providers can enter the subsidized care system by July, 1992.

The Block Grant also calls for an indirect payment system to be in place by October, 1992. A Day Care Management Team, established by the Secretary and chaired by the Department Controller, is considering the various indirect payment alternatives (voucher, client reimbursement), and whether the system should be designed and operated by an outside payments processing contractor.

Head Start Wrap-Around Program

Child Care and Development Block Grant Funds FFY 1991-92: \$3,892,052
Child Care and Development Block Grant Budget SFY 1991-92: \$2,557,068

Purpose: Funds were targeted to provide before and after care for eligible children in the Head Start Program as well as full time care when the Program is not operating.

Status

Child Day Care Section representatives met with Head Start providers in September to introduce the Wrap-Around Program. Head Start programs which were interested in participating were given instructions to forward identifying information to the Division of Economic Opportunity (DEO) so changes could be made to reimbursement approval forms to include the Wrap-Around payment rate. The current number of programs wishing to participate totals 199. Allocations have been made to interested programs. Training and materials for eligibility determination are being prepared.

Day Care Provider Revolving Loan and Grant Fund

Child Care and Development Grant Funds FFY 1991-92: \$450,000
Child Care and Development Grant Budget SFY 1191-92: \$383,139

Purpose: Funds were designated for small low interest loans and grants to eligible day care operators and prospective operators to stimulate the development of additional day care slots in rural and other underserved areas of the state.

Status

A committee of DHR fiscal officers and Child Day Care Section staff met in November with a representative of a credit union to determine appropriate steps to take to implement a revolving loan program. The purpose of the discussions is to explore ways the state can contract with a credit union or bank to administer the loan program. However, state laws regarding earned interest and where state and federal money is deposited are complex, and the committee is investigating several avenues that would provide flexibility to the project, but would remain within state and federal statutes.

On January 24, 1992, staff from DHR and the Child Day Care Section met with a representative from Nations Bank. Information from this meeting and a previous meeting with a representative from the Center for Community Self Help will be used to develop a request for proposals (RFP) to explore how DHR can contract with a lending institution to administer this program.

County Day Care Coordinator Grants

Child Care and Development Block Grant Funds FFY 1991-92: \$588,724
Child Care and Development Block Grant Budget SFY 1991-92: \$357,980

Purpose: Funds were targeted to provide grants to county departments of social services which do not have sufficient funds available to support a day care coordinator. Specific duties of day care coordinators include: counseling with families about available day care, making referrals, helping with enrollment procedures if needed, working with state Day Care Section staff and community groups to recruit providers and arrange training and technical assistance, establishing agency contracts and payment procedures and authorizing payments to providers.

Status

County departments of social services which are eligible to participate have been identified based on criteria set forth in the Uplift Plan and CCDBG Plan. Criteria include the number of poor children under six in the county, the population density, and the extent to which children who need care are being served. Counties eligible to participate have submitted grant applications and grants have been awarded.

Child Care Worker Compensation Study

Child Care and Development Block Grant Funds FFY 1991-92: \$100,000
Child Care and Development Block Grant Budget SFY 1991-92: \$76,628

Purpose: Funds were designated for a study to examine existing models and to develop new models for the purposes of promoting education and training, and boosting wages of child care workers. Once model(s) are established, funds may be used to develop and implement pilot programs.

Status

A Worker Compensation Study Committee met on July 25, 1991 to hear proposals from five individuals and organizations. After hearing these presentations, the Committee decided that the most appropriate way to award the grant funds would be through the Committee members for their review. In December, the Committee met to finalize the RFP, identify the recipients of the RFP, and select the subcommittee for review and selection of proposals.

Child Care Worker Credential

Child Care and Development Block Grant Funds FFY 1991-92: \$100,000

Child Care and Development Block Grant Budget SFY 1991-92: \$76,628

Purpose: Funds were targeted to develop a curriculum for a Child Care Worker Basic Training Credential, to reimburse for tuition invested by child care workers in earning the Credential, to recognize child day care centers and homes where staff have completed the training, and to implement a public awareness campaign to make parents better informed consumers.

Status

In cooperation with the Department of Community Colleges, the Child Day Care Section sponsored a Developing a Curriculum Task-Force (DACUM) meeting in Raleigh on October 16 and 17, 1991. The purpose of the Task-Force was to identify the duties and competencies most often needed in an entry level child day care provider. The Task-Force committee was composed of caregivers representing all types of child care arrangements. The information developed by the Task Force was the first step in designing a 66 clock-hour curriculum in child care.

In addition, the Section issued an RFP through the Department of Community Colleges, Early Childhood Programs, inviting instructors to participate in the development of the training outline and content of two 33 clock-hour child care courses. In response to the RFP, the Section selected six community college instructors to participate in the design of the curriculum. In addition to these instructors, the committee included individuals from the following: Child Day Care Commission, University system, Cooperative Extension Service, Head Start, Partnerships in Mainstreaming Program, Resource & Referral, and private consultants and trainers.

An initial draft of the participants' handbook has been completed. The curriculum will address the following topics: Child Care as a Profession, Child Growth and Development, Getting to Know the Whole Child, Developmentally Appropriate Practices, Positive Guidance Techniques, and Providing a Safe and Healthy Environment. The curriculum will be field-tested during the Spring Quarter, 1992 in a few Community Colleges. The first scholarships (reimbursing tuition and other costs) will be developed in conjunction with the field testing of the curriculum.

Child Care Resource and Referral

Child Care and Development Block Grant Funds FFY 1991-92: \$648,276
Child Care and Development Block Grant Budget SFY 1991-92: \$498,080

Related Funding: FFY 1991-92: \$214,274, federal Dependent Care Development Grant

Purpose: Funds were designated to provide start-up funding and on-going support for the operation of Child Care Resource and Referral agencies which provide child care information to parents, train child care providers, and work to improve the quality and availability of child care facilities. Also, technical assistance will be provided to new and existing Child Care Resource and Referral agencies by the Division of Facility Services.

Status

An advisory council for Child Care Resource and Referral (CCR&R) was appointed by the Secretary of Human Resources to review plans for use of the Dependent Care Development Grant (anticipated use: one-year planning grants), Child Care and Development Block Grant (anticipated use: one-year grants for existing R&R service agencies and for contracted supportive services), and requested private foundation funding (anticipated use: two-year start-up grants). The council met for the first time on September 17 to review project plans, sources and levels of funding, the RFP for planning grants, and criteria for R&R service, funding (R&R agency service standards). Two subsequent meetings have been held, resulting in revisions to the funding criteria in the RFP for grants to existing R&Rs. The RFPs for grants to existing R&Rs have been issued. Funds will be awarded to the R&Rs by the end of February.

Facility Services Administration

Child Care and Development Block Grant Funds FFY 1991-92: \$268,527
Child Care and Development Block Grant Budget SFY 1991-92: \$154,829

Purpose:- Funds were targeted to employ additional staff needed to administer the new federal funds.

Status

The reduction in this component results from the decrease in anticipated federal funding which completely eliminated two of the eight proposed staff positions for grant program implementation. Three of the remaining positions have been filled and the other three will be hired soon.

EXISTING DAY CARE PROGRAMS

State Day Care Program

Federal Funds SFY 1991-92: \$12,158,899
State Funds SFY 1991-92: \$8,250,081

Purpose: A combination of Social Services Block Grant and state funds provide child care assistance each year.

Status

The department is allocating Social Services Block Grant and state funds along with other non Family Support Act (FSA) dollars to county departments of social services according to a formula established by the General Assembly. Some of the state dollars originally set aside for this program will be used to provide matching funds to support unanticipated growth in FSA day care.

Family Support Act (FSA) Day Care

Federal Funds SFY 1991-92: \$20,615,162
State Funds SFY 1991-92: \$10,369,031

Purpose: FSA child care supports welfare reform initiatives for the Aid to Families with Dependent Children (AFDC) Program enacted in the 1988 Federal Family Support Act. The purpose is to enable AFDC recipients to become self reliant through participation in education, training and employment. There are three categories of FSA day care: AFDC Employed, JOBS and Transitional. Availability depends upon the recipients' circumstances.

Child care and transportation to child care arrangements are provided, if needed, to support participation in training and education or to accept or retain employment.

Status

Our expenditures to serve these youngsters have grown much faster than anticipated. We anticipated serving 6,369 children at a cost of \$13.9 million. At this time, we project spending a total of \$30,984,193 to serve 17,323 children. Our share of this cost will be \$10,369,031.

The department has found that there are more working AFDC recipients than expected. This has resulted in a decrease in the average monthly AFDC payment, but contributes to increased FSA child care expenditures.

OTHER UPLIFT INITIATIVES NOT ADMINISTERED
BY CHILD DAY CARE SECTION

Early Start: Parent-Child Center Project

Federal Funds: \$494,888
State Funds: \$600,000
Local Funds: \$99,000

Purpose: Funds were designated to initiate a comprehensive child development and family support program for families of children 0-3 years to provide quality family-focused developmental services. Target group includes teen mothers and their children, and pregnant women.

Status

All funds have been awarded; five Head Start Programs are operating Parent-Child Centers.

Head Start

Federal Funds: \$25,000,000

Purpose: Head Start is a national program providing comprehensive development services primarily to low-income preschool children and their families. The age range of children in Head Start programs is typically from age three to age of compulsory school attendance. It is also required to provide for the direct participation of parents of enrolled children in the development, conduct and direction of local programs.

Status

In North Carolina, Head Start programs are in 92 of the 100 counties provided through 44 programs.

PROSPECTIVE LEGISLATIVE STUDY ISSUES

SUBSIDIZED CHILD DAY CARE ISSUES

The Department recognizes the widespread impact of changes in child day care policy, procedures and funding levels. Therefore, during the development of North Carolina's Uplift Day Care and Child Care and Development Block Grant plans, we brought together representatives from county agencies, child care providers, child advocacy groups and state agencies to get their input and recommendations. In that process, several important issues were identified. The Department suggests that the Child Day Care Study Commission may wish to address these issues.

1. Income Eligibility:

The State's goal is to extend income eligibility for services in gradual increments to 75% of North Carolina's current median income (the limit allowed under the Child Care and Development Block Grant). The current income eligibility level has not been changed since 1980 and represents about 49% of the current state median income. Many of the State's working poor parents are not eligible for day care assistance. Since the federal Block Grant allotment to North Carolina was reduced, all new funds were needed to trim the waiting list created under the current income eligibility levels. If income eligibility levels are increased without additional funds, then additional children will be added to the waiting lists.

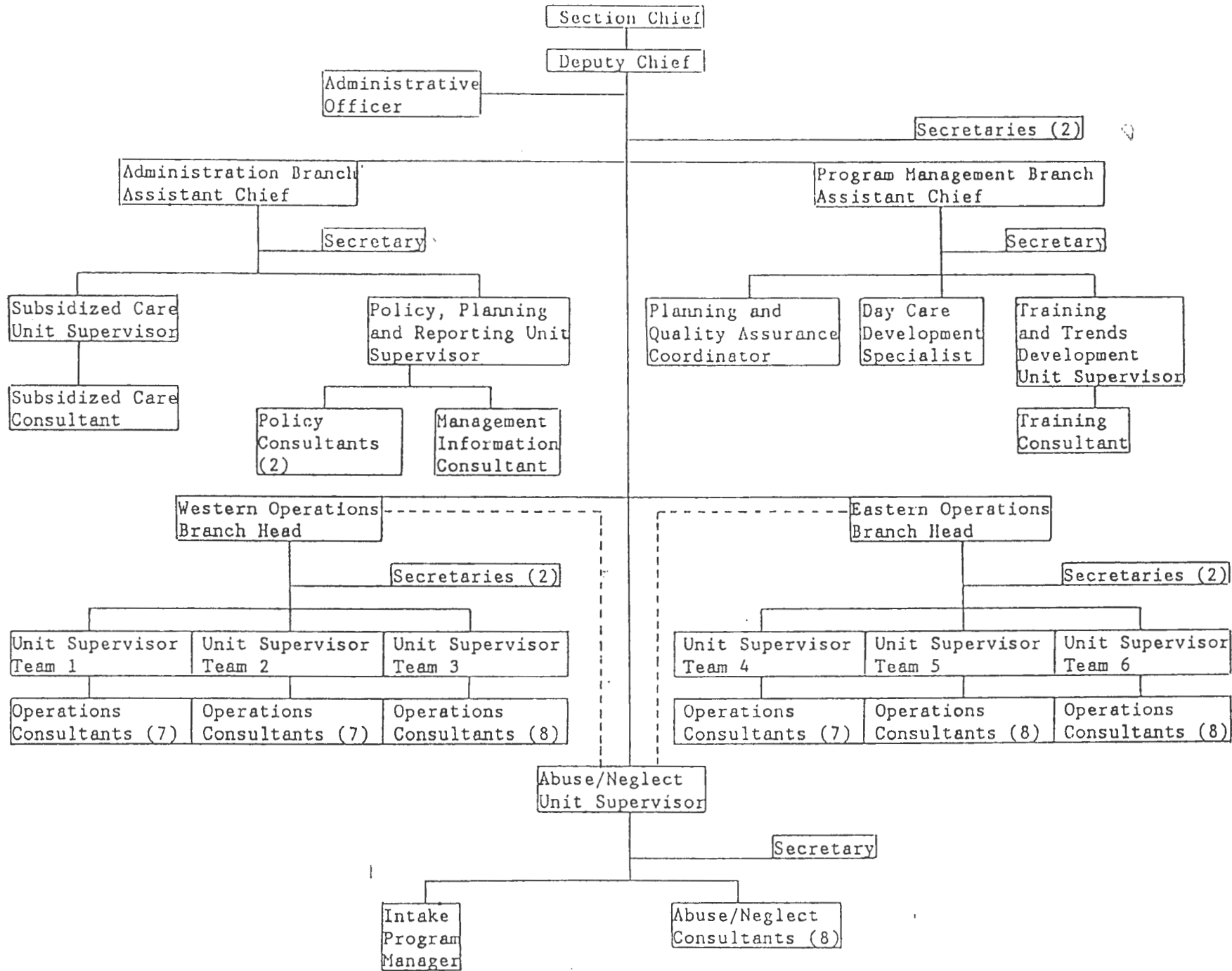
2. Payment Rates for Mainstreaming Special Needs Children:

Public Law 99-457 requires that all children with special needs receive needed services. The alternative for these children who can not be served in a mainstreamed environment, is a developmental day facility. Developmental day facilities, which serve primarily children with disabilities, are more expensive and in many cases not the most appropriate placement for the child. Currently, a 10% supplemental rate for special needs children can be paid to child care facilities which serve a majority of non-subsidized, non-handicapped children. This amount is not sufficient to entice day care providers to support the extra costs often needed to serve a child with special needs. If the supplemental rate were increased to a maximum of 75%, more children could be mainstreamed into normal day care environments. This would increase the average payment made by the Child Day Care Section, but the cost of serving children in a normal day care center would still be lower than a developmental day center.

3. Market Rate Flexibility:

1991 state legislation provides the flexibility to deviate from the standard market rate approach in counties where the market rate is too low to attract or retain providers. The Section has explored various options for obtaining higher rates in these counties. One option is to determine both the county's actual market rate and a minimum rate which is 90% of the state average market rate. When the county market rate is less than the established minimum rate, the county agency director could negotiate a rate anywhere between the two rates, but not to exceed the established rate. The payment option would increase the payment rate per child. This issue must

Child Day Care Section
Organizational Chart



 CHILD DAY CARE SECTION
 SUMMARY OF MONTHLY DATA

I. NUMBER OF REGULATED CHILD CARE ARRANGEMENTS, by Type of Operation:

A. Number of Licensed Operations (Includes Centers, Large Day Care Homes and GS 110-106 Facilities):

Current Month		<u>3,062</u>	
Previous Month		<u>3,068</u>	
a.1 Number of A Centers:			
Current Month	<u>2,009</u>		
Previous Month	<u>2,011</u>		
a.2 Number of AA Centers:			
Current Month	<u>465</u>		
Previous Month	<u>459</u>		
a.3 Number of A Large Day Care Homes:			
Current Month	<u>169</u>		
Previous Month	<u>171</u>		
a.4 Number of AA Large Day Care Homes:			
Current Month	<u>4</u>		
Previous Month	<u>4</u>		
a.5 Number of GS 110-106 Facilities:			
Current Month	<u>211</u>		
Previous Month	<u>214</u>		

B. Number of Regulated Homes:

Current Month:		<u>3,281</u>	
Previous Month		<u>3,306</u>	

TOTAL NUMBER OF REGULATED OPERATIONS: 6,343

II. OPERATIONS APPROVED FOR PURCHASE OF CARE (POC):

A. Number of Licensed Operations:			
Current Month	<u>1,814</u>		
Previous Month	<u>1,802</u>		
B. Number of Registered Homes:			
Current Month	<u>654</u>		
Previous Month	<u>635</u>		

TOTAL NUMBER OF POC APPROVED OPERATIONS: 2,468

III. OPERATIONS REIMBURSED THROUGH PURCHASE OF CARE (POC):

A. Number of Licensed Operations:			
Current Month	<u>1,624</u>		
Previous Month	<u>1,584</u>		
B. Number of Registered Homes:			
Current Month	<u>246</u>		
Previous Month	<u>237</u>		
C. Number of Individual Child Care Arrangements:			
Current Month	<u>236</u>		
Previous Month	<u>229</u>		

TOTAL NUMBER OF OPERATIONS REIMBURSED:*

(* Not unduplicated across counties)

2,106

IV. PERMIT CAPACITY / ENROLLMENT / SUBSIDIZED CAPACITY, by Type of Regulated Operation:

A. Permit Capacity for Licensed Operations:		
Current Month	<u>276,455</u>	
Previous Month	<u>263,723</u>	
B. Permit Capacity for Registered Homes:		
Current Month	<u>25,874</u>	
Previous Month	<u>26,082</u>	
TOTAL CAPACITY OF REGULATED OPERATIONS:		<u>302,329</u>
C. Enrollment in Licensed Operations:		
Current Month	<u>115,078</u>	
Previous Month	<u>113,857</u>	
D. Enrollment in Registered Homes:		
Current Month	<u>14,310</u>	
Previous Month	<u>14,425</u>	
TOTAL ENROLLMENT IN REGULATED OPERATIONS:		<u>129,348</u>
E. Subsidized Capacity in Licensed Operations:		
Current Month	<u>59,186</u>	
Previous Month	<u>58,278</u>	
F. Subsidized Capacity in Registered Homes:		
Current Month	<u>5,018</u>	
Previous Month	<u>4,852</u>	
TOTAL SUBSIDIZED CAPACITY:		<u>64,204</u>
G. Subsidized Enrollment in Licensed Operations:		
Current Month	<u>14,382</u>	
Previous Month	<u>14,272</u>	
H. Subsidized Enrollment in Registered Homes:		
Current Month	<u>574</u>	
Previous Month	<u>568</u>	
I. Subsidized Enrollment in ICCAs:		
Current Month	<u>450</u>	
Previous Month	<u>496</u>	
TOTAL ENROLLMENT:		<u>15,406</u>
State Day Care Program		

V. AMOUNT REIMBURSED / AVERAGE MONTHLY PAYMENT PER CHILD, by Type of Operation:

	amount reimbursed	average monthly payment per child
A. Licensed Operations:		
Current Month	<u>\$ 2,530,256</u>	<u>\$ 176</u>
Previous Month	<u>\$ 2,778,316</u>	<u>\$ 195</u>
B. Registered Homes:		
Current Month	<u>\$ 95,079</u>	<u>\$ 166</u>
Previous Month	<u>\$ 99,291</u>	<u>\$ 175</u>
C. ICCAs:		
Current Month	<u>\$ 38,224</u>	<u>\$ 85</u>
Previous Month	<u>\$ 53,763</u>	<u>\$ 108</u>
D. Overall Amount Reimbursed:		
Current Month	<u>\$ 2,663,559 *</u>	
Previous Month	<u>\$ 2,931,370 *</u>	
E. Overall Average Payment:		
Current Month		<u>\$ 173</u>
Previous Month		<u>\$ 191</u>

VI. PURCHASE OF CARE INFORMATION:

A. Unduplicated Child Count:	
Year-to-Date	<u>24,684</u>
B. Year to Date Total Reimbursed for Care:	
Includes At-Risk & CCDBG expenditures	<u>\$ 20,465,640</u>

Family Support Act Child Care:

A. DFS Expenditures:

Current Month	<u>\$1,703,777</u>
Previous Month	<u>\$1,676,094</u>

B. DSS Expenditures:

Current Month	<u>\$ 759,907</u>
Previous Month	<u>\$ 706,852</u>

TOTAL FSA EXPENDITURES:

\$2,463,684

C. Number of DFS children:

Current Month	<u>8,594</u>
Previous Month	<u>8,466</u>

D. Number of DSS children:

Current Month	<u>3,838</u>
Previous Month	<u>3,570</u>

TOTAL FSA CHILDREN:

12,432

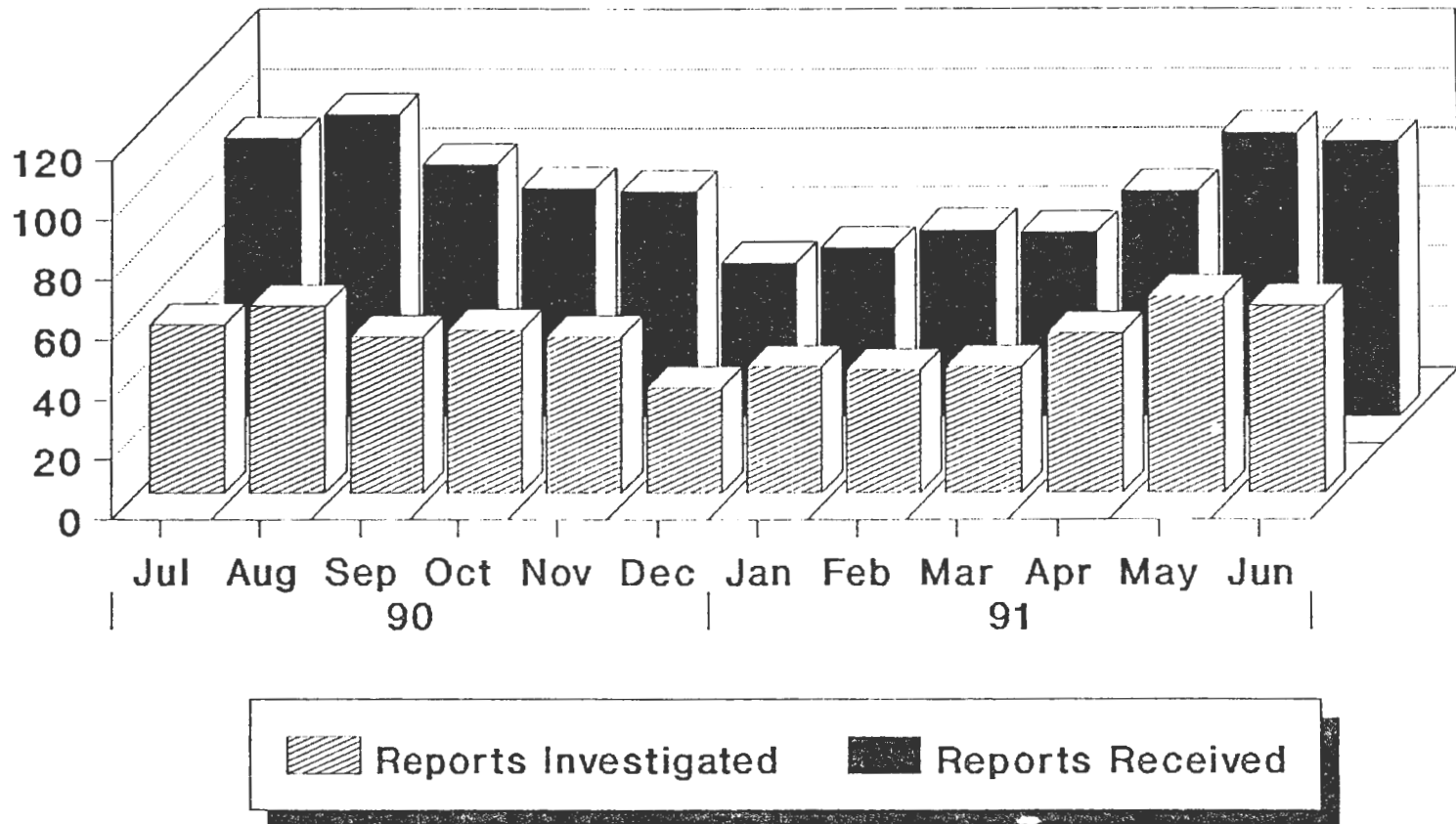
CHILD ABUSE/NEGLECT STATISTICS
CHILD DAY CARE SECTION

1. # of reports received (SFY 90-91) - 886
2. # of investigations opened - 616
3. # of investigative site visits made (SFY 90-91):
 - First site visits - 665
 - Total visits - 784
4. # of administrative actions taken (SFY 90-91):

Revocations	9 Homes	4 Centers
Denials	3 Homes	2 Centers
Special Provisionals/ Provisionals	3 Homes	16 Centers
Written Warnings	10 Homes	63 Centers
Written Reprimands	2 Homes	22 Centers
Injunctions/ Summary Suspensions		1 Center
5. # of investigations projected for SFY 91-92 - 700
6. # of Abuse/Neglect Consultants 7½
7. % of investigated cases substantiated as abuse/neglect - approx. 33%

ABUSE AND NEGLECT REPORTS RECEIVED AND INVESTIGATED IN DAY CARE, by MONTH (SFY 1990 - 1991)

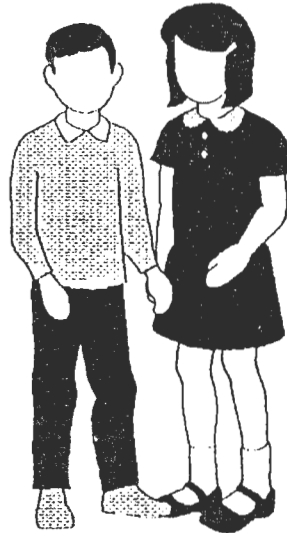
HUNDREDS



A-3-1 6-24

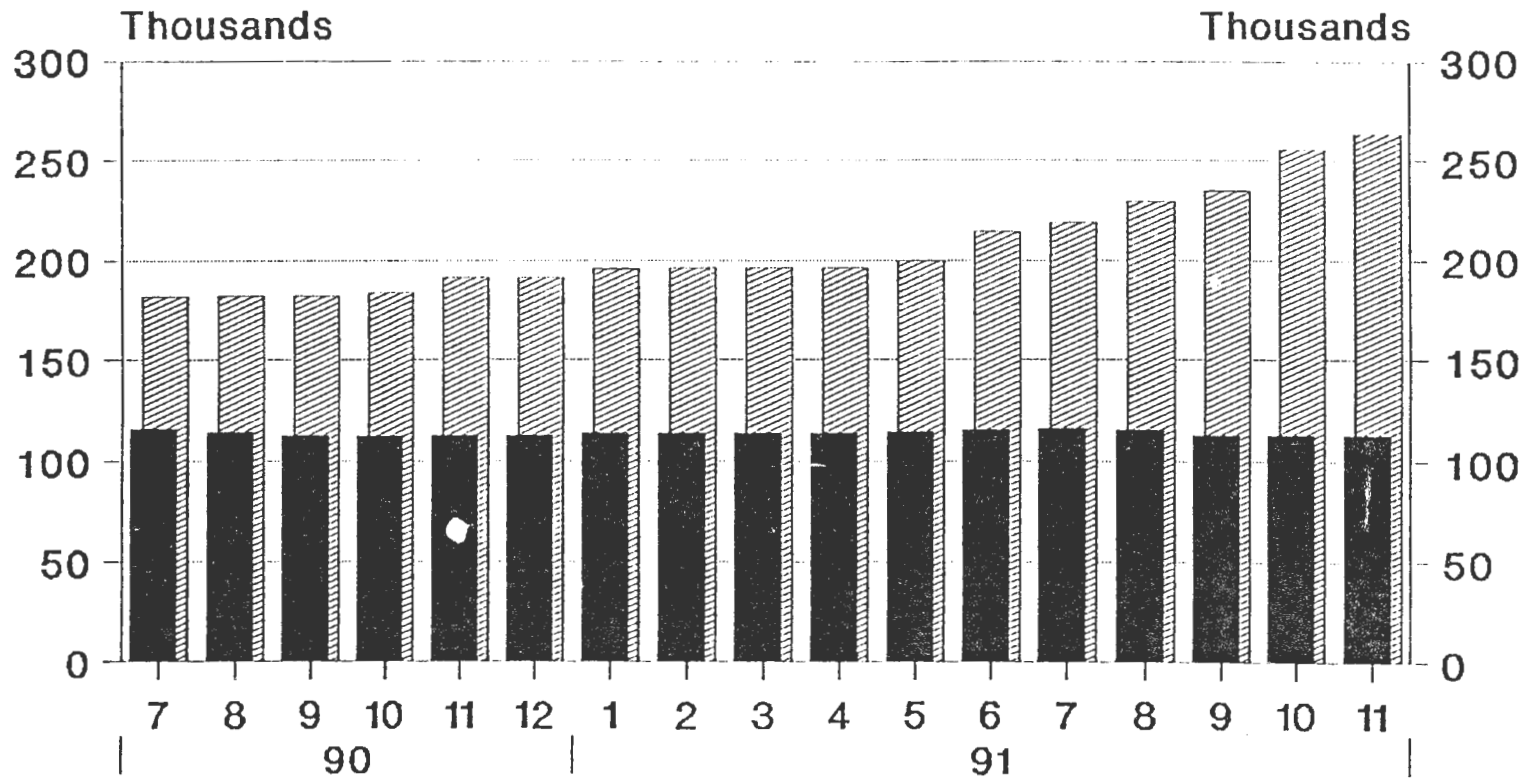
source: A/N Unit monthly reports

SELECTED TRENDS IN CHILD DAY CARE IN NORTH CAROLINA



Prepared by Policy, Planning and Reporting Unit
Child Day Care Section
Division of Facility Services

REGULATED CHILD CARE FACILITIES LICENSED CAPACITY AND ENROLLMENT



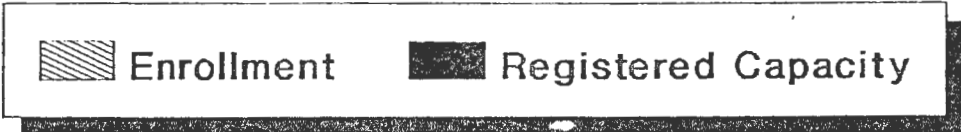
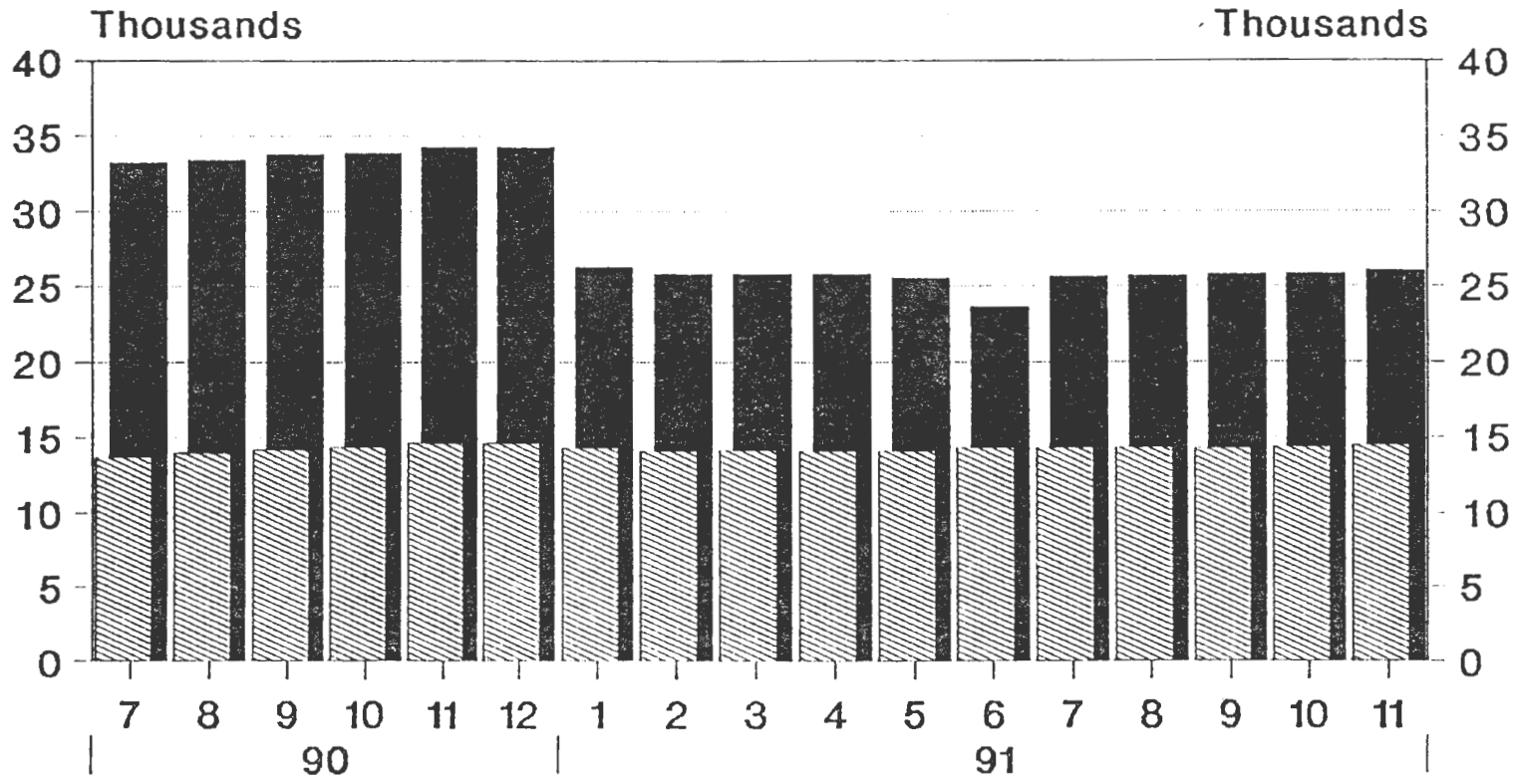
Note: Includes centers and large day care homes

ENROLLMENT
 LICENSED CAPACITY

source: CDC Section reports

* 6-26

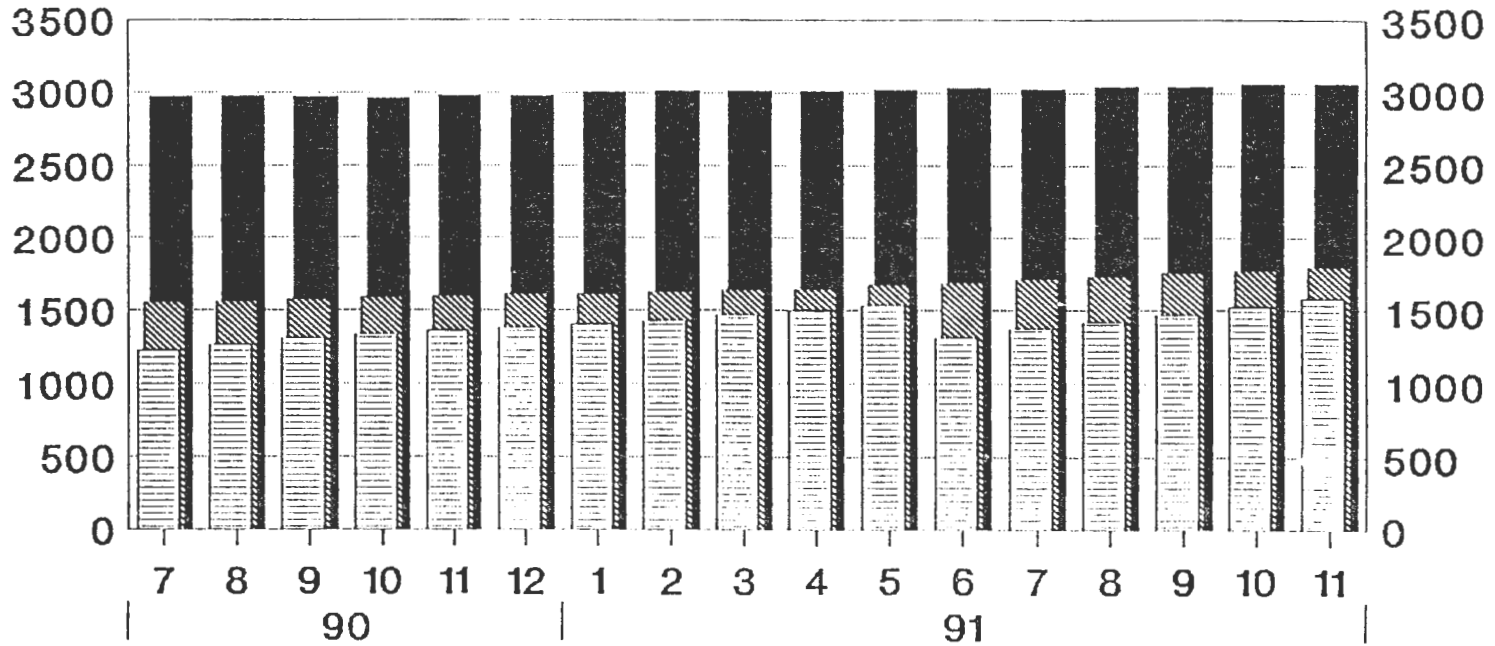
REGISTERED DAY CARE HOMES CAPACITY AND ENROLLMENT



source: CDC Section report

A-2 6-27

NUMBER OF DAY CARE FACILITIES, NUMBER APPROVED FOR SUBSIDIZED CARE AND NUMBER REIMBURSED



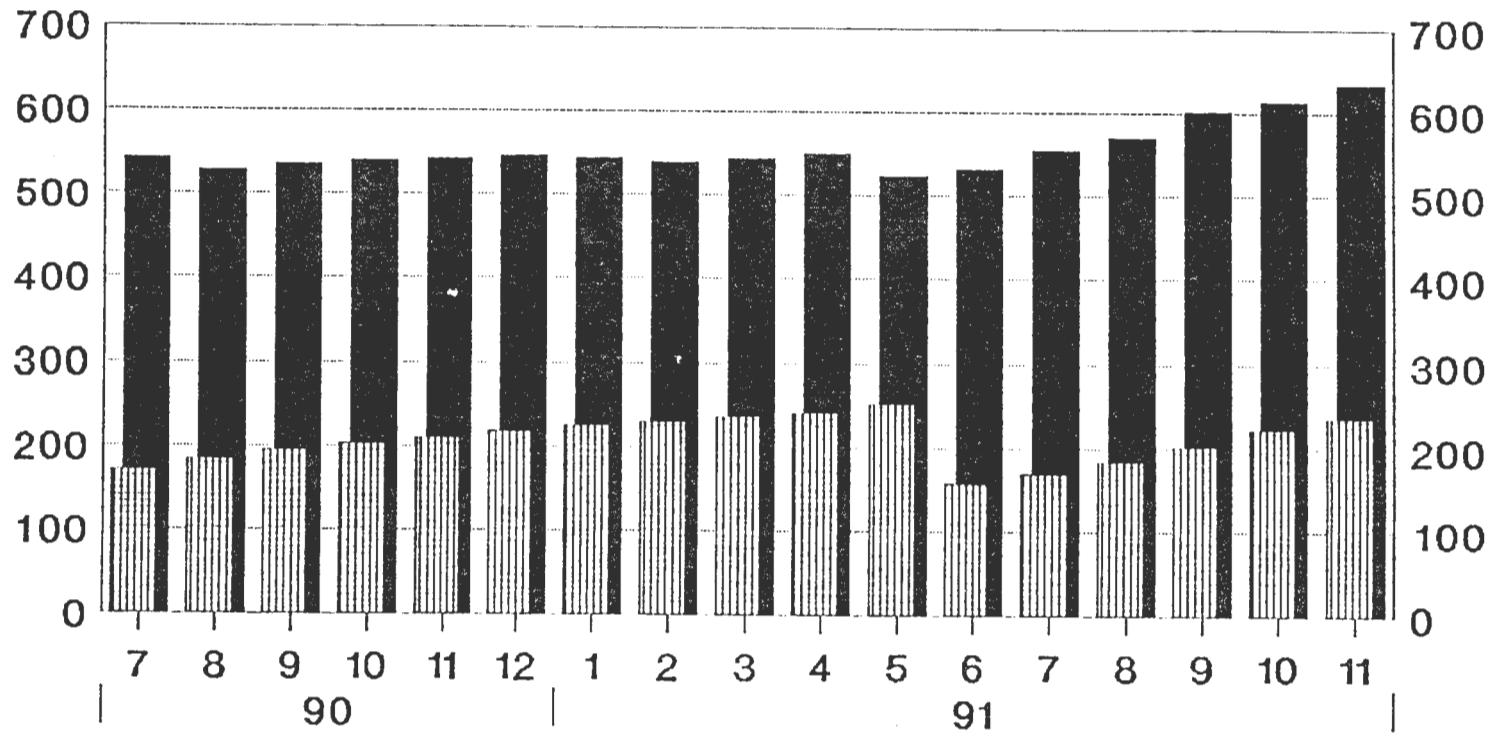
Number Reimbursed
 Number Approved
 Number Licensed

NOTE: Includes day care centers & large day care homes

source: CDC Section reports

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NUMBER OF REGISTERED DAY CARE HOMES APPROVED FOR SUBSIDIZED CARE AND NUMBER REIMBURSED



Number Reimbursed

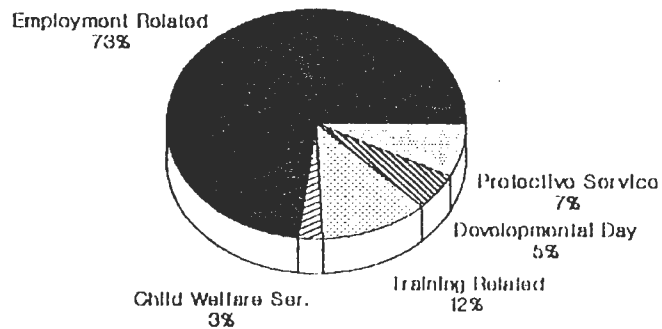
 Number Approved

source: CDC Section reports

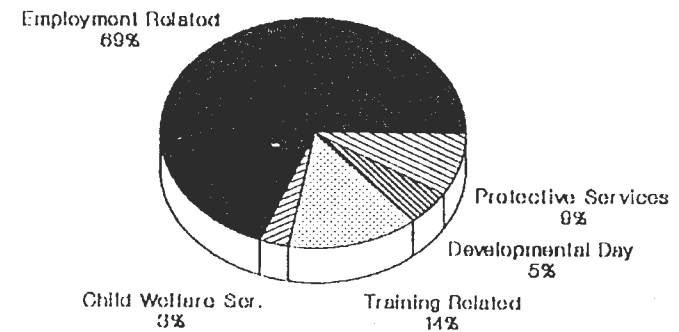
444 6-29

COMPARISON OF THE DISTRIBUTION OF TARGET GROUPS SERVED, SFY 1989-1990 & 1990-1991

SFY 1989-1990



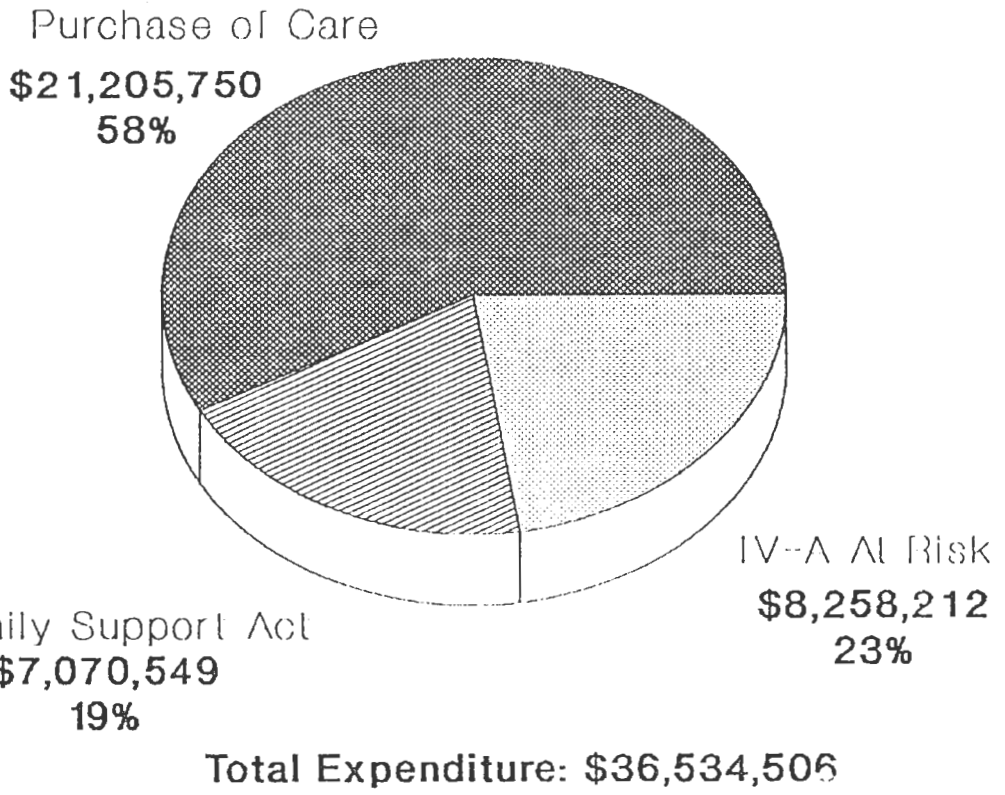
SFY 1990-1991



source: CDC Section reports

6-30

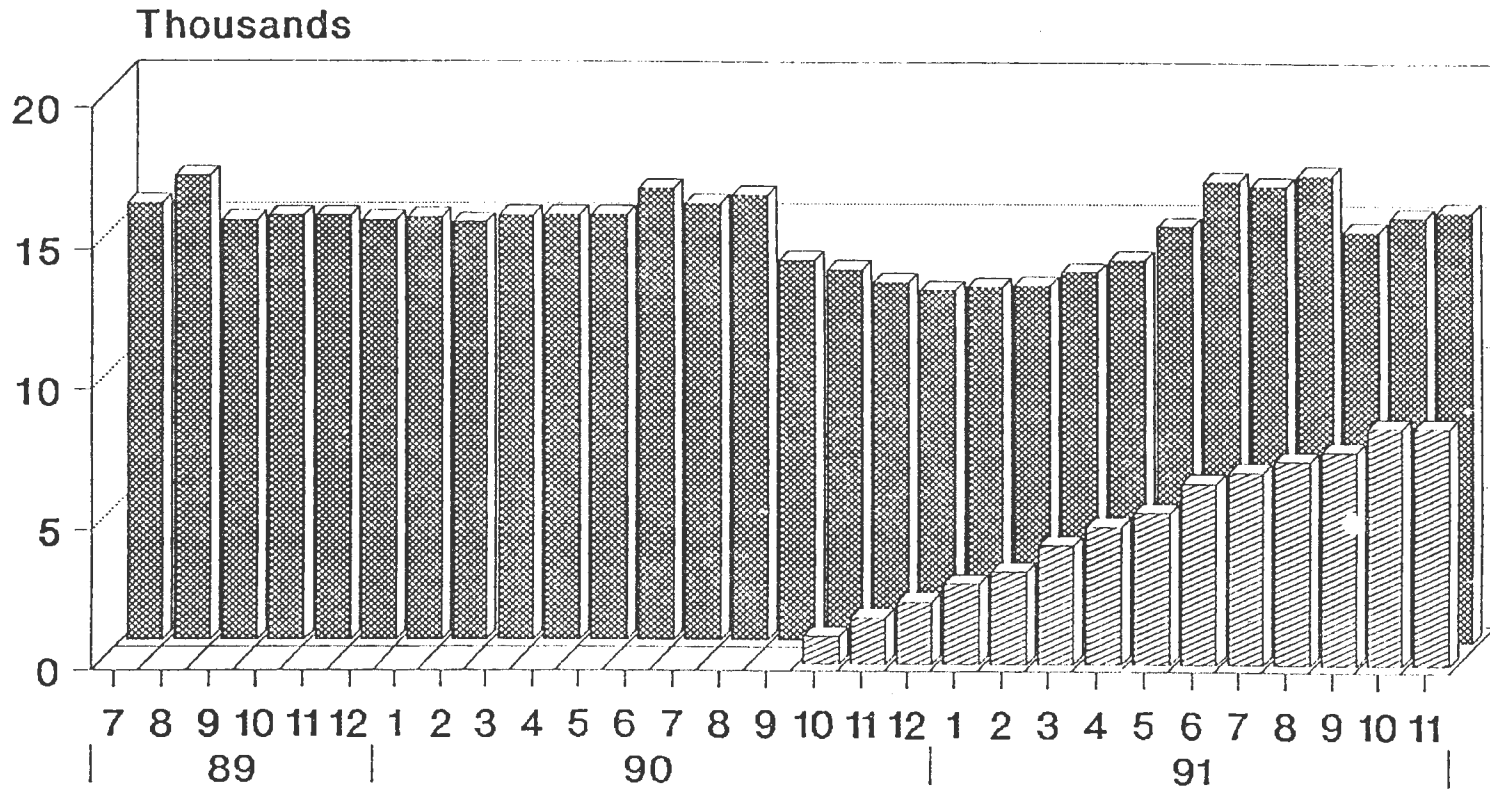
Actual Expenditures for Subsidized Child Care, by Funding Source



source: DFS Accounting Report

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NUMBER OF CHILDREN SUBSIDIZED, by FUNDING SOURCE



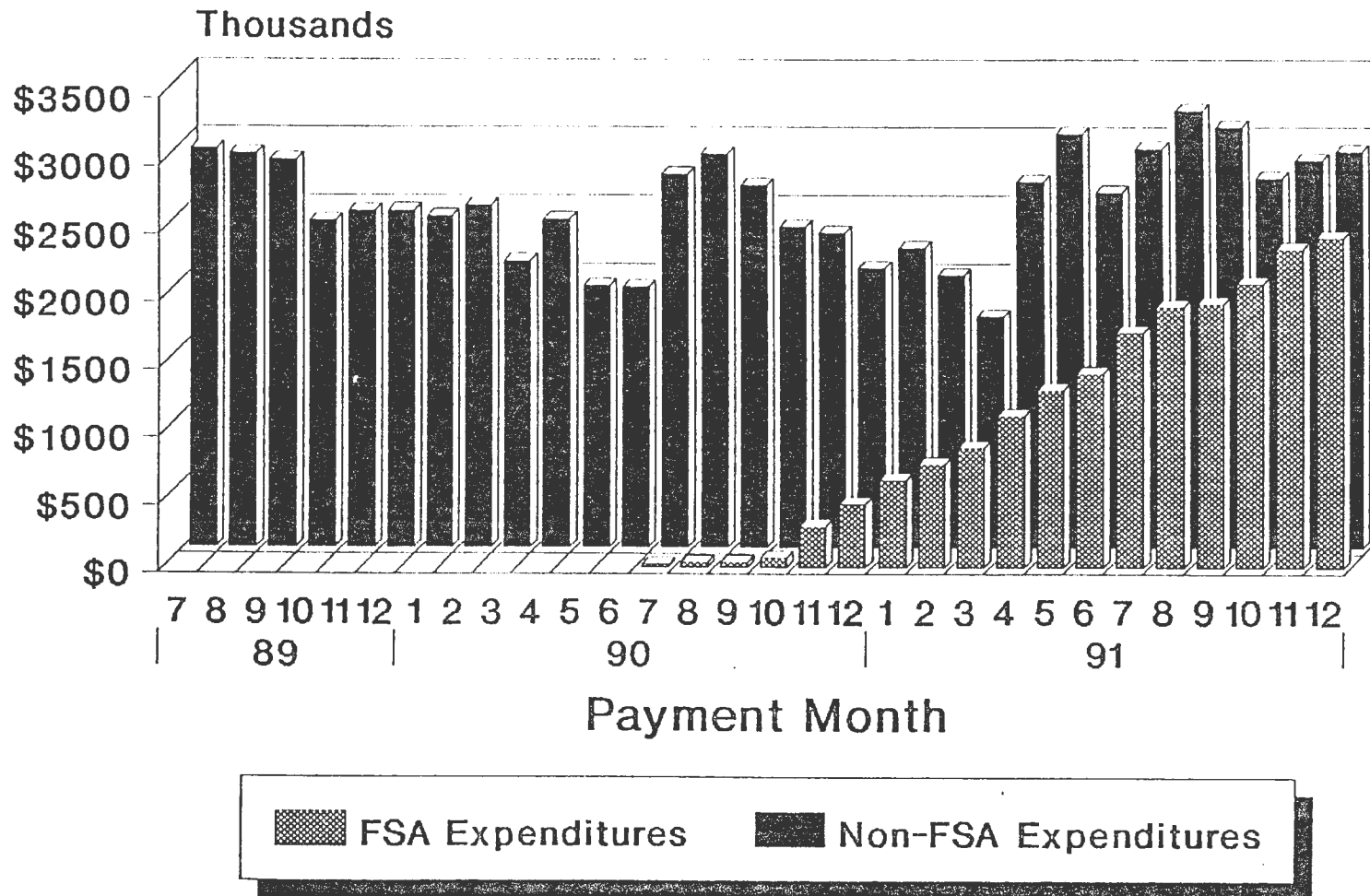
FSA Subsidized
 Non-FSA Subsidized

source: CDC Section Service Reports

NOTE: Count is not unduplicated across funding sources.

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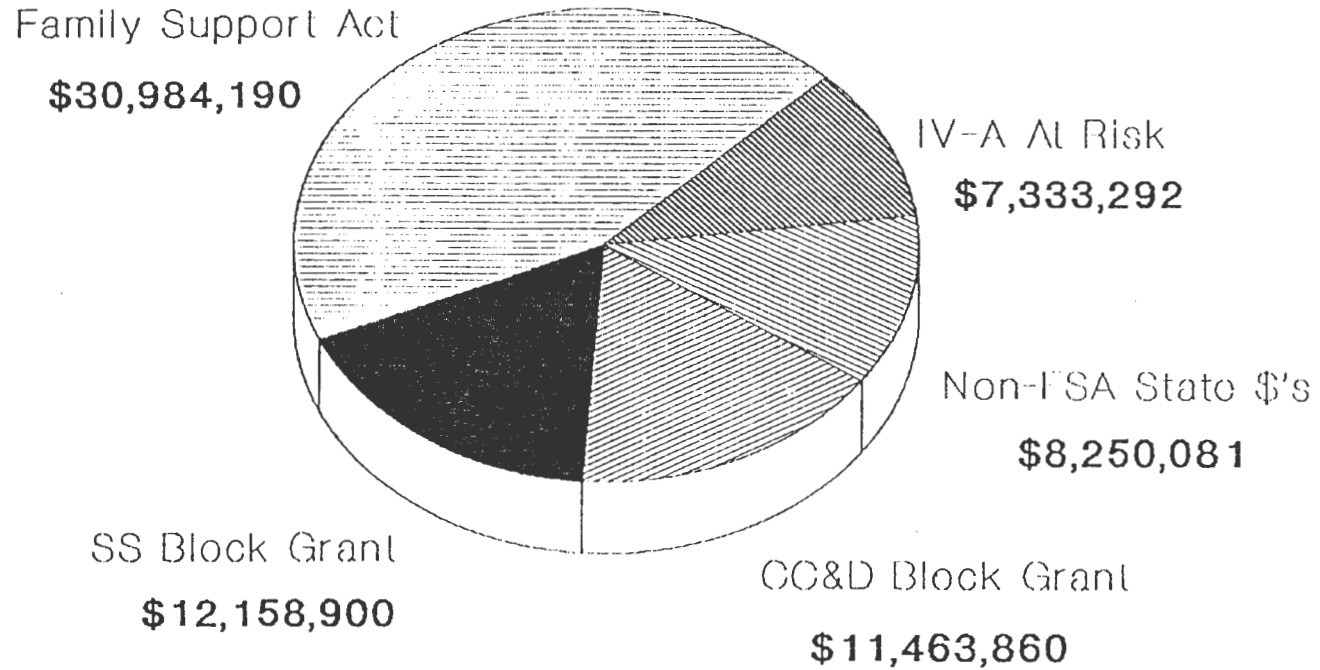
SUBSIDIZED CHILD CARE EXPENDITURES, by FUNDING SOURCE



source: DFS/DAS expenditure reports

A-10 G-33

ESTIMATED EXPENDITURES FOR SUBSIDIZED CHILD CARE, by FUNDING SOURCE SFY 1991 - 1992



Estimated Expenditures: \$70,190,321

STATUS OF CHILD DAY CARE LEGISLATION ENACTED IN 1990 and 1991

BILL	G.S.	Explanation of Change	Status
1990 Session			
S.B. 1426 Current Operations Appro- priations for NC for 90-91 Fiscal Year	Chapter 1066 of 1989 Session Sec.101(a) Sec.102(a)	Changed rate paid to child day care homes and individual child care arrangements from a flat rate to a county market rate. The day care allocation formula was changed to distribute State day care funds more equitably. Three factors included in the new formula are: 1) county's general population 2) # of children in county under 6 yrs. of age living in poverty 3) # of working mothers in county with children under 6 yrs. of age.	Implemented market rates for homes July 1, 1991 Although new funds (Child Care & Development Block Grant) were allocated to the counties, 37 counties still did not receive any additional money. An explanation is that those 37 counties had in past years gotten more than their "fair" share. Some counties, e.g. Mecklenberg, will continue to not receive additional funding without a substantial increase in funds.
1991 Session			
H.B. 416 Technical Changes To Day Care Law	110-86 110-88(10) 110-91(1) 110-91(1)	Wording describing max. no. of children allowed in d.c. home written more clearly. Temporary license to be issued to a new facility instead of provisional. Health assessment acceptable in lieu of medical exam - public health nurse allowed to perform and sign health assessment. New statement which allows non-profit, tax-exempt organizations that cater meals only to day care centers to be considered day care centers for purpose of imposing sanitation standards.	Written materials have been updated to reflect technical changes made in the day care law. This procedure has been implemented. Health departments were notified of the change in G.S.110-91(1). Section not aware of any organizations utilizing this change.

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BILL	G.S.	Explanation of Change	Status
	110-94	The time limit to appeal an administrative action is reduced from 60 days to 30 days.	Implemented October 1, 1991; cases which are not appealed are resolved more quickly.
	110-103.1(a)	Clarifies that a civil penalty of up to \$1000 may be issued for each violation.	
	110-105	Clarifies that consultants may inspect any area of a building where there is reasonable evidence to believe children are in care.	Have found situations where children were hidden in closed rooms. Change has improved enforcement capabilities.
	7A-517(5) Caretaker Law -Juvenile Code	Updated - Changed "day care plan" to "child day care home"	
	143B-168.5	Update of law to clarify the placement of child abuse/neglect unit and authority of Commission to make rules concerning investigation of abuse/neglect reports.	
H.B.956 Ban Corporal Punishment	110-91(10)	Prohibits corporal punishment in day care facilities with the exception of of church day care facilities.	Child Day Care Commission directed Section to research appropriate procedures for implementing these changes prior to adopting new rules. Church-operated programs which opt to use corporal punishment are requested to provide written notification of that policy to the Section.
	110-101	Prohibits corporal punishment in day care homes with the exception of those operated by a church.	

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BILL	G.S.	Explanation of Change	Status
HB122 Day Care Encouragement	143-64.50 143-64.51 143-64.52	Allows state agencies and local boards of education to contract with governmental or private agencies or persons to establish day care services in State buildings or public schools.	The Section is not aware of any new facilities that have opened as a result of this legislation.
HB597 SBI Day Care Abuse Task Force	7A-544 7A-548 114-15.3	Requires local DSS to notify SBI if investigation indicates sexual abuse in child day care. SBI has option to form task force to investigate. Requires DHR to adopt rules to ensure all groups' investigations do not interfere with one another.	A task force of representatives from the Dept. of Justice, the Dept. of Human Resources, and affected local agencies was formed to plan for and oversee implementation of HB597. Protocol for investigations was written and approved by task force on 1/16/92. Training needed and legislative revisions were identified. A full report about implementation of HB 597 will be presented to the Joint Commission on Governmental Operations.
HB5 Raise Minimum Wage	95-25.3	Raises state minimum wage to \$3.80 (eff. 1/1/92) and \$4.25 (eff. 1/1/93). This probably only affects some large home providers since most facilities must follow federal wage guidelines.	No negative comments about this change have been received by the Section.
HB83 Continuation Budget	Sec. 125	Revises the special provisions for use of child day care funds to authorize the development of special payment rates to benefit counties where the market rate rate is too low to attract or retain providers for the subsidized day care program.	DHR is reviewing proposed rules.

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE DEPARTMENT OF HUMAN RESOURCES AND
THE DEPARTMENT OF PUBLIC INSTRUCTION REGARDING
SUBSIDIZED CHILD DAY CARE

INTENT

North Carolina provides a system of child day care services which combines a variety of state and federal funding sources for the benefit of low income working families, children with special needs and children in other high risk situations. This system is called the State Day Care Program. The intent of this Memorandum of Understanding is to establish the basic responsibilities of and relationship between the Department of Human Resources (DHR) and the Department of Public Instruction (DPI) so as to ensure the continuity and consistent quality of the child care services provided.

MUTUAL OBJECTIVES AND STANDARDS OF CARE

1. All families eligible for public child care subsidy should be able to obtain child care services which meet acceptable standards for health, safety and developmentally appropriate care.
2. Continuity of the child's care arrangement should be maintained regardless of the source of funding available to the family.
3. A common set of requirements should be applied to all providers in order to allow equal access to North Carolina's publicly subsidized child care programs.
4. Compliance with the child day care licensing requirements is North Carolina's minimum acceptable level of child care.
5. The parties agree to work toward expanding the availability of child care resources to high risk children in underserved areas of North Carolina, to increase child care options for low income working families, to assure a basic level of quality for all children in child care, and to eliminate duplication of effort by state agencies.

RESPONSIBILITIES OF THE PARTIES

The parties agree to the following strategies for the purchase of child care services in programs operated by public school systems:

1. All child care programs eligible to receive funds through the State Day Care Program shall comply with the requirements for publicly funded day care as adopted by the Social Services Commission and codified in 10 NCAC 46. These standards require all day care centers and homes to meet the requirements for licensure established by the General Assembly and the Child Day Care Commission.
2. Child care programs operated by a public school system which meet the applicable day care licensing requirements will be eligible

for State Day Care Program funds, provided these requirements satisfy federal funding regulations.

3. DHR will provide information to DPI about the requirements, including any changes to the requirements.
4. DPI will be responsible for monitoring child care programs operated by public school systems for compliance with the State Day Care Program requirements. DPI will maintain sufficient documentation of compliance as is needed to satisfy state and federal program and fiscal reporting requirements.
5. DPI will routinely provide DHR with information about each program as is needed to issue notification of provider eligibility, to report changes in the provider's eligibility for participation (such as changes in ages served or increase in total capacity), and to maintain up-to-date reporting and reimbursement files. DHR will notify both the provider and the local purchasing agency of the provider's eligibility for participation in the State Day Care Program.
6. Child care services will be purchased from approved public school programs through the existing state day care mechanism. This means that the county department of social services, or its designated agency, will determine client eligibility, assist the client as needed with arranging for appropriate child care, contract with the approved provider, and authorize payments for the service.
7. The rate of payment for the child care service will be subject to state and federal regulations for the State Day Care Program. In most situations, the rate is subject to the local market rate for comparable child care services.
8. DPI will provide DHR with assurance of each program's continued compliance with all requirements at least annually.
9. DPI will provide quarterly reports to DHR regarding the nature and outcome of any reports of noncompliance. Failure by DPI to take corrective action or repeated incidents of noncompliance may result in loss of eligibility for funding, in accordance with 10 NCAC 46E.
10. Reports alleging child abuse or neglect in public school-operated centers will be investigated in accordance with the requirements of G.S. 110. A report shall be submitted to DHR by DPI of each allegation of child abuse or neglect in a public school-operated center. The report shall include the nature of the allegation, the date the allegation was received, the date an investigation began, the identity of the entity making the investigation, and the results of the investigation. Failure by DPI to follow required procedures and reporting requirements, or to take appropriate corrective action, may result in loss of eligibility for funding.

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11. If DPI promulgates standardized requirements for age appropriate activities, caregiver qualifications or other program aspects for public school child care programs which are no less stringent than State Day Care Program requirements, compliance with the DPI standards will be accepted in lieu of compliance with comparable DHR requirements.
12. Any public school system may apply for start-up funding, when such funds are available to DHR, to enable child care programs to pay appropriate costs of initial compliance with state day care program requirements.
13. Any public school program which voluntarily applies for a child day care license shall be monitored by DHR according to the same procedures used for all other licensed programs.

All provisions of this agreement are contingent upon applicability of state and federal program and funding regulations.

This Memorandum of Understanding is effective the 13th day of August, 1991.

NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES

by David P. Flaherty
Secretary of Human Resources

NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

by Bob Ederdy
Superintendent of Public Instruction

LEGISLATIVE DAY CARE STUDY COMMISSION
SPECIAL NEEDS PRESENTATION

I. WHAT ARE SPECIAL NEEDS (PL 99-457)?

A. Infants and Toddlers (Birth to Three)

1. Those with a developmental delay or disability (e.g. mental retardation, cerebral palsy, autism, vision/hearing impairments, etc.)
2. Those with atypical development (behavioral/emotional disorders)
3. Those at risk for a developmental delay or disability or atypical development

B. Preschoolers (three and four)

1. Those with specific types of developmental disabilities or atypical development

II. WHAT IS MAINSTREAMING?

A. Specific Approaches

1. Developmental Day Centers bring in children without special needs.
2. Children with special needs are placed in existing child care programs such as licensed day care centers, family day care homes and preschools with ongoing support and consultation provided by specialized early intervention personnel.

III. WHY MAINSTREAM?

A. Requirements through different federal laws.

1. PL 99-457 Part H "Most Natural/Least Restrictive Environment"
2. Americans with Disabilities Act, PL 101-336, Title III

B. For many children with special needs, it is more cost effective.

C. Research has shown that:

1. Many special needs children show more progress in areas like social and language skills.
2. There are no negative effects on the children without special needs.

D. Consumer preference: A growing number of parents of children with special needs have indicated a desire for mainstreamed options.

IV. AGENCY POLICY INITIATIVES RELATED TO MAKING MAINSTREAMING WORK

- A. Common definitions of special needs
- B. Fiscal incentives through variable purchase of care rates for special needs children

LEGISLATIVE PROPOSALS FOR
1992 LEGISLATIVE SESSION

DATE: March 3, 1992

DIVISION: Facility Services

SECTION: Child Day Care

Program Resource Person and Phone Number: Nancy M. Sampson, 733-4801

Title of Proposed Legislation: Proposed Amendments to House Bill 597

- A. Statutes to be Amended : G.S. 7A-542, G.S. 7A-543, G.S. 7A-544, G.S. 7A-548, G.S. 114-15.3
- B. Synopsis of Proposed Legislation:
As described below, the Day Care/SBI Task Force proposed amendments to several sections of the Juvenile Code and to G.S. 114-15.3 to clarify some of the reporting and investigatory procedures when child sexual abuse is suspected to have occurred in a day care arrangement. The Department is proposing that physical abuse also be added as an amendment to House Bill 597 as codified.
- C. History, Background and Rationale: House Bill 597, An Act to Encourage the State Bureau of Investigation to Form a Task Force to Investigate All Cases of Substantiated Child Sexual Abuse in Child Day Care, was ratified by the 1991 General Assembly and became effective October 1, 1991. The Act requires directors of county departments of social services to notify the State Bureau of Investigation (SBI) whenever child sexual abuse is suspected to have occurred in a child day care setting. The SBI is authorized to form a task force to investigate the allegations of child sexual abuse.
- An SBI/Day Care Task Force representing the Department of Justice, the Department of Human Resources and affected local agencies was formed to plan for and oversee implementation of House Bill 597. The recommendations of the task force were included in a report to the Joint Commission on Governmental Operations. The executive summary of the report on House Bill 597 is attached.
- D. Fiscal Impact: Included in the attached executive summary is the fiscal impact of reporting child sexual abuse, however, the Department is reviewing the cost of the inclusion of reporting physical abuse. This information will be provided to Fiscal Research as soon as possible.
- E. Impact on Other Division or Agencies: The recommendations affect the Department of Justice, the Division of Social Services, local departments of social services and the Child Day Care Section in the Department of Human Resources. Representatives of all agencies reviewed the recommendations of the task force.
- F. Interest Groups Impacted: Unknown.
- G. Proposed Bill Sponsor(s): Unknown

REPORT ON HOUSE BILL 597

House Bill 597, An Act to Encourage the State Bureau of Investigation to Form a Task Force to Investigate All Cases of Substantiated Child Sexual Abuse in Day Care, ratified July 8, 1991 by the North Carolina General Assembly, took effect October 1, 1991. A copy of the Act is included as **Attachment 1** to this report. The Act requires directors of county departments of social services to notify the State Bureau of Investigation (SBI) whenever child sexual abuse is suspected to have occurred in a child day care setting. The SBI is authorized to form a task force to investigate the allegations of child sexual abuse.

IMPLEMENTATION

An SBI/Day Care Task Force representing the Department of Justice, the Department of Human Resources and affected local agencies was formed to plan for and oversee implementation of House Bill 597. Task Force membership is included as **Attachment 2** to this report.

Prior to October 1, the State Division of Social Services issued an administrative letter to all directors of county departments of social services, informing them of their responsibilities under House Bill 597 and providing them with procedures for contacting the appropriate SBI District Offices. Corresponding information was provided by the SBI to the Special Agents in Charge of the eight SBI District Offices. Copies of both agencies' correspondence are included as **Attachments 3 and 4**.

Both the county department of social services and the Child Day Care Section in the Department of Human Resources' Division of Facility Services continue to have statutory responsibility to investigate all reports of child abuse or neglect in day care. To provide consistent protection for children and to enable law enforcement agencies to respond swiftly, the county department will notify the SBI District Office whenever child sexual abuse is alleged or suspected to have occurred in a day care facility or day care home.

In a number of communities, the county department of social services and the local law enforcement agency have established procedures for jointly investigating child abuse reports. The Task Force recommended that these local relationships be encouraged, and that the SBI fulfill its responsibilities under House Bill 597 by working through the local law enforcement agency whenever possible.

Upon receiving notification of suspicion of child sexual abuse, the SBI district staff will contact the local law enforcement agency having jurisdiction and provide any needed assistance with the investigation. SBI involvement will range from conducting the law enforcement component of the investigation when the local law enforcement agency is unable or

unwilling to accept the case to making technical assistance and support services available to the local agency.

FIRST QUARTER DATA

Between October 1 and December 31, 1991, the Child Day Care Section and the county departments of social services investigated reports alleging child sexual abuse in 20 day care settings. Included in the 20 cases were 12 regulated day care centers, 3 registered day care homes, and 5 illegal operations.

Of the 20 situations investigated, all but three were reported to the SBI. Two were not reported because county staff were still unfamiliar with the reporting requirement, and the third was not reported because there was no evidence to support the allegation. In the 17 cases reported to the SBI, the SBI has been actively involved in three investigations. Local law enforcement has assisted with the majority of the investigations and SBI assistance has not been requested. Final reports have not been issued on these cases.

A summary of each case is included in Attachment 5.

PROTOCOL

Soon after implementation of House Bill 597, the Task Force identified the need for an interagency protocol to provide a uniform, structured approach to investigations of child sexual abuse in day care settings and to reduce the trauma to children and their families who are involved in these cases by helping to assure professional, responsible behavior by all members of the investigative team. A subcommittee of Task Force members developed a proposed protocol which was reviewed and approved by the full Task Force on January 16, 1992. Attachment 6 contains the proposed protocol which has been submitted for further review by the Department of Human Resources, the Attorney General, local law enforcement agencies, and representatives of the North Carolina Association of County Directors of Social Services and the North Carolina Social Services Association.

The recommended protocol provides for the establishment of an Interagency Task Force in each county which would be convened at the beginning of each new investigation and as often as needed throughout the course of the investigation and any subsequent actions. The Interagency Task Force would consist of two units: the investigative unit and the resource unit. The investigative unit would consist of individuals assigned to the case and having statutory authority to investigate reports of child sexual abuse, to include the county child protective service worker, a child abuse/neglect consultant from the Child Day Care Section, a local law enforcement officer, and an SBI special agent. The resource unit may be comprised of a child medical examiner, other health professionals, local and state social services staff, SBI support personnel, and representatives of mental health agencies, the district

attorney's office, the Attorney General's Office, and others as needed by the circumstances of the case.

The protocol establishes the responsibilities of each member of the investigative unit and prescribes procedures for the investigation, notification of findings, and the provision of supportive services to the child victim.

In a separate but related effort, several medical professionals and four members of the Task Force have formed a work group to develop a protocol for obtaining a standard, quick response for a child medical examination when multi-victim child abuse is alleged. The medical protocol will not be limited to child sexual abuse, nor to child abuse in day care, but the procedure will apply to those cases and will be included in the general protocol proposed by the Task Force.

TRAINING

The Task Force identified several types of training needed to enhance the successful conclusion of child sexual abuse cases.

Local agency staff who will become members of the county interagency task forces will need to be trained to use the protocol. Existing funds from the Federal Child Abuse and Neglect Grant will be allocated by the Division of Social Services to pay for the initial training sessions. However, to retain effective use of the protocol, training should be available annually to train new local agency staff.

A training subcommittee was appointed by the Task Force to plan for initial training on the protocol. Training will be provided at six sites during July and August of 1992. Attachment 7 contains an outline of the protocol training plan.

Another need identified by the Task Force is more training for SBI agents and local law enforcement personnel in obtaining evidence in child sexual abuse cases and interviewing child victims and child witnesses.

LEGISLATIVE ISSUES

Implementation of House Bill 597 has helped to identify several areas where the law is unclear. For example, the statute requires the county department of social services to report allegations of child sexual abuse "after the initial investigation" is made. There is no point during an investigation which can clearly be designated as the initial investigation. Also, the law inconsistently refers to the types of day care settings in which child sexual abuse allegations are to be reported to the SBI. In some places the law refers to day care facilities; in others, day care facilities and homes. The latter terminology has in some instances been interpreted to mean the child's home, rather than day care homes. Specific recommendations to modify the statute to correct these problems are discussed later in this report.

Additionally, the Task Force has designated several statutory requirements for closer study and may recommend changes in the future. None of the issues listed below directly affect implementation of House Bill 597, but all relate to the investigation and case management of reports of child abuse or neglect in child day care and in other settings.

1. Consider a criminal penalty for failure to report suspected child abuse or neglect.
2. Study the effects of a more comprehensive definition of "caretaker" in G.S. 7A-517(5), as it relates to the authority of various agencies to investigate alleged child abuse or neglect.
3. Consider requiring notification to local law enforcement whenever child abuse is alleged or suspected.
4. Reassess confidentiality requirements to ensure that all persons involved in the investigation or prosecution of child abuse/neglect cases have access to necessary information, but that child victims continue to be protected by appropriate confidentiality requirements.
5. Consider an exception to the requirement in G.S. 110-88 that the child abuse/neglect day care consultant visit within seven calendar days when child sexual abuse is alleged and when the request for a delay has been authorized by the SBI.
6. Assess the impact of any of the above named issues on the requirements for child day care and child day care enforcement in Article 7, Chapter 110 of the General Statute.
7. Consider recommendations for prevention of child abuse and neglect in day care, such as criminal record check requirements and more frequent monitoring of day care arrangements.

RECOMMENDATIONS

The Department of Human Resources and the Department of Justice recommend the following actions to enable state and local agencies to respond swiftly and more appropriately whenever child sexual abuse is alleged to have occurred in a child day care setting:

1. Enactment of the changes proposed in Attachment 8 to this report, entitled "An Act to Clarify the Intent of House Bill 597". This proposal recommends amendments to G.S. 114-15.3 and several sections of G.S. 7A to require that directors of county departments of social services immediately report all allegations of child

sexual abuse in child day care to the SBI rather than waiting until the department has conducted "an initial investigation". Earlier notification will lessen the opportunity for contamination of evidence and provide for a unified investigation strategy.

The proposed amendments also clarify that the SBI is to be notified of allegations of child sexual abuse in all child day care arrangements subject to state regulation.

2. Increase by eight the number of SBI special agents who are trained in child sexual abuse investigatory procedures. The first year cost for eight agents would be \$617,328, at a total cost of \$77,166 per agent. The current cost to maintain eight agents is \$404,608 at \$50,576 per agent. See Attachment 9 for detail.
3. Appropriate \$6000 annually to provide training on the protocol for child sexual abuse investigations to local and state agency staff.

The Task Force will continue to meet on a regular basis to monitor the effect of the provisions of House Bill 597 and to oversee approval, training and implementation of the protocol. Additionally, the Task Force will appoint work groups to develop recommendations regarding the issues identified for future legislative consideration.

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B.

Department of Human Resources
Alternative to Task Force
Change

AN ACT TO CLARIFY THE INTENT OF HOUSE BILL 597

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-542 is amended by rewriting the last sentence to read: "The provisions of the Article shall also apply to ~~daycare~~ child day care facilities and ~~daycare plans~~ child day care homes as defined in G.S. 110-86."

Sec. 2. G.S. 7A-543 is amended by adding a third paragraph to read:

✓ "Upon receipt of any report of child sexual ^{or physical} abuse in a day care facility or day care home, the Director shall notify the State Bureau of Investigation within 24 hours or on the next work day. If child ^{or physical} sexual abuse in a day care facility or day care home is not alleged in the initial report, but during the course of the investigation there is reason to suspect that child sexual ^{or physical} abuse has occurred, the Director shall immediately notify the State Bureau of Investigation. Upon ^{or physical} notification that child sexual abuse may have occurred in a day care facility or day care home, the State Bureau of Investigation may form a task force to investigate the report."

Sec. 3. G.S. 7A-544 reads as rewritten:

"G.S. 7A-544. Investigation by Director; ~~notification of State Bureau of Investigation if sexual abuse in day care~~; notification of person making the report.

When a report of abuse or neglect is received, the Director of the Department of Social Services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the

Director shall immediately, but no later than 24 hours after receipt of the report, initiate the investigation. When the report alleges neglect, the Director shall initiate the investigation within 72 hours following receipt of the report. The investigation and evaluation shall include a visit to the place where the juvenile resides. All information received by the Department of Social Services shall be held in strictest confidence by the Department.

If the investigation reveals abuse or neglect, the Director shall decide whether immediate removal of the juvenile or any other juveniles in the home is necessary for their protection. If immediate removal does not seem necessary, the Director shall immediately provide or arrange for protective services. If the parent or other caretaker refuses to accept the protective services provided or arranged by the Director, the Director shall sign a complaint seeking to invoke the jurisdiction of the court for the protection of the juvenile or juveniles.

If immediate removal seems necessary for the protection of the juvenile or other juveniles in the home, the Director shall sign a complaint which alleges the applicable facts to invoke the jurisdiction of the court. Where the investigation shows that it is warranted, a protective services worker may assume temporary custody of the juvenile for the juvenile's protection pursuant to Article 46 of this Chapter.

In performing any of these duties, the Director may utilize the staff of the county Department of Social Services or any other public or private community agencies that may be available. The Director may also consult with the available State or local law-enforcement officers who shall assist in the investigation and evaluation of the seriousness of any report of abuse or neglect when requested by the Director. *If the Director's initial investigation of a report of abuse in a day care*

whenever reports sexual abuse may have occurred, the Director shall notify the State Bureau of Investigation of the results of the initial investigation within 24 hours or on the next working day. The State Bureau of Investigation may send a task force to investigate the alleged sexual abuse and gather evidence that may be presented at a criminal trial.

Unless a petition is filed within five working days after receipt of the report of abuse or neglect, the Director shall give written notice to the person making the report that:

- (1) There is no finding of abuse or neglect; or
- (2) The county Department of Social Services is taking action to protect the welfare of the juvenile, and what specific action it is taking.

The notification shall include notice that, if the person making the report is not satisfied with the Director's decision, he may request review of the decision by the prosecutor within five working days of receipt. The person making the report may waive his right of this notification and no notification is required if the person making the report does not identify himself to the Director."

Sec. 4. G.S. 7A-548 reads as rewritten:

"G.S. 7A-548. Duty of Director to report evidence of abuse, neglect; notification of Department of Human Resources and State Bureau of Investigation.

(a) If the Director finds evidence that a juvenile has been abused as defined by G.S. 7A-517(1), he shall immediately make a written report of the findings of his investigation to the district attorney, who shall determine if criminal prosecution is appropriate, and who may request the Director or his designee to appear before a magistrate.

If the Director receives information that a juvenile has been physically harmed in violation of any criminal statute by any person other than the juvenile's parent or other person responsible for his care, he shall make an oral or written report of that information to the district attorney or the district attorney's designee within 24 hours after receipt of the information. The district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7A-543 involves abuse or neglect of a juvenile in day care, either in a day care facility or a day care home, the Director shall notify the Department of Human Resources within 24 hours or on the next working day of receipt of the report.

(b) If the Director finds evidence that a juvenile has been abused or neglected as defined by G.S. 7A-517 in a day care facility or day care home, he shall immediately so notify the Department of Human Resources and, in the case of child sexual ^{or physical} abuse, the State Bureau of Investigation, in such a way as does not violate the law guaranteeing the confidentiality of the records of the Department of Social Services.

(c) Upon completion of the investigation, the Director shall notify give the Department written notification of the results of the investigation required by G.S. 7A-544. If the Director's initial investigation, carried out pursuant to G.S. 7A-544, of a report of abuse in a day care facility reveals that sexual abuse may have occurred, the Director shall notify the State Bureau of Investigation of the results of the initial investigation. The State Bureau of Investigation may send a task force to investigate the alleged sexual abuse and gather evidence that may be presented at a criminal trial.
Upon completion of an investigation of child sexual ^{or physical} abuse in a day

care facility or day care home, the Director shall also make written notification of the results of the investigation to the State Bureau of Investigation.

The Director of the Department of Social Services shall submit a report of alleged abuse or neglect to the central registry under the policies adopted by the Social Services Commission.

(b) If the Director finds evidence that a juvenile has been abused or neglected as defined by G/S/ 7A-517 in a day care facility or home, he shall immediately so notify the Department of Human Resources and the State Bureau of Investigation in such a way as does not violate the law guaranteeing the confidentiality of the records of the Department of Social Services."

Sec. 5. G.S. 114-15.3 reads as rewritten,
"G.S. 114-15.3. Investigations of child sexual ^{or physical} abuse in day care.

The Director of the Bureau may form a task force to investigate and ~~prepare~~ gather evidence following a notification by the director of a county department of social services, pursuant to ~~G/S/ 7A-544~~ G.S. 7A-543, that *the Director's initial investigation of a report of abuse in a day care facility reveals that* child sexual ^{or physical} abuse may have occurred in a day care facility or day care home."

Sec. 6. This act becomes effective July 1, 1992.

Agent Cost FY 91-92

Personal Services

\$26,820	Salary
2,052	Social Security (7.65%)
3,924	Law Enforcement Retirement (14.63%)
5,200	Overtime
<u>1,735</u>	Hospital Insurance
\$39,731	

Operating Expenses

\$ 225	Medical Services
400	Clothing Allowances
2,750	Vehicle Operating Expense
750	Office Supplies
3,510	Other Supplies
1,150	Travel Expense
750	Telephone
360	Postage
500	Specialized Training
<u>250</u>	Vehicle Insurance
\$10,645	

Training

\$ 2,200	Basic Training (NR)
<u>200</u>	In/Service Training
\$ 2,400	

Equipment

\$ 1,500	Data Processing Equipment (NR)
15,500	Motor Vehicle (NR)
<u>7,390</u>	Law Enforcement Equipment (NR)
\$24,390	

\$77,166

TOTAL COST

Note: \$26,590 Non-recurring
(9/24/91)

6-56

**LEGISLATIVE PROPOSALS FOR
1992 LEGISLATIVE SESSION**

DATE: March 3, 1992

DIVISION: Facility Services

SECTION: Child Day Care

Program Resource Person and Phone Number: Nancy M. Sampson, 733-4801

Title of Proposed Legislation: Revise the Definition of Child Day Care

- A. Statute to be Amended: G.S. 110-86(2)
- B. Synopsis of Proposed Legislation:
Revise the definition of child day care to exclude drop-in care arrangements provided for children while their parents are participating in non-employment related activities on the premises such as in shopping malls, exercise studios, resort hotels, bowling alleys, health spas, church child care provided during church activities and other similar arrangements. Alternatively, provide sufficient funds to regulate these arrangements.
- C. History, Background and Rationale: A local department of social services raised the issue as to whether drop-in care is regulated and whether local departments of social services have responsibility to investigate reports of child abuse or neglect since such arrangements have not been required to be licensed or otherwise regulated. Neither the State Division of Social Services nor the Child Day Care Section believed they had the authority to investigate complaints in such programs since such arrangements have not been required to be licensed or registered as child day care. However, a recent interpretation from the Attorney General's office informally advises that drop-in child care provided as described in item B. above must be regulated when it meets the other conditions of the definition of child day care, i.e., operates at least once per week for more than four hours per day, etc.

When the current definition of day care was enacted into law, these types of arrangements, except for church activities, were virtually nonexistent. It is believed that it was never the intent of the legislature to regulate such arrangements as day care and the legislature has never provided funding for staff to license and monitor these arrangements. However, due to the Attorney General's interpretation, statutory clarification of the issue is now needed. It should be noted that if these programs are exempted, no agency has the authority to regulate the care provided or terminate the provider's right to operate. However, nothing in state statute prohibits local departments of social services, when such situations are known, from reporting the incident to law enforcement agencies or advising the parent to do so.

The Department is presenting the following four options to address the situation:

1. Provide funding for sufficient staff to regulate all drop-in care arrangements. It is estimated that there are approximately 20,000 churches, malls, health clubs, resorts, etc. with the potential to

offer drop-in services. If even half of the facilities offered child care, the Department would need 118 additional staff at a cost of \$5.9 million to regulate these arrangements.

2. A second option would be to regulate all drop-in arrangements except for those operated by churches to support church activities. Staff needed to regulate all drop-in care arrangements except church facilities would be about 30 additional staff at a cost of \$1.5 million.
3. A third option would be to charge the arrangements a licensing fee in an amount sufficient to cover the cost of regulating them.

For any of the above 3 options, statutory language will be needed to

- a. authorize the Child Day Care Commission to adopt rules for drop-in care arrangements, and
 - b. hold harmless until October 1, 1992, or until such time as an appropriate number of staff positions can be classified, posted, filled and brought on board.
4. The fourth option is to exclude all drop-in type arrangements from regulation until sufficient funds can be appropriated.
- D. Fiscal Impact: Fiscal impact related to staff needs is included with the options stated above. Additional costs would be incurred by the State to promulgate and distribute appropriate rules to approximately 10,000 drop-in arrangements.
- E: Impact on Other Division or Agencies: The Division of Social Services is reviewing its interpretation of statutes which give local departments of social services the authority to investigate reports of child abuse or neglect in out of home arrangements.
- F. Interest Groups Impacted: Child advocacy groups and regulated providers will be interested in this issue, as will local departments of social services and local law enforcement officials.
- G. Proposed Bill Sponsor(s): Unknown

ATTACHMENT 1

AN ACT TO CLARIFY THE DEFINITION OF CHILD DAY CARE

The General Assembly of North Carolina enacts:

G.S. 110-86(2) reads as rewritten: Child day care. Any child care arrangement ~~except seasonal recreational programs operated for less than four consecutive months in a year~~ wherein three or more children less than 13 years old receive care away from their own home by persons other than their parents, grandparents, aunts, uncles, brothers, sisters, first cousins, guardians or full-time custodians, or in the child's own home where other unrelated children are in care. Child day care does not include seasonal recreational programs operated for less than four consecutive months in a year. Child day care also does not include arrangements which provide only drop-in or short term child care for parents participating in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as child care offered in health spas, bowling alleys, shopping malls, and resort hotels. ("Easily accessible" ~~shall~~ means able to be contacted and arrive at the child care arrangement within 20 minutes after being contacted.)"

-OR-AND PREFERABLY--

"Easily accessible" could be defined by rule.

DEPARTMENT OF HUMAN RESOURCES
VOUCHER SYSTEM FOR CHILD DAY CARE

Presentation to
Legislative Study Commission on
Child Day Care Issues

BACKGROUND

- Federal regulations for the Child Care and Development Block Grant (CCDBG) require the State to implement a voucher system by October 1, 1992 that provides parents freedom of choice in selecting child care providers for their children.
- Continuation of CCDBG funding to the State is contingent upon meeting the requirement for the voucher system.
- After reviewing several options for complying with the regulations within the federal deadline, a tentative recommendation to the Secretary was made to develop a voucher system and contract with an outside agency to implement the voucher system and related changes to the day care payment system.
- As a step in implementing this plan and a means of addressing policy and procedural issues that had surfaced about it, a team of State staff was assembled to visit counties and providers to identify their requirements and insure that their needs and concerns were addressed for this plan.
- Six county departments of social services and fifteen types of providers were visited and over fifty individuals were interviewed.
- Significant program and financial policy and procedural issues were identified that need to be addressed as a new payment system is designed and implemented.
- These same issues were brought to the Secretary's attention by several day care providers and by a group of advocates for child day care who were under the impression that final decisions had been made about this plan. The Secretary assured them that no final decisions had been made and that their participation in the decision making process was welcome.
- To address these complex issues, a decision was made to consider the voucher system and payment system as separate issues.

REVISED PLAN

- The voucher system, which is mandated to be implemented by October 1, 1992 to insure continuation of federal funding, would be implemented as a manual process within the prescribed timeframe.

- In general, the voucher system would consist of the following steps:
 - ELIGIBILITY DETERMINATION
The county department of social services would determine that a child is eligible for child day care services.
 - VOUCHER ISSUANCE
The county department of social services would issue a voucher to the child's parent/guardian certifying the child's eligibility for services. The voucher would be valid for up to 12 months or until a new voucher was issued. The voucher would have no monetary value; it would only have maximum payment information that can be paid to enrolled providers.
 - PROVIDER SELECTION
Parents/guardians would select the center/individual they want to provide services to their child and give the voucher to the provider.
 - VERIFICATION OF ENROLLMENT
The provider would complete identifying information on the voucher and submit it to the county department of social services. The county department of social services would verify that the provider was enrolled with the State. If the parent selected an individual care arrangement that was not already enrolled, the county department of social services would determine that the provider meets the health and safety requirements and enroll the provider at this time.
 - ARRANGEMENT ESTABLISHED
Upon receipt of the voucher and verification of enrollment of the provider by the county department of social services, the selection process is completed and the day care arrangement is established.
- Providers would continue to submit attendance reports to county departments of social services which would be the basis for counties reimbursing providers and, in turn, the basis for the State to reimburse counties.
- The effort to develop a new payment system, which is not tied to the federal deadline, would be undertaken and adequate time allotted to insure that all issues are addressed and that affected individuals and organizations have the opportunity for input.
- In designing a new payment system, particular consideration would be given to eliminating the requirement for counties to provide upfront funding for child day care services and to insuring that automation needs of county staff are addressed.

A problem has been identified to me regarding the eligibility of for-profit child day care centers who apply for the Food Service Program. Eligibility criteria for the Food Service Program states that at least 25 % of children in the center must receive Title XX or Social Services Block Grant (SSBG) funds for some or all of the cost of their care.

In the past when the subsidized child day care program was funded with a blend of State appropriation and SSBG there was no problem. With the advent of Family Support Act (FSA) child care some centers are unable to meet the 25% Title XX beneficiary benchmark because FSA funded children are not eligible to be included in the 25%. Thus,

some centers who need these Food Service dollars in order to realize a profit are not eligible for the Food Service funds even though most of the FSA funded children are financially eligible for SSBG .

I have directed staff to determine the most efficient, legal method of ensuring that our child day care providers are not denied eligibility for the Food Service dollars which enable them to continue to service children at a lower rate simply because of a technicality.

We are hoping to take immediate action to address this issue within the State by designating \$1 dollar in SSBG funds for all children who need it in order to ensure center eligibility for the Food Service programs.

CHILD DAY CARE PAYMENT RATES
AND
THE ALLOCATION OF NON-FSA FUNDS
FOR THE SUBSIDIZED CHILD DAY CARE PROGRAM

LEGISLATIVE RESEARCH COMMISSION'S
STUDY COMMITTEE ON CHILD CARE ISSUES
APRIL 8, 1992

PREPARED BY
THE CHILD DAY CARE SECTION
DIVISION OF FACILITY SERVICES
DEPARTMENT OF HUMAN RESOURCES

**CHILD DAY CARE PAYMENT RATES
AND
THE ALLOCATION OF NON-FSA FUNDS
FOR THE SUBSIDIZED CHILD DAY CARE PROGRAM**

I. Day Care Rates

- A. Overview of All Day Care Payment Rates
- B. How Market Rates Are Established
- C. Problems With the General Rate Structure
- D. Payment Rates for Children with Special Needs
- E. Recommendations for Changes in the Payment Rate for Special Needs Children

II. Allocation of Non-FSA Funds

- A. Overview of the Current Allocation Formula and Process
- B. The Reallocation Process
- C. Problems with the Allocation Process
- D. Recommendations for Changes to the Reallocation Process

III. Attachments

- Special Provision Language - Attachment 1
- Current Market Rates - Attachment 2
- Rules for Payments for Special Needs Children - Attachment 3

DAY CARE RATES

OVERVIEW OF DAY CARE RATES

As stated in the special provisions in House Bill 83 (Attachment 1), state law allows several options for payment rates for providers who offer day care to children in the State's subsidized day care program. The options available to the child care provider depend on the type of provider and the population of children served by that provider.

Child day care homes, which are required to be regulated by the State, and individual arrangements approved by the county department of social services to care for the children of one family, may be paid any amount up to the county market rate established for home-based day care.

Day care facilities have more choices. Day care facilities are large day care homes and day care centers which are licensed to care for 6 or more preschool children. The amount that a provider is eligible to receive usually depends on the number of subsidized children served by the facility. The majority of day care facilities fall into one of the following two categories:

1. **Facilities which serve more nonsubsidized children than subsidized children:** When most of the children enrolled in a day care facility are not receiving any type of state or federal day care subsidy, we refer to this facility as a Category A facility. A Category A facility's subsidized rate may be the same rate which the provider charges to nonsubsidized parents for a child in the same age group. The State places no limits on the rates paid to these providers because these providers' charges are limited to the amount that nonsubsidized families in the community are willing to pay.
2. **Facilities in which at least half of the children are subsidized:** When half or more of the children are subsidized with state or federal day care funds, the facility is called a Category B facility. Payments to most Category B facilities are limited to the county market rates.

When North Carolina began using market rates in 1986, Category B facilities providing subsidized care at rates higher than the market rate were held harmless by statute until the county market rates exceeded the facility's 1986 payment rates. About 20 facilities are still being paid their 1986 rates. Most of these facilities are located in very rural areas where there are too few nonsubsidized children in state regulated day care to establish a market rate high enough to sustain a licensed facility.

In addition to the options described above, day care homes and day care facilities may be paid higher rates for children with special needs. More information about rates for children with special needs is included below in the section titled "Rates for Children With Special Needs".

All of the options allowed by state law define the maximum rates which the State will pay a type of provider. The rates for each specific facility are established by the Division of Facility Services according to the provider's eligibility for Category A or B-type rates, the ages of children served by the facility and the hours the program operates, i.e., does it offer full-time or part-time care, is it open for more than one shift, etc. The rates established by the Division are the

provider's approved rates and are the maximum rates which may be paid to that provider.

The rate actually paid to the provider is determined by the provider and the county department of social services. The special provision language encourages county departments to negotiate lower rates with providers. Some counties negotiate rates; others don't. Some counties pay a flat rate across the board to all providers; some pay a percentage of the provider's approved rates; others negotiate according to the particular child's needs. In some instances, counties have negotiated to pay higher rates, using county funds to supplement the amount established by the State.

All of the provisions described above are allowed by **state law** and can apply to subsidized day care purchased with **state funds** or federal Social Services Block Grant (SSBG) funds. The other federal funding sources have different limits on the rates for day care. Except for special needs children, all of the federal **Title IV-A - funded** child care is limited to the provider's charge, not to exceed the county market rate. Title IV-A funds are used to pay for child care for Family Support Act (FSA) clients, such as working AFDC recipients, JOBS participants, and Transitional Child Care recipients, as well as the **At Risk** child care for non-AFDC working parents. The state plan for the Child Care and Development Block Grant (CCDBG) also limits the use of federal funds to the provider's charge, not to exceed the county market rate. Although the CCDBG regulations allow other options for establishing payment rates, the State elected to be consistent with the Title IV-A requirements when the federal agency would not approve use of the Category A and B method for facilities. The CCDBG regulations allow different rate ceilings for different types of providers (centers, homes, relatives, etc.), but do not allow for a dual rate structure for the same type of provider.

In summary, State law allows the most options for day care rates. Title IV-A child care regulations are the most restrictive. A discussion of some of the problems caused by the different regulations for rates and some suggestions for making the state requirements consistent with federal regulations occur later in this report.

The next two sections of this report address questions related to the methods used to establish the county market rates and the guidelines used to pay higher rates for children with special needs.

HOW MARKET RATES ARE ESTABLISHED

Market rates are established annually by the Child Day Care Section for two types of child care arrangements-- day care facilities and home-based day care. As described above in the overview of rates, facilities are large homes and centers; home-based care includes state regulated small day care homes as well as informal care in a home setting that is not required to be regulated by the State. Most of the federal funding sources allow care to be purchased from individuals who do not have to be licensed, such as child care provided by grandparents or other relatives.

Market rates are calculated from information about fees charged for unsubsidized care by state regulated centers and homes. The fee information is collected by the licensing consultant whenever the consultant makes a routine visit to the facility or home.

All market rates are calculated according to the federal requirements for the Family Support Act. The FSA child care regulations require that the market rate be the 75th percentile of rates charged for the type of care within a political subdivision. The regulations further require that the market rates reflect variations in the cost of care in the local area by type of provider and by age of child. North Carolina has separate market rates for each county, for two types of providers and for four age groups of children. A copy of each of the two market rate tables is attached to this report.

Use of the 75th percentile has probably been the most misunderstood concept about the market rates. Although percentile means a rank order distribution of the rates, many people still believe the market rates represent only 75% of the "average rate". Prior to the Family Support Act, North Carolina used a mean average to calculate market rates. In most instances, 75th percentile rates are higher than mean average rates.

Although the rates for both facilities and homes are calculated on the 75th percentile, the methods used differ somewhat. These differences are described below:

Facilities: The two factors used to calculate facility rates are the number of nonsubsidized children in an age group enrolled in day care facilities in the county and the rate paid by the parents of each of those children. A formula is applied which ranks all of the rates for those children from low to high and selects the amount at which fees paid by 75% of the unsubsidized families are equal to or below that amount. These two factors help the market rates reflect the costs most parents are choosing to pay and diffuse the effect of one facility whose rates are much higher or much lower than the norm.

Homes: Because of the smaller numbers of children in a day care home, the factors used to establish home-based market rates are the rates charged by each home in the county.

In addition to market rates for each county, the Section calculates rates for six regional groups of counties. A regional rate is assigned as the county market rate when there are too few homes or too few children in a certain age group to establish a rate for that county.

PROBLEMS WITH THE GENERAL RATE STRUCTURE

In light of the State's goal of maximizing parental choice in determining who the child's day care provider will be, there are several problems with the current rate structure. First, the statute encourages the negotiation of lower rates, when possible, with center operators. Lower rates, clearly, make it more difficult to attract and hold providers into the subsidized day care system; parental choice is diminished. Furthermore, inconsistent rate negotiation, within as well as between counties, has led to obvious inequities. Second, placing the market rate maximum payment on some providers (Type B providers), is obviously restrictive. If our goal is to open up the market as much as possible in order to increase parental choice, then the best approach is to pay all providers what they charge. This not only ensures parental choice but it allows providers to maintain preferred levels of quality.

Unfortunately, the realities of funding and the need to serve as many eligible children as possible must be weighed against the issues of parental choice and quality. Federal regulations do not permit Title IV-A funds to be used to pay day care costs in excess of the market rate. Other federal funds may not be used to supplement the Title IV-A funds. Since the IV-A funds, with required matching funds, represent about 60% of the State's total day care subsidy, this is a serious restriction. A decision to pay provider charges, including those in excess of the market rates, could be costly in terms of state dollars.

The Department of Human Resources has been grappling with these problems and issues for months. We hope the Committee can help us find solutions which: (1) encourage parental choice, (2) are fair and equitable for providers and (3) use subsidy funds as efficiently as possible.

RATES FOR CHILDREN WITH SPECIAL NEEDS

There are two methods used in the subsidized day care program to pay higher rates for special needs children. The payment rate used depends on whether the special needs child is enrolled in a developmental day center or a regular child care arrangement. The rules adopted by the Social Services Commission for payment rates for special needs children are included as an attachment.

Payments to Developmental Day Centers

Developmental day centers are child day care centers designed specifically for children with special needs. Developmental training, family support, and specialized therapies are provided by the staff at developmental day centers. Staff are certified either in Early Childhood Education or Special Education. Developmental day centers operate full day, five days a week, year-round.

The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (MH/DD/SAS) pays a maximum rate of \$453 per child per month for children enrolled in developmental day centers. The actual cost of care for children in these centers is much higher, averaging about \$1000 per month per child. In the current rules for subsidized child day care services, the cost of care above what MH/DD/SAS pays for eligible children enrolled in developmental day centers can be reimbursed.

Payments for Special Needs Children In Regular Child Care Arrangements

A regular child care arrangement (for the purpose of describing arrangements that are eligible for a supplemental rate for special needs children), is a child day care center or home in which at least 60 percent of the children do not have special needs. The current rules for subsidized child day care services allow a payment for a special needs child that is 10% above the provider's approved daily care rate for a child in the same age group. In order for the provider to be approved for the supplemental payment, the agency that determines a child has a "special need" must have supporting documentation on file that includes a summary of the special services required to meet the child's needs.

Only about five day care facilities currently are using this supplemental payment. It is understandable that this small supplemental payment does not entice providers to assume the extra costs often involved in serving special needs children. For example, the average statewide market rate for three year olds is \$258. The average supplemental rate allowed for a special needs child in a three year old class would amount to only \$25.80 per month per child.

The rules which define the maximum payment rates for day care for special needs children were adopted in 1982 and the supplemental payment rate has not increased since that time.

RECOMMENDATIONS FOR CHANGES IN THE PAYMENT RATE FOR SPECIAL NEEDS CHILDREN

An increase in the current approved supplemental rate for special needs children served in regular child care arrangements is recommended. Emphasis has been placed in recent years on serving special needs children in the least restrictive environment. For many children, regular day care facilities or day care homes, with some modifications such as special equipment or lower staff/child ratios, may be the best environment. Increasing the supplemental rate for special needs children would encourage more providers to mainstream special needs children.

The Department of Human Resources is proposing to increase supplemental payments to a maximum of 75% above the provider's approved daily care rate for a particular age group, but not to exceed the maximum rate established for developmental day care centers by the Division of MH/DD/SAS (currently \$453/month). Not all facilities would need the 75% increase to meet the the child's needs. Consultation services and specialized therapies or educational services would be paid for with Mental Health funds or local education funds. Only direct operational costs such as modifications to equipment or lower staff/child ratios would need to be paid for by the facility.

Although this change might require additional funds from the subsidized day care program, it would be more cost effective for the State. In 1989 a study was conducted by MH/DD/SAS and the Child Day Care Section to compare the cost of child care in programs which mainstreamed special needs children as opposed to programs which primarily served special needs children. It was found that the average cost per child per month in a mainstreamed setting was \$511 and the average cost per child per month in a developmental day center was \$1,029. Savings in funds might be realized immediately if some children currently enrolled in developmental centers were moved to regular child care arrangements.

Many parents of special needs children request that their children be placed in a regular child care setting if possible. Currently there often are no other options for special needs children, except developmental day centers. Public Law 99-457 requires that the services plan for each child meet the child's needs and a child would not be placed in a regular day care setting unless those services can be delivered. Developmental day centers would still be the best environment for some special needs children. Public Law 99-457 also provides for a service coordinator to coordinate and assure appropriate service delivery.

ALLOCATION OF NON-FSA FUNDS

OVERVIEW OF ALLOCATION FORMULA

Child day care funds for services have been allocated to counties using a statutory "fair share formula" since 1986. The formula has always had a "hold harmless" clause which prevents a county's allocation from falling below the previous year's initial allocation. The hold harmless clause, however, does not prevent the formula amount for the new year from falling below the previous year's expenditure. In fact, the initial formula allocation may be as little as half the amount required to continue the program at the previous year's level. An illustrative example may help make this more clear. One county's initial SFY 1990-91 allocation was \$2,794,601. The formula determined that the county's fair share for SFY 1991-92 should be \$2,496,531 but, because of the hold harmless clause, the SFY 1991-92 allocation was increased to equal the 1990-91 figure. When the county's 1990-91 expenditure figure is examined, however, one finds that the county spent almost \$5.4 million. This was made possible through the process of reallocation whereby unneeded funds are reverted by some counties so other counties can use them.

The 1990 session of the General Assembly enacted a new allocation formula for child day care funds. A copy of the House Bill 83 Special Provision describing the formula is attached. The new formula stipulates that the funds shall be allocated using the following three factors:

1. one-third of the allotted funds shall be distributed according to the county's population in relation to the total population of the State;
2. one-third shall be distributed according to the number of children under 6 years of age in a county who are living in families whose income is below the State poverty level in relation to the total number of children under 6 in the State in families whose income is below the poverty level; and
3. one-third shall be distributed according to the number of working mothers with children under 6 years of age in a county in relation to the total number of working mothers with children under 6 years of age in the State.

When the new formula was implemented for the first time in SFY 1991-92, almost \$41 million was allocated, of which about \$12 million was new federal money. In spite of the large increase, 36 counties did not receive any of the new money because they, according to the new formula, were already getting more than their fair share. These counties had to rely on the hope that there would be enough money reallocated during the year to support their program.

THE REALLOCATION PROCESS

Some counties receive more money than they can spend. They are asked to voluntarily revert the unneeded funds. The reverted funds are reallocated to purchasing agencies which need additional funds. Counties which voluntarily revert funds, and later find that their needs have changed, will continue to receive first priority for any reallocated funds. Reverting funds has no effect on the reverting county's subsequent year allocation.

During the fiscal year, counties are expected to monitor their actual expenditures against their projected expenditures and revert unneeded funds. The Child Day Care Section contacts those counties which appear to be underspending at the end of each quarter. No funds are reverted without giving the county an opportunity to

explain and justify a higher level of spending for the rest of the year. If sufficient justification cannot be provided, however, unspent funds automatically revert. During SFY 1991-92, large amounts of money have had to be moved rapidly (over \$8 million). Many counties have depended on reallocations to meet their day care needs.

PROBLEMS WITH THE ALLOCATION PROCESS

The problem with the allocation process, simply put, is that the formula puts money in counties which can't spend it all and not enough in counties which can spend more. In examining this problem, however, the Department has concluded that the allocation formula, itself, is sound and that its factors reasonably reflect the need for day care funds. It is the reallocation process which needs to be changed.

During the course of the year, as the reallocation process works, the money is gradually moved to counties which need it. For counties which build their programs up with reallocated funds, however, there is always a bust at the end of the boom. For example, a county which comes to the end of the fiscal year spending \$100,000 per month on eligible children may well be confronting the certainty that on July 1 they will have only enough money to support a spending level of \$50,000. The only alternative for counties which could spend more money if it were offered is to decide not to take it. If all counties chose not to take reallocations, the State would revert a great deal of unspent federal money.

It should be pointed out, in fairness to counties which have reverted funds this year, that counties which get new funds have the capacity, over time, to expand their programs. It is for this reason that the Department has always assured counties that reverting funds would have no impact on the subsequent year's allocation. Given this assurance, many counties have been able to "grow into" their allocations.

RECOMMENDATIONS FOR CHANGES TO THE REALLOCATION PROCESS

The ideal reallocation process would do two things:

- (1) make it attractive for counties which don't need all their allocation in the current year to revert unneeded funds at the beginning of the year, and
- (2) allow counties which receive reverted funds to keep the funds long enough to support the average day care placement (six to nine months). The following reallocation process accomplishes both objectives.

Placements in child day care average six to nine months in length. It is reasonable to think that funding allocations or reallocations should be made available for at least nine month periods so that, on average, funding will be available to support an entire placement. Counties have advance notice as to the amount of their annual allocation so they can plan for and adjust placements so that care for a particular child should not have to be cancelled during a placement. The current reallocation process is handled on a state fiscal year basis so, frequently, funds are available for only a very limited amount of time. Particularly near the end of the fiscal year, counties cannot reasonably plan to use reallocated funds to support new child placements because funding availability will end before the average length of a placement ends.

To enable counties to better plan and use reallocated funds for new placements, the reallocation process should be revised to make reallocated funds available for nine months regardless of whether the nine month period crosses state fiscal years. The

process would generally work as it does now except that reverted funds would be lost for nine months and reallocated funds would be available for nine months. For example, if county A had failed to use more than 15% of its estimated requirements for the third quarter and could release \$10,000, then they would have their allocation for the fourth quarter reduced by \$10,000 and their allocation for the first and second quarters of the next fiscal year reduced by \$10,000. The \$10,000 from the third quarter would not be reverted and should be available to the county for the balance of that fiscal year. County A's base allocation for the second fiscal year would have been determined by the allocation formula and adjusted by the amount of the reverted funds for the first quarter and second quarter. The \$10,000 per quarter given up by county A would be reallocated and available to the recipient counties for nine months.

The process described above should also make it more attractive for county A to give up unneeded funds at the beginning of the year. If it did so, there would be no impact on county A's allocation for the subsequent year. Any funds reverted after the second quarter would have an impact on the next year.

In order to implement the proposed reallocation strategy, the Special Provisions language regarding the allocation formula would have to be amended. The following addition to the language of the formula is suggested:

"If a county fails to utilize more than 15% of its estimated requirements in any quarter, the Secretary of the Department of Human Resources may reallocate the amount in excess of 15% and may reduce the county's allocation by a similar amount for up to the subsequent three quarters in order to ensure that the maximum number of children are served."

ATTACHMENTS

SPECIAL PROVISION LANGUAGE IN HOUSE BILL 83 REGARDING DAY CARE RATES AND THE ALLOCATION FORMULA

-----DAY CARE RATES

Sec. 125. (a) Rules for the monthly schedule of payments for the purchase of day care services for low-income children shall be established by the Social Services Commission pursuant to G.S. 143B-153(8)a., in accordance with the following requirements:

- (1) For day care facilities, as defined in G.S. 110-86(3), in which fewer than fifty percent (50%) of the enrollees are subsidized by State or federal funds, the State shall continue to pay the same fee paid by private paying parents for a child in the same age group in the same facility.
- (2) Facilities in which fifty percent (50%) or more of the enrollees are subsidized by State or federal funds may choose annually one of the following payment options:
 - a. The facility's payment rate for fiscal year 1985-86; or
 - b. The market rate, as calculated annually by the Division of Facility Services' Child Day Care Section in the Department of Human Resources.
- (3) A market rate shall be calculated for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized private paying parents for each age group of enrollees within the county. The county market rates shall be calculated from facility fee schedules collected by the Child Day Care Section on a routine basis. The Section shall also calculate a statewide market rate for each age category. The Social Services Commission shall adopt rules to establish minimum county rates that use the statewide market rates as a reference point.
- (4) Child day care homes as defined in G.S. 110-86(4) and individual child care arrangements may be paid the market rate for day care home which shall be calculated at least biennially by the Child Day Care Section according to the method described in subsection (a)(3) of this section.

(b) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes may participate in the program that provides for the purchase of care in day care facilities for minor children of needy families. No separate licensing requirements may be used to select facilities to participate.

Day care homes from which the State purchases day care services shall meet the standards established by the Child Day Care Commission pursuant to G.S. 110-101 and G.S. 110-105.1. Individual child care arrangements shall meet the requirements established by the Social Services Commission.

(c) County departments of social services shall continue to negotiate with day care providers for day care services below those rates prescribed by subsection (a) of this section. County departments are directed to purchase day care services so as to serve the greatest number of children possible with existing resources.

(d) To simplify current day care allocation methodology and more equitably distribute State day care funds, the Department of

Human Resources shall apply the following allocation formula to all noncategorical federal and State day care funds used to pay the costs of necessary day care for minor children of needy families:

- (1) One-third of budgeted funds shall be distributed according to the county's population in relation to the total population of the State;
- (2) One third of the budgeted funds shall be distributed according to the number of children under 6 years of age in a county who are living in families whose income is below the State poverty level in relation to the total number of children under 6 in the State in families whose income is below the poverty level; and
- (3) One-third of budgeted funds shall be distributed according to the number of working mothers with children under 6 years of age in a county in relation to the total number of working mothers with children under 6 in the State.

(e) Counties whose allocation, if based on previously used formulas, exceeds the allocation produced by the formula prescribed by this section may not have their allocations reduced to the level that results from application of the new formula. Counties whose allocation, if based on previously used formulas, is less than the allocation produced by the formula prescribed by this section shall continue to receive the proportional share of those funds that they received pursuant to appropriations for this purpose by the 1985 General Assembly. The formula prescribed by this section shall not be implemented unless additional State or federal funds are made available. The additional funds must be sufficient to apply the new formula without reducing any county's allocation below the previous year's initial allocation for child day care.

1991 MARKET RATES FOR DAY CARE FACILITIES
(DAY CARE CENTERS AND LARGE HOMES)

COUNTY	INFANTS & ONE YRS.	TWO YEARS	THREE YEARS	FOUR YRS. &UP
1 ALAMANCE	273	242	238	238
2 ALEXANDER	303	273	179	184
3 ALLEGHANY	217	217	204	195
4 ANSON	185	185	163	163
5 ASHE	217	217	204	195
6 AVERY	217	217	204	204
7 BEAUFORT	217	217	195	195
8 BERTIE	238	225	153	153
9 BLADEN	217	173	173	173
10 BRUNSWICK	281	281	260	260
11 BUNCOMBE	238	217	217	217
12 BURKE	217	195	195	195
13 CABARRUS	281	268	257	255
14 CALDWELL	217	195	195	195
15 CAMDEN	238	225	225	217
16 CARTERET	232	217	217	210
17 CASWELL	238	206	206	217
18 CATAWBA	255	251	242	242
19 CHATHAM	238	217	217	217
20 CHEROKEE	217	217	204	204
21 CHOWAN	303	225	225	217
22 CLAY	221	221	204	204
23 CLEVELAND	212	204	204	204
24 COLUMBUS	206	195	195	184
25 CRAVEN	232	211	211	208
26 CUMBERLAND	229	212	208	208
27 CURRITUCK	238	225	225	217
28 DARE	281	281	281	281
29 DAVIDSON	238	225	217	217
30 DAVIE	254	238	217	214
31 DUPLIN	238	225	225	217
32 DURHAM	350	320	312	294
33 EDGECOMBE	229	208	208	204
34 FORSYTH	271	260	260	268
35 FRANKLIN	238	217	217	217
36 GASTON	247	238	238	238
37 GATES	238	225	225	217
38 GRAHAM	221	221	204	204
39 GRANVILLE	260	238	238	238
40 GREENE	238	225	225	217
41 GUILFORD	286	286	260	260
42 HALIFAX	217	217	217	217
43 HARNETT	224	217	217	217
44 HAYWOOD	218	218	186	184
45 HENDERSON	264	247	238	245
46 HERTFORD	195	195	195	217
47 HOKE	195	195	195	206
48 HYDE	238	225	225	217
49 IREDELL	255	242	242	223
50 JACKSON	228	228	218	218
51 JOHNSTON	222	206	206	204
52 JONES	238	225	225	217

1991 MARKET RATES FOR DAY CARE FACILITIES
(DAY CARE CENTERS AND LARGE HOMES)

COUNTY	INFANTS & ONE YRS.	TWO YEARS	THREE YEARS	FOUR YRS. &UP
53 LEE	238	217	217	206
54 LENOIR	217	217	195	195
55 LINCOLN	229	217	208	208
56 MACON	260	238	204	200
57 MADISON	217	217	204	204
58 MARTIN	195	180	180	173
59 MCDOWELL	217	195	195	195
60 MECKLENBURG	333	325	303	325
61 MITCHELL	217	217	204	188
62 MONTGOMERY	182	173	173	173
63 MOORE	281	303	247	238
64 NASH	247	217	217	217
65 NEW HANOVER	303	268	268	242
66 NORTHAMPTON	238	225	225	217
67 ONSLOW	217	217	212	212
68 ORANGE	390	346	320	346
69 PAMLICO	238	225	225	217
70 PASQUOTANK	238	217	217	217
71 PENDER	238	225	225	217
72 PERQUIMANS	238	225	225	217
73 PERSON	217	204	195	195
74 PITT	260	238	238	225
75 POLK	227	227	227	227
76 RANDOLPH	238	206	204	204
77 RICHMOND	195	195	195	195
78 ROBESON	173	173	173	173
79 ROCKINGHAM	238	217	217	217
80 ROWAN	229	229	260	260
81 RUTHERFORD	217	217	217	204
82 SAMPSON	195	195	195	195
83 SCOTLAND	217	195	195	195
84 STANLY	260	217	232	232
85 STOKES	271	260	247	238
86 SURRY	217	195	195	195
87 SWAIN	242	242	194	217
88 TRANSYLVANIA	217	217	195	195
89 TYRRELL	238	225	225	217
90 UNION	251	238	238	238
91 VANCE	217	217	195	195
92 WAKE	325	303	297	294
93 WARREN	217	204	200	200
94 WASHINGTON	206	206	195	195
95 WATAUGA	246	226	222	222
96 WAYNE	217	217	217	217
97 WILKES	238	217	217	204
98 WILSON	238	238	217	217
99 YADKIN	217	212	195	195
100 YANCEY	217	217	204	204

1991 MARKET RATES FOR DAY CARE HOMES
(ALL SMALL HOMES AND INDIVIDUAL ARRANGEMENTS)

COUNTY	INFANTS & 1 YRS.	TWO YEARS	THREE YEARS	FOUR YRS & UP
1 ALAMANCE	217	217	217	210
2 ALEXANDER	168	168	168	168
3 ALLEGHANY	152	152	152	152
4 ANSON	173	173	173	173
5 ASHE	195	173	173	173
6 AVERY	195	173	173	173
7 BEAUFORT	173	173	173	173
8 BERTIE	217	195	195	195
9 BLADEN	195	195	195	195
10 BRUNSWICK	217	195	195	195
11 BUNCOMBE	217	217	217	217
12 BURKE	173	173	173	173
13 CABARRUS	217	217	217	217
14 CALDWELL	173	173	162	162
15 CAMDEN	217	195	195	195
16 CARTERET	173	173	173	173
17 CASWELL	195	195	195	195
18 CATAWBA	173	173	173	173
19 CHATHAM	211	211	211	211
20 CHEROKEE	195	189	189	189
21 CHOWAN	217	217	217	217
22 CLAY	195	173	173	173
23 CLEVELAND	173	173	173	173
24 COLUMBUS	173	173	173	173
25 CRAVEN	195	195	195	195
26 CUMBERLAND	195	195	195	195
27 CURRITUCK	217	195	195	195
28 DARE	260	260	260	260
29 DAVIDSON	173	173	173	173
30 DAVIE	173	173	173	173
31 DUPLIN	173	173	173	173
32 DURHAM	303	303	303	303
33 EDGECOMBE	173	173	173	173
34 FORSYTH	238	238	217	217
35 FRANKLIN	217	217	217	217
36 GASTON	217	217	217	217
37 GATES	204	204	204	204
38 GRAHAM	195	173	173	173
39 GRANVILLE	217	217	217	217
40 GREENE	173	173	173	173
41 GUILFORD	238	238	238	238
42 HALIFAX	195	195	195	195
43 HARNETT	184	184	184	184
44 HAYWOOD	195	173	173	173
45 HENDERSON	217	217	217	217
46 HERTFORD	195	195	195	195
47 HOKE	195	195	195	195
48 HYDE	217	195	195	195
49 IREDELL	195	195	195	195
50 JACKSON	195	173	173	173
51 JOHNSTON	205	205	205	205

1991 MARKET RATES FOR DAY CARE HOMES
(ALL SMALL HOMES AND INDIVIDUAL ARRANGEMENTS)

COUNTY	INFANTS & 1 YRS.	TWO YEARS	THREE YEARS	FOUR YRS & UP
52 JONES	217	195	195	195
53 LEE	195	195	195	195
54 LENOIR	189	189	189	189
55 LINCOLN	173	173	173	173
56 MACON	195	173	173	173
57 MADISON	173	173	173	173
58 MARTIN	173	173	173	173
59 MCDOWELL	206	206	206	206
60 MECKLENBURG	281	264	264	264
61 MITCHELL	195	173	173	173
62 MONTGOMERY	195	195	195	195
63 MOORE	217	217	217	217
64 NASH	195	195	195	173
65 NEW HANOVER	217	217	217	217
66 NORTHAMPTON	217	195	195	195
67 ONSLOW	173	173	173	173
68 ORANGE	325	325	325	325
69 PAMLICO	217	195	195	195
70 PASQUOTANK	217	217	217	217
71 PENDER	195	195	195	195
72 PERQUIMANS	217	195	195	195
73 PERSON	195	195	195	195
74 PITT	217	217	217	217
75 POLK	195	173	173	173
76 RANDOLPH	173	173	173	173
77 RICHMOND	195	195	195	195
78 ROBESON	173	173	173	173
79 ROCKINGHAM	179	179	179	179
80 ROWAN	173	173	173	173
81 RUTHERFORD	173	173	173	173
82 SAMPSON	173	173	173	173
83 SCOTLAND	217	217	217	217
84 STANLY	173	173	173	173
85 STOKES	195	195	195	195
86 SURRY	168	168	168	168
87 SWAIN	195	173	173	173
88 TRANSYLVANIA	195	173	173	173
89 TYRRELL	217	195	195	195
90 UNION	227	227	227	217
91 VANCE	173	173	173	173
92 WAKE	303	303	303	303
93 WARREN	184	184	184	184
94 WASHINGTON	173	173	173	173
95 WATAUGA	200	200	200	200
96 WAYNE	173	173	173	173
97 WILKES	173	173	173	173
98 WILSON	189	189	189	189
99 YADKIN	184	184	173	173
100 YANCEY	195	173	173	173

RULES FOR PAYMENTS FOR SPECIAL NEEDS CHILDREN

Under its authority to adopt rules for Title XX Services and other social services programs, the Social Services Commission adopted the following rules which define the eligibility and maximum payment rates for day care for children with special needs:

10 NCAC 46C .0105 SPECIAL NEEDS SUPPLEMENTAL RATE

(a) Any approved provider of daily care may be eligible for a supplemental rate equal to 10 percent of the provider's payment rate under the following conditions:

- (1) the service population of the child day care center or home is comprised of at least 60 percent children without special needs and the center or home provides services to a child or children with special needs;
- (2) the provider's rate for a child shall not exceed 10 percent of the provider's approved daily care rate for that age group;
- (3) the agency determining eligibility for the service has on file a signed letter, statement, or summary from the person authorized to make the diagnosis to document the "special need" condition and a summary of the special services required to meet the child's needs.

(b) A "special needs" child is one who is determined by the appropriate authorities, as identified in 16 NCAC 6H and 10 NCAC 37F and Subparagraph (4) of this Rule, to qualify under one or more of the criteria listed in Paragraph:

- (1) child recipient of SSI (Supplemental Security Income);
- (2) special needs child as defined in accordance with Department of Public Instruction's rules in 16 NCAC 6H .0001;
- (3) a mentally retarded or severely physically disabled child under criteria found in 10 NCAC 37F .0004;
- (4) a "high risk" infant defined as a child from birth to 3 years of age who exhibits significantly atypical patterns of behavior that indicate a high probability of mental retardation. The condition of high risk must be determined by a physician, who may secure corroborating evidence from a practicing psychologist or a psychological associate under the supervision of a practicing psychologist.

10 NCAC 46C .0107 RATES FOR DAY CARE CENTERS

(a) The payment rate for centers in which fewer than 50 percent of the children enrolled are subsidized with state or federal funds shall be the same fee paid by private paying parents for a child in the same age group in the same center, including registration fees. The payment rate for daily transportation provided by these centers is the same fee paid by a private paying parent for transportation of a child to or from the center.

(b) Centers in which 50 percent or more of the children enrolled are subsidized with state or federal funds may choose annually one of the following options:

- (1) the center's payment rates for care and transportation for state fiscal year 1985-86; or
- (2) the county market rate for care calculated pursuant to the annual appropriations act and the state payment rate for transportation.

(c) Centers which primarily serve children who are mentally or physically handicapped, cerebral palsied, autistic, or abused or neglected pursuant to

G.S. 7A-544, are exempt from the provisions of Paragraphs (a) and (b) of this Rule and may choose annually one of the following payment options:

- (1) the maximum rates established by the Division of Mental Health, Mental Retardation and Substance Abuse Services for developmental day centers; or
- (2) the center's allowable unit cost per child established annually by the section according to allowable cost policy and rate establishment procedures approved by the secretary pursuant to G.S. 143B-153(2a). The state allowable costs codified in 10 NCAC 46B shall apply only to centers which meet the criteria of this Rule.

(d) Except as provided for in Paragraph (a), the payment rate for registration fees shall be limited to twenty dollars (\$20.00) per year per child.

(e) Purchasing agencies may negotiate with day care center providers for purchase of child day care services at payment rates lower than those prescribed by this Rule.

RATE OPTIONS FOR CHILD DAY CARE

In examining rate options for subsidized child day care, there are several criteria, or guiding principles, with which we have begun.

- Parental choice should be maximized to the extent possible.
- The dual rate structure, i.e., A and B center rates, should be eliminated.
- Clients and providers should be treated equitably.
- The State must comply with federal regulations.
- The program must live within its budget.

This paper briefly describes five rate options for consideration by the subcommittee. The effect on day care providers of each of the five options is then compared to the current rate structure. To help understand the effect of the options, a refresher course in the current rate structure follows:

CURRENT RATE STRUCTURE:

1. Category A providers: Day care centers and large homes which are paid their own charge, regardless of whether their charge is below or above the market rate. Category A providers serve mostly nonsubsidized children.
2. Category B providers: Centers and large homes which are paid the county market rate. Category B providers serve mostly subsidized children.
3. Day care homes: Small day care homes and non-State regulated day care arrangements in a homebased setting which are paid the county market rate. Day care homes serve any combination of subsidized and nonsubsidized children. Some exist only to provide day care for a friend or relative; others are state-regulated and provide care for up to 8 children on a regular basis.

NEW RATE OPTIONS:

- (1) Pay providers what they charge but only up to the market rate (market rate is now defined as the 75th percentile of rates charged to non-subsidized children).
 - (a) Helps:
 - No provider
 - (b) Hurts:
 - Category A providers who charge above the market rate would be limited to the market rate. Category A providers who now receive the same amount for a subsidized child as for a nonsubsidized child would get paid less for subsidized children, when the provider's charge exceeds the market rate.
 - Category B providers and homes currently get the market rate regardless of what they charge. Providers who charge less than the county market rate for nonsubsidized care would also be paid less for subsidized children. The amount charged by Category B providers for nonsubsidized care does not usually equal the provider's cost. Therefore, the provider would have to increase the amount of private subsidy for publicly subsidized children.
 - (c) No effect:
 - Category A providers who charge the market rate or less.
 - Category B providers and homes who charge the market rate or more.
- (2) Pay providers what they charge but only up to an expanded market rate, e.g., 110% of the 75th percentile market rate.
 - (a) Helps:
 - Category B providers and homes who charge more than the market rate.
 - (b) Hurts:
 - Category A providers whose charge is greater than the expanded market rate.
 - Category B providers and homes who charge less than the market rate.
 - (c) No effect:
 - Category A providers who charge less than the expanded market rate.
- (3) Pay the market rate or the provider's charge, whichever is higher.
 - (a) Helps:
 - Category B providers and homes who charge more than the market rate.

- Category A providers who charge less than the market rate.
 - (b) Hurts:
 - No provider
 - (c) No effect:
 - Category A providers who charge more than the market rate.
 - Category B providers and homes who charge less than the market rate.
- (4) Pay the market rate for all day care.
- (a) Helps:
 - Category A providers who charge less than the market rate.
 - (b) Hurts:
 - Category A providers who charge more than the market rate.
 - (c) No effect:
 - Category B providers and homes
- (5) Pay the provider's charge.
- (a) Helps:
 - Category B providers and homes who charge more than the market rate
 - (b) Hurts:
 - Category B providers and homes who charge less than the market rate
 - (c) No Effect:
 - Category A providers

The discussion of the effect of all of the options assumes no rate negotiation.

Options 2 through 5 require non-federal funds to supplement the federal financial participation. The supplement can be provided by the state, the county, the client or all three.

Option 1 would have the smallest average payment per child and, therefore, serve the most children.

Option 3 would have the largest average payment per child and serve the fewest children, since it has a floor but no ceiling.

MINIMUM RATES:

The concept of a floor on market rates was discussed in the last meeting of the Study Committee. It may be possible to install such a floor by incorporating it in the definition of our market rate. If this can't be done in a manner acceptable to the feds, then supporting the "floor" would be done at state or county expense to the extent that the floor exceeded the approved market rate.

The special provision language allows the use of a statewide market rate as the basis for establishing a floor. Earlier this year, the Section attempted a simplistic analysis of the cost of implementing a market rate floor at 90% of the statewide market rate.

The 1991 statewide market rate (75th percentile rate) for all ages of children in centers is \$265 per month. 90% of \$265 is \$239. There are more than 70 counties whose county market rates are lower than \$239 in most age groups. Establishing a floor at 90% of the statewide market rate could increase the cost of care in at least 70 counties. The cost of increasing provider rates to a statewide minimum rate would depend on which rate option was used. Under the current rate structure, only Category B centers and day care homes would be affected.

Rural counties and other underdeveloped areas would benefit most from a minimum payment rate. Existing market rates in some areas of the state, most notably in the western counties and some southern piedmont counties, are too low to attract the development of or to support a stable day care system.

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Requested by: [REDACTED]

----DAY CARE FUNDS MATCHING REQUIREMENT

Sec. 123. No local matching funds may be required by the Department of Human Resources as a condition of any locality's receiving any State day care funds appropriated by this act unless federal law requires such a match.

Requested by: [REDACTED]

----DAY CARE

Sec. 124. The Department of Human Resources shall distribute the funds appropriated and otherwise available to it for the purchase of slots in day care for minor children of needy families so as to serve the greatest number of children possible.

Requested by: [REDACTED]

----DAY CARE RATES

Sec. 125. (a) Rules for the monthly schedule of payments for the purchase of day care services for low-income children shall be established by the Social Services Commission pursuant to G.S. 143B-153(8)a., in accordance with the following requirements:

A (1) For day care facilities, as defined in G.S. 110-86(3), in which fewer than fifty percent (50%) of the enrollees are subsidized by State or federal funds, the State shall continue to pay the same fee paid by private paying parents for a child in the same age group in the same facility.

(2) Facilities in which fifty percent (50%) or more of the enrollees are subsidized by State or federal funds may choose annually one of the following payment options:

- B a. The facility's payment rate for fiscal year 1985-86; or
- b. The market rate, as calculated annually by the Division of Facility Services' Child Day Care Section in the Department of Human Resources.

(3) A market rate shall be calculated for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized private paying parents for each age group of enrollees within the county. The county market rates shall be calculated from facility fee schedules collected by the Child Day Care Section on a routine basis. The Section shall also calculate a statewide market rate for each age category. The Social Services Commission shall adopt rules to establish minimum county rates that use the statewide market rates as a reference point.

(4) Child day care homes as defined in G.S. 110-86(4) and individual child care arrangements may be paid the market rate for day care

1 homes which shall be calculated at least biennially by the Child
2 Day Care Section according to the method described in subsection
3 (a)(3) of this section.

4 (b) Facilities licensed pursuant to Article 7 of Chapter 110 of the
5 General Statutes may participate in the program that provides for the purchase of
6 care in day care facilities for minor children of needy families. No separate licensing
7 requirements may be used to select facilities to participate.

8 Day care homes from which the State purchases day care services shall
9 meet the standards established by the Child Day Care Commission pursuant to G.S.
10 110-101 and G.S. 110-105.1. Individual child care arrangements shall meet the
11 requirements established by the Social Services Commission.

12 (c) County departments of social services shall continue to negotiate with
13 day care providers for day care services below those rates prescribed by subsection
14 (a) of this section. County departments are directed to purchase day care services so
15 as to serve the greatest number of children possible with existing resources.

16 (d) To simplify current day care allocation methodology and more
17 equitably distribute State day care funds, the Department of Human Resources shall
18 apply the following allocation formula to all noncategorical federal and State day
19 care funds used to pay the costs of necessary day care for minor children of needy
20 families:

- 21 (1) One-third of budgeted funds shall be distributed according to the
22 county's population in relation to the total population of the State;
23 (2) One-third of the budgeted funds shall be distributed according to
24 the number of children under 6 years of age in a county who are
25 living in families whose income is below the State poverty level in
26 relation to the total number of children under 6 in the State in
27 families whose income is below the poverty level; and
28 (3) One-third of budgeted funds shall be distributed according to the
29 number of working mothers with children under 6 years of age in a
30 county in relation to the total number of working mothers with
31 children under 6 in the State.

32 (e) Counties whose allocation, if based on previously used formulas,
33 exceeds the allocation produced by the formula prescribed by this section may not
34 have their allocations reduced to the level that results from application of the new
35 formula. Counties whose allocation, if based on previously used formulas, is less than
36 the allocation produced by the formula prescribed by this section shall continue to
37 receive the proportional share of those funds that they received pursuant to
38 appropriations for this purpose by the 1985 General Assembly. The formula
39 prescribed by this section shall not be implemented unless additional State or federal
40 funds are made available. The additional funds must be sufficient to apply the new
41 formula without reducing any county's allocation below the previous year's initial
42 allocation for child day care.

43
44 Requested by: Representatives Nye, Easterling

DEPARTMENT OF HUMAN RESOURCES
 SUBSIDIZED CHILD CARE EXPENDITURES
 SFY 1984-1992

	<u>Expenditure</u>	<u>Subsidy</u>	<u>SSBG</u>	<u>Local</u>	<u>Other</u>	<u>At-Risk</u>	<u>FSA</u>	<u>CCDBG</u>
1984	\$21,955,082	\$7,470,700	\$11,375,499	\$1,377,867	\$1,731,016	\$0	\$0	\$0
1985	\$23,595,153	\$7,865,101	\$11,097,615	\$1,862,724	\$2,769,713	\$0	\$0	\$0
1986	\$24,130,065	\$12,457,825	\$11,101,880	\$50,000	\$520,360	\$0	\$0	\$0
1987	\$27,576,702	\$15,798,025	\$11,227,157	\$0	\$551,520	\$0	\$0	\$0
1988	\$28,114,563	\$16,133,676	\$11,980,887	\$0	\$0	\$0	\$0	\$0
1989	\$28,952,613	\$16,434,853	\$12,517,760	\$0	\$0	\$0	\$0	\$0
1990	\$29,513,819	\$16,973,718	\$12,517,760	\$0	\$0	\$0	\$22,341	\$0
1991	\$36,528,458	\$8,887,986	\$12,317,760	\$0	\$0	\$8,258,212	\$7,064,500	\$0
1992	\$69,913,471	\$7,221,561	\$12,158,899	\$0	\$0	\$8,084,962	\$30,984,193	\$11,463,856

6-92

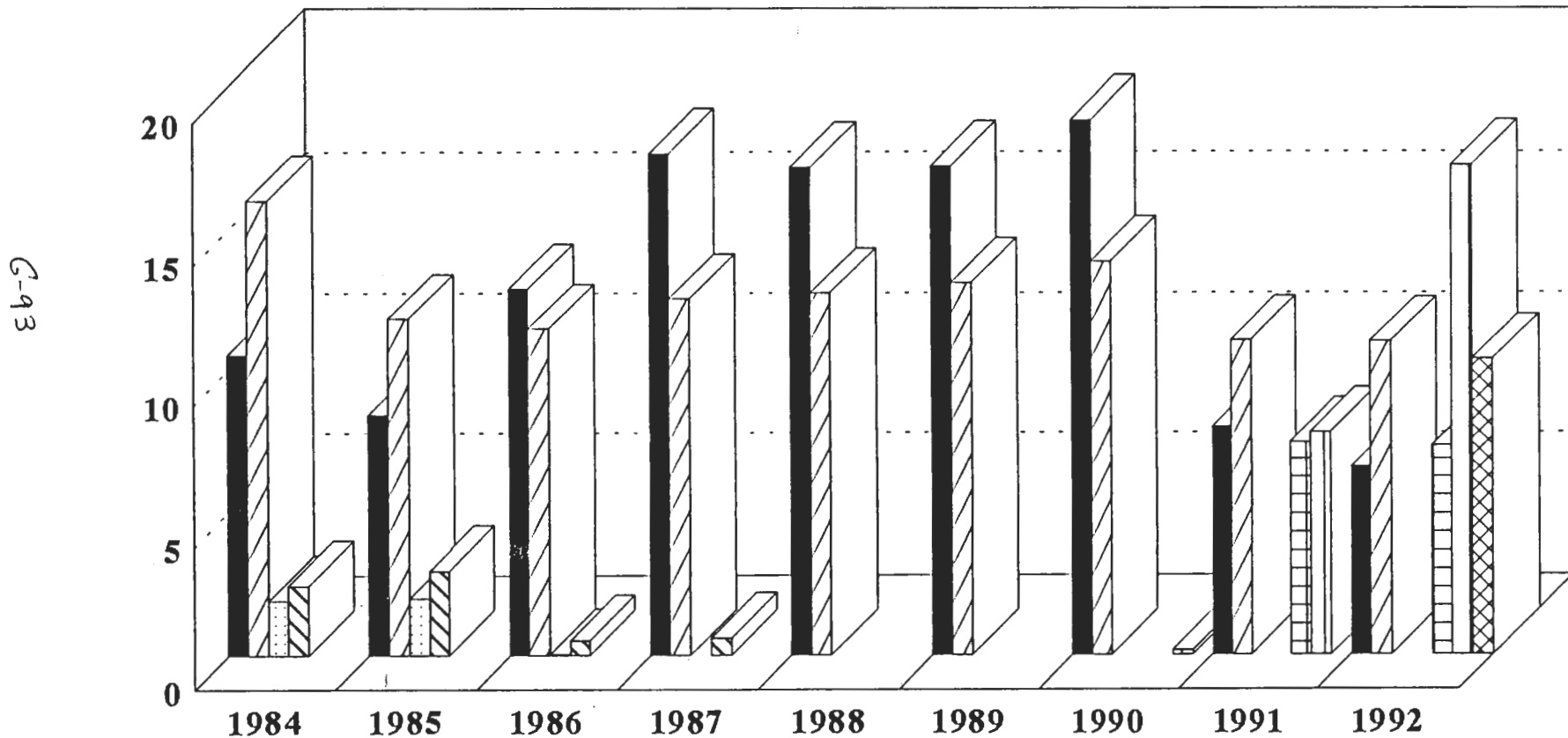
NUMBER OF CHILDREN SERVED

1984	31,034	10,560	16,080	1,948	2,447	0	0	0
1985	25,303	8,434	11,901	1,998	2,970	0	0	0
1986	25,097	12,957	11,547	52	541	0	0	0
1987	30,944	17,727	12,598	0	619	0	0	0
1988	30,087	17,265	12,821	0	0	0	0	0
1989	30,462	17,292	13,170	0	0	0	0	0
1990	33,014	18,892	13,940	0	0	0	182	0
1991	34,355	8,010	11,102	0	0	7,443	7,800	0
1992	52,717	6,565	11,053	0	0	7,350	17,327	10,422

DEPARTMENT OF HUMAN RESOURCES

NUMBER OF CHILDREN SERVED SFY 1984-1992

Thousands



■ State Subsidy

▨ Soc Serv BG

▤ Local Funds

▧ Other Funds

▩ IV-A-At-Risk

▪ IV-A Fam Supp Act

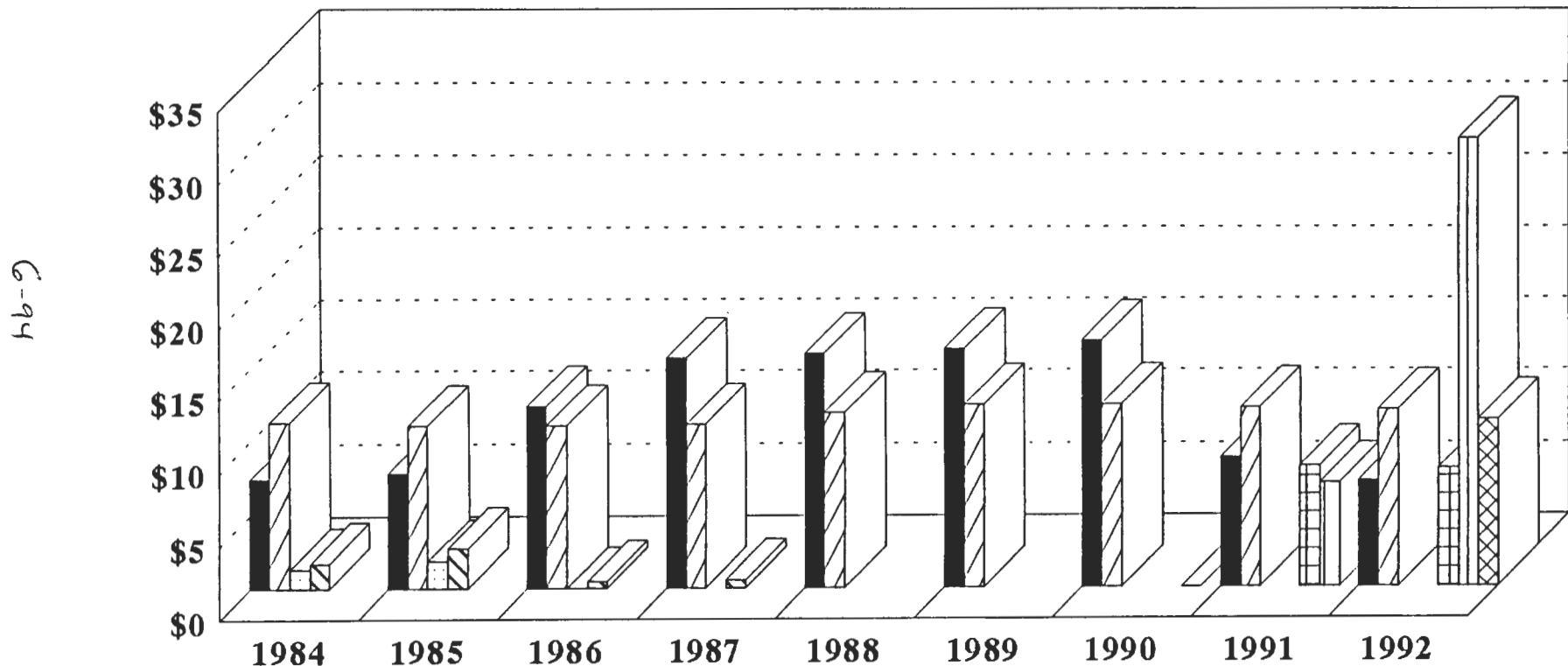
▫ Child Care Dev BG

DEPARTMENT OF HUMAN RESOURCES

SUBSIDIZED CHILD CARE EXPENDITURES

SFY 1984-1992

Millions



■ State Subsidy

▨ Soc Serv BG

▤ Local Funds

▧ Other Funds

▩ IV-A At Risk

▪ IV-A Fam Supp Aid

▣ Child Care Dev BG

MAJOR DAY CARE PROGRAMS IN NORTH CAROLINA
91-92

<u>Program</u>	<u>State Agency</u>	<u>Eligible Population Description</u>	<u>PROJECTED 91-92 EXPENDITURES</u>				<u>CHILDREN SERVED</u>	
			<u>State</u>	<u>Federal</u>	<u>Local</u>	<u>Total</u>	<u>1990-91 Actual</u>	<u>1991-92 Projected</u>
Head Start	DHR	Family income below poverty level; children aged 3, 4, or 5.	0	\$43,426,600	0	\$43,426,600	13,439	14,189
Developmental Day	DHR	Children with or at-risk for developmental delays or a typical development; no income test for eligibility but parents pay fee based on income.	\$2,242,954	\$277,707	\$2,256,956	\$4,777,617	2,832	2,832
Social Service Block Grant	DHR	Family must meet income eligibility test and need care in order to support work, training/education, or child's own development; care may be provided in a protective service situation without income test; parent pays fee based on income.	0	\$12,158,899	0	\$12,158,899	11,102	11,053
Title IV-A At-Risk	DHR	Must be non-AFDC; need care in order to work; meet income eligibility test; pay a fee based on income.	\$2,704,643	\$5,380,319	0	\$8,084,962	7,443	7,350

Sb-9

PROJECTED 91-92 EXPENDITURES

CHILDREN SERVED

<u>Program</u>	<u>State Agency</u>	<u>Eligible Population Description</u>	<u>State</u>	<u>Federal</u>	<u>Local</u>	<u>Total</u>	<u>1990-91 Actual</u>	<u>1991-92 Projected</u>
Family Support Act	DHR	AFDC receiptent who needs care in order to participate in jobs or work; AFDC teen parents in school; former AFDC recipient whose earned income made her ineligible may get care for up to 12 months.	\$10,369,031	\$20,615,162	0	\$30,984,193	7,800	17,327
6-96 CCDBG (Regular Day Care)	DHR	Family must meet income eligibility test and need care in order to work or attend education/training; parent pays fee based on family income.	0	\$11,463,856	0	\$11,463,856	0	10,422
CCDBG (Head Start Wrap-Around)	DHR	Head Start enrollee; parent must meet income test and need care in order to work or attend education/training; parent pays fee based on family income.	0	\$2,474,206	0	\$2,474,206	0	1,060

PROJECTED 91-92 EXPENDITURES

CHILDREN SERVED

<u>Program</u>	<u>State Agency</u>	<u>Eligible Population Description</u>	<u>State</u>	<u>Federal</u>	<u>Local</u>	<u>Total</u>	<u>1990-91 Actual</u>	<u>1991-92 Projected</u>
State Subsidy	DHR	Family must meet income eligibility test and need care in order to support work, training/education, or child's own development; care may be provided in a protective service situation or a child welfare case without income test; parent pays fee based on income; also used to supplement federal payments which are limited to 75th percentile market rate.	\$7,221,561	0	0	\$7,221,561	8,010	6,565

6-97

MAJOR DAY CARE PROGRAMS IN NORTH CAROLINA
91-92

<u>Program</u>	<u>State Agency</u>	<u>State</u>	<u>Federal</u>	<u>Local</u>
Developmental Day Care Pre-School	DPI	2,260,470	0	0
Pre-School Handicapped	DPI	18,927,000	0	0
Charter I - Handicapped	DPI	0	978,502	0
Community Residential	DPI	4,159,669	0	0

6-98



State of North Carolina

Department of Justice

P.O. BOX 629

RALEIGH

27602-0629

LACY H. THORNBURG

ATTORNEY GENERAL

March 24, 1992

Ms. Susan Sabre
300 North Salisbury Street
Suite 100 Legislative Office Building
Raleigh, North Carolina 27603-5925

ck 593

Dear Susan:

Thank you for taking the time to talk with me yesterday. I have attached as you requested copies of the proposed changes identified by the SBI/Day Care Task Force as well as the joint report made to the Commission on Governmental Operations on March 12 by Attorney General Thornburg and Assistant Secretary George Jones of the Department of Human Resources. This report was prepared in response to the mandate in HB 597 directing the two agencies to make a joint report in writing as to whether any legislation needs to be changed to effect this act.

The intent and purpose of HB 597 is to provide for notification to the State Bureau of Investigation by local Departments of Social Services of allegations of child sexual abuse in a day care setting. HB 597 as enacted provides for that notification to be made after the local Department of Social Services has done an initial investigation. We are recommending that this provision be changed to provide for immediate notification (within 24 hours), to be made before any DSS investigation.

As a result of the enactment of HB 597 the heads of the affected agencies formed a task force composed of representatives from the SBI, local Departments of Social Services, local law enforcement, the Attorney General's office, a District Attorney's office, the Department of Human Resources and the state Child Day Care Section to determine how best to implement the new legislation. It was the unanimous agreement of all of these representatives, on behalf of their agencies, that the notification to the SBI should come before, not after, an initial investigation by the local Department of Social Services. Getting the SBI involved from the beginning will prevent contamination of evidence and allow for a unified investigation strategy.

Ms. Susan Sabre
March 24, 1992
Page Two

To effectuate this change we need revisions to HB 597. Attachment 8 of the joint report shows the modifications which are necessary to provide for the immediate SBI notification which all of the affected agencies support.

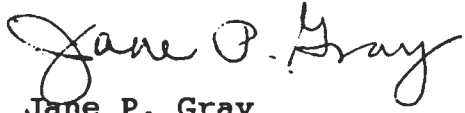
The modifications would take the notification requirement out of G.S. 7A-544 and place it in G.S. 7A-543 following the paragraph on DSS notification of law enforcement of any report of abuse. We are also recommending re-arranging the paragraphs in G.S. 7A-548 to make a more logical progression of provisions incorporating the changes.

These changes are crucial to the orderly and efficient implementation of HB 597. They enable a joint investigative process to begin soon after the allegations are reported. As enacted, the provisions of HB 597 result in duplicate investigations and re-interviewing of children, which is traumatic to the children and disruptive to their families.

Thank you for the opportunity to appear before the Day Care Study Commission to make this presentation. Ellen Scouten, Assistant Attorney General, who was a member of the Task Force will be with me and will have all the answers! Please call me if I can answer any questions.

Sincerely yours,

LACY H. THORNBURG
Attorney General


Jane P. Gray
Deputy Attorney General

JPG/EBS/bb
Attachment

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION
RATIFIED BILL

CHAPTER 593
HOUSE BILL 597

AN ACT TO ENCOURAGE THE STATE BUREAU OF INVESTIGATION TO
FORM A TASK FORCE TO INVESTIGATE ALL CASES OF
SUBSTANTIATED CHILD SEXUAL ABUSE IN DAY CARE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-544 reads as rewritten:

"§ 7A-544. Investigation by Director; notification of State Bureau of Investigation if sexual abuse in day care; notification of person making the report.

When a report of abuse or neglect is received, the Director of the Department of Social Services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the Director shall immediately, but no later than 24 hours after receipt of the report, initiate the investigation. When the report alleges neglect, the Director shall initiate the investigation within 72 hours following receipt of the report. The investigation and evaluation shall include a visit to the place where the juvenile resides. All information received by the Department of Social Services shall be held in strictest confidence by the Department.

If the investigation reveals abuse or neglect, the Director shall decide whether immediate removal of the juvenile or any other juveniles in the home is necessary for their protection. If immediate removal does not seem necessary, the Director shall immediately provide or arrange for protective services. If the parent or other caretaker refuses to accept the protective services provided or arranged by the Director, the Director shall sign a complaint seeking to invoke the jurisdiction of the court for the protection of the juvenile or juveniles.

If immediate removal seems necessary for the protection of the juvenile or other juveniles in the home, the Director shall sign a complaint which alleges the applicable facts to invoke the jurisdiction of the court. Where the investigation shows that it is warranted, a protective services worker may assume temporary custody of the juvenile for the juvenile's protection pursuant to Article 46 of this Chapter.

In performing any of these duties, the Director may utilize the staff of the county Department of Social Services or any other public or private community agencies that may be available. The Director may also consult with the available State or local law-enforcement officers who shall assist in the investigation and evaluation of the seriousness of any report of abuse or neglect when requested by the Director. If the Director's initial investigation of a report of abuse in a day care facility reveals sexual abuse may have occurred, the Director shall notify the State Bureau of Investigation of the results of the initial investigation within 24 hours or on the next working day. The State Bureau of Investigation may send a task force to investigate

the alleged sexual abuse and gather evidence that may be presented at a criminal trial.

Unless a petition is filed within five working days after receipt of the report of abuse or neglect, the Director shall give written notice to the person making the report that:

- (1) There is no finding of abuse or neglect; or
- (2) The county Department of Social Services is taking action to protect the welfare of the juvenile and what specific action it is taking.

The notification shall include notice that, if the person making the report is not satisfied with the Director's decision, he may request review of the decision by the prosecutor within five working days of receipt. The person making the report may waive his right to this notification and no notification is required if the person making the report does not identify himself to the Director."

Sec. 2. G.S. 7A-548 reads as rewritten:

"§ 7A-548. Duty of Director to report evidence of abuse, neglect; notification of ~~Child Day Care Commission~~. Department of Human Resources and State Bureau of Investigation.

(a) If the Director finds evidence that a juvenile has been abused as defined by G.S. 7A-517(1), he shall immediately make a written report of the findings of his investigation to the district attorney, who shall determine if criminal prosecution is appropriate, and who may request the Director or his designee to appear before a magistrate.

If the Director receives information that a juvenile has been physically harmed in violation of any criminal statute by any person other than the juvenile's parent or other person responsible for his care, he shall make an oral or written report of that information to the district attorney or the district attorney's designee within 24 hours after receipt of the information. The district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7A-543 involves abuse or neglect of a juvenile in day care, either in a ~~day care day care~~ facility or a ~~day care plan, day care home~~, the Director shall notify the ~~North Carolina Child Day Care Commission~~ Department of Human Resources within 24 hours or on the next working day of receipt of the report. Upon completion of the investigation, the Director shall notify the ~~Commission~~ Department of the results of the investigation required by G.S. 7A-544. If the Director's initial investigation, carried out pursuant to G.S. 7A-544, of a report of abuse in a day care facility reveals that sexual abuse may have occurred, the Director shall notify the State Bureau of Investigation of the results of the initial investigation. The State Bureau of Investigation may send a task force to investigate the alleged sexual abuse and gather evidence that may be presented at a criminal trial.

The Director of the Department of Social Services shall submit a report of alleged abuse or neglect to the central registry under the policies adopted by the Social Services Commission.

(b) If the Director finds evidence that a juvenile has been abused or neglected as defined by G.S. 7A-517 in a ~~day care day care~~ facility or ~~plan, home~~, he shall immediately so notify the ~~Child Day Care Commission~~ Department of Human Resources and the State Bureau of Investigation in such a way as does not violate the law guaranteeing the confidentiality of the records of the Department of Social Services."

Sec. 3. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-15.3. Investigations of child sexual abuse in day care.

The Director of the Bureau may form a task force to investigate and prepare evidence following a notification by the director of a county department of social services, pursuant to G.S. 7A-544, that the director's initial investigation of a report of abuse in a day care facility reveals that sexual abuse may have occurred."

Sec. 4. Sections 1, 2, and 3 of this act shall be implemented from funds available to the appropriate departments.

The Department of Human Resources, and the Department of Justice shall adopt rules to ensure that the three investigations of abuse in child day care undertaken by the director of the county department of social services, the Department of Human Resources, and the State Bureau of Investigation, do not interfere with one another. These rules shall also include development of methods by which the State Bureau of Investigation instructs the Department of Human Resources and the director of the county department of social services on ways to conduct their investigations without destroying evidence that the State Bureau of Investigation may be gathering for a possible criminal trial.

The Department of Human Resources and the Department of Justice shall make a joint report in writing to the Joint Legislative Commission on Governmental Operations by March 1, 1992, as to whether any legislation needs to be changed to effect this act.

Sec. 5. This act becomes effective October 1, 1991.

In the General Assembly read three times and ratified this the 8th day of July, 1991.

JAMES C. GARDNER

James C. Gardner
President of the Senate

DANIEL BLUE, JR.

Daniel Blue, Jr.
Speaker of the House of Representatives

TASK FORCE AND SUBCOMMITTEES

SBI/DC TASK FORCE

Representatives of the Department of Human Resources:

Chairman: Kathy Woodcock, Program Consultant, Child Protective Services, DSS
Sylvia Stikeleather, Children's Services Branch Head, Division of Social Services
George Cole, Program Manager, Child Protective Services Training Unit, DSS
Nancy Sampson, Child Day Care Section Chief, Division of Facility Services
Ann May, Deputy Chief, Child Day Care Section, Division of Facility Services
Chrissy Carroll, Abuse/Neglect Unit Supervisor, Child Day Care Section, DFS
Margaret Guess, Policy/Planning Unit Supervisor, Child Day Care Section, DFS

Representatives of the Department of Justice:

Charles Dunn, Director, State Bureau of Investigation
Charlie Overton, Assistant Director, State Bureau of Investigation
Melanie Thomas, Special Agent, State Bureau of Investigation
Ellen Scouten, Assistant Attorney General

Local Agency Representatives:

Patty Clarke, Child Protective Services Supervisor, Orange County DSS
Cindy Baddour, Assistant District Attorney, Wake County

SBI/DC Protocol Subcommittee

Chairman: Kathy Woodcock, DSS
Melanie Thomas, SBI
Ellen Scouten, State Attorney General's Office
Patty Clarke, Orange Co. DSS
Cindy Baddour, Wake County District Attorney's Office
Chrissy Carroll, Child Day Care Section

SBI/DC Training Plan Subcommittee

Chairman: George Cole, CPS Training Unit, DSS
Diane Miller, Child Welfare Attorney, Attorney General's Office
Pam Tully, Special Agent, State Bureau of Investigation
Karen Dunn, Abuse/Neglect Consultant, Child Day Care Section
Donna Lupton, Child Protective Services Supervisor, Haywood Co. DSS

DSS ADMINISTRATIVE LETTER NO. Family Services 9-91

TO: County Directors of Social Services

SUBJECT: House Bill 597; Notification of State Bureau of Investigation of Sexual Abuse in Day Care

DATE: September 25, 1991

ATTENTION: Child Protective Services

SEP 26 1991 6053

This letter is intended to inform you of legislative actions that impact on your responsibility in Child Protective Services.

The 1991 General Assembly ratified House Bill 597 which amended General Statutes 7A-544, 7A-548 and 114-15.3 to include a requirement for the county Director of the Department of Social Services to notify the State Bureau of Investigation if there is an incident of alleged child sexual abuse in a day care facility or home. The bill was ratified on July 8, 1991 and becomes effective October 1, 1991. A copy of the bill is attached.

According to the language in the General Statute, in performing the duties to investigate, the Director shall orally notify the State Bureau of Investigation when child sexual abuse is alleged to have occurred in child day care, either in a day care facility or day care home. This notification must be made to the SBI District Office which serves your county within 24 hours or on the next working day following receipt of the report. If child sexual abuse is not alleged at the time of the report, but information is obtained during the investigation that indicates allegations of child sexual abuse, the State Bureau of Investigation shall be immediately notified. In order to ensure promptness of the sharing of information with the SBI, it is recommended that a follow-up written notice be made within 3 working days after allegations of child sexual abuse are received. Also attached is a list of the SBI District Offices, their address, telephone number and a contact person in each office.

Information shared with the State Bureau of Investigation should include: a) name and address of facility/home, b) operator's name, c) alleged victim(s)'s name(s) and address, d) nature of the report, e) date report was received, f) date and place of reported incident, and g) any alleged perpetrator's names. In order to protect confidentiality, do not reveal the identity of the reporter in any written report or notice.

Upon receipt of information of alleged child sexual abuse in a day care facility or home, the SBI may send a task force to investigate the alleged sexual abuse and gather evidence that may be presented at a criminal trial. In order to conduct the investigation in a manner such that children are protected and evidence not destroyed, the Director of the Department of Social Services will coordinate interviews, collateral contacts, home and site visits and any additional information including the identity of the reporter, with the SBI Special Agent assigned to the case.

At the conclusion of the investigation, the Director of Social Services must provide the State Bureau of Investigation (sent to the Special Agent involved with the case) with a written report including the following information: a) name of the child day care facility/home, b) the name(s) of the victim(s) child(ren), c) whether or not abuse or neglect was found, including the basis for this decision, d) if found, the type of abuse or neglect, e) if found, name(s) of the alleged perpetrator(s), f) whether or not criminal charges have been filed, g) any further action by the county Department of Social Services.

The Division is in the process of preparing Administrative Rules and Family Services Manual material regarding these requirements and will be sharing these with you as soon as possible. If you have have questions regarding these new requirements, please contact the Children's Programs Representative assigned to your county or the Child Protective Services Unit at (919) 733-2580.

Sincerely,

Melinda Hamrick

Melinda Hamrick
Assistant Director for
Program Administration

KW/mc

Attachments

STATE BUREAU OF INVESTIGATION DISTRICT OFFICES

SAC Joe S. Momler
Northwestern District
Hickory - 704-294-2226

P.O. Box 10007
Hickory, NC 28603

SAC W. Edd Hunt
Northern Piedmont District
Greensboro - 919-294-4963

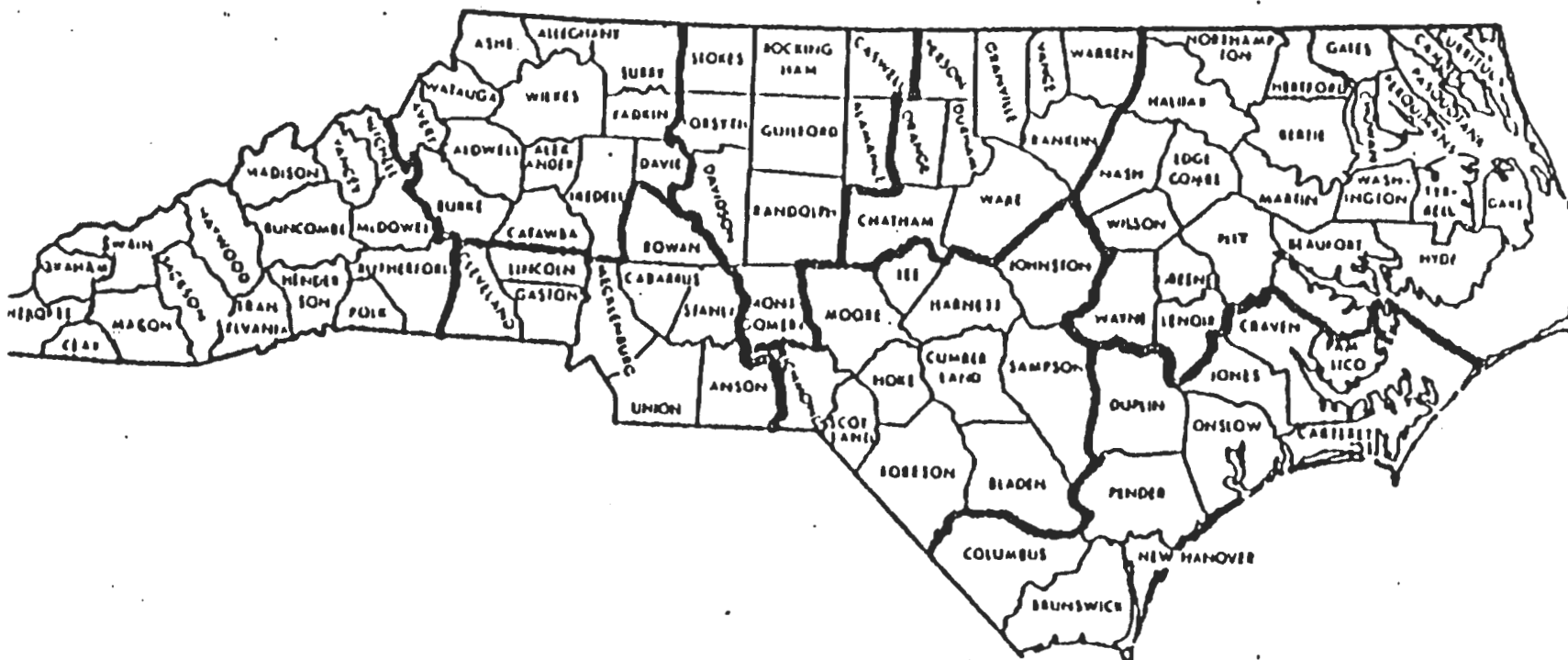
P.O. Box 18246
Greensboro 27419

SAC Ron P. Hawley
Capital District
Cary - 919-469-5707

1150 Maynard Rd.
Suite 101
Cary, NC 27511

SAC W. E. Godley
Northeastern District
Greenville - 919-756-47

P.O. Box 3720
Greenville, NC 27836



SAC Bill C. Matthews
Western District
Asheville - 704-274-2452
P.O. Box 15103
Asheville, NC 28813

SAC Jim C. Woodard
Southern Piedmont District
Kannapolis - 704-938-1164
P.O. Box 803
Kannapolis, NC 28082

SAC Ray W. Davis
Southeastern District
Fayetteville - 919-486-1262
1st Citizens Bank Bldg.
Suite 400
109 Green Street
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Coastal District
Jacksonville - 919-346-2121
P.O. Box 7207
Jacksonville, NC 28540

AFTER 5:00 PM and WEEK-ENDS - 919-733-3171



LACY H. THORNBURG
ATTORNEY GENERAL

NORTH CAROLINA
STATE BUREAU OF INVESTIGATION
DEPARTMENT OF JUSTICE

3320 GARNER ROAD
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ROBERT MORGAN
DIRECTOR

September 30, 1991

MEMORANDUM:

TO: Special Agents in Charge R. P. Hawley,
W. E. Godley, W. E. Hunt, J. S. Momier,
R. W. Davis, J. C. Woodward, B. C. Matthews,
A. L. Stevens

From: DEPUTY DIRECTOR CHARLES DUNN

Ref: Implementation of HB 597

House Bill 597, as enacted by the 1991 General Assembly, encourages the SBI to form a task force to investigate all cases of substantiated child sexual abuse in day care. The law states that we are to have a program in place as of October 1, 1991.

To comply with the intent of the legislation, we have met on several occasions with officials of the Department of Human Resources to work out a protocol for contacting the SBI. They now have sent an administrative letter to County Directors of Social Services advising them of the law and providing them with information on how to contact the SBI District Office serving their county. A copy is attached.

In carrying out our responsibility, the following should be considered:

1. Local law enforcement agencies may already have working relationships with Social Services in some counties. Special Agents in Charge should contact local departments in their districts to explain our jurisdiction, advise we are ready to assist as needed, and establish a working relationship.

Page Two

2. Upon receipt of information from the county Department of Social Service, special agents in charge should determine which local law enforcement agency is involved and assess need for SBI assistance.
3. Responding agent should immediately contact the case worker and make arrangement to conduct the investigation. The investigation may be conducted jointly, but the agent should not wait for the case worker to complete their work before initiating the investigation.
4. An agent with training and experience in investigation of child sexual abuse should be utilized whenever possible.
5. Action taken should be documented to the appropriate Assistant Director by initial report or by memorandum if case is not opened. The new law requires us to report to the Joint Legislative Commission on Government Operations by March 1, 1992.

Your observations and suggestions on how we might better address the investigation of child abuse are appreciated.

CD/lp

cc: Assistant Director C. L. Windham
Assistant Director W. C. Corley
Assistant Director V. R. Eastman
Assistant Director D. D. Carneal
Assistant Director H. E. Elliott
Assistant Director C. J. Overton
Assistant Attorney General Ellen Scouten

Attachments/

CHILD SEXUAL ABUSE CASES IN DAY CARE
OCTOBER - DECEMBER, 1991

DATE REC'D	ARRANGEMENT	COUNTY	SBI NOTIFIED	SBI INVESTIGATED
10/04/91	Licensed Facility	Mecklenburg	Yes	No
10/07/91	Registered Home	Mecklenburg	Yes	No
10/09/91	Illegal Home	Watauga	Yes	Yes
10/17/91	Licensed Facility	Durham	Yes	Yes
10/22/91	Licensed Facility	Guilford	Yes	No
10/23/91	Licensed Facility	Guilford	Yes	No
10/30/91	Licensed Facility	Buncombe	Yes	No
11/04/91	Licensed Facility	Guilford	Yes	No
11/21/91	Licensed Facility	Granville	No*	No
11/22/91	Licensed Facility	Mecklenburg	Yes	No
/91	Illegal Home	Davidson	Yes	No
11/25/91	Illegal Home	Durham	Yes	No
11/25/91	Registered Home	Randolph	Yes	Yes
11/25/91	Illegal Home	Guilford	Yes	No
11/25/91	Registered Home	Johnston	Yes	No
11/27/91	Licensed Facility	Mecklenburg	No**	No
12/03/91	Licensed Facility	Mecklenburg(ctr.) Gaston(child)	Yes	No
12/10/91	Licensed Facility	Stanly	Yes	No
12/10/91	Illegal Home	Gaston	No**	No
12/12/91	Licensed Facility	Davidson	Yes	No

The SBI offered assistance in all cases reported to the District Offices. The local law enforcement agency was involved in the investigation of the majority of cases in which the SBI was not asked to assist.

evidence to support allegation
county department failed to report initially -- SBI has since been informed

6-111

COMPONENTS OF SBI/DAY CARE PROTOCOL

- I. Introduction
- II. Purpose
- III. Goals
- IV. Definitions
- V. Roles and Responsibilities
- VI. Confidentiality
- VII. Procedures
- VIII. Media
- IX. Prosecution
- X. Flow Chart
- XI. Appendix

PROTOCOL FOR INTERAGENCY TASK FORCE FOR INVESTIGATING CHILD
SEXUAL ABUSE ALLEGATIONS IN CHILD DAY CARE

I. Introduction:

The North Carolina General Assembly enacted legislation effective October 1, 1991 amending General Statutes 7A-544, 7A-548, and 114-15.3 to provide for coordinated efforts between the county departments of social services, the Child Day Care Section, the State Bureau of Investigation, and local law enforcement agencies in conducting child sexual abuse investigations in child day care settings. The following protocol recommends a team approach to minimize the risk of destruction or contamination of evidence, to provide for more comprehensive and humane interviews with the victims and to assure that the overall investigation is more effectively and efficiently carried out on behalf of the children and families involved in these cases.

II. Purpose:

The purpose of this protocol is to establish guidelines for a multidisciplinary task force approach to the investigation of child sexual abuse occurring in child day care settings. This protocol is further designed to ensure that investigations of suspected child sexual abuse occurring in these settings are done in an expedient manner, are complete and are coordinated among the responsible agencies. The intent of this protocol is to facilitate a high degree of cooperation and coordination among all of the agencies involved in the investigation, administration, and prosecution of these types of cases.

III. Goals:

- A. To prevent future maltreatment of children in child day care settings.
- B. To reduce trauma involved in these cases by ensuring professional and responsible treatment of victims and families by all agencies involved in the process.
- C. To provide a uniform, systematic, and structured approach to investigation of these cases to ensure protection of the child and successful prosecution of the offenders.
- D. To provide procedures for mutual assistance of agencies and professionals in the performance of their duties.

IV. Definitions:

- A. Child Day Care - as defined in G.S. 110-86 (See Appendix I).
- B. Child Day Care Home (Home) - as defined in G.S. 110-86 (See Appendix I).
- C. Day Care Facility (Facility) - as defined in G.S. 110-86 (See Appendix I).
- D. Caretaker - as defined in G.S. 7A-517(5) (See Appendix I).
- E. Child Sexual Abuse in Child Day Care Settings (CSA/DC) - refers to allegations of child sexual abuse or exploitation as defined in General Statute 7A-517 in child day care.
- F. Interagency Task Force (ITF) - A team of designated professionals who investigate/evaluate/prosecute cases of child sexual abuse in child day care settings in a cooperative, coordinated manner. The Interagency Task Force (ITF) is made up of two units:
 - 1. The Investigative Unit (IU) comprised of those professionals that have the authority to investigate cases of child sexual abuse in child day care settings (CSA/DC) which may include a child protective services (CPS) social worker, local law enforcement officer, a child abuse/neglect consultant from the Child Day Care Section (state licensing agency), and a special agent with the State Bureau of Investigation; and
 - 2. The Resource Unit (RU) comprised of pediatricians and other medical personnel, other DSS staff, other law enforcement officers, SBI lab personnel, other child day care staff, the district attorney's office, the attorney general's office, health department staff, and various mental health agencies.

V. Criteria, Roles and Responsibilities of Interagency Task Force:

- A. Criteria for Interagency Task Force (ITF) membership shall include the following:
 - 1. Investigative Unit (IU) members shall be representatives of agencies that have a statutory authority to investigate child sexual abuse in child day care settings (CSA/DC).
 - 2. Interagency Task Force (ITF) members shall have knowledge and skills in the specific areas of child interviewing and child sexual abuse investigations.
 - 3. Interagency Task Force (ITF) members shall have the willingness

to cooperate with other Interagency Task Force members and shall carry out their responsibilities consistent with this protocol.

4. Interagency Task Force (ITF) members shall have a working knowledge of the other agencies' roles and responsibilities in conducting child sexual abuse investigations and prosecutions.

B. Interagency Task Force (ITF) Members' roles and responsibilities are defined as follows:

1. Interagency Task Force/Investigative Unit (ITF/IU) - the role of the Investigative Unit is to cooperatively plan investigative strategies and to conduct a prompt and thorough investigation fulfilling the mandates for each agency. The Investigative Unit (IU) shall assess the need for additional investigative personnel depending on the scope of the investigation. Decisions should be made jointly and cooperatively.
2. Interagency Task Force/Resource Unit (ITF/RU) - During the investigation and prosecution the Resource Unit (RU) members, consistent with the duties and roles of each member and any local protocols in place, must be available to the Investigative Unit (IU) for consultation, diagnosis and evaluation, reviewing of evidence and information gathered.
3. County Department of Social Services (DSS) - The CPS social worker is part of the Investigative Unit (IU). The statutes mandate that DSS conduct a prompt and thorough investigation of all reports of alleged child sexual abuse occurring in child day care as defined by law. DSS is responsible for ensuring the safety of the child/ren who may need protective custody, making placement recommendations, assisting the family with their needs, and coordinating the assessment and interview of children and adults with other members of the Investigative Unit (IU). The CPS social worker focuses on determining both the facts of the alleged sexual abuse and what environment will afford the greatest protection for the victim/s.
4. Local Law Enforcement Agency (LEA) - The officer is responsible, along with other members of the Investigative Unit (IU), for initially responding to the report. The officer's role is to investigate allegations of criminal activity and to refer appropriate cases for criminal prosecution.
5. State Bureau of Investigation (SBI) - The SBI must designate a contact person in each SBI district to receive the initial report from the county DSS and assess the need for SBI assistance. The primary responsibility of the SBI in reported child sexual abuse cases in child day care settings (CSA/DC) is to provide assistance through the Interagency Task Force. The extent of the assistance should be determined by the needs of the local law enforcement agency, special request of the

district attorney, and/or the size and complexity of the case. If involved, the SBI special agent will be a member of the Investigative Unit (IU) and will conduct a prompt and thorough criminal investigation and present the case information to the district attorney for a prosecution decision.

6. Child Day Care Section (CDCS) - As a representative of the state child day care licensing agency, the child abuse/neglect consultant is also a member of the IU and is responsible for conducting an investigation in child day care settings as mandated. The child abuse/neglect consultant will coordinate its efforts with other Investigative Unit (IU) team members. The Child Day Care Section (CDCS) mandate includes conducting an on-site visit to the child day care facility/home. The Child Day Care Section (CDCS) is responsible for taking administrative action when appropriate, which could include revocation or suspension of the permit to operate the child day care facility/home. In cases where child day care facilities/homes have operated illegally, the Child Day Care Section (CDCS) may obtain a restraining order to ensure immediate closure of the operation if necessary to protect children in the child day care facility/home. The Child Day Care Section (CDCS) should coordinate any administrative/judicial actions with the criminal investigation in progress and should share pertinent information regarding the child day care facility/home with other Investigative Unit (IU) members.
7. District Attorney (DA) - The district attorney's (DA) office is a part of the Interagency Task Force/Resource Unit and is responsible for criminal prosecutions. They may also provide assistance to the Investigative Unit (IU) throughout the investigation by giving appropriate legal advice, assisting in drafting of search warrants, monitoring interviews of potential witnesses and any other assistance deemed appropriate.
8. Attorney General (AG) - The Attorney General's office may be part of the Interagency Task Force/Resource Unit and is available to provide legal advice during investigations and prosecution. A prosecutor from the Attorney General's office may be assigned to prosecute the criminal case in the event the local district attorney requests assistance in prosecution due to the complex nature of the prosecution or if the district attorney requests the attorney general's office to handle the case because of a conflict of interest in the district attorney's office.
9. Medical/Mental Health Evaluators - Members of the medical and mental health professions are a part of the Interagency Task Force/Resource Unit. Their role is to conduct the medical and/or mental health evaluations on alleged victim children in accordance with established guidelines and protocols for the

examination of suspected child sexual abuse victims. They are to provide the appropriate agencies with a written report and to provide assistance to the Investigative Unit (IU) in the following manner: provide medical/psychological/treatment services, provide expert opinion regarding the nature of abuse, coordinate examinations with the investigative team and to provide additional expertise to the team, as needed. (See Appendix II - Medical Multivictim/multiperpetrator Protocol)

10. Parents - During the investigation and prosecution the parental role is seen as one of support. They will be able to provide emotional support and stability for the victim child/ren. They may also provide the Investigative Unit (IU) with historical information regarding the child/ren and situation and assist the Investigative Unit (IU) in necessary appointments with the victim for investigative or judicial purposes. They may coordinate and cooperate with the Investigative Unit (IU) members during the investigative process and with the Resource Unit (RU) during the prosecutorial process.

VI. Confidentiality

Interagency Task Force members will share information regarding child sexual abuse cases in child day care settings. They should understand that all agencies may legally share information when assisting the DSS in conducting an investigation of alleged child abuse. For effective team communication and for the ultimate protection of children and the effective prosecution of alleged perpetrators, all information should be shared with the other Interagency Task Force (ITF) members.

VII. Procedures

A. Reporting Procedures

1. Immediately upon receipt of a report or information concerning a suspected child sexual abuse case, the receiving agency/person shall contact the county department of social services in the county where the child/ren is located.
2. DSS will assess the information and determine if it constitutes a report of alleged child sexual abuse in a child day care setting.
3. If the information received does not fall within the statutory definitions of child abuse/neglect but does involve violations of G.S. 110 then a referral will be made to the Child Day Care Section for follow up by their staff. Reports which indicate

that a child has been harmed in violation of the criminal statute by any person other than the child's parent or caretaker must be reported to the district attorney's office by DSS.

4. If the information, according to statutory authority constitutes a report of alleged child sexual abuse in a child day care setting, DSS will accept the report for investigation.
 5. DSS will immediately notify the SBI, Child Day Care Section, and the appropriate local law enforcement agency within 24 hours as required by law.
 6. DSS will plan the time and place for the initial Investigative Unit (IU) conference and will include this information in the contact with the Child Day Care Section (CDCS), SBI, and LEA when making the initial report. DSS will provide each agency with as much of the following information that is available at the time:
 - (a) name and age of the alleged victim child
 - (b) name and address of the child day care facility/home
 - (c) operator's name and address
 - (d) parent/guardian of alleged victim(s) name and address
 - (e) nature of the report/allegations
 - (f) date report received
 - (g) any collateral information
 - (h) any medical reports available
 - (i) name and address of alleged perpetrator(s).
 7. When LEA is contacted, DSS will obtain information regarding the appropriate contact person in the LEA and their proposed involvement in the case at this time.
 8. When DSS contacts the SBI, DSS will communicate the intent of the local LEA expressed regarding their immediate participation in the investigation. The SBI will immediately confer with the local LEA and district attorney to assess the need for SBI assistance.
 9. DSS will notify the district attorney (DA) if there has been evidence of child abuse, as required by G.S. 7A-548. Although the Investigative Unit (IU) may utilize the district attorney during the investigation/prosecution process, all statutorily required notifications must be submitted.
- B. Initial Investigative Unit (IU) Conference - Planning Investigative Strategy
1. An Investigative Unit (IU) conference will occur if possible prior to the initial interview of the child(ren) or visit to the child care facility, unless the child(ren) is in serious, immediate danger and the Investigative Unit is unavailable to

assemble. In any event, every effort shall be made to have an initial Investigative Unit (IU) conference within 72 hours of DSS accepting a report for investigation.

2. The investigative process will be planned so as to protect the victim from further abuse and trauma and to avoid warning possible perpetrators, who might have an opportunity to destroy evidence. The primary concern must always be the protection of victims from further abuse.
3. At the initial conference and investigation coordinator will be designated.
4. As appropriate, investigative issues to be addressed at the initial conference will include:
 - a. The process and timing for interviewing the child and any other children who are attending or have attended the child care facility.
 - b. Detailing who will be interviewed and in what order, who will conduct the interviews, where the interviews will take place, and the time frame for the completion of interviews.
 - (1) Determination as to who should be the primary interviewers will be made on the basis of the primary goal of the interview and on the skills and training of the interviewer.
 - (2) Issues of contamination and cross-pollination will be considered when making these decisions. Each potential child victim should be interviewed separately.
 - (3) When the Investigative Unit (IU) determines that other members not conducting the interview must observe the interview with the child, every effort should be made to decrease any trauma experienced by the child from repeated interviews by various professionals. Regardless of the method utilized, discretion and care should be taken so that the interview is not compromised.
 - (4) If possible, interviews with the parents of the victims, other children attending the facility, child care staff, and other adults or minors in the center or home with access to children should be conducted jointly by those members chosen by the Investigative Unit (IU).
 - c. The process and timing of notification of parents or legal

guardians of child who are attending or have attended the child day care facility/home.

- d. Arranging medical/mental health diagnostic evaluations and follow up services.
- e. Timing of notification to the child day care operator/provider that an investigation is underway.
- f. Discussion of the strategies to ensure the safety of all children in the child day care facility/home.
- g. Likelihood and timing of criminal charges.
- h. Responses to media by participating agencies.
- i. Process and timing of interviewing child day care facility/home staff and other adults or minors in the child day care facility/home with access to children.
- j. The need to initiate support services for the family at the initial interview and provide other resources needed and available.
- k. Necessary arrangements for the collection and preservation of available physical evidence.

C. Conducting Investigation

1. The unique nature of child sexual abuse investigations in child day care settings requires a carefully planned, coordinated response. All persons involved in the Investigative Unit (IU) will be trained in the investigation of child sexual abuse cases and familiar with the established laws and policies by which each agency operates. Investigative Unit (IU) members will maintain regular contact with each other throughout the investigative process.
2. If during the course of the investigation, members of the Investigative Unit (IU) perceive that the children are in serious immediate danger, the appropriate member should take actions as necessary to protect the child/ren including removal of children or obtaining restraining orders as provided for by law. When any such action is taken, all Investigative Unit (IU) members will be notified as soon as possible.
3. Interviews of all of the necessary persons will take place as planned in the Investigative Unit conference and conducted according to appropriate procedures for each agency.

4. During the interview process, the Investigative Unit (IU) should be alert to the existence of physical evidence and should act quickly to obtain such evidence.
5. Medical/Mental Health diagnostic evaluations will be conducted according to the plan established by the Investigative Unit (IU) and the Medical Multivictim/multiperpetrator Protocol. Agency procedures and policies must be followed in obtaining these evaluations. On-going counseling and therapy should be provided to children found to be abused.
6. Pursuant to the Investigative Unit's (IU) plan, appropriate members will make site visit to the child day care facility/home to determine whether any violations of child day care regulations occurred which may have contributed to the alleged abuse.
7. At a point agreed upon by the Investigative Unit (IU), the Child Day Care Section (CDCS) will take necessary action concerning the continued employment or continued access/presence of the alleged perpetrator at the child day care facility/home.
8. Timing of notification of parents of children in the child day care facility/home under investigation and the need for parent meetings is a complex decision.
 - a. As determined by the Investigative Unit (IU), the appropriate agency will notify the parents of other children in the child day care facility/home that the investigation is underway.
 - b. Any parent meeting should be conducted and attended by all members of the Investigative Unit (IU). Only parents and legal guardians of children presently or previously enrolled at the child day care facility/home may be present at the meeting. It is critical that confidentiality laws and policy be followed. Therefore, no case specific information may be shared during the meeting. The purpose of the general meeting of parents at this point is to:
 - (1) identify other children who may have been abused;
 - (2) request parental support and provide information on how they may cooperate with the investigation;
 - (3) explain, generally, the procedures for investigating reports of suspected child sexual abuse in day care; and
 - (4) inform parents of the procedures for contacting the appropriate Investigative Unit (IU) member if they believe a child has been abused or if they wish to

provide information regarding the child day care facility/home.

9. The Investigative Unit (IU) will confer with the Resource Unit (RU) to assess case status. It is recommended that this be accomplished by conducting an Interagency Task Force (ITF) meeting.

F. Investigative Unit (IU) Summary Conference

1. The Investigative Unit (IU) members will discuss their proposed case decisions/recommendations based on law and policy and the actions which may occur as a result of these decisions.
2. The Investigative Unit (IU) may confer with members of the Resource Unit (RU) as needed in order to plan for future actions.
3. The Investigative Unit (IU) should plan for the appropriate member of the Interagency Task Force (ITF) to assist the victim family in making arrangements for financial compensation for medical, mental health and other expenses (i.e. Victim's Compensation Program)

G. Notifications of Case Decisions:

1. Each agency will prepare its appropriate reports and notifications as required by law and policy.
2. Reports of case decisions/recommendations shall be sent to the appropriate agencies in an expedient manner. It is recommended that these reports be sent within a week of making case decisions or recommendations.

VIII. Media

- A. Statements that could be harmful to the outcome of the investigation should not be released.
- B. Each agency will follow individual policies for the release of information to the media. As in investigative reports, confidentiality laws and policy will dictate what information can be shared.
- C. Parents should be advised that they may be contacted by the media and that they have no obligation to disclose information regarding their child or family.

IX. Prosecution

A. Criminal charges

1. As soon as the district attorney receives all medical, local law enforcement, SBI, mental health and DSS reports decisions will be made as to whether there is sufficient evidence to file criminal charges. Decisions will also be made regarding which cases and charges will be presented to the Grand Jury.
2. The district attorney (prosecutor) should inform the parents and the Investigative Unit (IU) members of the decisions regarding criminal charges and Grand Jury prior to the Grand Jury convening.

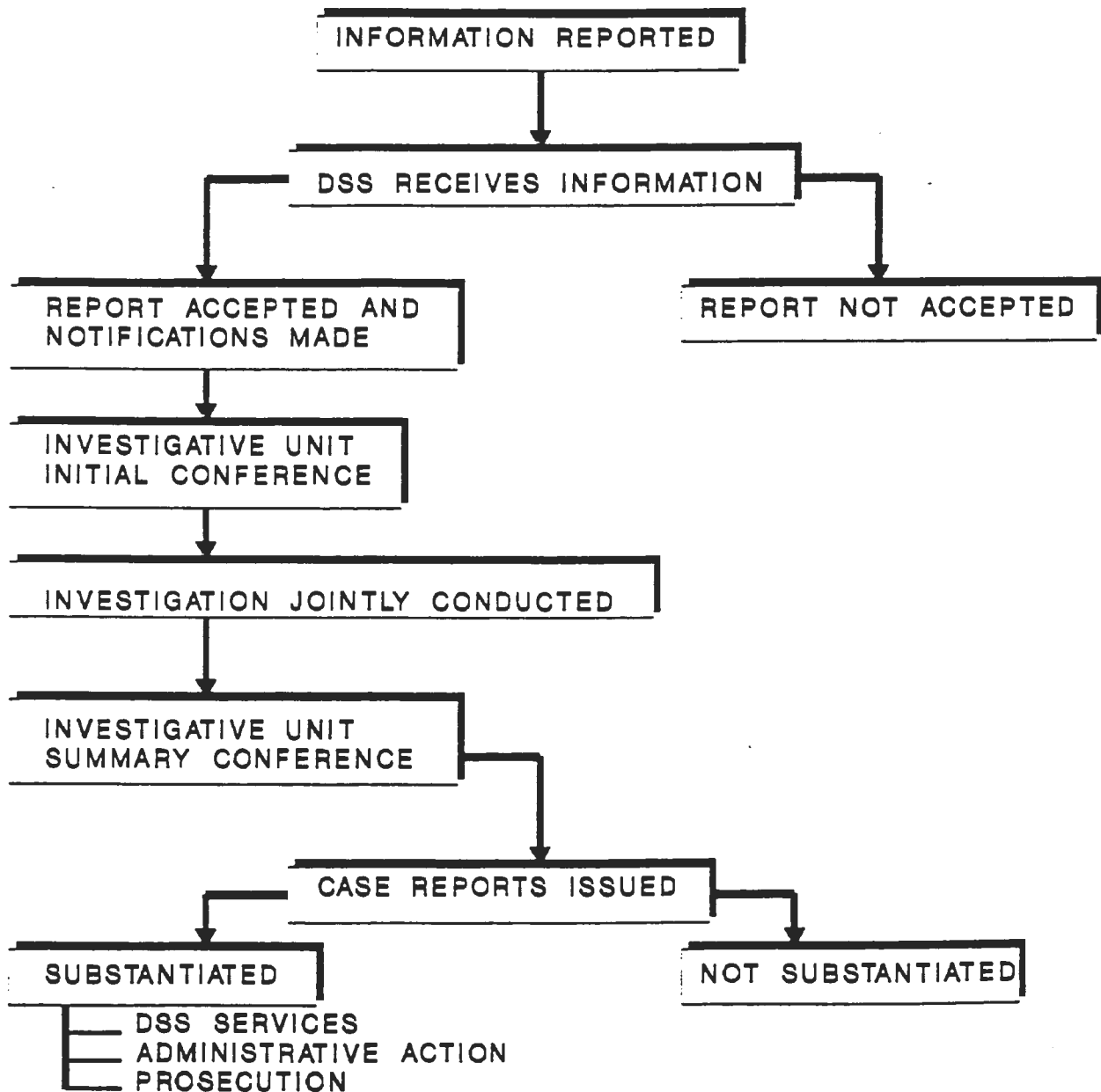
B. Pretrial preparation

1. The district attorney should designate a prosecution team to prosecute the case if it involves multiple victims and/or multiple perpetrators.
2. The district attorney and/or prosecution team members will confer with the parents of the child victims to explain court procedures and discuss possible court outcomes prior to trial.
3. The district attorney and/or prosecution team members will assure the adequate preparation of all witnesses regarding the court process and shall consider the special needs of child victim/witnesses.
4. The district attorney and/or prosecution team members will confer with the individual members of the Interagency Task Force (ITF) in preparing the case for trial. The Investigative Unit (IU) should complete any necessary follow-up investigation prior to trial. The district attorney or prosecution team members will confer with all involved medical personnel and any other expert witnesses in the case.
5. The district attorney and/or prosecution team and other members of the Interagency Task Force (ITF) will assure that the victims and their families are provided support services throughout the process. This may include accompanying them to court and arranging and providing supervision and care of child witnesses during the trial.

C. Trial process

1. The Investigative Unit (IU) should be available throughout the trial process for support and technical assistance to the victim families.
2. The district attorney and/or prosecutorial team members should confer with the victim families and the IU upon a jury verdict and/or a court disposition to explain court outcome and any subsequent appeals.

FLOW CHART INTERAGENCY TASK FORCE PROTOCOL



APPENDIX I

SELECTED GENERAL STATUTES

G.S. 110-86 (2) defines Child Day Care as follows:

"Child Day Care - Any child care arrangement except seasonal recreational programs operated for less than four consecutive months in a year wherein three or more children less than thirteen years old receive care away from their own home by persons other than their parents, grandparents, aunts, uncles, brothers, sisters, first cousins, guardians or full-time custodians, or in the child's own home where other unrelated children are in care." G.S. 110-86(2)."

G.S. 110-86 (4) defines Child Day Care Home as follows:

"Child Day Care Home - Any day care program or child care arrangement wherein any person not excluded in G.S. 110-86(2) provides day care on a regular basis of at least once per week for more than four hours per day for more than two children under 13 years of age and for fewer than six children at any one time, wherever operated, and whether or not operated for profit. The four hour limit applies regardless of the time of day and regardless of whether the same or different children attend. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment are not included.

To determine whether a child care arrangement is a child day care home, all children shall be counted except the operator's own school-age children and school-aged children who reside at the location of the day care home. Notwithstanding the limitation to five children prescribed above, the day care home operator may care for three additional school-aged children." G.S. 110-86(4)."

G.S. 110-86 (3) defines Child Day Care Facility as follows:

"Day Care Facility - In part reads "any child day care center or child care arrangement which provides day care for more than five children, not including the operator's own school-aged children, under the age of 13, on a regular basis of at least once per week for more than four hours but less than 24 hours per day, regardless of the time of day and regardless of whether the same or different children attend. The following are not included: public schools; non-public schools whether or not accredited by the State Department of Public Instruction, which regularly and exclusively provide a course of grade school instruction to children who are of public school age; summer camps having children in full-time residence; Bible schools conducted during vacation periods; and cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment." G.S. 110-86(3)."

G.S. 7A-517 (5) defines Caretaker as follows:

"Caretaker - Any person other than a parent who has the care of a juvenile. Caretaker includes any blood relative, stepparent, foster parent, houseparent, cottage parent, or other person supervising a juvenile in a child-care facility. "Caretaker" also means any person who has the responsibility for the care of a juvenile in a day-care plan or facility as defined in G.S. 110-86 and includes any person who has the approval of the care provider to assume responsibility for the juveniles under the care of the care provider."

APPENDIX II

MEDICAL MULTIVICTIM/MULTIPERPETRATOR PROTOCOL

This protocol is being developed by a task force comprised of the following persons:

Joyce Moore, FNP, UNC Hospitals - Task Force Chair
Charles Dunn, Director, SBI
Dr. Tom Frothingham, Pediatrician, Duke University Medical Center
Dr. Denise Everett, Pediatrician, Wake Medical Center
Dr. Mark Everson, Psychologist, UNC Hospitals
Christine Carroll, Supervisor, Child Abuse/Neglect Unit, Child Day Care Section
Kathy Woodcock, CPS Program Consultant, Division of Social Services
Daisy Womble, CPS Supervisor, Chatham County Department of Social Services
Ellen Scouten, Assistant Attorney General

The Protocol will involve the following major medical centers in North Carolina:

UNC Hospitals	Chapel Hill
Duke University Medical Center	Durham
Wake Medical Center	Raleigh
Western NC Child Abuse Center	Asheville
Pitt Memorial Hospital	
East Carolina University	
Department of Pediatrics	Greenville
Bowman Gray Medical Center	Winston-Salem

PROPOSED TRAINING PLAN
TO IMPLEMENT THE
SBI/DAY CARE CHILD SEXUAL ABUSE INVESTIGATION PROTOCOL

Training Objectives:

1. To introduce legislation which authorizes SBI involvement in child sexual abuse investigations in child day care facilities/homes.
2. To introduce the SBI/Day Care protocol.
3. To identify the general authority and roles of county departments of social services, the Child Day Care Section, SBI special agents, and local law enforcement.
4. To identify the joint mission of county departments of social services, the Child Day Care Section, the SBI, and local law enforcement in implementing the protocol.
5. To identify and clarify the specific roles of county departments of social services, the Child Day Care Section, local law enforcement, the district attorney, the SBI, and other resource personnel in implementing the protocol.
6. To identify, discuss, and resolve the concerns of the various local personnel involved in the investigations.
7. To offer local personnel guidance in beginning to organize into cohesive teams.

Training Delivery:

There will be six, one-day (10AM - 3PM) training sessions in the following sites central to SBI districts: Asheville, Greensboro, Charlotte, Raleigh, Fayetteville, and Greenville. The training will begin in late July and end in late August of 1992.

Anticipated Participants:

There will be 50 - 120 participants per site, which may include: local CPS social workers and supervisors, local designated SBI agents and supervisors, local law enforcement officers and supervisors, local district attorney office personnel, children's program representatives, rostered CME providers, and other local medical and mental health personnel. Participant pre-registration is to be managed by the DSS-CPS training unit.

Trainers:

There will be four co-trainers per training session. Trainers will be from the NC Division of Social Services or from county departments of social services, the SBI, the Child Day Care Section and the attorney general's office.

Training-for-Trainers:

There will be one train-the-trainers session at the Justice Academy in Salemburg on or around the week of April 6, 1992. This training will be conducted by the SBI/DC Training Subcommittee for an anticipated 25 trainers.

Curriculum Design:

The curriculum outline is to be completed by February 17, 1992. The full curriculum will be completed by the end of March, 1992.

Training Materials:

- Materials will be developed/produced by the SBI/DC Training Subcommittee using SBI and Division of Social Services staff development and graphics assets.

Training Costs (other than in-kind):

Costs may include refreshments at training sessions, use of facilities, and participant scholarships.

Training Resources:

To date, there has been \$3,600 in federal grant funds budgeted by the Division of Social Services to assist in this initiative.

AN ACT TO CLARIFY THE INTENT OF HOUSE BILL 597.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-542 is amended by rewriting the last sentence to read: "The provisions of the Article shall also apply to ~~day/center~~ child day care facilities and ~~day/center plans~~ child day care homes as defined in G.S. 110-86."

Sec. 2. G.S. 7A-543 is amended by adding a third paragraph to read:

"Upon receipt of any report of child sexual abuse in a day care facility or day care home, the Director shall notify the State Bureau of Investigation within 24 hours or on the next work day. If child sexual abuse in a day care facility or day care home is not alleged in the initial report, but during the course of the investigation there is reason to suspect that child sexual abuse has occurred, the Director shall immediately notify the State Bureau of Investigation. Upon notification that child sexual abuse may have occurred in a day care facility or day care home, the State Bureau of Investigation may form a task force to investigate the report."

Sec. 3. G.S. 7A-544 reads as rewritten:

"G.S. 7A-544. Investigation by Director; ~~notification of State Bureau of Investigation if sexual abuse in day care~~ notification of person making the report.

When a report of abuse or neglect is received, the Director of the Department of Social Services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the

Director shall immediately, but no later than 24 hours after receipt of the report, initiate the investigation. When the report alleges neglect, the Director shall initiate the investigation within 72 hours following receipt of the report. The investigation and evaluation shall include a visit to the place where the juvenile resides. All information received by the Department of Social Services shall be held in strictest confidence by the Department.

If the investigation reveals abuse or neglect, the Director shall decide whether immediate removal of the juvenile or any other juveniles in the home is necessary for their protection. If immediate removal does not seem necessary, the Director shall immediately provide or arrange for protective services. If the parent or other caretaker refuses to accept the protective services provided or arranged by the Director, the Director shall sign a complaint seeking to invoke the jurisdiction of the court for the protection of the juvenile or juveniles.

If immediate removal seems necessary for the protection of the juvenile or other juveniles in the home, the Director shall sign a complaint which alleges the applicable facts to invoke the jurisdiction of the court. Where the investigation shows that it is warranted, a protective services worker may assume temporary custody of the juvenile for the juvenile's protection pursuant to Article 46 of this Chapter.

In performing any of these duties, the Director may utilize the staff of the county Department of Social Services or any other public or private community agencies that may be available. The Director may also consult with the available State or local law-enforcement officers who shall assist in the investigation and evaluation of the seriousness of any report of abuse or neglect when requested by the Director. *If the Director's initial investigation of a report of abuse in a day care*

12-11-77
If a report reveals sexual abuse may have occurred, the Director shall notify the State Bureau of Investigation of the results of the initial investigation within 24 hours or on the next working day. The State Bureau of Investigation may send a task force to investigate the alleged sexual abuse and gather evidence that may be presented at a criminal trial.

Unless a petition is filed within five working days after receipt of the report of abuse or neglect, the Director shall give written notice to the person making the report that:

- (1) There is no finding of abuse or neglect; or
- (2) The county Department of Social Services is taking action to protect the welfare of the juvenile, and what specific action it is taking.

The notification shall include notice that, if the person making the report is not satisfied with the Director's decision, he may request review of the decision by the prosecutor within five working days of receipt. The person making the report may waive his right of this notification and no notification is required if the person making the report does not identify himself to the Director."

Sec. 4. G.S. 7A-548 reads as rewritten:

"G.S. 7A-548. Duty of Director to report evidence of abuse, neglect; notification of Department of Human Resources and State Bureau of Investigation.

(a) If the Director finds evidence that a juvenile has been abused as defined by G.S. 7A-517(1), he shall immediately make a written report of the findings of his investigation to the district attorney, who shall determine if criminal prosecution is appropriate, and who may request the Director or his designee to appear before a magistrate.

If the Director receives information that a juvenile has been physically harmed in violation of any criminal statute by any person other than the juvenile's parent or other person responsible for his care, he shall make an oral or written report of that information to the district attorney or the district attorney's designee within 24 hours after receipt of the information. The district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7A-543 involves abuse or neglect of a juvenile in day care, either in a day care facility or a day care home, the Director shall notify the Department of Human Resources within 24 hours or on the next working day of receipt of the report.

(b) If the Director finds evidence that a juvenile has been abused or neglected as defined by G.S. 7A-517 in a day care facility or day care home, he shall immediately so notify the Department of Human Resources and, in the case of child sexual abuse, the State Bureau of Investigation, in such a way as does not violate the law guaranteeing the confidentiality of the records of the Department of Social Services.

(c) Upon completion of the investigation, the Director shall notify give the Department written notification of the results of the investigation required by G.S. 7A-544. If the Director's initial investigation, carried out pursuant to G.S. 7A-544, of a report of abuse in a day care facility reveals that sexual abuse may have occurred, the Director shall notify the State Bureau of Investigation of the results of the initial investigation. The State Bureau of Investigation may send a task force to investigate the alleged sexual abuse and gather evidence that may be presented at a criminal trial. Upon completion of an investigation of child sexual abuse in a day

care facility or day care home, the Director shall also make written notification of the results of the investigation to the State Bureau of Investigation.

The Director of the Department of Social Services shall submit a report of alleged abuse or neglect to the central registry under the policies adopted by the Social Services Commission.

BY IF THE DIRECTOR FINDS EVIDENCE THAT A JUVENILE HAS BEEN ABUSED OR NEGLECTED AS DEFINED BY G/S/ 7A/517 IN A DAY CARE FACILITY OR HOME/ HE SHALL IMMEDIATELY SO NOTIFY THE DEPARTMENT OF HUMAN RESOURCES AND THE STATE BUREAU OF INVESTIGATION IN SUCH A WAY AS DOES NOT VIOLATE THE LAW GUARANTEEING THE CONFIDENTIALITY OF THE RECORDS OF THE DEPARTMENT OF SOCIAL SERVICES/

Sec. 5. G.S. 114-15.3 reads as rewritten:

"G.S. 114-15.3. Investigations of child sexual abuse in day care.

The Director of the Bureau may form a task force to investigate and ~~prepare~~ gather evidence following a notification by the director of a county department of social services, pursuant to G/S/ 7A/544 G.S. 7A-543, that *the Director's initial investigation of a report of abuse in a day care facility reveals that* child sexual abuse may have occurred in a day care facility or day care home."

Sec. 6. This act becomes effective July 1, 1992.



North Carolina General Assembly

Legislative Services Office
Legislative Office Building
300 N. Salisbury Street, Raleigh, N. C. 27603-5925

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September 11, 1991

Catherine Sonnier
Senior Policy Specialist
Children, Youth, and Families Program
NCSL
1560 Broadway, Suite 700
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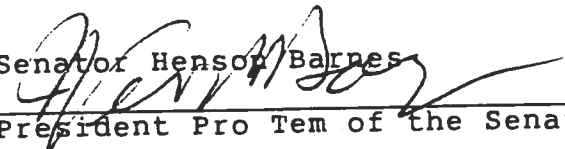
Dear Ms. Sonnier:

We are pleased to submit to you our application for NCSL's Child Care Financing Technical Assistance Grant.

The North Carolina General Assembly is vitally interested in the child day care services provided throughout the State and is excited about the possibilities of expanding and improving these services with the help of the new federal day care funds. The technical assistance which would be made available to the State through NCSL's child care financing grant would be very helpful in moving North Carolina towards its goal of developing a day care management system both at the state and county level which is responsive to the needs of children and their parents.

We have worked closely with the Department of Human Resources in developing the proposal and we are happy that Secretary Flaherty has endorsed the project (see attached letter). We hope you will look favorably upon our request for assistance.

Sincerely,


Senator Henson Barnes
President Pro Tem of the Senate


Speaker Daniel T. Blue, Jr.
NC House of Representatives

TR 6-134



North Carolina Department of Human Resources

101 Blair Drive • Caller Box No. 29526 • Raleigh, North Carolina 27626-0526

Courier # 56-20-00

James G. Martin, Governor

David T. Flaherty, Secretary

September 16, 1991

The Honorable Henson Barnes
President Pro Tempore
North Carolina Senate

The Honorable Daniel T. Blue, Jr.,
Speaker
North Carolina House of Representatives
Legislative Building
Raleigh, North Carolina

Dear Senator Barnes and Speaker Blue:

I am glad to confirm to you my support for your application for technical assistance to North Carolina from the Conference of State Legislatures Child Care Financing Project.

As you know from our discussions with your Fiscal Research Division staff, we are committed to the goal of establishing a single, comprehensive State Day Care Program that makes maximum use of all available funding and, most importantly, one in which families are not negatively affected when their circumstances change their eligibility for day care from one funding source to another. This will not be a simple task due to the complexities of both the federal programs requirements and our own organization for administering and delivering day care services in North Carolina.

I have just recently established an internal work group whose assignment is to develop recommendations for the policy framework and administrative structure we need to support a "seamless" day care services program and efficient program management at state and local levels. This application, then, is especially timely and we will welcome the opportunity for technical assistance of this kind.

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The Honorable Henson Barnes
The Honorable Daniel Blue
September 16, 1991
Page 2

We will hope for a favorable response from NCSL and look forward
to working with the Project staff.

Sincerely,



David T. Flaherty

DTF/jh

136-136

APPLICATION FOR NCSL'S CHILD CARE FINANCING
TECHNICAL ASSISTANCE GRANT

Background

North Carolina's existing publicly subsidized child day care program combines several sources of State and federal funds to provide child care, early childhood education, and parent education and consumer services to a variety of low-income and otherwise needy families.

Subsidized day care services are currently being provided to more than 21,500 children each month. Services for the majority (13,800+) of these children are made available through the State Day Care Program, which combines State appropriations, Social Services Block Grant funds and the Title IV-A funds for "At-Risk Children" to meet the child care needs of a variety of families. Except for the Title IV-A funds which are limited to working families, the State Day Care Program supports low-income families who need child care in order to work, complete their basic education, or participate in job training activities. The State Day Care Program also assists children who are receiving child protective services or permanency planning services. In addition to the State Day Care Program, Title IV-A funds available under the Family Support Act (FSA) of 1988 and State funds provide child care assistance to approximately 7,700 children each month for JOBS participants, working AFDC recipients, and other families eligible for FSA child care.

For the State Day Care Program, funds are allocated to each of the 100 counties according to a formula established by the North Carolina General Assembly. For all funds, the local departments of social services determine family eligibility, help families locate child care arrangements, and pay the providers. Although there are some instances in which the requirements placed upon the child care providers differ, all families may choose their provider. Child care services may be purchased from State-regulated child care centers and homes, Head State programs, public school or church-operated programs, and from relatives or other individuals selected by the parent.

Issues That Need to Be Addressed

North Carolina has as one of its goals the provision of child care services for families which are not interrupted when changes in the family situation affect eligibility for a particular funding source. There are several issues which need to be resolved before this "seamless system" of day care becomes a reality. These include:

(1) Variation in Program Administration at County Level

North Carolina's Social Services system is state supervised and county administered. With few exceptions, the state does not participate in the cost of local administration for income maintenance and social services programs, including day care. Since the State does not mandate staffing arrangements for programs, county program administration is a reflection of the county's funding, policy, and management style. Arrangements for day care program administration, like those for all programs, vary widely across the State. A few counties have day care coordinators dedicated to day care administration; some have day care social workers (full or part-time) paid from the Social Services Block Grant or county funds; other counties rely on AFDC eligibility workers to manage some Family Support Act day care, and others have virtually no dedicated staff to administer or manage the program.

With the advent of the federal day care block grant, funds for services will nearly double. The volume of day care applications is expected to rise and eligibility determination will become more complex thanks to multiple program requirements. Nevertheless, local mechanisms for administering the program have not received additional federal or state funding and may not receive additional county funding. This situation poses special challenges for state level administration of the program and makes integration of policy at the state level a critical factor in the effective delivery of services.

(2) Integration of Day Care Policy Development and Administrative Direction at the State Level

Several state level policy making bodies direct day care policy. All are located within the Department of Human Resources. The Division of Facility Services and the Child Day Care commission are responsible for the regulation of all day care providers in the State. The Division of Facility Services is responsible for administration and management of the State Day Care

Program which subsidizes low-income families who qualify for day care services. The Division of Social Services is responsible for the administration of day care services related to the AFDC, Title IV-A At Risk and JOBS programs. The Social Services Commission has rule making authority over payment rates for all day care services, and over client eligibility for all funding sources except the Child Care and Development Block Grant. The Secretary of the Department of Human Resources has rule making authority (except for payment rates) for the Child Care Development Block Grant.

The goals, policies, and eligibility requirements of these many programs vary and sometimes conflict with one another. No single rulemaking body or Division reviews day care policy with an eye to integrating and simplifying state level policy and administration. At present, separate policy manuals exist for day care services under AFDC, JOBS, and the State Day Care Program.

Request for Technical Assistance Grant

The increased availability of funds for expanded day care services has intensified already existing problems in the day care system as well as creating new ones. NCSL's Technical Assistance Grant could help North Carolina address some of the following questions:

- o How can legislators be best informed of the complexities of the current day care system and what legislative actions are needed to allow for the necessary changes in the system?
- o How is North Carolina to implement a system of day care services, regardless of the funding source, amid the complex administrative and policy issues described above.
- o What kind of state-level day care management structure is needed?
- o How can policy be developed that integrates all of the varying programmatic demands?
- o What kind of county level day care management structure is needed to enable counties to administer a seamless day care program?
- o How can the State develop an accountability system which can assure the funding sources that their dollars are being spent in an appropriate and effective way?
- o How are other states which are similar to North Carolina addressing these issues and questions?

- o What kind of information can be derived from this effort to be conveyed back to Congress to tell them how fragmented Day Care Services are under the different funding sources?

Summary

North Carolina is now in a position to develop and implement a system of quality day care services that meets the needs of its children first, while maintaining fiscal and programmatic accountability. Its legislature is concerned about providing quality day care services that are also affordable and is actively involved in the pursuit of this goal through its work in standing and specially appointed study commissions. And while North Carolina has made great progress in implementing its day care programs and has a lot to offer other states in terms of its head start initiatives and its public school programs, it could benefit greatly from the experiences of other states in their efforts to fund and administer a quality seamless day care services program. NCSL's technical assistance grants would be well utilized by North Carolina and would demonstrate that significant returns can be achieved on modest investments.

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1560 BROADWAY SUITE 700 DENVER, COLORADO 80202
303-830-2200 FAX: 303-863-8003

PAUL BUD BURKE
PRESIDENT OF THE SENATE
KANSAS
PRESIDENT, NCSL

THE NCSL CHILD CARE PROJECT

Billions of federal dollars are available to states over the next three years for expanding and improving child care and other early childhood education programs.

For maximum impact, these new and expanded federal resources must be integrated within existing state programs. This can be a complicated task given the maze of eligibility criteria, program requirements, matching rates, regulatory structures and administering agencies at both the state and federal levels.

TERRY C. ANDERSON
DIRECTOR
LEGISLATIVE RESEARCH COUNCIL
SOUTH DAKOTA
STAFF CHAIR, NCSL

NCSL's Child Care Project assists state legislatures to develop comprehensive state policies to improve state child care systems and to maximize federal support.

WILLIAM POUND
EXECUTIVE DIRECTOR

Services for Legislatures

The project provides **information and research services** to legislators and legislative staff on a wide range of child care issues with emphasis on financing, coordination, and quality improvement strategies.

The project also provides **technical assistance** to a selected number of states on financing, coordination, and quality improvement issues. States are selected to receive technical assistance based on the level of legislative interest, the likelihood of improving the child care system, and the level of support in other sectors including the governor's office, the executive branch, providers and advocate groups.

Specific technical assistance activities and services can include:

- o arranging consultant services for intensive state-specific research and analysis of state early childhood financing including recommendations for improvement
- o sponsoring a workshop for legislators and legislative staff
- o assisting with drafting and reviewing appropriations and other relevant legislation
- o reviewing the state plan for implementing federal child care programs
- o providing timely information regarding the impact of proposed federal regulations and reviewing state regulations
- o providing testimony to social services, education and fiscal committees

Services are provided by NCSL staff and experts from the national level and from other states including legislators, academicians, and experts from the private sector.

The NCSL Child Care Project is funded by the Carnegie Corporation of New York and the Foundation for Child Development. For more information, contact Catherine Sonnier in NCSL's Denver office.

6491

From : National Association for the Education of Young Children

DRAFT ONLY

State Requirements for Records Checks to Screen Child Care Personnel

In response to public concern about potential child sexual abuse, many states have begun to require that criminal records be checked of licensees and persons who care for children. Often the requirement covers family members, for types of care in a residential setting. Some states are also checking abuse registries. Staff with records of relevant crimes or child abuse are not permitted to work in child care settings.

Some aspects of this issue include the following:

- What crimes are relevant? Most states have limited the records checks to crimes of violence, sex-related crimes, and crimes against children. Others include substance abuse and burglary. Illinois covers all crimes except minor traffic violations.

- Are records of convictions checked, or arrest records?

- What records are checked? Some states check state records of crimes, FBI records, and a new national records center, or the search may be limited to state records. Some states check only state records unless a person is new to the state. Records of child abuse may also be checked, either through the state's central registry, or other records of the social service agency.

- Does the procedure protect those who were falsely accused of crimes or abuse? For criminal records, most states only search for records of convictions, but abuse registries include names of persons whose cases have not been adjudicated.

- Are federal records checked as well as state records? Checking Federal records yields records when a person has committed crimes in other states, but it is expensive and time-consuming. Some states check Federal records only of persons who live across the state line, and some check records of those who have lived in the state only a few years.

- Are checks made by name or fingerprinting? Federal checks require fingerprinting; state records can be checked by name or fingerprinting. If only names are checked, then

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individuals may escape identification by using a new names.

-Who is checked? Some states check records of all staff, volunteers in centers and of family day care providers, their assistants, household members and sometimes sometimes other relatives. Other states limit their checks.

- Are both family day care and centers covered by the requirement? Some states check family day care but not centers.

- Who has access to records? How does the state assure privacy of records?

Even when a state develops policies that deal satisfactorily with these issues, there are still issues of cost and time delays. Since most of the individuals who abuse children have not yet been detected and convicted, the criminal records and abuse registries will reveal only a fraction of potential abusers, at a high cost. States may lose their ability to facilitate new supply of child care by responding in a timely way to applicants for licenses.

Some states are opposed to checking records. Bottlenecks in records-checking may delay a state's ability to respond to applicants for licenses in a timely and helpful way. They fear that pressures to check records may force them to use a disproportionate amount of tax money on a limited method of protecting children. One state commented "Unproductive and a waste of time and money." Other states believe that identifying any potential abusers has to be done if it offers some protection to children.

Table 10 and its notes identify whether checks are made of state records, FBI Records, or child abuse records, and what staff and other individuals are covered by the requirement.

Twenty states do not check abuse registries, and twenty-two states do not check criminal records for staff in centers. For family day care, twenty-three states do not check abuse registries, and twenty states do not check criminal records.

Seven states do not routinely check any records:

MT	
NC	TN
NJ	WI
OH	WY

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Eleven states check criminal records but not abuse registries:

AL	LA
CT	MD
FL	ME
IN	MS
KY	NM
	VA

Twelve states check abuse registries but not criminal records:

AR	IL	NY
CO	MO	SD
DC	ND	UT
DE	NE	VT

Indiana and Wisconsin require a notarized form stating that a person has no record, and then spot check records on a random basis for centers and homes. Montana and Ohio also require affidavits, but Montana does not check them and Ohio did not supply the information about their method. Alaska and Vermont check their abuse registry, but only for center licensees (the owners or directors) and licensed family day care providers.

Only sixteen of the states that check criminal records are routinely checking by fingerprinting. They are:

AL	LA
AZ	MD
CA	MN
FL	NM
GA	NV
HI	PA
ID	RI
KY	WV

Missouri checks by fingerprint only when a positive identification cannot be made otherwise.

Fourteen states check national records, through FBI checks, rather than relying only on state records. They are:

AL	NM
AZ	NV
CA	PA*
GA	RI
HI	TX*

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ID*
MD
MN

WV*

The states that require FBI checks may not check every record. Not enough detail was supplied by the states so that the policies could be fully compiled. Idaho checks only individuals who have been resident in the state for less than three years; West Virginia checks those who have been residents for less than five years. Pennsylvania checks FBI records only for out-of-state new job applicants, those who live in another state and work in Pennsylvania. Texas also limits their FBI checks to out-of-state residents.

Chart 10.1 lists the states that require criminal records checks and/or abuse registry checks for centers or group day care homes. Chart 10.2 lists those that do not.

Twenty-nine states now require criminal records checks for staff or for licensees in centers. Thirty states check abuse registries for centers. The biggest change between 1986 and 1989 is a growth in the abuse registry checks, which were done in very few states in 1986.

Nineteen states check criminal records for group day care homes, and twenty-one check child abuse registries for this type of care.

Twenty-five states check criminal records for family day care, and twenty-eight check their abuse registries.

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TABLE 10. STATE SCREENING OF CHILD CARE PERSONNEL FOR ABUSE RECORDS OR CRIMINAL RECORDS

STATE	STATE CRIM. RECRDS BY NAME	STATE CRIM. RECRDS BY FPRINTS	FBI	ABUSE REGSTRD	Owner Director	CENTER CARE			Vols.	GROUP HOMES			FAMILY DAY CARE HOMES	
						Classrm Staff	Other staff; family members			Provider	Employees	Other adults; family members	Providers	Other adults; family members
AK	No	No	No	Lcd.	x				n/a			x		
AL	Yes	Yes	Yes	No	x	x	x		x			x		
AR	No	No	No	Yes	x				x	x	x	x	x	
AZ	Yes	Yes	Yes	Yes	x	x	x	x	n/a			x	x	
CA	Yes	Yes	Yes	Yes	x	*	*	*	x	x	x	x	x	
CO	No	No	No	Yes					n/a			x	x	
CT	Yes	No	No	No	x	x	x	x	x	x	x	x	x	
DC	No	No	No	Yes	x				n/a			x		
DE	No	No	No	Yes	x				x		x	No	No	
FL	Yes	Yes	No	No	x	x	All employd		n/a			No		
GA	Yes	Yes	Yes	Yes	Crim. State FBI	Crim. State & abuse	Employees State Crim; abuse		Crim. State FBI	Crim. State ; & abuse	Crim. State & abuse	Crim. State & FBI	Crim. State & abuse	
HI	Yes	Yes	Yes	Yes	x	x	x	x	x	x	x	x	x	
IA	Yes	No	No	Yes	x	*	*	x	x	x	x	x	x	
ID	Yes	Yes	LTD*	Yes	x	x	x	x	x	x	x	N/a		
IL	No	No	No	Yes	x	x	Employees		N/a			x	x	
IN	Yes	No	No	No	x	x	x	x	N/a			x	x	
KS	Yes	No	No	Yes	x	x	x	x	x	x	x	x	x	

08:17AM #823 P.06/19

1992.04-08

GOV PER AUDIT COMM

FROM : NCSL DENVER

SENT BY:

11-22-91 : 15:47 :

303 863 8003:# 6/12

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TABLE 10. STATE SCREENING OF CHILD CARE PERSONNEL FOR ABUSE RECORDS OR CRIMINAL RECORDS

08:18AM #823 P.07/19

1992.04-08

TO: MISSOURI PER AUDIT COMM

FROM: NCSL DENVER

STATE	STATE CRIM. RCDS BY NAME	STATE CRIM. RCDS BY PRINTS	FBI	ABUSE RCSTRY	Owner Directr	CENTER CARE			*Vols.	GROUP HOMES			FAMILY DAY CARE HOMES	
						Classrm Staff	Other staff; family members			Provider	Employees	Other adults; family members	Providers	Other adults; family members
KY	Yes	Yes	No	No		*	*	*	*	*	*	*	*	*
LA	Yes	Yes	No	No	x	*	*	*	N/a			x	*	*
MA	Yes	No	No	Yes	x	*	*	*	N/a			x	*	*
MD	Yes	Yes	Yes	No	x	x	x	x	x	x	x	x	x	x
ME	Yes	No	No	No	x	x	x	x	x	x	x	x	x	x
MI	Yes	No	No	Yes	Abuse & Crim.				abuse	abuse	abuse	abuse	abuse	abuse
MN	Yes	Yes	Yes	Yes	x	x	x	x	x	x	x	x	x	x
MO	No	No	No	Yes	x also Board Chair				N/a			x		
MS	Yes	No	No	No		x	x		x			N/a		
MT	No *	No	No	No										
NC	No	No	No	No										
ND	No	No	No	Yes	x	x	x	x	x			x		
NE	No	No	No	Yes	x	x	x	x	x	x	x	x	x	x
NH	Yes	No	No	Yes	x	x	x	x	x	x	x	x	x	x
NJ	No	No	No	No										
NM	Yes	Yes	Yes	No	x	x	x	*	x	x	x	x	x	x

SENT BY:

11-22-91 : 15:48 :

303 863 8003: # 7/12

DRAFT ONLY

SENT BY:

TABLE 10. STATE SCREENING OF CHILD CARE PERSONNEL FOR ABUSE RECORDS OR CRIMINAL RECORDS

STATE	STATE CRIM. RCORDS BY NAME	STATE CRIM. RCORDS BY FPRINTS	FBI	ABUSE REGISTRY	CENTER CARE			Volts.	GROUP HOMES			FAMILY DAY CARE HOMES	
					Owner Director	Classrm Staff	Other staff; family members		Providers	Employees	Other adults; family members	Providers	Other adults; family members
NY	Yes	Yes	Yes	Yes	x	x	x	x	x	x	x	x	x
NY	No	No	No	Yes	x	x	x		x	x		x	
OH	No	No	No	No									
OK	No	No	No	No									
OR	Yes	No	No	FDC	x Crim	x Crim	x Crim		x Crim.			x abuse & x Crim.	
PA	Yes	Yes	Ltd*	Yes	x	x	employees* if paid	x Crim	x	x	x	x	x
RI	No	No	Yes	Yes	x Crim	x Crim	x Crim	x Crim	x Crim & abuse	x Crim & abuse	x Crim abuse	x abuse	x abuse
SC	Yes	No	No	Yes	x	x	x	x	No			No	
SD	No	No	No	Yes	x	x	x	x	x	x	x	x	x
TN	No*	No	No	No									
TX	Yes	No	Ltd*	Yes	Crim & Abuse	Crim	Crim	x	Crim & abuse	Crim	x	Crim & abuse	x
UT	No	No	No	Yes	x	x	x	x	x	x	x	No	
VT	No	No	No	Ltd.*	x				N/a			x licensee (Not regstd)	
VA	Yes	No	No	No	x	x	employees		N/a			x	x
		No	No	Yes	x	x	x	x	x	x	x	x	x

1992, 04-08 08:18AM #823 P.08/19

FROM : NCSL DENVER : GOV PER AUDIT COMM

8/1/99

11-22-91 : 15:48 :

303 863 8003: # 8/12

DRAFT ONLY

TABLE 10. STATE SCREENING OF CHILD CARE PERSONNEL FOR ABUSE RECORDS OR CRIMINAL RECORDS

STATE	STATE CRIM. RCRDS BY NAME	STATE CRIM. RCRDS BY FPRINTS	FBI	ABUSE REGISTRY	Owner Director	CENTER CARE		A-Vols.	GROUP HOMES			FAMILY DAY CARE HOMES	
						Classroom Staff	Other staff; family members		Provider	Employees	Other adults; family members	Providers	Other adults; family members
WY	Yes	Yes	Ltd*	In area	x	x	x	x	n/a			x	x
WY	No	No	No	No									

08:19AM #823 P.09/19

1992.04-08

TO GOV PER AUDIT COMM

6149
bhl-9

FROM : NCSL DENVER

SENT BY:

11-22-81 : 15:49 :

303 863 8003: # 9/12

DRAFT ONLY

Chart 10.1 STATES THAT CHECK CRIMINAL AND ABUSE RECORDS FOR CENTERS AND HOMES

<u>Check original records</u>		
<u>Centers</u>	<u>GHS</u>	<u>FDCs</u>
30	20	25

<u>Check abuse records</u>		
<u>Centers</u>	<u>GHS</u>	<u>FDCs</u>
30	21	29

AL
AZ
CA
CT
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GA
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IN
KS
KY
LA
MA
MD
ME
MI
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MS
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NV
OR
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ME
MN
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NH
NM
NV
OR
PA
RI
SC
TX
VA
WA
WV*

AK*
AR
AZ
CA
DC*
DE
GA
HI
IA
ID
IL
KS
MA
MI
MN
MO
ND
NE
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NV
NY
PA
RI
SD
TX
UT
VA
WV*

AR
CA
AK*
AR
AZ
CA
CO
DC
GA
HI
IA
IL
KS
MA
MI
MN
MO
NE
ND
NH
NV
NY
OR
PA
RI
SD
TX
VT (LIC*)
WA
WV*

G-150

DRAFT ONLY

*NOTES: Table 10.1 and Table 10.2

AK DC MI MO VT check abuse registry only for the licensee:
i.e. the administrator or family day care provider, but not
employees.

CA IA MA KY LA check records depending on child contact. MA,
persons who have unmonitored access to children; KY, LA
anyone having disciplinary authority over a child.

KY does not check records of the director; other states do.

ID checks FBI records only when a person has not been a
resident of the state for 3 years; WV for those who have been
residents for less than 5 years. PA and TX only for out-of-
state workers.

IN OH MT and WI requires affidavit from individuals stating
that they have no records. IN and WI make spot checks of
records on a random basis; MT does not check.

MI checks the abuse registry and criminal records for the
center licensee only, not employees, checks criminal records
for home providers, other adults and family members. KY
reports they check employees but not the administrator in
centers.

KY and MS report that they check only employees in centers
and homes. The states may not mandate these checks, since the
licensees are not checked.

MO checks by fingerprint only when a positive identification
cannot be made otherwise.

OR checks abuse registry only for family day care.

VT checks abuse records for licensees (owners/directors) in
centers, and providers only in licensed family day care.
Registered family day care providers are not checked.

WV only checks abuse records in the immediate geographic
area.

6-151

DRAFT ONLY

CHART 10.2. STATES THAT DO NOT CHECK CRIMINAL RECORDS AND/OR ABUSE REGISTRY

<u>DON'T CHECK CRIMINAL RECORDS</u>			<u>DON'T CHECK ABUSE REGISTRY</u>		
<u>CENTERS</u>	<u>GHS</u>	<u>FDCs</u>	<u>CENTERS</u>	<u>GHS</u>	<u>FDCs</u>
22	14	24	20	13	23
AK	AR	AK	AL	AL	AL
AR	DE	AR	CT	CT	CT
CO	MI	CO	FL	MD	DE
DE	MT	DC	IN	ME	FL
DC	ND	FL	KY	MT	IN
IL	NE	IL	LA	NM	KY
MO	NY	MI	MD	OH	LA
MT	OH	MO	ME	OR	MD
NC	SC	MT	MS	SC	ME
ND	SD	NC	MT	TN	MS
NE	TN	ND	NC	WI	MT
NJ	UT	NE	NJ	WY	NC
NY	WI	NJ	NM		NJ
OH	WY	NY	OH		NM
OK		OH	OK		OH
RI		OK	OR		OK
SD		RI	TN		SC
TN		SC	VA		TN
UT		SD	WI		UT
VT		TN	WY		VA
WI		UT			VT (REG)*
WY		VT			WI
		WI			WY
		WY			

*NOTES: TABLE 10.2
VT does not check records for registered homes; only licensed homes are checked.

6-152

CRIMINAL BACKGROUND CHECKS FOR CHILD CARE PROVIDERS

State Approaches

Virginia

Doris Jenkins, Dept. of Social Services, Division of Licensing Programs, (804) 662-6164

Background checks have been run on center and family day care personnel since 1988, including staff, board members, volunteers, and caretakers in family day care homes. They are screened by name through the state police for convictions of crimes related to children and sexual offenses and murder. Individual applicants pay for the check about 80% of the time and facilities pay about 20% of the time. The cost of the check is \$5. It takes five to seven days to process a check and the license is issued only after clearance is given. Applicants cannot appeal.

Jenkins feels that the background check deters people who have committed crimes against children from applying, as the system has found 7 convictions out of 15,000 clearances. She is concerned that Virginia is only checking convictions within the state and for limited crimes. She recommends giving the facility the discretion to screen for more crimes.

Colorado

Dennis Draper, Dept. of Social Services, Office of Child Care Services, (303) 866-5944

Background screens are run on employees of centers, family homes, adoptive homes, or foster care facilities since October, 1990, including adult residents of family day care homes. The state checks the arrest sheet and sends it to the provider (or county) for further investigation. Only state records are checked for people who have lived in-state for at least two years. If not, FBI records are also checked. A conviction of violent or sexual offenses, drug sale, or an offense which has an "adverse reflection" on the individual prohibits child care employment. The individual or the facility pays for the checks, which cost \$17 for a state check and \$40 for state and FBI check. It takes about three days for a name criminal check. If the name matches a qualifying crime, a week is needed for a fingerprint check. Appeals are granted and the individual is not given a license until after his or her appeal succeeds. Only the facility operator and the state and county Social Services Depts see the records.

Draper is concerned about the slowness, as the Colorado Bureau of Investigation was not prepared for the system. He also said there were problems finding out the result of the arrest. He was especially concerned that, because the child care industry is transient, it is difficult to transfer information from one facility to another. Around 5% of the checks show an arrest record.

Georgia

Asa Bears, Department of Social Services, Office of Regulatory Services, (404) 894-4719

6-153

Informal Survey - NCSL Child Care Staff, April, 1991

Since 1985, all employees of centers, family day care, or group homes are screened. A person frequently around a family day care home is defined by state law as an employee. State records are checked by name on computer for employees, and fingerprints are checked for facility directors. If a match is found on a relevant crime, the state Office of Regulatory Services traces the case to the courts for the information on the crime and disposition. Convictions or arrests for any felony, or any drug offense (except simple marijuana possession), or any sexual offense prohibits child care employment, unless the person was acquitted. The cost is \$3 for a computer check and \$20 for a fingerprint check. It takes two days after the receipt of the application to complete the check. However, if there is a crime, it takes 30-45 days to get the court information and around 45 days for an FBI fingerprint check. Georgia will issue a temporary license based on the preliminary check.

The process allows for appeals. A hearing officer can overturn a decision based on mitigating circumstances and a person appealing can be employed until a determination has been made against him or her by the hearing officer. The Criminal Records Unit and the Legal Unit of the Office of Regulatory Services see the records. Barse feels that while the system has deterred criminals, the state is spending too much for not catching many criminals. He thinks that word has spread that the state is checking criminal backgrounds and so those with such background are not applying for child care employment. He is also disturbed by the long wait for court records and by certain errors in the records, such as listing the wrong crime. He also thinks there are too many non-pertinent crimes under "any felony," such as food stamp fraud, credit card fraud, or livestock theft.

Iowa

Barbara Bosch, Dept. of Human Services, Division of Adult, Children, and Families, Day Care Unit. (515) 281-6074

Iowa has been checking child care applicant names who have been convicted of certain crimes or have been the subject of a "founded child abuse report" for about five years. The state uses the checks to register group and family care homes and to license child care centers. After obtaining an applicant's criminal record showing a convicted crime from the state Department of Criminal Investigation, an "evaluation process" begins in the Day Care Unit's District Office. The process includes a committee, usually comprised of the licensing consultant, the district service administrator, and a social worker. This committee decides if the applicant should be licensed or registered. A regular Human Services Department appeals process is used. The licensing consultant and the owner of the facility are the only people who see the criminal records when licensing a center. The District Office of the Day Care Unit and the provider are the only ones who see the records when registering group or family care homes. The check takes three to six weeks, and longer in the fall because of new school openings. Registrations are issued only after clearance of the check, but a license will sometimes be issued during the check with an understanding that it is pending.

Bosch thinks the evaluation process is much fairer than using the administrative code of the state to make a determination. Iowa previously did it that way. She thinks a state should have some kind of screening of criminal history. She is concerned that Iowa's checks are only limited to within the state boundaries and that it takes too long to process. Her ideal goal is 24 hour turnaround.

6-154

APPENDIX F

PEOPLE ATTENDING AND TESTIFYING

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD DAY CARE ISSUES

2-12-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

• Please check and add Full mailing address if you wish to be on mailing list
 NAME FIRM OR AGENCY AND ADDRESS

	HUCKLEBERRY'S Friends Child Day Care 1000 Sandale Street, Garner, NC 27520
✓ C.P. Holm	NC-2 eye 3424 Huckleberry Circle Raleigh, N.C. 27612
Barbara Vandenberg	CCR + R of Alamance PO Box 563 Burlington NC 27216
Kathy Hyles	Central Carolina Community College 502 W 3rd St. Lib. City, N.C.
Barbara Hunter	
AC Bore	DP
Charles Ridoutt	Ridoutt's Nursery + Kindergarten
Ruby Ridoutt	Ridoutt's Nursery + Kindergarten
✓ Tara Mattison	Garner's New Beginnings 2752 P.O. Box 1532 Garner N.C.
✓ Jane Clark	YWCA of Wake Co. 1012 Oberlin Rd., Raleigh, NC 27605
✓ Patsy Thigpen	P.O. Box 1638 Goldsboro, NC 27520
Ann P. Rees	DHR
Nancy Thompson	DHR/DFS/CDCS

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD DAY CARE ISSUES

2-12-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Barbara Spaulding

Child Day Care Section

Nancy D. Guy

N.C. Division of Social Services

Jeanne B. Marlowe

Child Day Care Section

Ron Barney

same as above

116 W. Jones St.
Raleigh, N.C.

Brown Woodard

OSRM

Jane Pittard

OSRM

Virginia G. Linn

Ken-Le Child Care Center, Inc.
3000 Cameron Dr. Sanford, N.C. 27330

Patricia Austin

Central Carolina Community College
502 W. 3rd Street, Siler City, NC 28134

MP

1014 North Street
Day Care Workers (Smithfield), NC 27579

Stephanie Taylor

40 3344 Hillsborough St.
Pres. NC Day Care Assn. Raleigh, NC 27605

Ann Haddell

DHR Budget & Analysis

Jeanne Marlowe

The Kid's Place P.O. Box 939
Family Day Care Home, Pittsboro, NC

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD DAY CARE ISSUES

2-12-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

<p><i>Donna Jones Williams</i></p>	<p><i>414 Blount St. Raleigh, NC 27601</i> <i>NC Rural Eco. Dev. Center</i> <i>2708 E. Ash St, GOLDSBORO, NC 27534</i></p>
<p><i>BILL BATTIS</i></p>	<p><i>SMALL WORLD CHILD CARE</i> - <small>WAYNE CO. PROFESSIONAL CHILD CARE ASS.</small></p>
<p><i>ELLIOTT WURTZEL</i></p>	<p><i>25 ROBERSON DR.</i> <i>CHAPEL HILL, NC 27514</i></p>
<p><i>Patricia A. Yancey</i> <i>Mailing list please</i></p>	<p><i>N.C. Coalition on Adolescence & Preg. Prevention</i> <i>5486 Pine Top Circle Raleigh, 27612</i></p>
<p><i>Louise Romanow ✓</i></p>	<p><i>Parents for Daycare Quality</i> <i>my address: 1010 Reedy Creek Rd</i> <i>Cary NC 27513</i></p>

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

3-10-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Ann Beland	DPI
Laura Mast	DPI
Lucy Roberts	DPI
Beckie Street	Parker Poe Adams & Bernstein
Nancy Guy	Div. of Social Services
C.P. Holden	1000 Loundale St., Greensboro, N.C. 27529
ELLIOTT WURTZEL	25 ROGERSON DR. CHAPEL HILL, NC 27514
Charles Ridoutt	Ridoutt's Nursery + Kindergarten 606 ST. MARY'S ST. GARNER 275
Ruby Ridoutt	SAME AS ABOVE
Barbara Vandenberg	NC Assn. for the Education of Young Children
Louise Romain	Parents for Daycare Quality
Steven Rader	DHR

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

3-10-92

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
<i>Linda Harris</i>	<i>Speakers Office</i>

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

4-8-92

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Catherine Sonnier	NCSL 1560 Broadway Denver
Nancy D. Gray	N.C. Division of Social Services
<i>[Signature]</i>	DHR General Counsel
Darrell Rouse	DHR - Economic Oppt.
Jane Gray	DO Justice
Donna Bryant	NC Child Day Care Commission
Ann May	Child Day Care Section
Jana Fleming	UNC-CH Frank Porter Graham Child Development C
Judy H. Bode	citizen
Sue Russell	Day Care Services Association
Patti Spaw	Child Care Resources Inc
Ellen Scouten	Attorney General's office

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Stan Lewis	SBI DCI 407 N. Blount St.
William Cray	SBI/DCI 407 N. Blount St
Rellen Anderson	DOJ
Stephanie Nixon	DOJ
Leslie Bailey	student - 107 Potrat Meredith College
Renee Burchard	student - 105 Potrat Meredith College
WILLIAM R. BATTS	1411 E. WALKER ST GOLDSBORO, NC 27530
Lynne W Myers	Child Care Resource and Referral of Wake Co. 3901 Barrett Dr Suite 104 Raleigh NC 27609
Heidi Neff	Southern Child Dev. Comm. P.O. Box 250, Webster, NC 28788

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

4-16-92

Name of Committee

Date

- Subcommittee -

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NAME

FIRM OR AGENCY AND ADDRESS

Danell Rouse	DHR - Econ. Oppt.
Ann Waddell	DHR - Budget & Analysis
Lynda McDaniel	DFS - Division of Facility Service
Joyce Johnson	DHR - Controller's Office
Nancy Johnson	DHR / DFS / CDCS
Margaret Guess	DHR / DFS / Child Day Care
Vicki Carr	DHR / DSS / Public Assistance
Jeanne Downs	Child Care Resources, Charlotte
Nancy Wilson	DHR / DFS / Child Day Care Section
Susan Lake	Counsel

Payment Rate

Child Care Issues Staff
meeting
April 14, 1992,
9:30 a.m.
634

List of Attendees

Nancy Hampson	CDCS
Sarah Lake	Committee Liaison
Joyce Johnson	DHR Controller's Office
Rona Penney	CDCS
Sue Russell	DSS Director's Day Care Committee
Lynda Mc Daniel	DFS
Anna Wasdell	DHR - Budget & Analysis
Margaret Guess	DFS - Child Day Care Sect.
Victor Lam	OSS - Public Assistance section
Nancy D. Guy	DSS - Emp. Programs Section
Nancy Wilson	DFS - Child Day Care Section
Mary Barber	

VISITOR REGISTRATION SHEET

COMMITTEE ON CHILD CARE ISSUES

4-27-92

Name of Committee

Date

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NAME	FIRM OR AGENCY AND ADDRESS
Barbara Jordan	Division of Economic Opportunity (DHR) Chastree Blvd. Ral.
Nancy D. Hutz	N.C. Div. of Social Services
Victor H. Carr	N.C. Div. of Social Services
Stephanie Jauril	NC Day Care Assoc
Sue Russell	Day Care Services Assn
Jane Gray	Atty Gen. Office
Pat Yancy	NCCA @
Bill Batts	27530 1411 E. WALNUT ST, GOLDSBORO
Kent Herring	Wayne Co. Professional Child Care Assn 106 E Lockhart Dr. Goldsboro
Anna Wasdell	DHR - Budget + Analysis
Lynda McDaniel	DHR - Facility Services

APPENDIX G
ESSENTIAL MATERIALS PRESENTED

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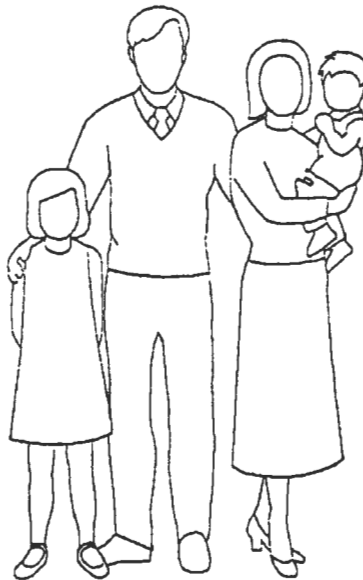
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Department of Human Resources
Secretary's Office - State Head Start Funds

- o The Federal Head Start Program is providing an additional \$7 million of expansion funding for new North Carolina Head Start slots across the state and the General Assembly approved the allocations of over \$3.8 million of Federal Block Grant money for "wrap-around" day care for Head Start classes.
- o Approximately 135 new classroom spaces are needed to provide quality facilities for these children in the existing 44 Head Start programs in the State.
- o The General Assembly approved the allocation of \$1.6 of State Capital Facilities Legislative Bond funds for the purpose of awarding grants equivalent to one modular classroom or renovations to existing facilities to serve additional children through the Head Start Program.
- o Each of the 44 programs will receive no more than \$36,364 from the proceeds of bonds and notes issued for Head Start purposes.
- o The Federal Head Start program serves approximately 12,000 economically disadvantaged North Carolina children at a cost of over \$31 million in federal funds; this equates to about \$2,500 per child per year.

Child Day Care Information
for the
Legislative Research Commission
Child Day Care Issues
February 12, 1992



Prepared by
Child Day Care Section
Division of Facility Services
Department of Human Resources



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for the
Legislative Research Commission
Child Day Care Issues
February 12, 1992

Prepared by
Child Day Care Section
Division of Facility Services
Department of Human Resources

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EXECUTIVE SUMMARY

North Carolina's child day care program has a diverse and complex nature. Most individuals at some time or other come in contact with day care -- as a consumer, caregiver, volunteer, trainer, regulator or interested party. This report focuses on the Department of Human Resources' administrative responsibilities for child day care and the issues related to those responsibilities.

The Department has primary responsibility for the monitoring, regulation and licensure of child day care providers, for investigation of all allegations of child abuse or neglect in child day care and for managing the subsidized child day care program.

In January, 1991, Governor Martin introduced Uplift Day Care, North Carolina's plan to coordinate existing and anticipated day care and Head Start resources to assist low income parents toward employment and career development and to improve the quality and the availability of child care for all children. Because of our responsibilities for child day care, the Department has lead responsibility for implementing the Uplift Day Care Plan which includes the administration of the new Federal Child Care and Development Block Grant and the entitlement child care required by the Family Support Act.

North Carolina's large number of working mothers and single heads of household has created a growing demand for subsidized child care. Therefore, a major emphasis of Uplift Day Care is providing care to more children. In that effort we have been very successful. The number of children who will receive subsidized care in SFY 91/92 is 51,400 versus the 34,400 in care during SFY 90/91. Further, the number of unserved children on county waiting lists has decreased from 14,500 in November 1990 to 7,800 in November 1991.

We have also made strides in addressing the quality of child care through the basic child care curriculum for day care staff, the comprehensive child care services offered to children and their families in five Early Start Programs, and a planned study of child day care staff salaries. Start-up loans, local day care coordinators and Head Start Wrap Around programs will help develop slots in underserved portions of the State.

Recent legislation improved regulation of day care by shortening the time period for contested cases, improving access to illegal operations, authorizing the use of temporary permits for new operations, and authorizing the SBI to use a task force to investigate child sexual abuse in day care. In addition, legislative changes have increased the rates for subsidized care in homebased arrangements, added child and working mother population factors to the county allocation formula, and allowed the State to use one set of market rates for all funding sources.

We can all be proud of how the Executive and Legislative Branches have worked effectively together to improve the quality of child day care and to extend child day care services to more low income families.

2

CHILD DAY CARE SECTION

Division of Facility Services
Department of Human Resources

The Child Day Care Section is the state agency responsible for child day care administration. The Section acts cooperatively with a number of other state and local agencies to regulate child day care in North Carolina. The four major responsibilities of the Section are:

1. the regulation of child day care centers and homes;
2. the investigation of abuse and neglect in child day care programs;
3. the administration of the publicly subsidized day care programs; and
4. the coordination of training for and the provision of information about child day care to providers, parents, public and private agencies, and the general public.

The mission of the Child Day Care Section is to maintain and improve the quality of child day care provided for children in North Carolina and ensure that good care is available, accessible, and affordable to all who need child day care services. Three major organizational structures responsible for carrying out the Section's mission are:

the Administrative Branch which has the responsibility for policy, planning, and reporting and administration of the state subsidized child care program;

the Operations Branch which has the responsibility for licensure and regulation of 6,330+ child day care centers and family day care homes, serving approximately 128,000 children, as well as providing consultation, technical assistance, and investigating complaints and reports of child abuse and neglect; and

the Program Management Branch which has the responsibility for program planning and quality assurance, training and trends development, grants development and management, and day care development.

An organizational chart which shows each staff position in the Child Day Care Section is included as Attachment 1 in this report.

OVERVIEW OF NORTH CAROLINA'S SUBSIDIZED DAY CARE PROGRAM

Using state funds and a variety of federal funds, North Carolina provides subsidized child day care to a large number of low income and other needy families. Parents may choose the type of provider which best fits their circumstances. The amount the state pays for each child depends on the family's situation, the family's income, the cost of the care provided and the type of public funds from which the payment is made. This overview describes the circumstances which make a family eligible for day care assistance, the types of providers eligible to receive public funds, and summarizes the requirements of each of the funding sources.

ELIGIBLE CHILDREN

Subsidized child care can be provided to children who need child care for one or more of the following reasons:

- the child's parents are working or are attempting to find work;
- the child's parents are in school or in a job training program;
- the child is receiving child protective services;
- the child is receiving other child welfare services, such as foster care; or
- the child is developmentally delayed, or is at risk of being delayed.

These categories of eligible children are sometimes referred to as target populations.

FAMILY INCOME

Except when day care assistance is provided to children receiving protective services or other child welfare services, the parents' income must be within the State's income limits for subsidized child care. The amount of income a family may have depends on the number of persons in the family. The maximum gross annual income for a family of four to be eligible for subsidized child care is \$16,252. Parents with incomes in the upper range of the income scale must pay part of the cost of the care.

ELIGIBLE PROVIDERS

Parents may choose their provider from among day care centers and day care homes which meet state regulations and which choose to make their services available for public funds. Parents may also elect to use some types of informal care arrangements. For most funding sources, providers must meet some type of regulations and agree to the conditions for the receipt of public funds. These are called approved providers. In all situations, the provider must be operating legally.

The source of funds used to subsidize the care is limited in some instances by the type of provider selected by the parent. Conversely, the family's circumstances may determine the source of funds to be used, thereby limiting the choice of provider.

PAYMENT RATES

The payment rate structure is based on county market rates. Market rates for center-based care and homebased care are calculated annually for each county by the Child Day Care Section. The market rates vary by age of child and are calculated from data provided throughout the year by day care centers and homes regulated by the Child Day Care Section.

All payments for homebased care are limited to the county market rate. As required by state law, the maximum payment to a day care center depends on the ratio of subsidized to nonsubsidized children enrolled. When the majority of children are nonsubsidized (category A centers), the subsidized care rate may be the same rate the center charges for nonsubsidized care.

When at least half of the children are subsidized with public funds (category B centers), the state payment is limited to the county market rate.

The majority of payments for child care are made from multiple funding sources. A combination of state and federal regulations and county options determine how much of each payment rate is fundable by each funding source.

FUNDING SOURCES

State Day Care Funds: State day care funds are appropriated annually and are used either alone or in combination with one or more federal funds to subsidize the cost of care for a child. State funds are used to pay the required state share for all of the Title IV-A federal funds described below. State funds are also used by county option to supplement the payment amount when federal fund participation is limited to less than the amount the provider charged for the service.

Federal Social Services Block Grant (SSBG): Funds from the SSBG which have been allocated for child day care services can be used to pay for children in all target populations except those children receiving Child Welfare Services other than protective services and in all other families whose circumstances and income make them eligible for subsidized day care. Providers must meet state regulations and be approved to receive public funds. Payment rates are limited to county market rate or, in the case of Category A centers, to the provider's own rate. No state match is required.

Federal Child Care and Development Block Grant (CCDBG): CCDBG funds have been available in North Carolina since October, 1991. These funds may be used to pay for child care for children of low income parents who are working, seeking employment, or who are in school or in job training programs. Providers must be either approved day care centers or relative caregivers. Relative caregivers are unregulated arrangements in which the child's grandparent, aunt or uncle is the day care provider. Payments are limited to the provider's actual charge not to exceed the county market rate. No state match is required. The state allocation is subject to federal maintenance of effort requirements.

Federal Title IV-A Family Support Act Child Care Funds: The Family Support Act (FSA), implemented in 1990, guarantees child care support to certain AFDC recipients and former recipients who are working or in school. In North Carolina, the individuals eligible to receive FSA child care assistance are:

- AFDC applicants and recipients who are employed or seeking employment;
- AFDC applicants and recipients who are participating in the State Job Opportunities and Basic Skills Training (JOBS) Program;
- AFDC recipients who are teenage parents attending school; and
- recent recipients who became ineligible for AFDC because of earned income.

Any legal day care operation or individual may be chosen by the parent. Payments are limited to the provider's actual charge, not to exceed the county market rate. The state matching rate is approximately one-third of the total payment.

Federal Title IV-A At-Risk Child Care Funds: In 1991, new Title IV-A funds became available to pay for day care for non-AFDC families who need child care assistance in order for the parents to work and who would be at risk of welfare dependency without such help. Currently, low-income working parents who are eligible for SSBG and CCDBG funds are eligible for At-Risk child care funds. Any approved provider is eligible. Payment rate limitations and state match rate requirements are the same as for FSA Title IV-A funded child care.

SUMMARY OF TRENDS IN CHILD DAY CARE

Section VI of this report contains a series of charts depicting data about child day care arrangements and children served. This summary highlights the trends displayed in the charts.

The Child Day Care Section regulates two categories of day care arrangements: licensed facilities, which include day care centers and large day care homes, and registered family day care homes, also referred to as small day care homes. For the time period covered by the attached charts the number of facilities operating within the state has increased by 95 (3%) and the number of family day care homes has increased by 70 (2%). Licensed capacity (the maximum number of slots available) within facilities has increased by 81,784 (45%) over this time period. This, in part, reflects a trend toward upgrading existing facilities to increase their licensed capacity and in part a trend toward opening larger facilities. It should be noted that although licensed capacity has increased statewide, this increase has not been evenly distributed and there are still areas throughout the state experiencing a shortage of child care slots. The decrease noted on the chart portraying capacity for family day care homes does not represent an actual decrease, but rather a cleaning up of the Section's database. Enrollment within facilities has remained fairly constant, whereas enrollment in family day care homes has increased nearly 6%.

Approximately 59% of all licensed facilities and 19% of all registered homes in the state are approved to participate in the subsidized day care program. Within the time period covered by the respective charts, the number of licensed facilities approved to participate in the state's subsidized day care program increased by 245 (16%) and the number of family day care homes increased by 92 (17%). The number of licensed facilities reimbursed under the subsidized day care program increased by 357 (29%) and the number of family day care homes increased by 66 (39%).

Total funding for the subsidized care program in SFY 1990 - 1991 was \$36,558,845. As indicated on the attached chart, there was a slight decrease (1.5%) in the number of children subsidized through non-Family Support Act funds. The reason for this decrease was that some non-FSA funds were transferred over to meet the state's match for the FSA program, reducing the amount available to purchase care for non-FSA clients. Overall, however, the number of children subsidized during the time period covered by the chart increased significantly, with 8466 being subsidized under FSA funds.

SUMMARY OF 1990 and 1991 CHILD DAY CARE LEGISLATION

A number of events related to child day care have spurred recent legislative changes. Increased federal funding with various sets of regulations, a nationally publicized child sexual abuse case, and an increased awareness of the needs of children and families have all contributed to changes in child day care regulation and subsidized services. Following is a summary of child day care legislation enacted by the North Carolina General Assembly in 1990 and 1991. (See also legislative chart - Attachment 5)

Legislation enacted by the General Assembly in 1990 changed the payment rates for registered day care homes and individual child care arrangements (ICCAs) and the method for allocating state day care funds to the counties. The increased rates for day care homes and ICCAs, implemented on July 1, 1991, have resulted in a slow, but steady growth in the number of these arrangements approved to participate in the subsidized day care program. The new day care allocation formula, changed to distribute State day care funds more equitably, resulted in 64 counties receiving additional funds.

In the 1991 Legislative Session, several bills related to child day care were ratified. One bill made technical and clarifying changes to the child day care law, resulting in improved enforcement capabilities. Another piece of legislation prohibits corporal punishment in day care facilities or day care homes unless they are church operated. A bill entitled "Day Care Encouragement", was enacted to allow state agencies and local boards of education to establish child day care facilities in state buildings or public schools. The 1991 Legislature also enacted a law which requires local departments of social services to notify the SBI when sexual abuse in a child day care facility has been indicated.

In 1991, a change in the special provisions for use of child day care funds authorized the development of special payment rates to benefit counties where the market rate is too low to attract or retain providers for the subsidized day care program. More information about market rates is included in Section V of this report, "Prospective Legislative Issues." The 1991 Legislature also set the budget for the Child Care and Development Block Grant. An update on the CC&DBG activities as well as other components of the Governor's Uplift Day Care Plan follows this legislative summary.

UPLIFT DAY CARE

Project Update

January 1992

In January, 1991, Governor Martin unveiled North Carolinas Uplift Day Care Plan. The initiatives in the Uplift plan were developed to address the issues of accessibility, affordability, and quality of child day services. A number of funding sources were identified for the components of the Plan, the largest being the Child Care and Development Block Grant. Other funding sources include the Family Support Act (FSA), Titles IV-A and XX of the Social Security Act, and new Head Start funds.

A budget chart for the total Uplift Plan is included, as well as a budget chart for Child Care and Development Block Grant funds. The Block Grant budget chart depicts the differences in Block Grant funds the General Assembly appropriated for various programs, based on anticipated funds, as opposed to the actual federal funds received for the current state fiscal year. Summaries of the various components of the Uplift Plan, including sources of funding and current status, are attached as follows:

UPLIFT DAY CARE BUDGET (includes CC&DBG funds, existing day care programs, and other day care programs not administered by Child Day Care Section)

CHILD CARE AND DEVELOPMENT BLOCK GRANT INITIATIVES:

- Child Care and Development Block Grant Budget
- Child Day Care Services
 - (waiting list, income eligibility levels, staff/child ratios)
- Head Start Wrap-Around Program
- Revolving Loan and Grant Fund
- County Day Care Coordinator Grants
- Child Care Worker Compensation Study
- Child Care Worker Credential
- Child Care Resource and Referral
- Facility Services Administration

EXISTING DAY CARE PROGRAMS:

- State Day Care Program
- Family Support Act (FSA) Day Care

OTHER UPLIFT INITIATIVES NOT ADMINISTERED BY CHILD DAY CARE SECTION:

- Early Start: Parent-Child Center Project
- Head Start Program

UPLIFT CHILD DAY CARE

6-11

Project	Proposed Use of Existing and New Funds										SFY 1991-92
	Existing	Current FSA	Expended FSA	CCDBG *	IV-A Non AFO	Existing Head Start	New Head Start	Total Existing	Total New	Grand Total	Current Budget
Subsidized Day Care	\$26,254,057							\$25,654,057	\$0	\$25,654,057	\$25,654,057
HeadStart Wrap-around				\$4,500,000					\$4,500,000	\$4,500,000	\$2,557,068
Early Start							\$1,000,000	\$600,000	\$1,000,000	\$1,600,000	\$1,094,888
Serve Waiting List				\$8,549,500	\$7,335,571			\$0	\$15,885,071	\$15,885,071	\$13,392,455
Increase Income Eligib.				\$10,100,500				\$0	\$10,100,500	\$10,100,500	\$0
Quality & Availability Reduce infant staff/child ratio by one child				\$250,000				\$0	\$250,000	\$250,000	\$159,616
Day Care Coordinators				\$800,000				\$0	\$800,000	\$800,000	\$357,980
Resource and Referral	\$107,170			\$650,000				\$107,170	\$650,000	\$757,170	\$712,351
Revolving Loans/Grants				\$1,000,000					\$1,000,000	\$1,000,000	\$363,129
Child Care Credential				\$250,000					\$250,000	\$250,000	\$76,628
Worker Compensat. Study											
State Staff				\$350,000					\$350,000	\$350,000	\$154,829
IFSA CHILD CARE		\$10,028,790	\$2,988,643					\$10,028,790	\$2,988,643	\$13,017,433	\$90,984,193
HEAD START						\$25,000,000	\$7,000,000	\$25,000,000	\$7,000,000	\$32,000,000	\$32,700,000
Total Requirements **	\$26,361,227	\$10,028,790	\$2,988,643	\$26,450,000	\$7,335,571	\$25,000,000	\$8,000,000	\$61,390,017	\$44,774,214	\$106,164,231	\$108,203,825
Federal funds	\$12,424,930	\$6,679,174	\$1,988,643	\$26,450,000	\$7,335,571	\$25,000,000	\$8,000,000	\$44,104,104	\$43,774,214	\$87,878,318	\$89,084,723
State funds	\$13,936,297	\$3,349,616	\$1,000,000					\$17,285,913	\$1,000,000	\$18,285,913	\$19,219,112

* Federal funds available for 12 months - from 9/91 through 9/92.

Child Care and Development Block Grant SFY 1991-92 Budget

Item	Recommended Appropriation	Appropriation	Current Budget
Child Day Care Services	\$14,750,000	\$14,752,146	\$11,304,240
Head Start Wrap-Around	3,337,000	3,337,000	2,557,068
Revolving Loans/Grants	500,000	500,000	383,139
County Day Care Coordinators	467,167	467,167	357,980
Staff/Child Ratio Reduction	208,300	208,300	159,616
Study of Day Care Salaries	100,000	100,000	76,628
Child Care Worker Credential	100,000	100,000	76,628
Resource and Referral	650,000	650,000	498,080
Facility Services Administration	202,054	202,054	154,829
Salary Compensation Increase	2,146	---	
TOTAL	20,316,667	20,316,667	15,568,208
NOTES	<p>At the time allocations were recommended to the General Assembly in March, 1991, proposed funding included two federal appropriations covering the thirteen-month period 9/1/91 - 9/30/92: \$22.4 million available on a prorated basis for FFY 1991, and \$24.6 million available for FFY 1992. The recommended SFY 1991-92 budget was derived, therefore, by adding one-twelfth of \$22.4 million (\$1,866,667) and nine-twelfths of \$24.6 million (\$18,450,000).</p>	<p>In light of the state budget shortfall and the resulting elimination of appropriations for employee raises in SFY 1991-92, the planned salary increases for block grant staff were eliminated. The \$2,146 for salary increases was added to the allocation for child day care services.</p>	<p>When the grant application was prepared in July, 1991, proposed federal legislation provided only a single appropriation for North Carolina of \$20,757,611 for the period 9/7/91 - 9/30/92. The revised budget is based on nine-twelfths of that amount, a total of \$15,568,208, 76.628% of the state appropriation. In accordance with the provisions of the state appropriation, the budget for each item has been reduced proportionately.</p>

6-10

CHILD CARE AND DEVELOPMENT BLOCK GRANT ACTIVITIES

Child Day Care Services

Child Care and Development Block Grant Funds FFY 1991-92: \$14,710,032

Child Care and Development Block Grant Budget SFY 1991-92: \$11,463,856.

Purpose: Funds to provide assistance with the cost of child care for eligible families were targeted to three areas:

1. Reduce by one the number of infants which may be in the care of one caregiver. (Accomplished)
2. Serve the waiting list for subsidized care. (On-going)
3. Increase the income eligibility level to 75% of the state's current median income. (Not Accomplished)

Status

The current Child Care and Development Block Grant (CCDBG) budget for direct services includes both the funds appropriated to Child Day Care Services and those appropriated to Staff/Child Ratio Reduction. In order to understand the current status of block grant direct service funding, an examination of all sources of funding is required. The Family Support Act day care program (JOBS, AFDC Employed and Transitional) has grown much faster than anticipated. In fact, the FSA day care program probably will be more than twice as big as anticipated. Because no new state funds were appropriated with which to match FSA expenditures, the existing day care budget, as well as other sources of state funds within DHR, may have to contribute as much as \$10.4 million to FSA matching funds. The income eligibility level for subsidized child day care has not been raised because of the reduction in federal funding and the growth of FSA day care. The number of children on waiting lists as of November 1, 1991 (7,813), was only about 54% of what it was November 1, 1990 (14,449). Clearly, children have been removed from the waiting lists and served. In order to give priority to children with special needs, all county departments of social services have been required to set aside 4.5% of their day care allocation for such children.

The Block Grant requires that certain unregulated providers (those not required to receive an operating permit) be eligible to be chosen by parents receiving care with Block Grant funds. These providers must meet only minimal health and safety requirements. A task force is developing standards for this class of provider as well as policies and procedures for their approval and payment. Some of the necessary materials have been drafted. Final materials will be issued in June, 1992 so that these providers can enter the subsidized care system by July, 1992.

The Block Grant also calls for an indirect payment system to be in place by October, 1992. A Day Care Management Team, established by the Secretary and chaired by the Department Controller, is considering the various indirect payment alternatives (voucher, client reimbursement), and whether the system should be designed and operated by an outside payments processing contractor.

Head Start Wrap-Around Program

Child Care and Development Block Grant Funds FFY 1991-92: \$3,892,052

Child Care and Development Block Grant Budget SFY 1991-92: \$2,557,068

Purpose: Funds were targeted to provide before and after care for eligible children in the Head Start Program as well as full time care when the Program is not operating.

Status

Child Day Care Section representatives met with Head Start providers in September to introduce the Wrap-Around Program. Head Start programs which were interested in participating were given instructions to forward identifying information to the Division of Economic Opportunity (DEO) so changes could be made to reimbursement approval forms to include the Wrap-Around payment rate. The current number of programs wishing to participate totals 199. Allocations have been made to interested programs. Training and materials for eligibility determination are being prepared.

Day Care Provider Revolving Loan and Grant Fund

Child Care and Development Grant Funds FFY 1991-92: \$450,000

Child Care and Development Grant Budget SFY 1991-92: \$383,139

Purpose: Funds were designated for small low interest loans and grants to eligible day care operators and prospective operators to stimulate the development of additional day care slots in rural and other underserved areas of the state.

Status

A committee of DHR fiscal officers and Child Day Care Section staff met in November with a representative of a credit union to determine appropriate steps to take to implement a revolving loan program. The purpose of the discussions is to explore ways the state can contract with a credit union or bank to administer the loan program. However, state laws regarding earned interest and where state and federal money is deposited are complex, and the committee is investigating several avenues that would provide flexibility to the project, but would remain within state and federal statutes.

On January 24, 1992, staff from DHR and the Child Day Care Section met with a representative from Nations Bank. Information from this meeting and a previous meeting with a representative from the Center for Community Self Help will be used to develop a request for proposals (RFP) to explore how DHR can contract with a lending institution to administer this program.

County Day Care Coordinator Grants

Child Care and Development Block Grant Funds FFY 1991-92: \$588,724

Child Care and Development Block Grant Budget SFY 1991-92: \$357,980

Purpose: Funds were targeted to provide grants to county departments of social services which do not have sufficient funds available to support a day care coordinator. Specific duties of day care coordinators include: counseling with families about available day care, making referrals, helping with enrollment procedures if needed, working with state Day Care Section staff and community groups to recruit providers and arrange training and technical assistance, establishing agency contracts and payment procedures and authorizing payments to providers.

Status

County departments of social services which are eligible to participate have been identified based on criteria set forth in the Uplift Plan and CCDBG Plan. Criteria include the number of poor children under six in the county, the population density, and the extent to which children who need care are being served. Counties eligible to participate have submitted grant applications and grants have been awarded.

Child Care Worker Compensation Study

Child Care and Development Block Grant Funds FFY 1991-92: \$100,000

Child Care and Development Block Grant Budget SFY 1991-92: \$76,628

Purpose: Funds were designated for a study to examine existing models and to develop new models for the purposes of promoting education and training, and boosting wages of child care workers. Once model(s) are established, funds may be used to develop and implement pilot programs.

Status

A Worker Compensation Study Committee met on July 25, 1991 to hear proposals from five individuals and organizations. After hearing these presentations, the Committee decided that the most appropriate way to award the grant funds would be through the Committee members for their review. In December, the Committee met to finalize the RFP, identify the recipients of the RFP, and select the subcommittee for review and selection of proposals.

Child Care Worker Credential

Child Care and Development Block Grant Funds FFY 1991-92: \$100,000
Child Care and Development Block Grant Budget SFY 1991-92: \$76,628

Purpose: Funds were targeted to develop a curriculum for a Child Care Worker Basic Training Credential, to reimburse for tuition invested by child care workers in earning the Credential, to recognize child day care centers and homes where staff have completed the training, and to implement a public awareness campaign to make parents better informed consumers.

Status

In cooperation with the Department of Community Colleges, the Child Day Care Section sponsored a Developing a Curriculum Task-Force (DACUM) meeting in Raleigh on October 16 and 17, 1991. The purpose of the Task-Force was to identify the duties and competencies most often needed in an entry level child day care provider. The Task-Force committee was composed of caregivers representing all types of child care arrangements. The information developed by the Task Force was the first step in designing a 66 clock-hour curriculum in child care.

In addition, the Section issued an RFP through the Department of Community Colleges, Early Childhood Programs, inviting instructors to participate in the development of the training outline and content of two 33 clock-hour child care courses. In response to the RFP, the Section selected six community college instructors to participate in the design of the curriculum. In addition to these instructors, the committee included individuals from the following: Child Day Care Commission, University system, Cooperative Extension Service, Head Start, Partnerships in Mainstreaming Program, Resource & Referral, and private consultants and trainers.

An initial draft of the participants' handbook has been completed. The curriculum will address the following topics: Child Care as a Profession, Child Growth and Development, Getting to Know the Whole Child, Developmentally Appropriate Practices, Positive Guidance Techniques, and Providing a Safe and Healthy Environment. The curriculum will be field-tested during the Spring Quarter, 1992 in a few Community Colleges. The first scholarships (reimbursing tuition and other costs) will be developed in conjunction with the field testing of the curriculum.

Child Care Resource and Referral

Child Care and Development Block Grant Funds FFY 1991-92: \$648,276
Child Care and Development Block Grant Budget SFY 1991-92: \$498,080

Related Funding: FFY 1991-92: \$214,274, federal Dependent Care Development Grant

Purpose: Funds were designated to provide start-up funding and on-going support for the operation of Child Care Resource and Referral agencies which provide child care information to parents, train child care providers, and work to improve the quality and availability of child care facilities. Also, technical assistance will be provided to new and existing Child Care Resource and Referral agencies by the Division of Facility Services.

Status

An advisory council for Child Care Resource and Referral (CCR&R) was appointed by the Secretary of Human Resources to review plans for use of the Dependent Care Development Grant (anticipated use: one-year planning grants), Child Care and Development Block Grant (anticipated use: one-year grants for existing R&R service agencies and for contracted supportive services), and requested private foundation funding (anticipated use: two-year start-up grants). The council met for the first time on September 17 to review project plans, sources and levels of funding, the RFP for planning grants, and criteria for R&R service, funding (R&R agency service standards). Two subsequent meetings have been held, resulting in revisions to the funding criteria in the RFP for grants to existing R&Rs. The RFPs for grants to existing R&Rs have been issued. Funds will be awarded to the R&Rs by the end of February.

Facility Services Administration

Child Care and Development Block Grant Funds FFY 1991-92: \$268,527
Child Care and Development Block Grant Budget SFY 1991-92: \$154,829

Purpose:- Funds were targeted to employ additional staff needed to administer the new federal funds.

Status

The reduction in this component results from the decrease in anticipated federal funding which completely eliminated two of the eight proposed staff positions for grant program implementation. Three of the remaining positions have been filled and the other three will be hired soon.

EXISTING DAY CARE PROGRAMS

State Day Care Program

Federal Funds SFY 1991-92: \$12,158,899
State Funds SFY 1991-92: \$8,250,081

Purpose: A combination of Social Services Block Grant and state funds provide child care assistance each year.

Status

The department is allocating Social Services Block Grant and state funds along with other non Family Support Act (FSA) dollars to county departments of social services according to a formula established by the General Assembly. Some of the state dollars originally set aside for this program will be used to provide matching funds to support unanticipated growth in FSA day care.

Family Support Act (FSA) Day Care

Federal Funds SFY 1991-92: \$20,615,162
State Funds SFY 1991-92: \$10,369,031

Purpose: FSA child care supports welfare reform initiatives for the Aid to Families with Dependent Children (AFDC) Program enacted in the 1988 Federal Family Support Act. The purpose is to enable AFDC recipients to become self reliant through participation in education, training and employment. There are three categories of FSA day care: AFDC Employed, JOBS and Transitional. Availability depends upon the recipients' circumstances.

Child care and transportation to child care arrangements are provided, if needed, to support participation in training and education or to accept or retain employment.

Status

Our expenditures to serve these youngsters have grown much faster than anticipated. We anticipated serving 6,369 children at a cost of \$13.9 million. At this time, we project spending a total of \$30,984,193 to serve 17,323 children. Our share of this cost will be \$10,369,031.

The department has found that there are more working AFDC recipients than expected. This has resulted in a decrease in the average monthly AFDC payment, but contributes to increased FSA child care expenditures.

OTHER UPLIFT INITIATIVES NOT ADMINISTERED
BY CHILD DAY CARE SECTION

Early Start: Parent-Child Center Project

Federal Funds: \$494,888
State Funds: \$600,000
Local Funds: \$99,000

Purpose: Funds were designated to initiate a comprehensive child development and family support program for families of children 0-3 years to provide quality family-focused developmental services. Target group includes teen mothers and their children, and pregnant women.

Status

All funds have been awarded; five Head Start Programs are operating Parent-Child Centers.

Head Start

Federal Funds: \$25,000,000

Purpose: Head Start is a national program providing comprehensive development services primarily to low-income preschool children and their families. The age range of children in Head Start programs is typically from age three to age of compulsory school attendance. It is also required to provide for the direct participation of parents of enrolled children in the development, conduct and direction of local programs.

Status

In North Carolina, Head Start programs are in 92 of the 100 counties provided through 44 programs.

PROSPECTIVE LEGISLATIVE STUDY ISSUES

SUBSIDIZED CHILD DAY CARE ISSUES

The Department recognizes the widespread impact of changes in child day care policy, procedures and funding levels. Therefore, during the development of North Carolina's Uplift Day Care and Child Care and Development Block Grant plans, we brought together representatives from county agencies, child care providers, child advocacy groups and state agencies to get their input and recommendations. In that process, several important issues were identified. The Department suggests that the Child Day Care Study Commission may wish to address these issues.

1. Income Eligibility:

The State's goal is to extend income eligibility for services in gradual increments to 75% of North Carolina's current median income (the limit allowed under the Child Care and Development Block Grant). The current income eligibility level has not been changed since 1980 and represents about 49% of the current state median income. Many of the State's working poor parents are not eligible for day care assistance. Since the federal Block Grant allotment to North Carolina was reduced, all new funds were needed to trim the waiting list created under the current income eligibility levels. If income eligibility levels are increased without additional funds, then additional children will be added to the waiting lists.

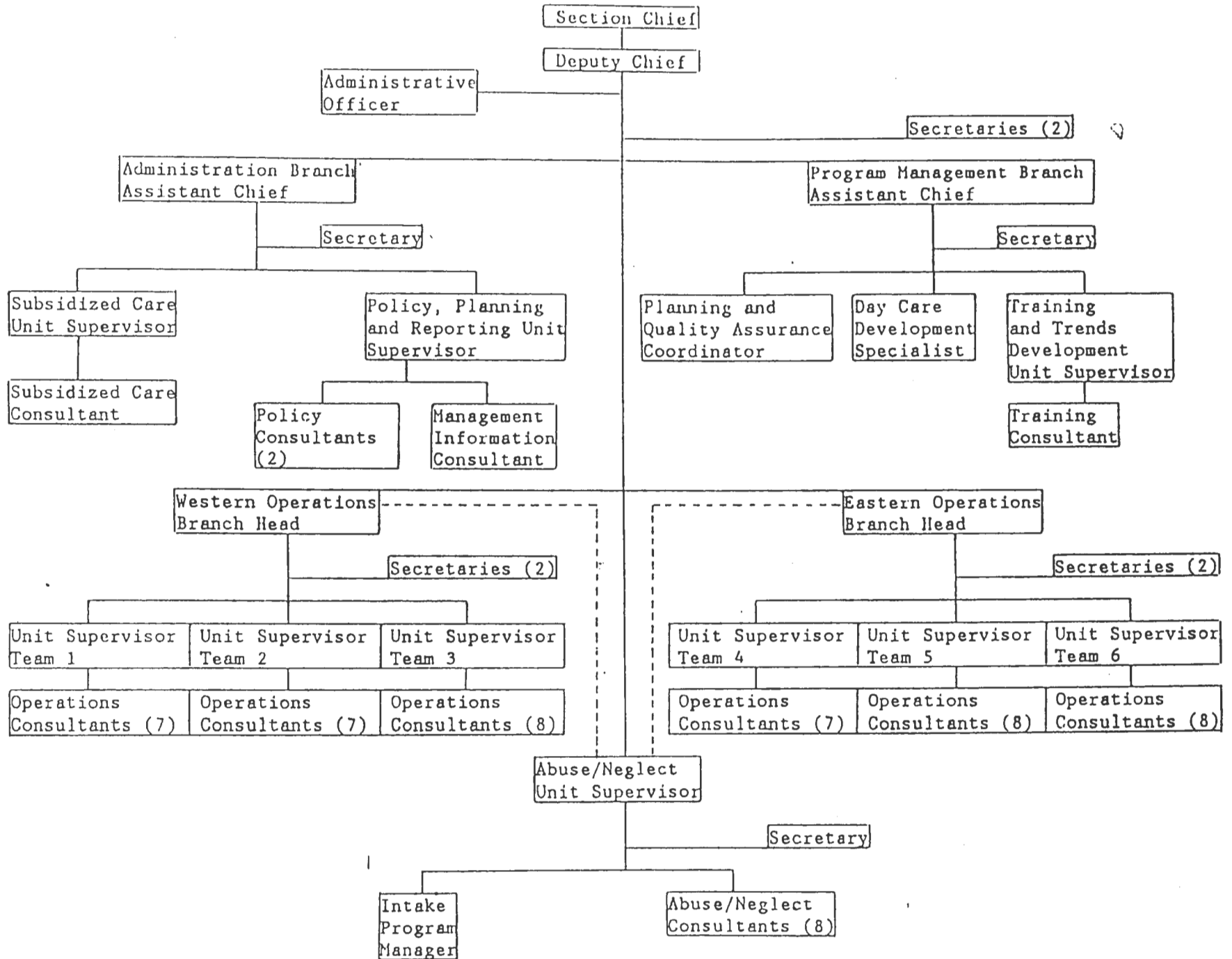
2. Payment Rates for Mainstreaming Special Needs Children:

Public Law 99-457 requires that all children with special needs receive needed services. The alternative for these children who can not be served in a mainstreamed environment, is a developmental day facility. Developmental day facilities, which serve primarily children with disabilities, are more expensive and in many cases not the most appropriate placement for the child. Currently, a 10% supplemental rate for special needs children can be paid to child care facilities which serve a majority of non-subsidized, non-handicapped children. This amount is not sufficient to entice day care providers to support the extra costs often needed to serve a child with special needs. If the supplemental rate were increased to a maximum of 75%, more children could be mainstreamed into normal day care environments. This would increase the average payment made by the Child Day Care Section, but the cost of serving children in a normal day care center would still be lower than a developmental day center.

3. Market Rate Flexibility:

1991 state legislation provides the flexibility to deviate from the standard market rate approach in counties where the market rate is too low to attract or retain providers. The Section has explored various options for obtaining higher rates in these counties. One option is to determine both the county's actual market rate and a minimum rate which is 90% of the state average market rate. When the county market rate is less than the established minimum rate, the county agency director could negotiate a rate anywhere between the two rates, but not to exceed the established rate. The payment option would increase the payment rate per child. This issue must

Child Day Care Section
Organizational Chart



 CHILD DAY CARE SECTION
 SUMMARY OF MONTHLY DATA

I. NUMBER OF REGULATED CHILD CARE ARRANGEMENTS, by Type of Operation:

A. Number of Licensed Operations (Includes Centers, Large Day Care Homes and GS 110-106 Facilities):

Current Month		<u>3,062</u>	
Previous Month		<u>3,068</u>	
a.1 Number of A Centers:			
Current Month	<u>2,009</u>		
Previous Month	<u>2,011</u>		
a.2 Number of AA Centers:			
Current Month	<u>465</u>		
Previous Month	<u>459</u>		
a.3 Number of A Large Day Care Homes:			
Current Month	<u>169</u>		
Previous Month	<u>171</u>		
a.4 Number of AA Large Day Care Homes:			
Current Month	<u>4</u>		
Previous Month	<u>4</u>		
a.5 Number of GS 110-106 Facilities:			
Current Month	<u>211</u>		
Previous Month	<u>214</u>		

B. Number of Regulated Homes:			
Current Month:		<u>3,281</u>	
Previous Month		<u>3,306</u>	

TOTAL NUMBER OF REGULATED OPERATIONS: 6,343

II. OPERATIONS APPROVED FOR PURCHASE OF CARE (POC):

A. Number of Licensed Operations:			
Current Month	<u>1,814</u>		
Previous Month	<u>1,802</u>		
B. Number of Registered Homes:			
Current Month	<u>654</u>		
Previous Month	<u>635</u>		

TOTAL NUMBER OF POC APPROVED OPERATIONS: 2,468

III. OPERATIONS REIMBURSED THROUGH PURCHASE OF CARE (POC):

A. Number of Licensed Operations:			
Current Month	<u>1,624</u>		
Previous Month	<u>1,584</u>		
B. Number of Registered Homes:			
Current Month	<u>246</u>		
Previous Month	<u>237</u>		
C. Number of Individual Child Care Arrangements:			
Current Month	<u>236</u>		
Previous Month	<u>229</u>		

TOTAL NUMBER OF OPERATIONS REIMBURSED: * 2,106
 (* Not unduplicated across counties)

IV. PERMIT CAPACITY / ENROLLMENT / SUBSIDIZED CAPACITY, by Type of Regulated Operation:

A. Permit Capacity for Licensed Operations:		
Current Month	<u>276,455</u>	
Previous Month	<u>263,723</u>	
B. Permit Capacity for Registered Homes:		
Current Month	<u>25,874</u>	
Previous Month	<u>26,082</u>	
TOTAL CAPACITY OF REGULATED OPERATIONS:		<u>302,329</u>
C. Enrollment in Licensed Operations:		
Current Month	<u>115,078</u>	
Previous Month	<u>113,857</u>	
D. Enrollment in Registered Homes:		
Current Month	<u>14,310</u>	
Previous Month	<u>14,425</u>	
TOTAL ENROLLMENT IN REGULATED OPERATIONS:		<u>129,348</u>
E. Subsidized Capacity in Licensed Operations:		
Current Month	<u>59,186</u>	
Previous Month	<u>58,278</u>	
F. Subsidized Capacity in Registered Homes:		
Current Month	<u>5,018</u>	
Previous Month	<u>4,852</u>	
TOTAL SUBSIDIZED CAPACITY:		<u>64,204</u>
G. Subsidized Enrollment in Licensed Operations:		
Current Month	<u>14,382</u>	
Previous Month	<u>14,272</u>	
H. Subsidized Enrollment in Registered Homes:		
Current Month	<u>574</u>	
Previous Month	<u>568</u>	
I. Subsidized Enrollment in ICCAs:		
Current Month	<u>450</u>	
Previous Month	<u>496</u>	
TOTAL ENROLLMENT:		<u>15,406</u>

State Day Care Program

V. AMOUNT REIMBURSED / AVERAGE MONTHLY PAYMENT PER CHILD, by Type of Operation:

	amount reimbursed	average monthly payment per child
A. Licensed Operations:		
Current Month	<u>\$ 2,530,256</u>	<u>\$ 176</u>
Previous Month	<u>\$ 2,778,316</u>	<u>\$ 195</u>
B. Registered Homes:		
Current Month	<u>\$ 95,079</u>	<u>\$ 166</u>
Previous Month	<u>\$ 99,291</u>	<u>\$ 175</u>
C. ICCAs:		
Current Month	<u>\$ 38,224</u>	<u>\$ 85</u>
Previous Month	<u>\$ 53,763</u>	<u>\$ 108</u>
D. Overall Amount Reimbursed:		
Current Month	<u>\$ 2,663,559 *</u>	
Previous Month	<u>\$ 2,931,370 *</u>	
E. Overall Average Payment:		
Current Month		<u>\$ 173</u>
Previous Month		<u>\$ 191</u>

VI. PURCHASE OF CARE INFORMATION:

A. Unduplicated Child Count:	
Year-to-Date	<u>24,684</u>
B. Year to Date Total Reimbursed for Care:	
Includes At-Risk & CCDBG expenditures	<u>\$ 20,465,640</u>

Family Support Act Child Care:

A. DFS Expenditures:

Current Month	<u>\$1,703,777</u>
Previous Month	<u>\$1,676,094</u>

B. DSS Expenditures:

Current Month	<u>\$ 759,907</u>
Previous Month	<u>\$ 706,852</u>

TOTAL FSA EXPENDITURES:

\$2,463,684

C. Number of DFS children:

Current Month	<u>8,594</u>
Previous Month	<u>8,466</u>

D. Number of DSS children:

Current Month	<u>3,838</u>
Previous Month	<u>3,570</u>

TOTAL FSA CHILDREN:

12,432

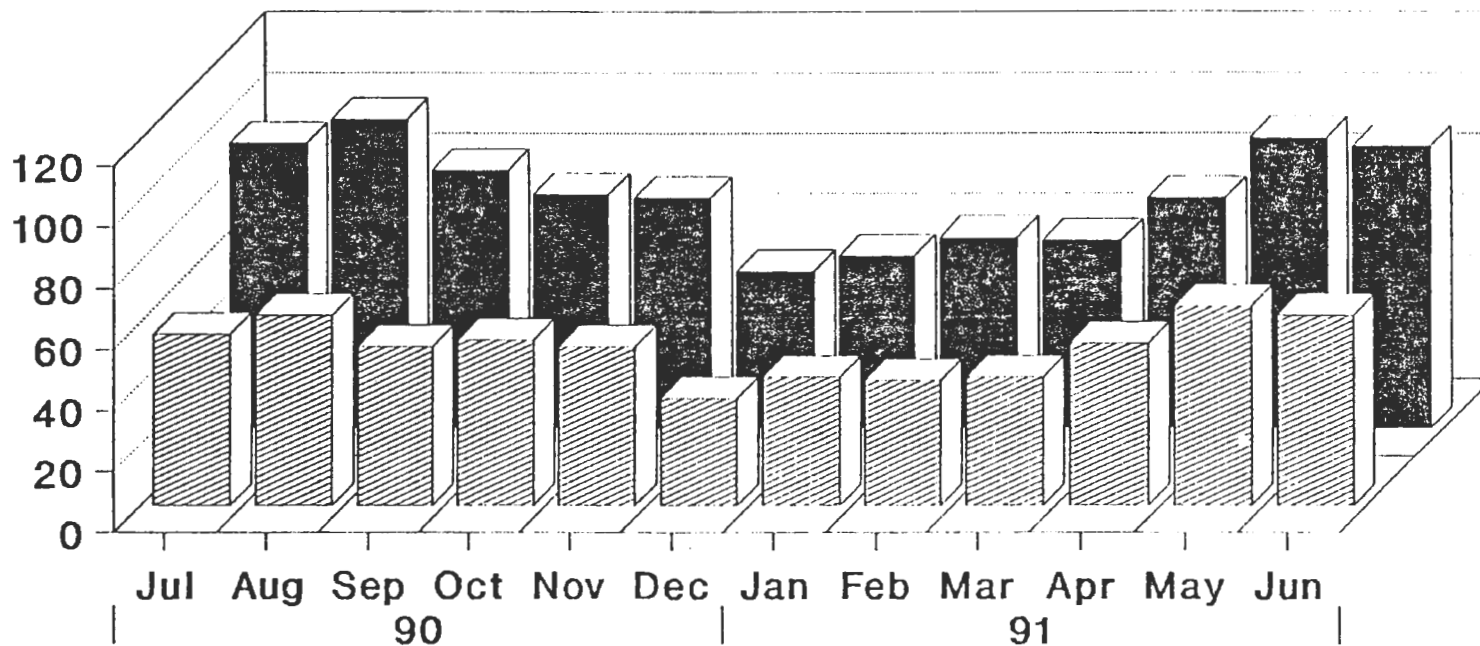
CHILD ABUSE/NEGLECT STATISTICS
CHILD DAY CARE SECTION

1. # of reports received (SFY 90-91) - 886
2. # of investigations opened - 616
3. # of investigative site visits made (SFY 90-91):
 - First site visits - 665
 - Total visits - 784
4. # of administrative actions taken (SFY 90-91):

Revocations	9 Homes	4 Centers
Denials	3 Homes	2 Centers
Special Provisionals/ Provisionals	3 Homes	16 Centers
Written Warnings	10 Homes	63 Centers
Written Reprimands	2 Homes	22 Centers
Injunctions/ Summary Suspensions		1 Center
5. # of investigations projected for SFY 91-92 - 700
6. # of Abuse/Neglect Consultants 7½
7. % of investigated cases substantiated as abuse/neglect - approx. 33%

ABUSE AND NEGLECT REPORTS RECEIVED AND INVESTIGATED IN DAY CARE, by MONTH (SFY 1990 - 1991)

HUNDREDS



Reports Investigated

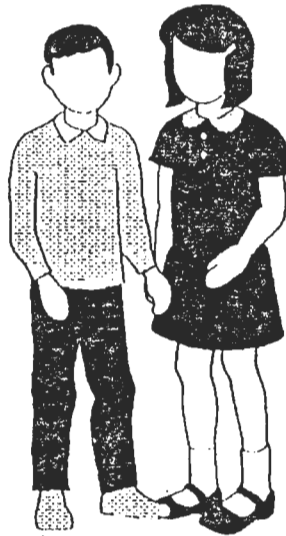


Reports Received

source: A/N Unit monthly reports

A-3-1 6-24

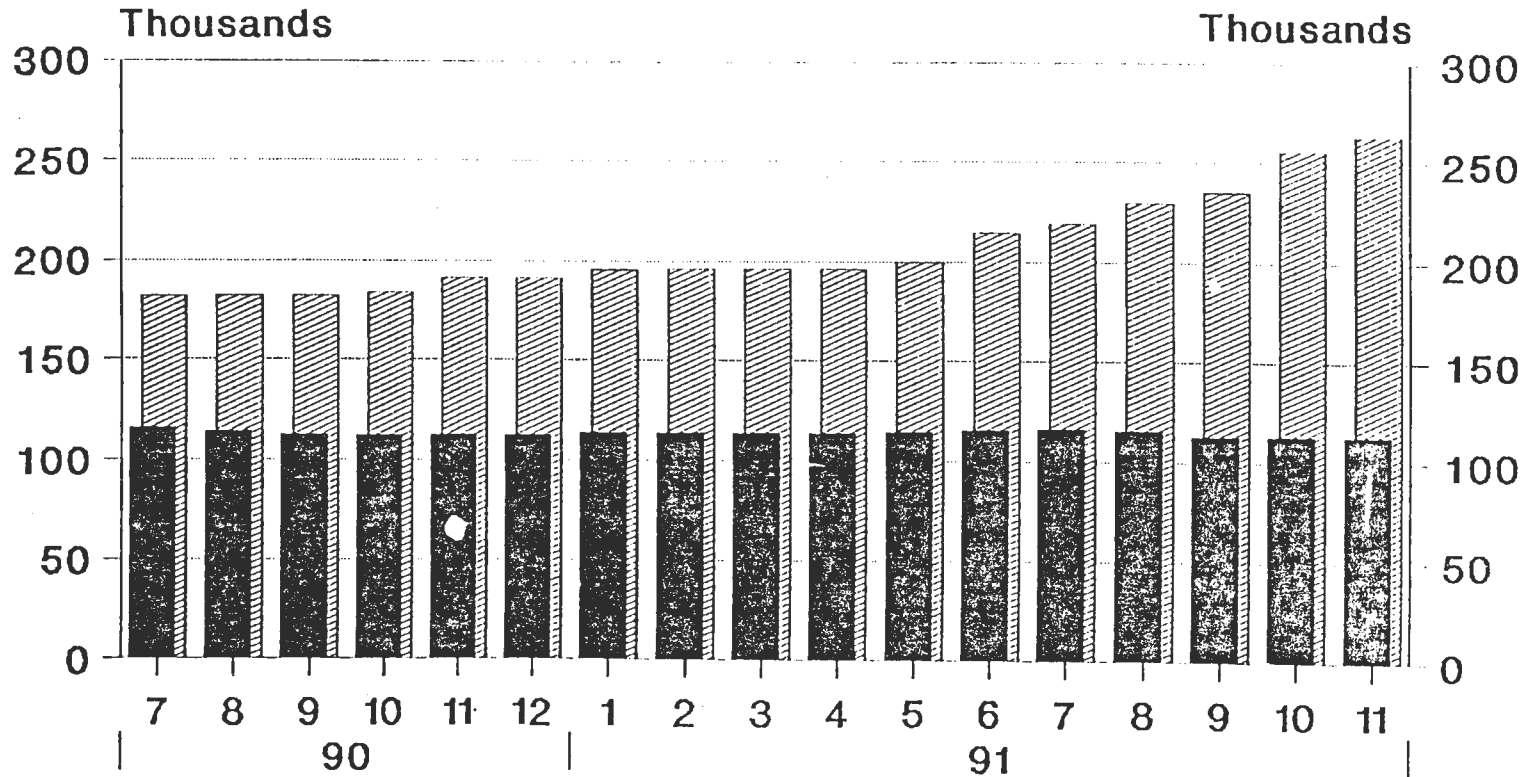
SELECTED TRENDS IN CHILD DAY CARE IN NORTH CAROLINA



Prepared by Policy, Planning and Reporting Unit
Child Day Care Section
Division of Facility Services

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REGULATED CHILD CARE FACILITIES LICENSED CAPACITY AND ENROLLMENT



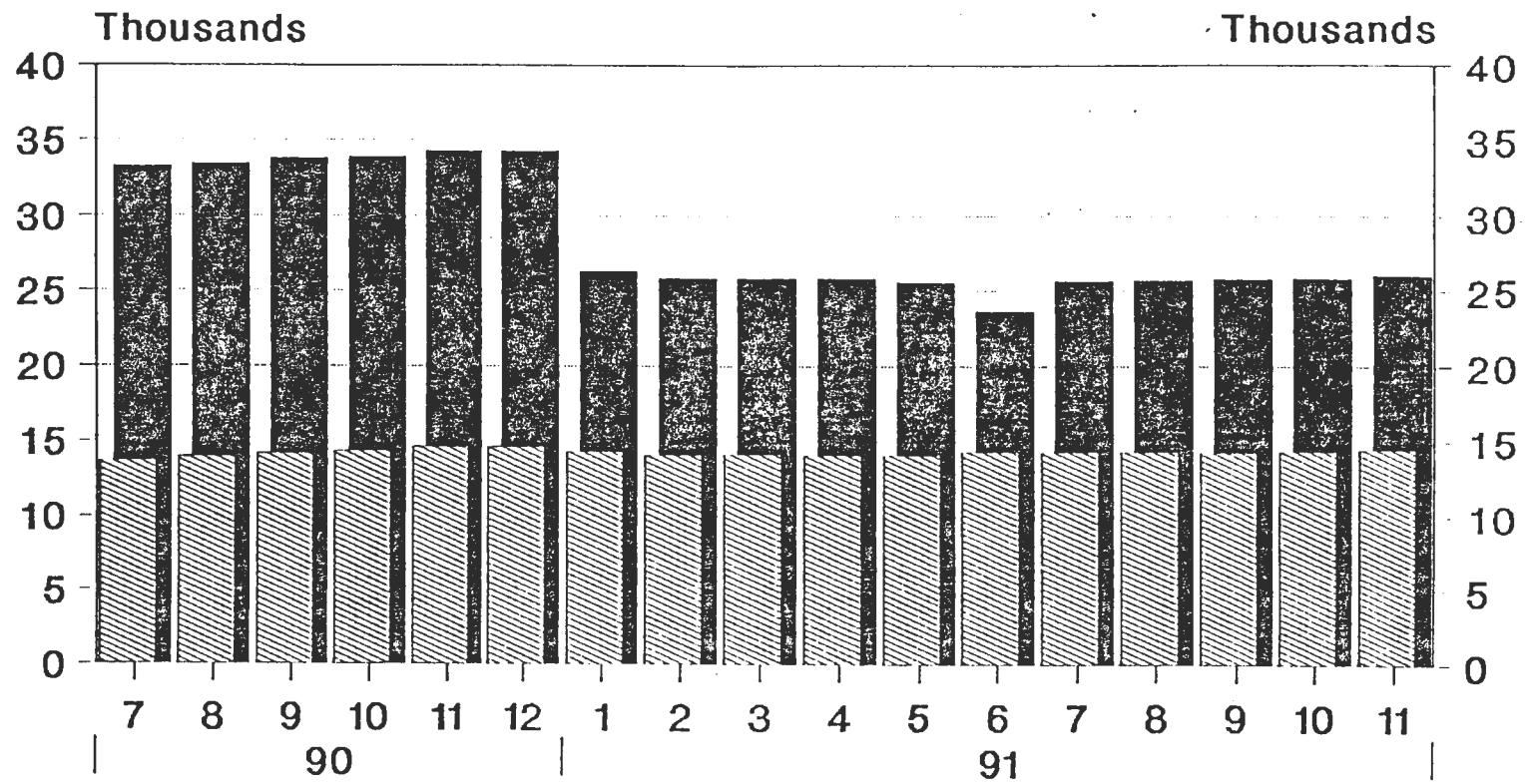
* 4-17 6-26

Note: Includes centers and large day care homes

ENROLLMENT
 LICENSED CAPACITY

source: CDC Section reports

REGISTERED DAY CARE HOMES CAPACITY AND ENROLLMENT

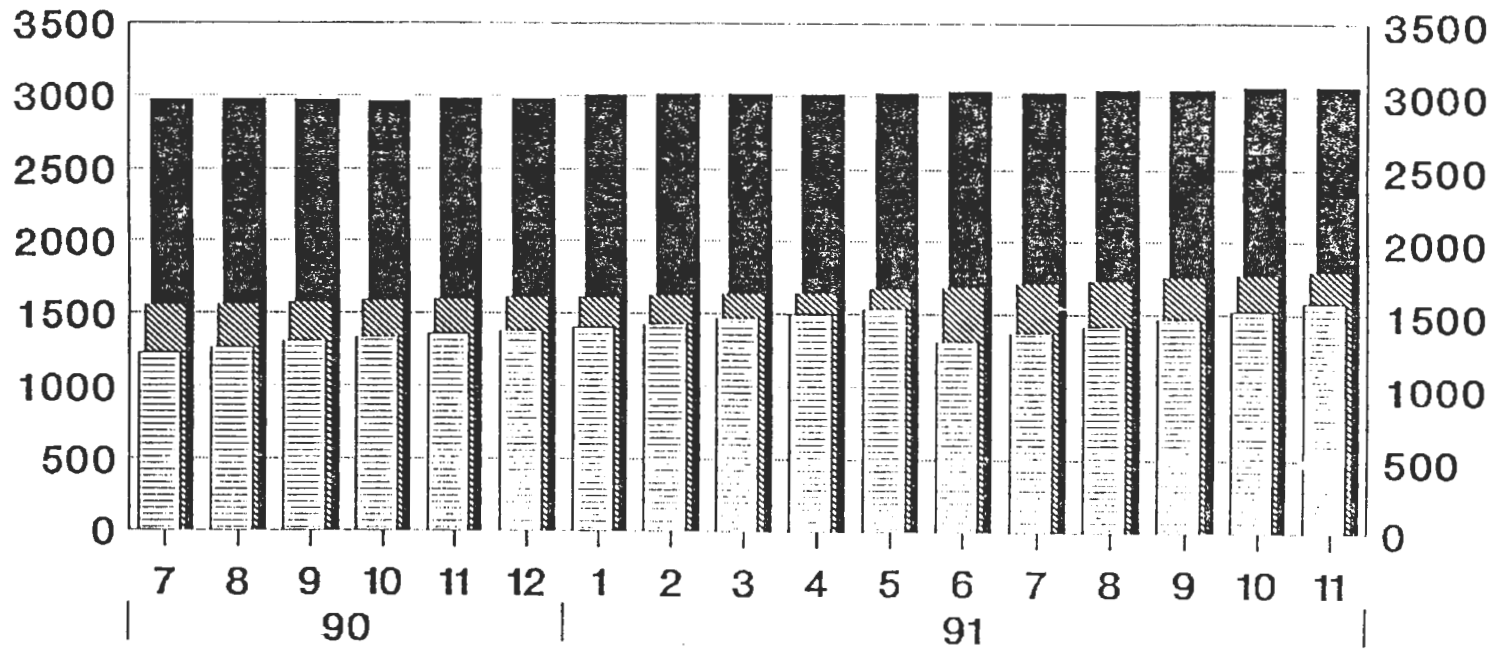


Enrollment
 Registered Capacity

source: CDC Section report

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NUMBER OF DAY CARE FACILITIES, NUMBER APPROVED FOR SUBSIDIZED CARE AND NUMBER REIMBURSED



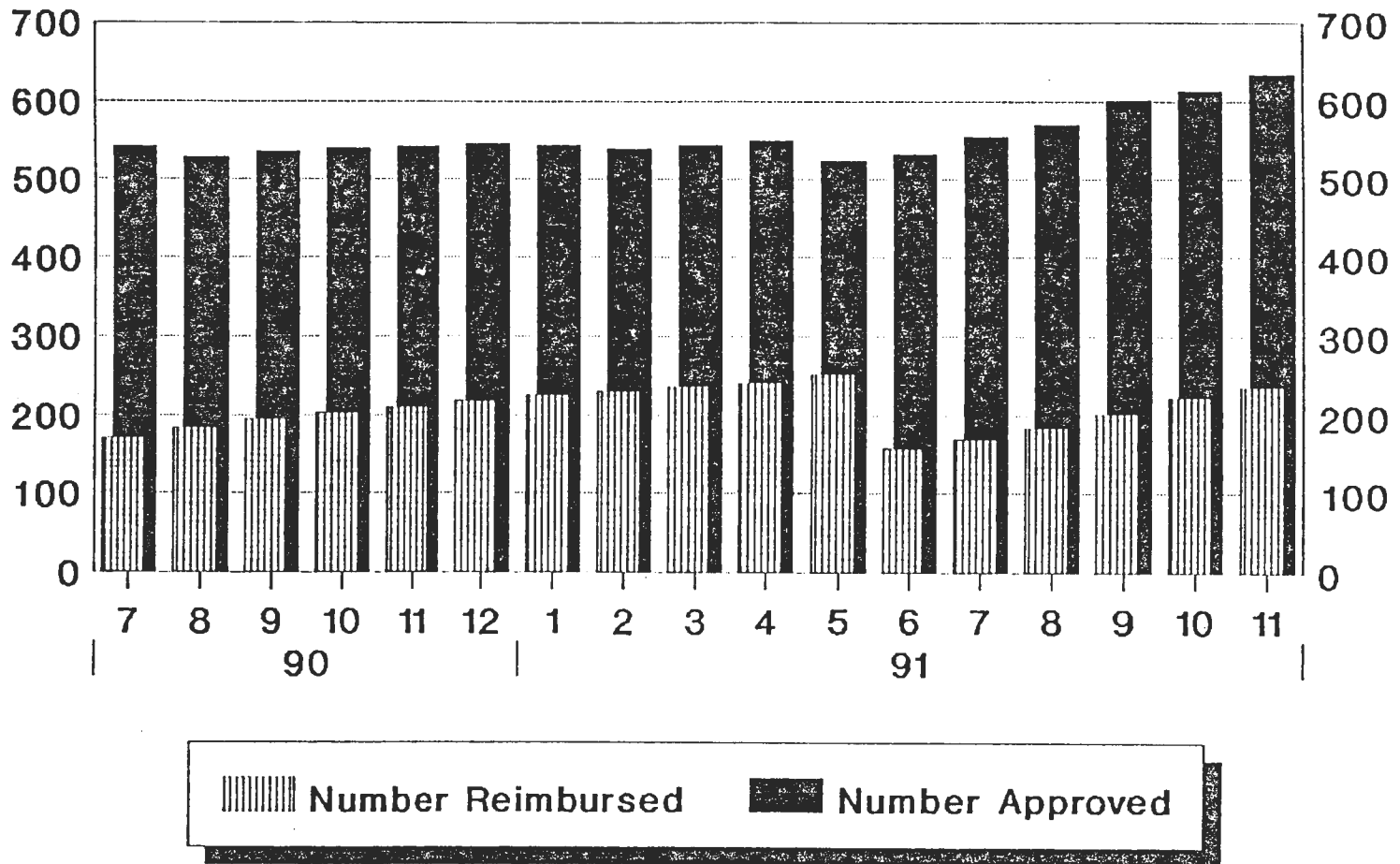
Number Reimbursed
 Number Approved
 Number Licensed

NOTE: Includes day care centers & large day care homes

source: CDC Section reports

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NUMBER OF REGISTERED DAY CARE HOMES APPROVED FOR SUBSIDIZED CARE AND NUMBER REIMBURSED

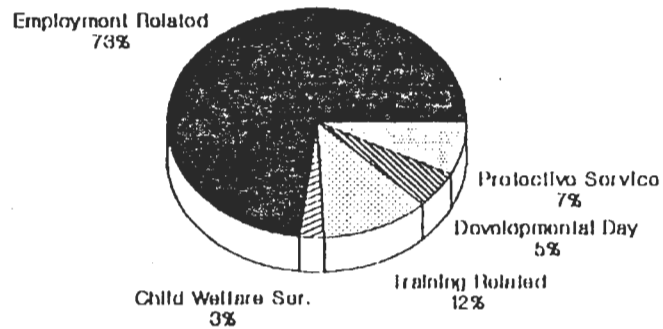


source: CDC Section reports

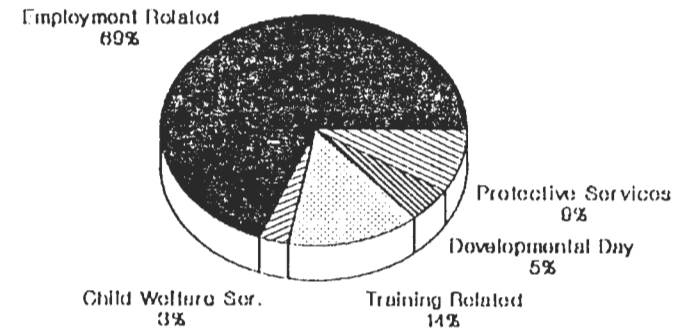
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COMPARISON OF THE DISTRIBUTION OF TARGET GROUPS SERVED, SFY 1989-1990 & 1990-1991

SFY 1989-1990



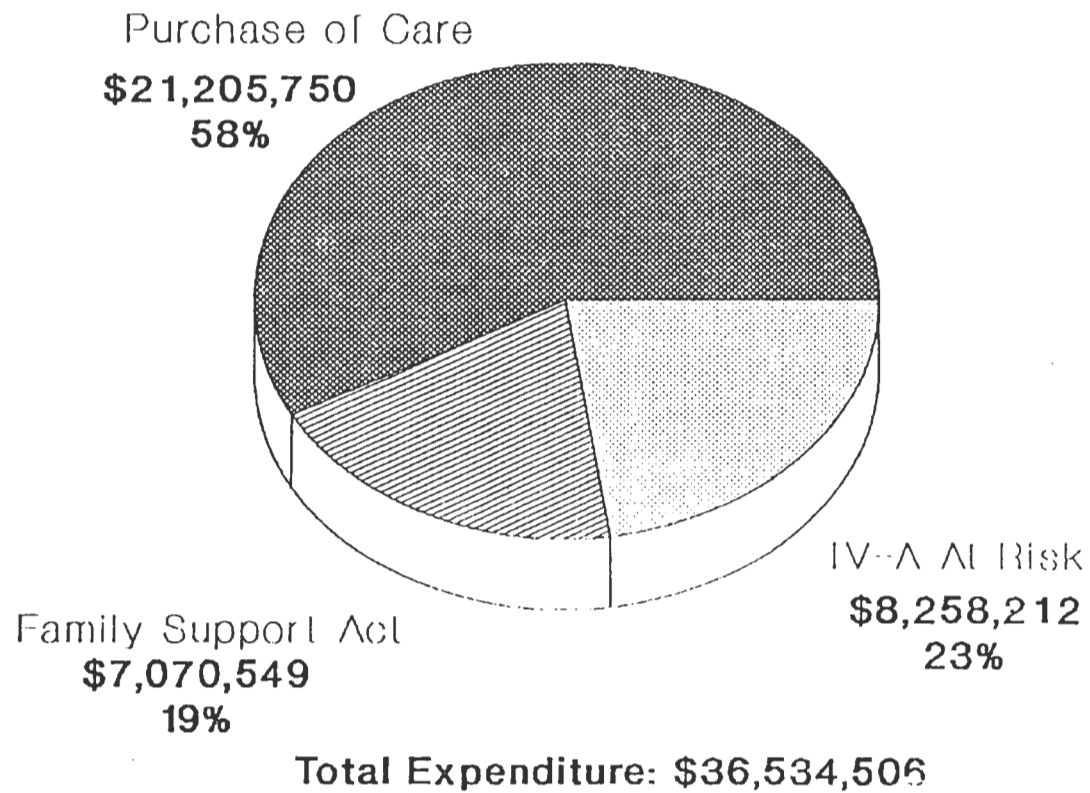
SFY 1990-1991



source: CDC Section reports

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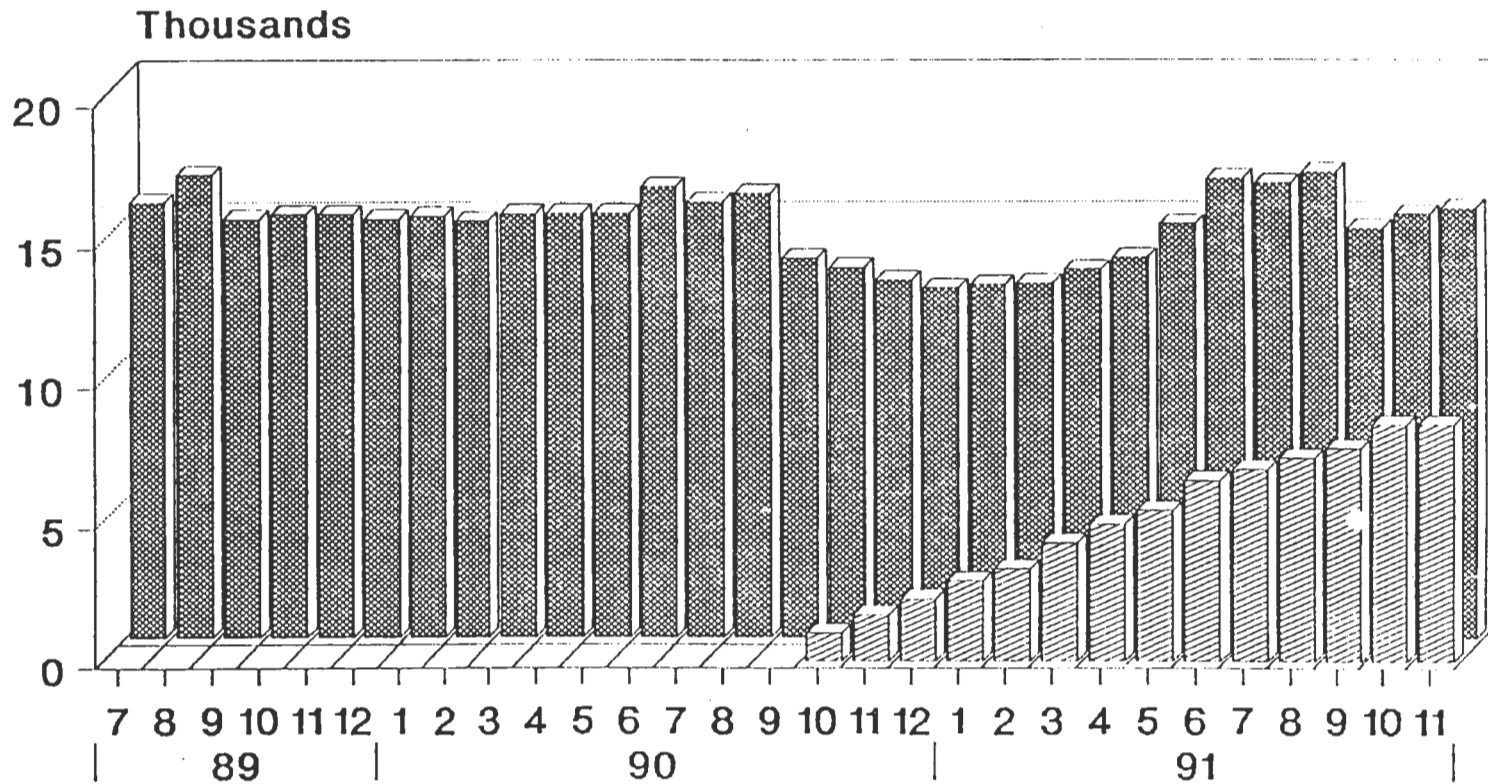
Actual Expenditures for Subsidized Child Care, by Funding Source



source: DFS Accounting Report

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NUMBER OF CHILDREN SUBSIDIZED, by FUNDING SOURCE



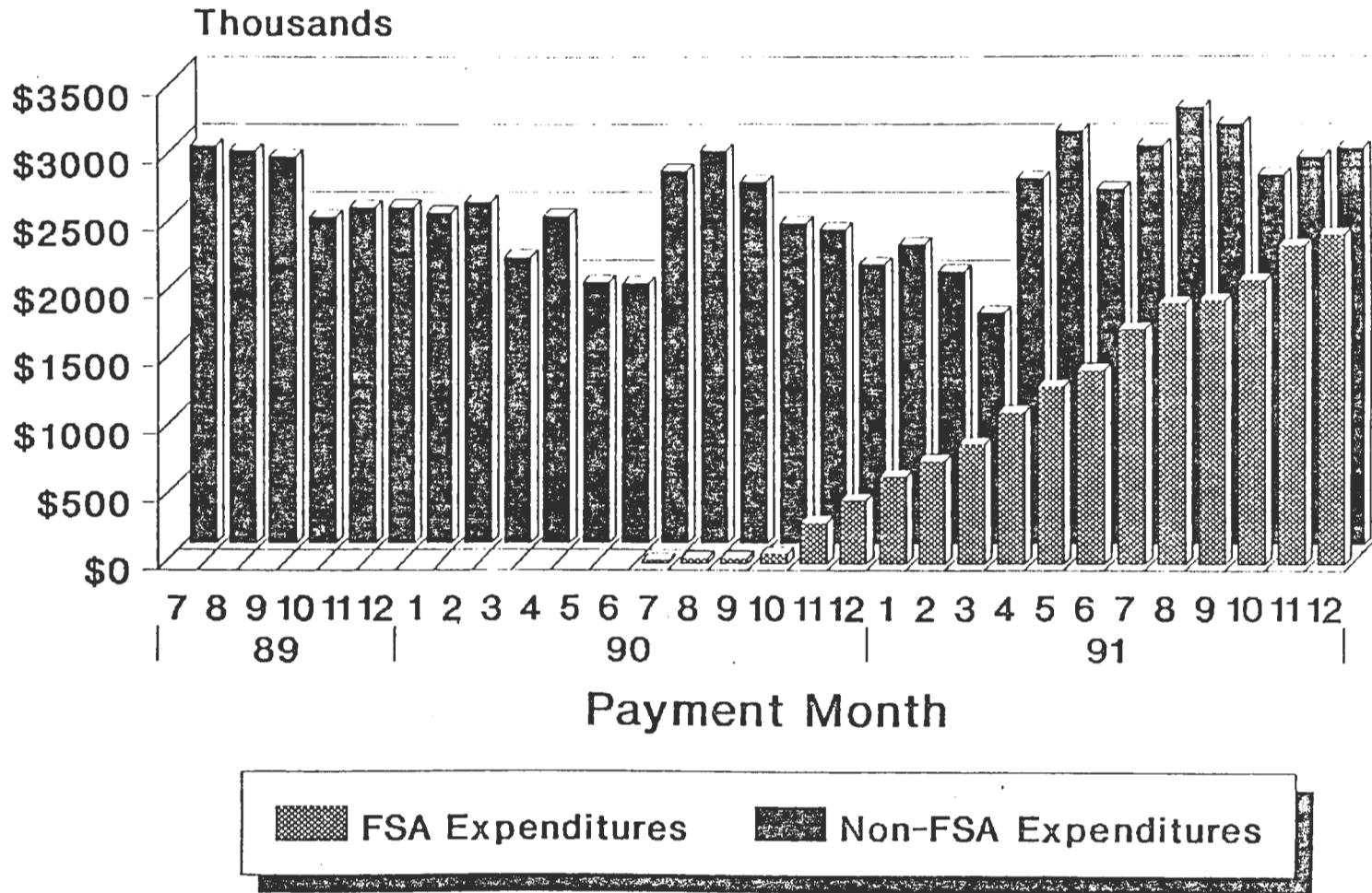
FSA Subsidized
 Non-FSA Subsidized

source: CDC Section Service Reports

NOTE: Count is not unduplicated across funding sources.

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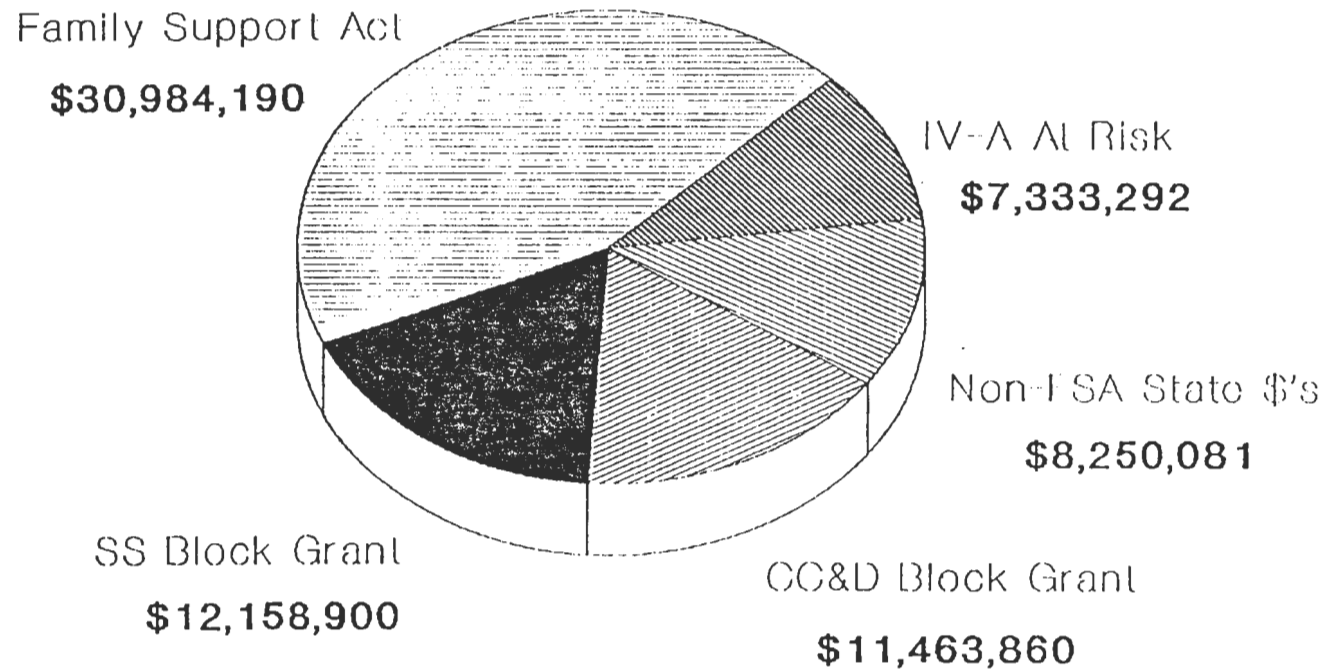
SUBSIDIZED CHILD CARE EXPENDITURES, by FUNDING SOURCE



source: DFS/DAS expenditure reports

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ESTIMATED EXPENDITURES FOR SUBSIDIZED CHILD CARE, by FUNDING SOURCE SFY 1991 - 1992



Estimated Expenditures: \$70,190,321

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STATUS OF CHILD DAY CARE LEGISLATION ENACTED IN 1990 and 1991

BILL	G.S.	Explanation of Change	Status
1990 Session			
S.B. 1426 Current Operations Appro- priations for NC for 90-91 Fiscal Year	Chapter 1066 of 1989 Session Sec.101(a) Sec.102(a)	Changed rate paid to child day care homes and individual child care arrangements from a flat rate to a county market rate. The day care allocation formula was changed to distribute State day care funds more equitably. Three factors included in the new formula are: 1) county's general population 2) # of children in county under 6 yrs. of age living in poverty 3) # of working mothers in county with children under 6 yrs. of age.	Implemented market rates for homes July 1, 1991 Although new funds (Child Care & Development Block Grant) were allocated to the counties, 37 counties still did not receive any additional money. An explanation is that those 37 counties had in past years gotten more than their "fair" share. Some counties, e.g. Mecklenberg, will continue to not receive additional funding without a substantial increase in funds.
1991 Session			
H.B. 416 Technical Changes To Day Care Law	110-86 110-88(10) 110-91(1) 110-91(1)	Wording describing max. no. of children allowed in d.c. home written more clearly. Temporary license to be issued to a new facility instead of provisional. Health assessment acceptable in lieu of medical exam - public health nurse allowed to perform and sign health assessment. New statement which allows non-profit, tax-exempt organizations that cater meals only to day care centers to be considered day care centers for purpose of imposing sanitation standards.	Written materials have been updated to reflect technical changes made in the day care law. This procedure has been implemented. Health departments were notified of the change in G.S.110-91(1). Section not aware of any organizations utilizing this change.

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BILL	G.S.	Explanation of Change	Status
	110-94	The time limit to appeal an administrative action is reduced from 60 days to 30 days.	Implemented October 1, 1991; cases which are not appealed are resolved more quickly.
	110-103.1(a)	Clarifies that a civil penalty of up to \$1000 may be issued for each violation.	
	110-105	Clarifies that consultants may inspect any area of a building where there is reasonable evidence to believe children are in care.	Have found situations where children were hidden in closed rooms. Change has improved enforcement capabilities.
	7A-517(5) Caretaker Law -Juvenile Code	Updated - Changed "day care plan" to "child day care home"	
	143B-168.5	Update of law to clarify the placement of child abuse/neglect unit and authority of Commission to make rules concerning investigation of abuse/neglect reports.	
H.B.956 Ban Corporal Punishment	110-91(10)	Prohibits corporal punishment in day care facilities with the exception of of church day care facilities.	Child Day Care Commission directed Section to research appropriate procedures for implementing these changes prior to adopting new rules. Church-operated programs which opt to use corporal punishment are requested to provide written notification of that policy to the Section.
	110-101	Prohibits corporal punishment in day care homes with the exception of those operated by a church.	

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BILL	G.S.	Explanation of Change	Status
HB122 Day Care Encouragement	143-64.50 143-64.51 143-64.52	Allows state agencies and local boards of education to contract with governmental or private agencies or persons to establish day care services in State buildings or public schools.	The Section is not aware of any new facilities that have opened as a result of this legislation.
HB597 SBI Day Care Abuse Task Force	7A-544 7A-548 114-15.3	Requires local DSS to notify SBI if investigation indicates sexual abuse in child day care. SBI has option to form task force to investigate. Requires DHR to adopt rules to ensure all groups' investigations do not interfere with one another.	A task force of representatives from the Dept. of Justice, the Dept. of Human Resources, and affected local agencies was formed to plan for and oversee implementation of HB597. Protocol for investigations was written and approved by task force on 1/16/92. Training needed and legislative revisions were identified. A full report about implementation of HB 597 will be presented to the Joint Commission on Governmental Operations.
HB5 Raise Minimum Wage	95-25.3	Raises state minimum wage to \$3.80 (eff. 1/1/92) and \$4.25 (eff. 1/1/93). This probably only affects some large home providers since most facilities must follow federal wage guidelines.	No negative comments about this change have been received by the Section.
HB83 Continuation Budget	Sec. 125	Revises the special provisions for use of child day care funds to authorize the development of special payment rates to benefit counties where the market rate rate is too low to attract or retain providers for the subsidized day care program.	DHR is reviewing proposed rules.

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE DEPARTMENT OF HUMAN RESOURCES AND
THE DEPARTMENT OF PUBLIC INSTRUCTION REGARDING
SUBSIDIZED CHILD DAY CARE

INTENT

North Carolina provides a system of child day care services which combines a variety of state and federal funding sources for the benefit of low income working families, children with special needs and children in other high risk situations. This system is called the State Day Care Program. The intent of this Memorandum of Understanding is to establish the basic responsibilities of and relationship between the Department of Human Resources (DHR) and the Department of Public Instruction (DPI) so as to ensure the continuity and consistent quality of the child care services provided.

MUTUAL OBJECTIVES AND STANDARDS OF CARE

1. All families eligible for public child care subsidy should be able to obtain child care services which meet acceptable standards for health, safety and developmentally appropriate care.
2. Continuity of the child's care arrangement should be maintained regardless of the source of funding available to the family.
3. A common set of requirements should be applied to all providers in order to allow equal access to North Carolina's publicly subsidized child care programs.
4. Compliance with the child day care licensing requirements is North Carolina's minimum acceptable level of child care.
5. The parties agree to work toward expanding the availability of child care resources to high risk children in underserved areas of North Carolina, to increase child care options for low income working families, to assure a basic level of quality for all children in child care, and to eliminate duplication of effort by state agencies.

RESPONSIBILITIES OF THE PARTIES

The parties agree to the following strategies for the purchase of child care services in programs operated by public school systems:

1. All child care programs eligible to receive funds through the State Day Care Program shall comply with the requirements for publicly funded day care as adopted by the Social Services Commission and codified in 10 NCAC 46. These standards require all day care centers and homes to meet the requirements for licensure established by the General Assembly and the Child Day Care Commission.
2. Child care programs operated by a public school system which meet the applicable day care licensing requirements will be eligible

for State Day Care Program funds, provided these requirements satisfy federal funding regulations.

3. DHR will provide information to DPI about the requirements, including any changes to the requirements.
4. DPI will be responsible for monitoring child care programs operated by public school systems for compliance with the State Day Care Program requirements. DPI will maintain sufficient documentation of compliance as is needed to satisfy state and federal program and fiscal reporting requirements.
5. DPI will routinely provide DHR with information about each program as is needed to issue notification of provider eligibility, to report changes in the provider's eligibility for participation (such as changes in ages served or increase in total capacity), and to maintain up-to-date reporting and reimbursement files. DHR will notify both the provider and the local purchasing agency of the provider's eligibility for participation in the State Day Care Program.
6. Child care services will be purchased from approved public school programs through the existing state day care mechanism. This means that the county department of social services, or its designated agency, will determine client eligibility, assist the client as needed with arranging for appropriate child care, contract with the approved provider, and authorize payments for the service.
7. The rate of payment for the child care service will be subject to state and federal regulations for the State Day Care Program. In most situations, the rate is subject to the local market rate for comparable child care services.
8. DPI will provide DHR with assurance of each program's continued compliance with all requirements at least annually.
9. DPI will provide quarterly reports to DHR regarding the nature and outcome of any reports of noncompliance. Failure by DPI to take corrective action or repeated incidents of noncompliance may result in loss of eligibility for funding, in accordance with 10 NCAC 46E.
10. Reports alleging child abuse or neglect in public school-operated centers will be investigated in accordance with the requirements of G.S. 110. A report shall be submitted to DHR by DPI of each allegation of child abuse or neglect in a public school-operated center. The report shall include the nature of the allegation, the date the allegation was received, the date an investigation began, the identity of the entity making the investigation, and the results of the investigation. Failure by DPI to follow required procedures and reporting requirements, or to take appropriate corrective action, may result in loss of eligibility for funding.

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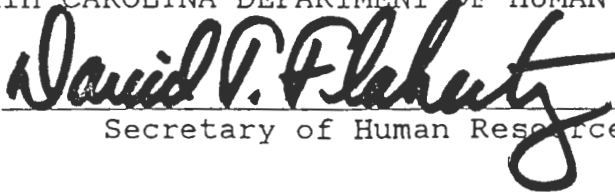
11. If DPI promulgates standardized requirements for age appropriate activities, caregiver qualifications or other program aspects for public school child care programs which are no less stringent than State Day Care Program requirements, compliance with the DPI standards will be accepted in lieu of compliance with comparable DHR requirements.
12. Any public school system may apply for start-up funding, when such funds are available to DHR, to enable child care programs to pay appropriate costs of initial compliance with state day care program requirements.
13. Any public school program which voluntarily applies for a child day care license shall be monitored by DHR according to the same procedures used for all other licensed programs.

All provisions of this agreement are contingent upon applicability of state and federal program and funding regulations.

This Memorandum of Understanding is effective the 13th day of August, 1991.

NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES

by


Secretary of Human Resources

NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

by


Superintendent of Public Instruction

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LEGISLATIVE DAY CARE STUDY COMMISSION
SPECIAL NEEDS PRESENTATION

I. WHAT ARE SPECIAL NEEDS (PL 99-457)?

A. Infants and Toddlers (Birth to Three)

1. Those with a developmental delay or disability (e.g. mental retardation, cerebral palsy, autism, vision/hearing impairments, etc.)
2. Those with atypical development (behavioral/emotional disorders)
3. Those at risk for a developmental delay or disability or atypical development

B. Preschoolers (three and four)

1. Those with specific types of developmental disabilities or atypical development

II. WHAT IS MAINSTREAMING?

A. Specific Approaches

1. Developmental Day Centers bring in children without special needs.
2. Children with special needs are placed in existing child care programs such as licensed day care centers, family day care homes and preschools with ongoing support and consultation provided by specialized early intervention personnel.

III. WHY MAINSTREAM?

A. Requirements through different federal laws.

1. PL 99-457 Part H "Most Natural/Least Restrictive Environment"
2. Americans with Disabilities Act, PL 101-336, Title III

B. For many children with special needs, it is more cost effective.

C. Research has shown that:

1. Many special needs children show more progress in areas like social and language skills.
2. There are no negative effects on the children without special needs.

D. Consumer preference: A growing number of parents of children with special needs have indicated a desire for mainstreamed options.

IV. AGENCY POLICY INITIATIVES RELATED TO MAKING MAINSTREAMING WORK

- A. Common definitions of special needs**
- B. Fiscal incentives through variable purchase of care rates for special needs children**

LEGISLATIVE PROPOSALS FOR
1992 LEGISLATIVE SESSION

DATE: March 3, 1992

DIVISION: Facility Services

SECTION: Child Day Care

Program Resource Person and Phone Number: Nancy M. Sampson, 733-4801

Title of Proposed Legislation: Proposed Amendments to House Bill 597

- A. Statutes to be Amended : G.S. 7A-542, G.S. 7A-543, G.S. 7A-544, G.S. 7A-548, G.S. 114-15.3
- B. Synopsis of Proposed Legislation:
As described below, the Day Care/SBI Task Force proposed amendments to several sections of the Juvenile Code and to G.S. 114-15.3 to clarify some of the reporting and investigatory procedures when child sexual abuse is suspected to have occurred in a day care arrangement. The Department is proposing that physical abuse also be added as an amendment to House Bill 597 as codified.
- C. History, Background and Rationale: House Bill 597, An Act to Encourage the State Bureau of Investigation to Form a Task Force to Investigate All Cases of Substantiated Child Sexual Abuse in Child Day Care, was ratified by the 1991 General Assembly and became effective October 1, 1991. The Act requires directors of county departments of social services to notify the State Bureau of Investigation (SBI) whenever child sexual abuse is suspected to have occurred in a child day care setting. The SBI is authorized to form a task force to investigate the allegations of child sexual abuse.
- An SBI/Day Care Task Force representing the Department of Justice, the Department of Human Resources and affected local agencies was formed to plan for and oversee implementation of House Bill 597. The recommendations of the task force were included in a report to the Joint Commission on Governmental Operations. The executive summary of the report on House Bill 597 is attached.
- D. Fiscal Impact: Included in the attached executive summary is the fiscal impact of reporting child sexual abuse, however, the Department is reviewing the cost of the inclusion of reporting physical abuse. This information will be provided to Fiscal Research as soon as possible.
- E. Impact on Other Division or Agencies: The recommendations affect the Department of Justice, the Division of Social Services, local departments of social services and the Child Day Care Section in the Department of Human Resources. Representatives of all agencies reviewed the recommendations of the task force.
- F. Interest Groups Impacted: Unknown.
- G. Proposed Bill Sponsor(s): Unknown

REPORT ON HOUSE BILL 597

House Bill 597, An Act to Encourage the State Bureau of Investigation to Form a Task Force to Investigate All Cases of Substantiated Child Sexual Abuse in Day Care, ratified July 8, 1991 by the North Carolina General Assembly, took effect October 1, 1991. A copy of the Act is included as **Attachment 1** to this report. The Act requires directors of county departments of social services to notify the State Bureau of Investigation (SBI) whenever child sexual abuse is suspected to have occurred in a child day care setting. The SBI is authorized to form a task force to investigate the allegations of child sexual abuse.

IMPLEMENTATION

An SBI/Day Care Task Force representing the Department of Justice, the Department of Human Resources and affected local agencies was formed to plan for and oversee implementation of House Bill 597. Task Force membership is included as **Attachment 2** to this report.

Prior to October 1, the State Division of Social Services issued an administrative letter to all directors of county departments of social services, informing them of their responsibilities under House Bill 597 and providing them with procedures for contacting the appropriate SBI District Offices. Corresponding information was provided by the SBI to the Special Agents in Charge of the eight SBI District Offices. Copies of both agencies' correspondence are included as **Attachments 3 and 4**.

Both the county department of social services and the Child Day Care Section in the Department of Human Resources' Division of Facility Services continue to have statutory responsibility to investigate all reports of child abuse or neglect in day care. To provide consistent protection for children and to enable law enforcement agencies to respond swiftly, the county department will notify the SBI District Office whenever child sexual abuse is alleged or suspected to have occurred in a day care facility or day care home.

In a number of communities, the county department of social services and the local law enforcement agency have established procedures for jointly investigating child abuse reports. The Task Force recommended that these local relationships be encouraged, and that the SBI fulfill its responsibilities under House Bill 597 by working through the local law enforcement agency whenever possible.

Upon receiving notification of suspicion of child sexual abuse, the SBI district staff will contact the local law enforcement agency having jurisdiction and provide any needed assistance with the investigation. SBI involvement will range from conducting the law enforcement component of the investigation when the local law enforcement agency is unable or

unwilling to accept the case to making technical assistance and support services available to the local agency.

FIRST QUARTER DATA

Between October 1 and December 31, 1991, the Child Day Care Section and the county departments of social services investigated reports alleging child sexual abuse in 20 day care settings. Included in the 20 cases were 12 regulated day care centers, 3 registered day care homes, and 5 illegal operations.

Of the 20 situations investigated, all but three were reported to the SBI. Two were not reported because county staff were still unfamiliar with the reporting requirement, and the third was not reported because there was no evidence to support the allegation. In the 17 cases reported to the SBI, the SBI has been actively involved in three investigations. Local law enforcement has assisted with the majority of the investigations and SBI assistance has not been requested. Final reports have not been issued on these cases.

A summary of each case is included in Attachment 5.

PROTOCOL

Soon after implementation of House Bill 597, the Task Force identified the need for an interagency protocol to provide a uniform, structured approach to investigations of child sexual abuse in day care settings and to reduce the trauma to children and their families who are involved in these cases by helping to assure professional, responsible behavior by all members of the investigative team. A subcommittee of Task Force members developed a proposed protocol which was reviewed and approved by the full Task Force on January 16, 1992. Attachment 6 contains the proposed protocol which has been submitted for further review by the Department of Human Resources, the Attorney General, local law enforcement agencies, and representatives of the North Carolina Association of County Directors of Social Services and the North Carolina Social Services Association.

The recommended protocol provides for the establishment of an Interagency Task Force in each county which would be convened at the beginning of each new investigation and as often as needed throughout the course of the investigation and any subsequent actions. The Interagency Task Force would consist of two units: the investigative unit and the resource unit. The investigative unit would consist of individuals assigned to the case and having statutory authority to investigate reports of child sexual abuse, to include the county child protective service worker, a child abuse/neglect consultant from the Child Day Care Section, a local law enforcement officer, and an SBI special agent. The resource unit may be comprised of a child medical examiner, other health professionals, local and state social services staff, SBI support personnel, and representatives of mental health agencies, the district

attorney's office, the Attorney General's Office, and others as needed by the circumstances of the case.

The protocol establishes the responsibilities of each member of the investigative unit and prescribes procedures for the investigation, notification of findings, and the provision of supportive services to the child victim.

In a separate but related effort, several medical professionals and four members of the Task Force have formed a work group to develop a protocol for obtaining a standard, quick response for a child medical examination when multi-victim child abuse is alleged. The medical protocol will not be limited to child sexual abuse, nor to child abuse in day care, but the procedure will apply to those cases and will be included in the general protocol proposed by the Task Force.

TRAINING

The Task Force identified several types of training needed to enhance the successful conclusion of child sexual abuse cases.

Local agency staff who will become members of the county interagency task forces will need to be trained to use the protocol. Existing funds from the Federal Child Abuse and Neglect Grant will be allocated by the Division of Social Services to pay for the initial training sessions. However, to retain effective use of the protocol, training should be available annually to train new local agency staff.

A training subcommittee was appointed by the Task Force to plan for initial training on the protocol. Training will be provided at six sites during July and August of 1992. Attachment 7 contains an outline of the protocol training plan.

Another need identified by the Task Force is more training for SBI agents and local law enforcement personnel in obtaining evidence in child sexual abuse cases and interviewing child victims and child witnesses.

LEGISLATIVE ISSUES

Implementation of House Bill 597 has helped to identify several areas where the law is unclear. For example, the statute requires the county department of social services to report allegations of child sexual abuse "after the initial investigation" is made. There is no point during an investigation which can clearly be designated as the initial investigation. Also, the law inconsistently refers to the types of day care settings in which child sexual abuse allegations are to be reported to the SBI. In some places the law refers to day care facilities; in others, day care facilities and homes. The latter terminology has in some instances been interpreted to mean the child's home, rather than day care homes. Specific recommendations to modify the statute to correct these problems are discussed later in this report.

Additionally, the Task Force has designated several statutory requirements for closer study and may recommend changes in the future. None of the issues listed below directly affect implementation of House Bill 597, but all relate to the investigation and case management of reports of child abuse or neglect in child day care and in other settings.

1. Consider a criminal penalty for failure to report suspected child abuse or neglect.
2. Study the effects of a more comprehensive definition of "caretaker" in G.S. 7A-517(5), as it relates to the authority of various agencies to investigate alleged child abuse or neglect.
3. Consider requiring notification to local law enforcement whenever child abuse is alleged or suspected.
4. Reassess confidentiality requirements to ensure that all persons involved in the investigation or prosecution of child abuse/neglect cases have access to necessary information, but that child victims continue to be protected by appropriate confidentiality requirements.
5. Consider an exception to the requirement in G.S. 110-88 that the child abuse/neglect day care consultant visit within seven calendar days when child sexual abuse is alleged and when the request for a delay has been authorized by the SBI.
6. Assess the impact of any of the above named issues on the requirements for child day care and child day care enforcement in Article 7, Chapter 110 of the General Statute.
7. Consider recommendations for prevention of child abuse and neglect in day care, such as criminal record check requirements and more frequent monitoring of day care arrangements.

RECOMMENDATIONS

The Department of Human Resources and the Department of Justice recommend the following actions to enable state and local agencies to respond swiftly and more appropriately whenever child sexual abuse is alleged to have occurred in a child day care setting:

1. Enactment of the changes proposed in Attachment 8 to this report, entitled "An Act to Clarify the Intent of House Bill 597". This proposal recommends amendments to G.S. 114-15.3 and several sections of G.S. 7A to require that directors of county departments of social services immediately report all allegations of child

sexual abuse in child day care to the SBI rather than waiting until the department has conducted "an initial investigation". Earlier notification will lessen the opportunity for contamination of evidence and provide for a unified investigation strategy.

The proposed amendments also clarify that the SBI is to be notified of allegations of child sexual abuse in all child day care arrangements subject to state regulation.

2. Increase by eight the number of SBI special agents who are trained in child sexual abuse investigatory procedures. The first year cost for eight agents would be \$617,328, at a total cost of \$77,166 per agent. The current cost to maintain eight agents is \$404,608 at \$50,576 per agent. See Attachment 9 for detail.
3. Appropriate \$6000 annually to provide training on the protocol for child sexual abuse investigations to local and state agency staff.

The Task Force will continue to meet on a regular basis to monitor the effect of the provisions of House Bill 597 and to oversee approval, training and implementation of the protocol. Additionally, the Task Force will appoint work groups to develop recommendations regarding the issues identified for future legislative consideration.

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B.

Department of Human Resources
Alternative to Task Force
Change

AN ACT TO CLARIFY THE INTENT OF HOUSE BILL 597

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-542 is amended by rewriting the last sentence to read: "The provisions of the Article shall also apply to ~~daycare~~ child day care facilities and ~~daycare plans~~ child day care homes as defined in G.S. 110-86."

Sec. 2. G.S. 7A-543 is amended by adding a third paragraph to read:

"Upon receipt of any report of child sexual ^{or physical} abuse in a day care facility or day care home, the Director shall notify the State Bureau of Investigation within 24 hours or on the next work day. If child sexual ^{or physical} abuse in a day care facility or day care home is not alleged in the initial report, but during the course of the investigation there is reason to suspect that child sexual ^{or physical} abuse has occurred, the Director shall immediately notify the State Bureau of Investigation. Upon notification that child sexual ^{or physical} abuse may have occurred in a day care facility or day care home, the State Bureau of Investigation may form a task force to investigate the report."

Sec. 3. G.S. 7A-544 reads as rewritten:

"G.S. 7A-544. Investigation by Director; ~~notification of State Bureau of Investigation if sexual abuse in day care~~ notification of person making the report.

When a report of abuse or neglect is received, the Director of the Department of Social Services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the

Director shall immediately, but no later than 24 hours after receipt of the report, initiate the investigation. When the report alleges neglect, the Director shall initiate the investigation within 72 hours following receipt of the report. The investigation and evaluation shall include a visit to the place where the juvenile resides. All information received by the Department of Social Services shall be held in strictest confidence by the Department.

If the investigation reveals abuse or neglect, the Director shall decide whether immediate removal of the juvenile or any other juveniles in the home is necessary for their protection. If immediate removal does not seem necessary, the Director shall immediately provide or arrange for protective services. If the parent or other caretaker refuses to accept the protective services provided or arranged by the Director, the Director shall sign a complaint seeking to invoke the jurisdiction of the court for the protection of the juvenile or juveniles.

If immediate removal seems necessary for the protection of the juvenile or other juveniles in the home, the Director shall sign a complaint which alleges the applicable facts to invoke the jurisdiction of the court. Where the investigation shows that it is warranted, a protective services worker may assume temporary custody of the juvenile for the juvenile's protection pursuant to Article 46 of this Chapter.

In performing any of these duties, the Director may utilize the staff of the county Department of Social Services or any other public or private community agencies that may be available. The Director may also consult with the available State or local law-enforcement officers who shall assist in the investigation and evaluation of the seriousness of any report of abuse or neglect when requested by the Director. If

THE DIRECTOR'S INITIAL INVESTIGATION OF A REPORT OF ABUSE IN A DAY CARE

facility reveals sexual abuse may have occurred, the Director shall notify the State Bureau of Investigation of the results of the initial investigation within 24 hours or on the next working day. The State Bureau of Investigation may send a task force to investigate the alleged sexual abuse and gather evidence that may be presented at a criminal trial.

Unless a petition is filed within five working days after receipt of the report of abuse or neglect, the Director shall give written notice to the person making the report that:

- (1) There is no finding of abuse or neglect; or
- (2) The county Department of Social Services is taking action to protect the welfare of the juvenile, and what specific action it is taking.

The notification shall include notice that, if the person making the report is not satisfied with the Director's decision, he may request review of the decision by the prosecutor within five working days of receipt. The person making the report may waive his right of this notification and no notification is required if the person making the report does not identify himself to the Director."

Sec. 4. G.S. 7A-548 reads as rewritten:

"G.S. 7A-548. Duty of Director to report evidence of abuse, neglect; notification of Department of Human Resources and State Bureau of Investigation.

(a) If the Director finds evidence that a juvenile has been abused as defined by G.S. 7A-517(1), he shall immediately make a written report of the findings of his investigation to the district attorney, who shall determine if criminal prosecution is appropriate, and who may request the Director or his designee to appear before a magistrate.

If the Director receives information that a juvenile has been physically harmed in violation of any criminal statute by any person other than the juvenile's parent or other person responsible for his care, he shall make an oral or written report of that information to the district attorney or the district attorney's designee within 24 hours after receipt of the information. The district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7A-543 involves abuse or neglect of a juvenile in day care, either in a day care facility or a day care home, the Director shall notify the Department of Human Resources within 24 hours or on the next working day of receipt of the report.

(b) If the Director finds evidence that a juvenile has been abused or neglected as defined by G.S. 7A-517 in a day care facility or day care home, he shall immediately so notify the Department of Human Resources and, in the case of child sexual ^{or physical} abuse, the State Bureau of Investigation, in such a way as does not violate the law guaranteeing the confidentiality of the records of the Department of Social Services.

(c) Upon completion of the investigation, the Director shall notify give the Department written notification of the results of the investigation required by G.S. 7A-544. If the Director's initial investigation, carried out pursuant to G.S. 7A-544, of a report of abuse in a day care facility reveals that sexual abuse may have occurred, the Director shall notify the State Bureau of Investigation of the results of the initial investigation. The State Bureau of Investigation may send a task force to investigate the alleged sexual abuse and gather evidence that may be presented at a criminal trial. Upon completion of an investigation of child sexual ^{or physical} abuse in a day

care facility or day care home, the Director shall also make written notification of the results of the investigation to the State Bureau of Investigation.

The Director of the Department of Social Services shall submit a report of alleged abuse or neglect to the central registry under the policies adopted by the Social Services Commission.

(b) If the Director finds evidence that a juvenile has been abused or neglected as defined by G/S/ 7A/517 in a day care facility or home, he shall immediately so notify the Department of Human Resources and the State Bureau of Investigation in such a way as does not violate the law guaranteeing the confidentiality of the records of the Department of Social Services."

Sec. 5. G.S. 114-15.3 reads as rewritten,
"G.S. 114-15.3. Investigations of child sexual ^{or physical} abuse in day care.

The Director of the Bureau may form a task force to investigate and prepare gather evidence following a notification by the director of a county department of social services, pursuant to G/S/ 7A/544 G.S. 7A-543, that the Director's initial investigation of a report of abuse in a day care facility reveals that child sexual ^{or physical} abuse may have occurred in a day care facility or day care home."

Sec. 6. This act becomes effective July 1, 1992.

Agent Cost FY 91-92

Personal Services

\$26,820	Salary
2,052	Social Security (7.65%)
3,924	Law Enforcement Retirement (14.63%)
5,200	Overtime
<u>1,735</u>	Hospital Insurance
\$39,731	

Operating Expenses

\$ 225	Medical Services
400	Clothing Allowances
2,750	Vehicle Operating Expense
750	Office Supplies
3,510	Other Supplies
1,150	Travel Expense
750	Telephone
360	Postage
500	Specialized Training
<u>250</u>	Vehicle Insurance
\$10,645	

Training

\$ 2,200	Basic Training (NR)
<u>200</u>	In/Service Training
\$ 2,400	

Equipment

\$ 1,500	Data Processing Equipment (NR)
15,500	Motor Vehicle (NR)
<u>7,390</u>	Law Enforcement Equipment (NR)
\$24,390	

\$77,166

TOTAL COST

Note: \$26,590 Non-recurring
(9/24/91)

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LEGISLATIVE PROPOSALS FOR
1992 LEGISLATIVE SESSION

DATE: March 3, 1992

DIVISION: Facility Services

SECTION: Child Day Care

Program Resource Person and Phone Number: Nancy M. Sampson, 733-4801

Title of Proposed Legislation: Revise the Definition of Child Day Care

- A. Statute to be Amended: G.S. 110-86(2)
- B. Synopsis of Proposed Legislation:
Revise the definition of child day care to exclude drop-in care arrangements provided for children while their parents are participating in non-employment related activities on the premises such as in shopping malls, exercise studios, resort hotels, bowling alleys, health spas, church child care provided during church activities and other similar arrangements. Alternatively, provide sufficient funds to regulate these arrangements.
- C. History, Background and Rationale: A local department of social services raised the issue as to whether drop-in care is regulated and whether local departments of social services have responsibility to investigate reports of child abuse or neglect since such arrangements have not been required to be licensed or otherwise regulated. Neither the State Division of Social Services nor the Child Day Care Section believed they had the authority to investigate complaints in such programs since such arrangements have not been required to be licensed or registered as child day care. However, a recent interpretation from the Attorney General's office informally advises that drop-in child care provided as described in item B. above must be regulated when it meets the other conditions of the definition of child day care, i.e., operates at least once per week for more than four hours per day, etc.

When the current definition of day care was enacted into law, these types of arrangements, except for church activities, were virtually nonexistent. It is believed that it was never the intent of the legislature to regulate such arrangements as day care and the legislature has never provided funding for staff to license and monitor these arrangements. However, due to the Attorney General's interpretation, statutory clarification of the issue is now needed. It should be noted that if these programs are exempted, no agency has the authority to regulate the care provided or terminate the provider's right to operate. However, nothing in state statute prohibits local departments of social services, when such situations are known, from reporting the incident to law enforcement agencies or advising the parent to do so.

The Department is presenting the following four options to address the situation:

1. Provide funding for sufficient staff to regulate all drop-in care arrangements. It is estimated that there are approximately 20,000 churches, malls, health clubs, resorts, etc. with the potential to

offer drop-in services. If even half of the facilities offered child care, the Department would need 118 additional staff at a cost of \$5.9 million to regulate these arrangements.

2. A second option would be to regulate all drop-in arrangements except for those operated by churches to support church activities. Staff needed to regulate all drop-in care arrangements except church facilities would be about 30 additional staff at a cost of \$1.5 million.
3. A third option would be to charge the arrangements a licensing fee in an amount sufficient to cover the cost of regulating them.

For any of the above 3 options, statutory language will be needed to

- a. authorize the Child Day Care Commission to adopt rules for drop-in care arrangements, and
 - b. hold harmless until October 1, 1992, or until such time as an appropriate number of staff positions can be classified, posted, filled and brought on board.
4. The fourth option is to exclude all drop-in type arrangements from regulation until sufficient funds can be appropriated.
- D. Fiscal Impact: Fiscal impact related to staff needs is included with the options stated above. Additional costs would be incurred by the State to promulgate and distribute appropriate rules to approximately 10,000 drop-in arrangements.
- E. Impact on Other Division or Agencies: The Division of Social Services is reviewing its interpretation of statutes which give local departments of social services the authority to investigate reports of child abuse or neglect in out of home arrangements.
- F. Interest Groups Impacted: Child advocacy groups and regulated providers will be interested in this issue, as will local departments of social services and local law enforcement officials.
- G. Proposed Bill Sponsor(s): Unknown

ATTACHMENT 1

AN ACT TO CLARIFY THE DEFINITION OF CHILD DAY CARE

The General Assembly of North Carolina enacts:

G.S. 110-86(2) reads as rewritten: Child day care. Any child care arrangement ~~except seasonal recreational programs operated for less than four consecutive months in a year~~ wherein three or more children less than 13 years old receive care away from their own home by persons other than their parents, grandparents, aunts, uncles, brothers, sisters, first cousins, guardians or full-time custodians, or in the child's own home where other unrelated children are in care. Child day care does not include seasonal recreational programs operated for less than four consecutive months in a year. Child day care also does not include arrangements which provide only drop-in or short term child care for parents participating in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as child care offered in health spas, bowling alleys, shopping malls, and resort hotels. ("Easily accessible" ~~shall~~ means able to be contacted and arrive at the child care arrangement within 20 minutes after being contacted.)"

-OR-AND PREFERABLY--

"Easily accessible" could be defined by rule.

DEPARTMENT OF HUMAN RESOURCES
VOUCHER SYSTEM FOR CHILD DAY CARE

Presentation to
Legislative Study Commission on
Child Day Care Issues

BACKGROUND

- Federal regulations for the Child Care and Development Block Grant (CCDBG) require the State to implement a voucher system by October 1, 1992 that provides parents freedom of choice in selecting child care providers for their children.
- Continuation of CCDBG funding to the State is contingent upon meeting the requirement for the voucher system.
- After reviewing several options for complying with the regulations within the federal deadline, a tentative recommendation to the Secretary was made to develop a voucher system and contract with an outside agency to implement the voucher system and related changes to the day care payment system.
- As a step in implementing this plan and a means of addressing policy and procedural issues that had surfaced about it, a team of State staff was assembled to visit counties and providers to identify their requirements and insure that their needs and concerns were addressed for this plan.
- Six county departments of social services and fifteen types of providers were visited and over fifty individuals were interviewed.
- Significant program and financial policy and procedural issues were identified that need to be addressed as a new payment system is designed and implemented.
- These same issues were brought to the Secretary's attention by several day care providers and by a group of advocates for child day care who were under the impression that final decisions had been made about this plan. The Secretary assured them that no final decisions had been made and that their participation in the decision making process was welcome.
- To address these complex issues, a decision was made to consider the voucher system and payment system as separate issues.

REVISED PLAN

- The voucher system, which is mandated to be implemented by October 1, 1992 to insure continuation of federal funding, would be implemented as a manual process within the prescribed timeframe.

- In general, the voucher system would consist of the following steps:
 - **ELIGIBILITY DETERMINATION**
The county department of social services would determine that a child is eligible for child day care services.
 - **VOUCHER ISSUANCE**
The county department of social services would issue a voucher to the child's parent/guardian certifying the child's eligibility for services. The voucher would be valid for up to 12 months or until a new voucher was issued. The voucher would have no monetary value; it would only have maximum payment information that can be paid to enrolled providers.
 - **PROVIDER SELECTION**
Parents/guardians would select the center/individual they want to provide services to their child and give the voucher to the provider.
 - **VERIFICATION OF ENROLLMENT**
The provider would complete identifying information on the voucher and submit it to the county department of social services. The county department of social services would verify that the provider was enrolled with the State. If the parent selected an individual care arrangement that was not already enrolled, the county department of social services would determine that the provider meets the health and safety requirements and enroll the provider at this time.
 - **ARRANGEMENT ESTABLISHED**
Upon receipt of the voucher and verification of enrollment of the provider by the county department of social services, the selection process is completed and the day care arrangement is established.
- Providers would continue to submit attendance reports to county departments of social services which would be the basis for counties reimbursing providers and, in turn, the basis for the State to reimburse counties.
- The effort to develop a new payment system, which is not tied to the federal deadline, would be undertaken and adequate time allotted to insure that all issues are addressed and that affected individuals and organizations have the opportunity for input.
- In designing a new payment system, particular consideration would be given to eliminating the requirement for counties to provide upfront funding for child day care services and to insuring that automation needs of county staff are addressed.

A problem has been identified to me regarding the eligibility of for-profit child day care centers who apply for the Food Service Program. Eligibility criteria for the Food Service Program states that at least 25 % of children in the center must receive Title XX or Social Services Block Grant (SSBG) funds for some or all of the cost of their care.

In the past when the subsidized child day care program was funded with a blend of State appropriation and SSBG there was no problem. With the advent of Family Support Act (FSA) child care some centers are unable to meet the 25% Title XX beneficiary benchmark because FSA funded children are not eligible to be included in the 25%. Thus,

some centers who need these Food Service dollars in order to realize a profit are not eligible for the Food Service funds even though most of the FSA funded children are financially eligible for SSBG .

I have directed staff to determine the most efficient, legal method of ensuring that our child day care providers are not denied eligibility for the Food Service dollars which enable them to continue to service children at a lower rate simply because of a technicality.

We are hoping to take immediate action to address this issue within the State by designating \$1 dollar in SSBG funds for all children who need it in order to ensure center eligibility for the Food Service programs.

CHILD DAY CARE PAYMENT RATES
AND
THE ALLOCATION OF NON-FSA FUNDS
FOR THE SUBSIDIZED CHILD DAY CARE PROGRAM

LEGISLATIVE RESEARCH COMMISSION'S
STUDY COMMITTEE ON CHILD CARE ISSUES
APRIL 8, 1992

PREPARED BY
THE CHILD DAY CARE SECTION
DIVISION OF FACILITY SERVICES
DEPARTMENT OF HUMAN RESOURCES

**CHILD DAY CARE PAYMENT RATES
AND
THE ALLOCATION OF NON-FSA FUNDS
FOR THE SUBSIDIZED CHILD DAY CARE PROGRAM**

I. Day Care Rates

- A. Overview of All Day Care Payment Rates
- B. How Market Rates Are Established
- C. Problems With the General Rate Structure
- D. Payment Rates for Children with Special Needs
- E. Recommendations for Changes in the Payment Rate for Special Needs Children

II. Allocation of Non-FSA Funds

- A. Overview of the Current Allocation Formula and Process
- B. The Reallocation Process
- C. Problems with the Allocation Process
- D. Recommendations for Changes to the Reallocation Process

III. Attachments

- Special Provision Language - Attachment 1
- Current Market Rates - Attachment 2
- Rules for Payments for Special Needs Children - Attachment 3

DAY CARE RATES

OVERVIEW OF DAY CARE RATES

As stated in the special provisions in House Bill 83 (Attachment 1), state law allows several options for payment rates for providers who offer day care to children in the State's subsidized day care program. The options available to the child care provider depend on the type of provider and the population of children served by that provider.

Child day care homes, which are required to be regulated by the State, and individual arrangements approved by the county department of social services to care for the children of one family, may be paid any amount up to the county market rate established for home-based day care.

Day care facilities have more choices. Day care facilities are large day care homes and day care centers which are licensed to care for 6 or more preschool children. The amount that a provider is eligible to receive usually depends on the number of subsidized children served by the facility. The majority of day care facilities fall into one of the following two categories:

1. **Facilities which serve more nonsubsidized children than subsidized children:** When most of the children enrolled in a day care facility are not receiving any type of state or federal day care subsidy, we refer to this facility as a Category A facility. A Category A facility's subsidized rate may be the same rate which the provider charges to nonsubsidized parents for a child in the same age group. The State places no limits on the rates paid to these providers because these providers' charges are limited to the amount that nonsubsidized families in the community are willing to pay.
2. **Facilities in which at least half of the children are subsidized:** When half or more of the children are subsidized with state or federal day care funds, the facility is called a Category B facility. Payments to most Category B facilities are limited to the county market rates.

When North Carolina began using market rates in 1986, Category B facilities providing subsidized care at rates higher than the market rate were held harmless by statute until the county market rates exceeded the facility's 1986 payment rates. About 20 facilities are still being paid their 1986 rates. Most of these facilities are located in very rural areas where there are too few nonsubsidized children in state regulated day care to establish a market rate high enough to sustain a licensed facility.

In addition to the options described above, day care homes and day care facilities may be paid higher rates for children with special needs. More information about rates for children with special needs is included below in the section titled "Rates for Children With Special Needs".

All of the options allowed by state law define the maximum rates which the State will pay a type of provider. The rates for each specific facility are established by the Division of Facility Services according to the provider's eligibility for Category A or B-type rates, the ages of children served by the facility and the hours the program operates, i.e., does it offer full-time or part-time care, is it open for more than one shift, etc. The rates established by the Division are the

provider's approved rates and are the maximum rates which may be paid to that provider.

The rate actually paid to the provider is determined by the provider and the county department of social services. The special provision language encourages county departments to negotiate lower rates with providers. Some counties negotiate rates; others don't. Some counties pay a flat rate across the board to all providers; some pay a percentage of the provider's approved rates; others negotiate according to the particular child's needs. In some instances, counties have negotiated to pay higher rates, using county funds to supplement the amount established by the State.

All of the provisions described above are allowed by **state law** and can apply to subsidized day care purchased with **state funds** or federal Social Services Block Grant (**SSBG**) funds. The other federal funding sources have different limits on the rates for day care. Except for special needs children, all of the federal **Title IV-A - funded** child care is limited to the provider's charge, not to exceed the county market rate. Title IV-A funds are used to pay for child care for Family Support Act (**FSA**) clients, such as working AFDC recipients, JOBS participants, and Transitional Child Care recipients, as well as the **At Risk** child care for non-AFDC working parents. The state plan for the Child Care and Development Block Grant (**CCDBG**) also limits the use of federal funds to the provider's charge, not to exceed the county market rate. Although the CCDBG regulations allow other options for establishing payment rates, the State elected to be consistent with the Title IV-A requirements when the federal agency would not approve use of the Category A and B method for facilities. The CCDBG regulations allow different rate ceilings for different types of providers (centers, homes, relatives, etc.), but do not allow for a dual rate structure for the same type of provider.

In summary, State law allows the most options for day care rates. Title IV-A child care regulations are the most restrictive. A discussion of some of the problems caused by the different regulations for rates and some suggestions for making the state requirements consistent with federal regulations occur later in this report.

The next two sections of this report address questions related to the methods used to establish the county market rates and the guidelines used to pay higher rates for children with special needs.

HOW MARKET RATES ARE ESTABLISHED

Market rates are established annually by the Child Day Care Section for two types of child care arrangements-- day care facilities and home-based day care. As described above in the overview of rates, facilities are large homes and centers; home-based care includes state regulated small day care homes as well as informal care in a home setting that is not required to be regulated by the State. Most of the federal funding sources allow care to be purchased from individuals who do not have to be licensed, such as child care provided by grandparents or other relatives.

Market rates are calculated from information about fees charged for unsubsidized care by state regulated centers and homes. The fee information is collected by the licensing consultant whenever the consultant makes a routine visit to the facility or home.

All market rates are calculated according to the federal requirements for the Family Support Act. The FSA child care regulations require that the market rate be the 75th percentile of rates charged for the type of care within a political subdivision. The regulations further require that the market rates reflect variations in the cost of care in the local area by type of provider and by age of child. North Carolina has separate market rates for each county, for two types of providers and for four age groups of children. A copy of each of the two market rate tables is attached to this report.

Use of the 75th percentile has probably been the most misunderstood concept about the market rates. Although percentile means a rank order distribution of the rates, many people still believe the market rates represent only 75% of the "average rate". Prior to the Family Support Act, North Carolina used a mean average to calculate market rates. In most instances, 75th percentile rates are higher than mean average rates.

Although the rates for both facilities and homes are calculated on the 75th percentile, the methods used differ somewhat. These differences are described below:

Facilities: The two factors used to calculate facility rates are the number of nonsubsidized children in an age group enrolled in day care facilities in the county and the rate paid by the parents of each of those children. A formula is applied which ranks all of the rates for those children from low to high and selects the amount at which fees paid by 75% of the unsubsidized families are equal to or below that amount. These two factors help the market rates reflect the costs most parents are choosing to pay and diffuse the effect of one facility whose rates are much higher or much lower than the norm.

Homes: Because of the smaller numbers of children in a day care home, the factors used to establish home-based market rates are the rates charged by each home in the county.

In addition to market rates for each county, the Section calculates rates for six regional groups of counties. A regional rate is assigned as the county market rate when there are too few homes or too few children in a certain age group to establish a rate for that county.

PROBLEMS WITH THE GENERAL RATE STRUCTURE

In light of the State's goal of maximizing parental choice in determining who the child's day care provider will be, there are several problems with the current rate structure. First, the statute encourages the negotiation of lower rates, when possible, with center operators. Lower rates, clearly, make it more difficult to attract and hold providers into the subsidized day care system; parental choice is diminished. Furthermore, inconsistent rate negotiation, within as well as between counties, has led to obvious inequities. Second, placing the market rate maximum payment on some providers (Type B providers), is obviously restrictive. If our goal is to open up the market as much as possible in order to increase parental choice, then the best approach is to pay all providers what they charge. This not only ensures parental choice but it allows providers to maintain preferred levels of quality.

Unfortunately, the realities of funding and the need to serve as many eligible children as possible must be weighed against the issues of parental choice and quality. Federal regulations do not permit Title IV-A funds to be used to pay day care costs in excess of the market rate. Other federal funds may not be used to supplement the Title IV-A funds. Since the IV-A funds, with required matching funds, represent about 60% of the State's total day care subsidy, this is a serious restriction. A decision to pay provider charges, including those in excess of the market rates, could be costly in terms of state dollars.

The Department of Human Resources has been grappling with these problems and issues for months. We hope the Committee can help us find solutions which: (1) encourage parental choice, (2) are fair and equitable for providers and (3) use subsidy funds as efficiently as possible.

RATES FOR CHILDREN WITH SPECIAL NEEDS

There are two methods used in the subsidized day care program to pay higher rates for special needs children. The payment rate used depends on whether the special needs child is enrolled in a developmental day center or a regular child care arrangement. The rules adopted by the Social Services Commission for payment rates for special needs children are included as an attachment.

Payments to Developmental Day Centers

Developmental day centers are child day care centers designed specifically for children with special needs. Developmental training, family support, and specialized therapies are provided by the staff at developmental day centers. Staff are certified either in Early Childhood Education or Special Education. Developmental day centers operate full day, five days a week, year-round.

The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (MH/DD/SAS) pays a maximum rate of \$453 per child per month for children enrolled in developmental day centers. The actual cost of care for children in these centers is much higher, averaging about \$1000 per month per child. In the current rules for subsidized child day care services, the cost of care above what MH/DD/SAS pays for eligible children enrolled in developmental day centers can be reimbursed.

Payments for Special Needs Children In Regular Child Care Arrangements

A regular child care arrangement (for the purpose of describing arrangements that are eligible for a supplemental rate for special needs children), is a child day care center or home in which at least 60 percent of the children do not have special needs. The current rules for subsidized child day care services allow a payment for a special needs child that is 10% above the provider's approved daily care rate for a child in the same age group. In order for the provider to be approved for the supplemental payment, the agency that determines a child has a "special need" must have supporting documentation on file that includes a summary of the special services required to meet the child's needs.

Only about five day care facilities currently are using this supplemental payment. It is understandable that this small supplemental payment does not entice providers to assume the extra costs often involved in serving special needs children. For example, the average statewide market rate for three year olds is \$258. The average supplemental rate allowed for a special needs child in a three year old class would amount to only \$25.80 per month per child.

The rules which define the maximum payment rates for day care for special needs children were adopted in 1982 and the supplemental payment rate has not increased since that time.

RECOMMENDATIONS FOR CHANGES IN THE PAYMENT RATE FOR SPECIAL NEEDS CHILDREN

An increase in the current approved supplemental rate for special needs children served in regular child care arrangements is recommended. Emphasis has been placed in recent years on serving special needs children in the least restrictive environment. For many children, regular day care facilities or day care homes, with some modifications such as special equipment or lower staff/child ratios, may be the best environment. Increasing the supplemental rate for special needs children would encourage more providers to mainstream special needs children.

The Department of Human Resources is proposing to increase supplemental payments to a maximum of 75% above the provider's approved daily care rate for a particular age group, but not to exceed the maximum rate established for developmental day care centers by the Division of MH/DD/SAS (currently \$453/month). Not all facilities would need the 75% increase to meet the child's needs. Consultation services and specialized therapies or educational services would be paid for with Mental Health funds or local education funds. Only direct operational costs such as modifications to equipment or lower staff/child ratios would need to be paid for by the facility.

Although this change might require additional funds from the subsidized day care program, it would be more cost effective for the State. In 1989 a study was conducted by MH/DD/SAS and the Child Day Care Section to compare the cost of child care in programs which mainstreamed special needs children as opposed to programs which primarily served special needs children. It was found that the average cost per child per month in a mainstreamed setting was \$511 and the average cost per child per month in a developmental day center was \$1,029. Savings in funds might be realized immediately if some children currently enrolled in developmental centers were moved to regular child care arrangements.

Many parents of special needs children request that their children be placed in a regular child care setting if possible. Currently there often are no other options for special needs children, except developmental day centers. Public Law 99-457 requires that the services plan for each child meet the child's needs and a child would not be placed in a regular day care setting unless those services can be delivered. Developmental day centers would still be the best environment for some special needs children. Public Law 99-457 also provides for a service coordinator to coordinate and assure appropriate service delivery.

ALLOCATION OF NON-FSA FUNDS

OVERVIEW OF ALLOCATION FORMULA

Child day care funds for services have been allocated to counties using a statutory "fair share formula" since 1986. The formula has always had a "hold harmless" clause which prevents a county's allocation from falling below the previous year's initial allocation. The hold harmless clause, however, does not prevent the formula amount for the new year from falling below the previous year's expenditure. In fact, the initial formula allocation may be as little as half the amount required to continue the program at the previous year's level. An illustrative example may help make this more clear. One county's initial SFY 1990-91 allocation was \$2,794,601. The formula determined that the county's fair share for SFY 1991-92 should be \$2,496,531 but, because of the hold harmless clause, the SFY 1991-92 allocation was increased to equal the 1990-91 figure. When the county's 1990-91 expenditure figure is examined, however, one finds that the county spent almost \$5.4 million. This was made possible through the process of reallocation whereby unneeded funds are reverted by some counties so other counties can use them.

The 1990 session of the General Assembly enacted a new allocation formula for child day care funds. A copy of the House Bill 83 Special Provision describing the formula is attached. The new formula stipulates that the funds shall be allocated using the following three factors:

1. one-third of the allotted funds shall be distributed according to the county's population in relation to the total population of the State;
2. one-third shall be distributed according to the number of children under 6 years of age in a county who are living in families whose income is below the State poverty level in relation to the total number of children under 6 in the State in families whose income is below the poverty level; and
3. one-third shall be distributed according to the number of working mothers with children under 6 years of age in a county in relation to the total number of working mothers with children under 6 years of age in the State.

When the new formula was implemented for the first time in SFY 1991-92, almost \$41 million was allocated, of which about \$12 million was new federal money. In spite of the large increase, 36 counties did not receive any of the new money because they, according to the new formula, were already getting more than their fair share. These counties had to rely on the hope that there would be enough money reallocated during the year to support their program.

THE REALLOCATION PROCESS

Some counties receive more money than they can spend. They are asked to voluntarily revert the unneeded funds. The reverted funds are reallocated to purchasing agencies which need additional funds. Counties which voluntarily revert funds, and later find that their needs have changed, will continue to receive first priority for any reallocated funds. Reverting funds has no effect on the reverting county's subsequent year allocation.

During the fiscal year, counties are expected to monitor their actual expenditures against their projected expenditures and revert unneeded funds. The Child Day Care Section contacts those counties which appear to be underspending at the end of each quarter. No funds are reverted without giving the county an opportunity to

explain and justify a higher level of spending for the rest of the year. If sufficient justification cannot be provided, however, unspent funds automatically revert. During SFY 1991-92, large amounts of money have had to be moved rapidly (over \$8 million). Many counties have depended on reallocations to meet their day care needs.

PROBLEMS WITH THE ALLOCATION PROCESS

The problem with the allocation process, simply put, is that the formula puts money in counties which can't spend it all and not enough in counties which can spend more. In examining this problem, however, the Department has concluded that the allocation formula, itself, is sound and that its factors reasonably reflect the need for day care funds. It is the reallocation process which needs to be changed.

During the course of the year, as the reallocation process works, the money is gradually moved to counties which need it. For counties which build their programs up with reallocated funds, however, there is always a bust at the end of the boom. For example, a county which comes to the end of the fiscal year spending \$100,000 per month on eligible children may well be confronting the certainty that on July 1 they will have only enough money to support a spending level of \$50,000. The only alternative for counties which could spend more money if it were offered is to decide not to take it. If all counties chose not to take reallocations, the State would revert a great deal of unspent federal money.

It should be pointed out, in fairness to counties which have reverted funds this year, that counties which get new funds have the capacity, over time, to expand their programs. It is for this reason that the Department has always assured counties that reverting funds would have no impact on the subsequent year's allocation. Given this assurance, many counties have been able to "grow into" their allocations.

RECOMMENDATIONS FOR CHANGES TO THE REALLOCATION PROCESS

The ideal reallocation process would do two things:

- (1) make it attractive for counties which don't need all their allocation in the current year to revert unneeded funds at the beginning of the year, and
- (2) allow counties which receive reverted funds to keep the funds long enough to support the average day care placement (six to nine months). The following reallocation process accomplishes both objectives.

Placements in child day care average six to nine months in length. It is reasonable to think that funding allocations or reallocations should be made available for at least nine month periods so that, on average, funding will be available to support an entire placement. Counties have advance notice as to the amount of their annual allocation so they can plan for and adjust placements so that care for a particular child should not have to be cancelled during a placement. The current reallocation process is handled on a state fiscal year basis so, frequently, funds are available for only a very limited amount of time. Particularly near the end of the fiscal year, counties cannot reasonably plan to use reallocated funds to support new child placements because funding availability will end before the average length of a placement ends.

To enable counties to better plan and use reallocated funds for new placements, the reallocation process should be revised to make reallocated funds available for nine months regardless of whether the nine month period crosses state fiscal years. The

process would generally work as it does now except that reverted funds would be lost for nine months and reallocated funds would be available for nine months. For example, if county A had failed to use more than 15% of its estimated requirements for the third quarter and could release \$10,000, then they would have their allocation for the fourth quarter reduced by \$10,000 and their allocation for the first and second quarters of the next fiscal year reduced by \$10,000. The \$10,000 from the third quarter would not be reverted and should be available to the county for the balance of that fiscal year. County A's base allocation for the second fiscal year would have been determined by the allocation formula and adjusted by the amount of the reverted funds for the first quarter and second quarter. The \$10,000 per quarter given up by county A would be reallocated and available to the recipient counties for nine months.

The process described above should also make it more attractive for county A to give up unneeded funds at the beginning of the year. If it did so, there would be no impact on county A's allocation for the subsequent year. Any funds reverted after the second quarter would have an impact on the next year.

In order to implement the proposed reallocation strategy, the Special Provisions language regarding the allocation formula would have to be amended. The following addition to the language of the formula is suggested:

"If a county fails to utilize more than 15% of its estimated requirements in any quarter, the Secretary of the Department of Human Resources may reallocate the amount in excess of 15% and may reduce the county's allocation by a similar amount for up to the subsequent three quarters in order to ensure that the maximum number of children are served."

Informal Phone Survey - NCSL Child Care Staff, April, 1991

Maryland

Nancy Lantz, Child Care Administration, Department of Human Resources, (301) 554-0415

Maryland started running criminal record checks on child care center providers in July, 1986. Because it was unclear whether family day care providers were covered by the law then, they were added in July, 1989. Maryland law does not prohibit applicants from working as a child care provider if they have been criminally involved. It gives authority to the Department of Human Resources (D.H.R.) the discretion to prohibit employment.

If the checks reveals a previous conviction or charge, D.H.R. investigates the case and conducts discussions with the applicant to reach a decision. Lantz said the group within the D.H.R. that decides is usually comprised of the Assistant Director for Licensing, the Assistant Director for Standards, and the Director of Child Care Administration. Maryland checks both the state central registry and FBI fingerprints for family day care applicants. It checks only FBI fingerprints for child care center applicants. When running the state check for family day care applicants, any previous criminal history is screened for, whether the person was convicted or just charged with an offense. The FBI fingerprint check is limited to commit or attempted to commit murder, child abuse, rape, child pornography, child abduction, kidnapping, or a sexual offense.

The FBI check is \$23, with a \$2 administrative fee going to the state. The state check charge of \$18 began only this week (April 15 1991). The state had not previously charged providers any fee for it. All child care applicants, whether family day care or centers must pay \$41 because the FBI check includes Maryland. Lantz said that there have been serious problems getting checks processed. She mentioned one case that has not come back after a year and a half. She said that part of this problem is how unprepared the state repository was for the system. Out of 1226 record checks for family day care cases, 70% were within 50 business days and the other 30% averaged 72 business days to process the application

The law requires every person wishing to work in day care apply for a criminal history check and sign a disclosure statement about his or her criminal history. For centers, a person can begin employment as soon as the application for the check is made. Maryland procedures/regulations specify that for family day care, a person cannot be registered until either the state or federal records have been checked. The applicant is given a "provisional registration" until the other record check is reviewed. It takes approximately 3 days for the state record repository to acknowledge receipt of the application. Once the employer and the licensing authority receive this information, the center applicant is registered.

Because the Maryland Department of Public Safety and Corrections (D.P.S.C.) does not specify the crime to D.H.R., D.P.S.C. is the only agency that sees the criminal records.

While Lantz definitely feels a background criminal check should be mandated, she identified several problems with Maryland's system that she considers serious: 1) the timeliness problems 2) frequent inability of the FBI to get legible fingerprints. Often times, people cannot produce legible prints, especially if their previous job(s) were labor-intensive with hands. Maryland has no language in the law about situations where no legible fingerprints are available, even though fingerprint checks are required. She sees this as a problem and cautions other states about it. 3) Because state law prohibits the D.P.S.C. from sharing the criminal records with the D.H.R., the D.H.R. often relies on the applicant for specifics. She also recommends that a state repository inform the licensing agency if a new charge is filed against a registered or licensed child care provider.

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At the request of the Maryland legislature, the D.H.R. ran a study of their program last year. Lantz will send me a copy next week.

California

Kathy Schiedegger, Policy Analyst, Department of Social Services, Community Care Licensing, (916) 324-4178

California has been checking prior convictions of any crime since either 1974 or 1978. Only state records are checked unless the applicant just moved to the state within two years or DSS has reason to believe he or she has an out of state record. Fingerprints are checked at the state's Department of Justice and at the FBI if needed. Either the provider or the applicant pays the screening fee, which is \$27 for the state and \$23 for the FBI, if needed. An additional \$3-\$25 fee is charged for fingerprint rolling, except for child care with fewer than 7 children, which is a good portion of the family day care homes. DSS is the only agency that can see the criminal records. It takes 45-90 days for the criminal record check to be processed.

The state also checks the central registry of suspected child abusers as a separate indicator, since 1985. The state cannot deny a license on this basis, but DSS investigates the circumstances, determines whether there was abuse, and can deny the license based on the applicant's conduct being inimitable. This method denies less than 1% of applicants a license.

The state has recourse for the applicant if he or she disagrees with the decision to deny a license. The first recourse is the "exemption process." In order for the exemption process to begin, the provider must request it. The DSS allows applicants in the exemption process to remain employed during this appeal, unless he or she has been convicted of a sex offense against a minor, sexual battery, child abuse or neglect, or any felony. If this is the case, the DSS orders an end to employment until the applicant is successful in the exemption process. The exemption process consists of the applicant giving his or her side to the conviction to DSS, an opportunity for the individual to provide references, and an evaluation by the DSS of the case. Most felonies or abuse convictions cannot be exempted. If the person was convicted with a sentence enhancer, such as violence, an exemption cannot be granted.

The second recourse is the Employee Name Clearing Hearing before an Administrative Law Judge. If the applicant can show a preponderance of evidence to support his or her contention, the ALJ approves the appeal.

Schiedegger thinks that a criminal history check is a necessity. Even though California identifies 1% of child care applicants with applicable criminal histories, she thinks it is significant if one person is stopped from harming a child. She also noted the comfort level of consumers with the system. She pointed out that occasionally errors are made during the check. Another major problem is the timeliness. Schiedegger recommends that a state law provides for an interim type of license, so that an applicant can begin work before the 45-90 days when the check is completed. Originally, California did not allow for this. The state amended its law by permitting people to begin employment in an already licensed facility while the check is underway, as long as they submitted their fingerprints and signed a conviction statement.

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Kentucky

Jean Cole, Department of Licensing and Regulation. (502) 564-2800

Kentucky has been checking previous child abuse and neglect convictions of any adult having contact with a child since around 1986. The law requires such individuals clear this process before beginning employment. The process usually takes from four to six weeks. The provider pays the \$4 for the state records check, which includes fingerprints and only the Licensing and Regulation Dept. sees the records.

She thinks it is not very effective because the state only checks convictions of child abuse. She favors including screens for those charged with child abuse, but who were convicted on a lesser or different charge. She says this happens frequently, but the Department lawyers say that using a charge of one offense but resulting in a conviction of another offense to screen for child abusers has legal problems. She says this needs to be resolved or the system will continue to be hampered. To date, no applicant has been denied a license based on a previous child abuse conviction.

Nebraska

Becky Bean, Lancaster County Department of Health, Food, Water, and Child Care Section. (402) 471-8025

The state does central registry checks for employees of family day care homes with 4 or more children. Lancaster County and the city of Lincoln check any charges or convictions with the local police. There, a city license is required for family day care homes with more than one family. There is no cost in the local check and information can be given over the phone at the time of the request or a week later by writing. The city and county will not allow employment until after clearance. The state automatically licenses an applicant and revokes it later if a check is positive. The state's appeals process is through the Nebraska Dept. of Social Services and the local appeals process is done through district court.

Bean thinks that the county is doing an "excellent job" of preventing child abusers in family day care homes. She says that it is difficult to enforce the license law, as unlicensed care is provided. She referred me to Gail Flannery, whose thesis is on the legality and practicality of central registry checks.

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CRIMINAL BACKGROUND CHECKS FOR CHILD CARE PROVIDERS

State Approaches

Connecticut

Centers and family day care homes are regulated by two different departments. Health Services conducts background checks for centers. The Department of Human Resources conducts checks for family day care homes.

Wesley Bell, Department of Health Services, (203) 566-1139

Connecticut has run background checks for center-based child care for five years. Only state records, running back five years, are checked. Federal records are not checked because of the \$25 fee. No fee is charged for state records checks. The process takes 30-45 days.

Staff feel that the process provides "a false sense of security" because Connecticut only looks at records over the last five years, does not consider nullified reports or pending matters. Currently, only new employees are screened, updated screens are not provided for long-standing employees.

When the procedure was implemented, the Department volunteered to carry it out without additional staff. In the words of the interviewee, "This was a big mistake". Lack of staff and resources compromise the effectiveness of the process.

Louisiana

Steve Phillips, Division of Licensing and Certification, (504) 342-4131

Background screens have been run on center-based personnel since 1989. Both state and federal check are made using fingerprints. The child care center, as employer, covers the \$13 fee. The state police are taking from six months to a year to conduct the screen. Once the employee's fingerprints have been taken, the state police submit a "receipt" to the center which documents that the screen is being conducted and relieves the center from liability during the waiting period. The licensing chief has the discretion to look at the record and use a case-by-case approach to determining if an applicant should be approved. He cautions that appropriate levels of manpower and resources must be allocated to make this an effective procedure. One violation per 1000 checks is the average.

IDAHO

Perry Ackerman, Department of Health and Welfare, (208) 334-5702

Idaho has conducted child care personnel background checks since August 1987. Providers who meet a three-year residency requirement are exempt but must sign a "self-declaration" stating that they have no record. State and federal records are checked. The charge is \$33, only \$20 is paid by the applicant because of a glitch in the state law. Staff see the process as a tool, not an end to itself. Other factors are

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considered in determining whether the provider is allowed to operate. A three-member exemption review committee at the regional level determines whether an applicant whose record reflects an infraction may be allowed to operate. The process takes 30 to 45 days. Problems exist regarding failures of counties to report to the state and states reporting to the FBI. If there has been an arrest but no disposition, staff must rely on police personnel to obtain information from another law enforcement bodies. Idaho is in the process of computerizing the system and expects an easier to handle process. An initial backlog strained personnel and resources when the system was first put in place.

6-159



North Carolina Department of Human Resources
Division of Facility Services

701 Barbour Drive • P. O. Box 29530 • Raleigh, N. C. 27626-0530

Courier Number 56-20-05

James G. Martin, Governor
David T. Flaherty, Secretary

John M. Syria, Director
Telephone

MEMORANDUM

TO: Will Lindsey
FROM: Dolores H. Whittemore, ^{DHW} Administrative Officer
Child Day Care Section
RE: Child Advocacy Groups
DATE: March 4, 1992



Please find attached a copy of the statewide Child Advocacy Groups. Two of the groups listed, North Carolina Association for the Education of Young Children and the North Carolina Day Care Association, have day care providers in their membership. Another group involved with providers which is not listed in the attached material is the North Carolina Voice for Child Care, Ms. Nancy Ratcliff, Executive Director, 5306 Wales Street, Charlotte, North Carolina 28213, (704) 597-9833.

I hope this information is helpful.

DHW:gsu

Attachment

00 00 1992 10:00 FROM THE SECRETARY'S OFFICE

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NORTH CAROLINA CHILD ADVOCACY 1990 DIRECTORY

Summer 1990

State of North Carolina
James G. Martin, Governor
N. C. Department of Administration
James S. Lofton, Secretary
Governor's Advocacy Council on Children and Youth
Youth Advocacy and Involvement office
Thealeta D. Monroe, Executive Director
121 West Jones Street
Raleigh, North Carolina 27603-1334
(919) 733-9296

1,000 copies of this public document were printed at a cost of \$665.64 or \$.67 per copy.

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FOREWORD

The Governor's Advocacy Council on Children and Youth (GACCY) is pleased to make the North Carolina Child Advocacy 1990 Directory available to the many individuals and organizations working on behalf of children.

The first section of the directory contains a county-by-county listing of children's local advocacy groups.

The second section is a list of statewide associations and organizations which have a concern for children as a major part of their activities.

The council hopes that you will find the directory useful and will feel free to contact these groups and organizations when needed. It is also our hope that this directory will inspire people in those counties with limited or no services for children to close the gaps in these areas.

A directory, by its very nature, is often outdated by the time it is printed. We have made an effort to provide correct and complete data in this document. Your input will be appreciated. Please send your comments, suggestions or information about any additional groups which you think should have been included in this publication. Such information will be helpful in preparing for a future printing of this directory.

For information or additional copies of this directory, contact Celeste Dean, directory coordinator, at:

Governor's Advocacy Council on Children and Youth
Youth Advocacy and Involvement Office
N.C. Department of Administration
121 West Jones Street
Raleigh, North Carolina 27603

Elijah "Pete" Peterson, Chair
Governor's Advocacy Council on Children and Youth
Summer 1990



**STATEWIDE
ORGANIZATIONS**

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Advocacy Center for Children's Education & Parent Training (ACCEPT)
Ms. Shelby Jackson, Executive Director
216 Meadowview Road, #215
Greensboro, NC 27407
(919)294-5266 or (800)232-4453

Advocates for Female Youth
Ms. Renee Barker
P.O. Box 71
Wentworth, NC 27375
(919)342-8790

Aid to Victims of Sexual Assault
Ms. Debbie Shepherd, Executive Director
P.O. Box 665
Hickory, NC 28603
(704)322-6011

American Cancer Society N.C. Division Inc.
P.O. Box 27624
Raleigh, NC 27611
(919)834-8463

American Diabetes Association N.C. Affiliate Inc.
Ms. Elen Henson, Director
2315-A Sunset Avenue
Rocky Mount, NC 27804
(919)937-4121 or (800)682-9692

American Heart Association N.C. Affiliate
Mr. G. Kenneth Morgan, Executive Vice President
300 Silver Cedar Court
P.O. Box 2636
Chapel Hill, NC 27515
(919)968-4453 or (800)331-6601

American Lung Association of N.C. Inc.
Mr. C. Scott Venable, Executive Director
916 W. Morgan Street
P.O. Box 27985
Raleigh, NC 27602

Association for Retarded Citizens N.C. Inc.
Mr. David Richard, Executive Director
16 Rowan Street, Suite 204
P.O. Box 20545
Raleigh, NC 27619
(919)782-4632
(800)662-8706

Association of Advocates for Female Youth
Ms. Mary Nellie Smith, President
211 S. Edgeworth Street
Greensboro, NC 27401
(919)378-9109

Atlantic Center for Research in Education (ACRE)
316 S. Gregson Street, #4
Durham, NC 27701
(919)688-6464

Autism Society of N.C. Inc.
Ms. Jo Anne Jeffries, Executive Director
2312 Milburn Road
Raleigh, NC 27610
(919)821-0859

Beginnings for Parents of Hearing Impaired Children
1316 Broad Street
Durham, NC 27705
(919)286-9797 or (800)541-4327

Carolina Legal Assistance
Ms. Deborah Greenblatt, Director
P.O. Box 2446
Raleigh, NC 27602
(919)834-0723

Center for Early Adolescence University of North Carolina
Dr. Peter Scales
Carr Mill Mall, Suite 211
Carrboro, NC 27510
(919)966-1148

Central N.C. School for the Deaf
5900 Summit Ave.
P.O. Box 14670
Greensboro, NC 27415-4670

Child Abuse Prevention N.C. Dept. of Public Instruction
116 W. Edenton Street
Raleigh, NC 27603-1712
(919)733-0139

Child and Family Institute for Social Research
P.O. Box 18513
Charlotte, NC 28218-8513
(704)374-0387

Children's Home Society of N.C.
Ms. Audrey Poe, Public Relations
740 Chestnut Street
Greensboro, NC 27405
(919)274-1538

Children's Law Center
Mr. Frank Crawford, Administration Director
725 E. Trade Street, Suite 200
Charlotte, NC 28202
(704)331-9474

Children's Rights of America
P.O. Box 308
Lenoir, NC 28645
(704)757-0122

Christian Life Council Baptist State Convention
P.O. Box 1107
Cary, NC 27512-1107
(919)467-5100

Church Women United of N.C.
213 Dunhagan Place
Cary, NC 27511
(919)467-2126

Clinical Center for the Study of Development and Learning
Campus Box 7255, BSRC
UNC Chapel Hill, NC 27099-7255
(919)966-5171

Community Alternatives for Youth (CAY)
P.O. Box 10503
Raleigh, NC 27605

Community Living Association
Ms. Rita Thuot, President
P.O. Box 25746
Raleigh, NC 27611
(919)861-9280

Court Watch of N.C. Inc.
Ms. Virginia Kerr, President
P.O. Box 10971
Greensboro, NC 27404
(919)855-0294

Cued Speech Center Inc.
Ms. Mary Daisey, Director
P.O. Box 31345
Raleigh, NC 27622
(919)828-1218

Cystic Fibrosis Foundation
Mr. Bruce Joyner, Executive Director
P.O. Box 639
Wilson, NC 27894-0639
(919)291-7190

Developmental Disabilities Training Institute (DDTI)
Dr. George Baroff, Director
431 W. Cameron Avenue
Chapel Hill, NC 27514-3370
(919)966-5463

Easter Seal Society of N.C. Inc.
Dr. Edward L. Kershaw, Executive Director
2315 Myron Drive
Raleigh, NC 27607
(919)783-8898 or (800)662-7119

Epilepsy Association of N.C. (EANC)
11 Glenwood Avenue
Raleigh, NC 27603
(919)834-2876 or (800)451-0694

Epilepsy Information Service Department of Neurology
Bowman Gray School of Medicine
300 S. Hawthorne Road
Winston Salem, NC 27103
(800)642-0500

Exceptional Children's Advocacy Council
Ms. Connie K. Hawkin
Regional Parent Training
P.O. Box 16
Davidson, NC 28036
(919)892-1321

Family Support Network of N.C.
UNC-Chapel Hill
Campus Box #7340
Chapel Hill, NC 27599-7340
(919)966-2841

Florence Crittenton Services
P.O. Box 36392
Charlotte, NC 28236
(704)372-4663

Frank Porter Graham Child Development Center
NCNB Plaza, 322-A
Suite 500
UNC Chapel Hill, NC 27514
(919)962-2001

Hospice of N.C.
800 St. Mary's Street, Suite 303
Raleigh, NC 27605
(919)829-9588

Information and Referral N.C. Department of Human Resources
Albemarle Building
325 N. Salisbury Street
Raleigh, NC
(919)733-4261 or (800)662-7030

Juvenile Services Division
P.O. Box 516, Kenansville, NC 28349
(919)296-1941

League of Women Voters
Ms. Carolyn Allen, President
Albert Coats Local Government
Center Room 121-122
Raleigh, NC 27603
(919)839-5532

Learning Disabilities Association of N.C.
Ms. Fran Kertesz
P.O. Box 3542, Chapel Hill, NC 27515-3542
(919)967-9537

Lutheran Family Services
Ms. Carol McManus
Rt. 2, Box 780-C
Dallas, NC 28034

Lutheran Family Services in N.C.
Ms. Jan Gibson
P.O. Box 12907
Raleigh, NC 27605

March of Dimes
Ms. Bonnie Poindexter
2110 Cloverdale Avenue, 1-C
Winston-Salem, NC 27103
(919)723-4386

March of Dimes Birth Defects Foundation
Mr. Jack McGee, Director
4112 Pleasant Valley Road, #208
Raleigh, NC 27612
(919)781-2481

Mental Health Association of N.C. Inc.
115-1/2 West Morgan Street
Raleigh, NC 27601
(919)282-8145

Mental Retardation Association of N.C. Inc.
2819 Montclair Road
Winston-Salem, NC 27106
(919)725-5829

N.C. Alliance for Parents of Visually
Impaired Inc.
Ms. Barbara M. Byrd, President
5512 Olde South Road
Raleigh, NC 27606
(919)828-6483

N.C. Association of Local Health Directors
Mr. Jerry Robeson, President
Johnston County Health Department
618 N. Eighth Street
Smithfield, NC 27577
(919)934-4168

N.C. Assn. of County Commissioners
P.O. Box 1488
1215 Dawson Street
Raleigh, NC 27602
(919)832-2893

N.C. Association for Infants and Families (NCAIF)
300 Enola Road
Morganton, NC 28655
(704)433-2670

N.C. Association for the Emotionally
Troubled Inc.
Mr. Steven Stone, Director
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P.O. Box 2123
Chapel Hill, NC 27515
(919)967-3402

N.C. Association for the Deaf
Mr. Stephen Kugel, President
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Raleigh, NC 27605
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(919)834-7609

N.C. Association for the Education of Young
Children (NCAEYC)
Ms. Norma Kinzey, President
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Raleigh, NC 27609
(919)847-9461

N.C. Association of Sheltered Workshops
P.O. Box 51254
Durham, NC 27717

N.C. Association of County Boards of Social Ser-
vices
601 North Graham St.
Charlotte, NC 28202
(704)336-3150

N.C. Association of County Directors of Social Ser-
vices
102 Scotts Creek Road
Sylva, NC 28779
(704)586-5546

N.C. Association of County Directors of Social Ser-
vices
Mr. Jay Burnus, Director
P.O. Box 669
Manteo, NC 27954
(919)473-1471

N.C. Association of County Directors of Social Ser-
vices
Ms. Jessie Worthington
Route 4, Box 424
Tarboro, NC 27886

N.C. Association of Educators Inc.
Mr. Don Morrow
P.O. Box 27347
700 Salisbury Street
Raleigh, NC 27611
(919)832-3000

N.C. Association of Rehabilitation Facilities
Ms. Jan Matthews-Hodges, Director
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Raleigh, NC 27602
(919)821-1435

N.C. Association of Residences for the Retarded
(NORCARR)
Ms. Regina Moody, Executive Director
418 N. Main Street
Belmont, NC 28012
(704)825-8410

N.C. Association of School Administrators
Mr. Raymond L. Scarborough, Director
P.O. Box 1629
Raleigh, NC 27602
(919)828-1426

Parents Association for Hearing Impaired Children
Ms. Arlene Ash
1413 Lorimer Road
Raleigh, NC 27611
(919)851-0633

Public School Forum of N.C.
400 Oberlin Road
Suite 220, Raleigh, NC 27605
(919)832-1584

Retinitis Pigmentosa Fighting Blindness Foundation
Ms. Marilyn Green
Piedmont Center
44 Kemp Road East
Greensboro, NC 27410
(919)292-5950 or (919)292-8124

Rural Day Care Association of Northeastern N.C.
Ms. Christine Dudley, Director
P.O. Box 98
Ahoskie, NC 27910
(919)332-5890

Sick Kids (NEED) Involved People (SKIP)
Ms. Judy Cook
Route 3, Box 534, Denton, NC 27239
(919)857-2808

Splna Bifida Association of N.C., Inc.
Ms. Cynthia Harton
1427 Robin Lane
Newton, NC 28658
(704)464-3120

State Council for Social Legislation
Ms. Roslyn Savitt, Director
4505 Wilkes Street
Raleigh, NC 27609
(919)781-5313

State Public Affairs Committee Junior
Leagues of N.C.
4020 Barrett Drive, Suite 104
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(919)787-7480

TOUGHLOVE
Area Regional Office
3101-D Alder Way
Greensboro, NC 27407
(919)855-3540

United Cerebral Palsy of N.C. Inc.
327 W. Morgan Street
Raleigh, NC 27605
(919)832-3787

United Way of N.C.
4904 Waters Edge Drive, Suite 100
Raleigh, NC 27606-2466
(919)859-3211

Youth Advocacy & Involvement Office
N.C. Department of Administration
Etkin Building
121 W. Jones Street
Raleigh, NC
(919)733-9296

N.C. Family Care Facilities Association
Ms. Maxine Rouse, President
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Stoneville, NC 27048
(919)427-0065

N.C. Federation of Women's Clubs Inc.
Ms. Betty Tobert
3509 Haworth Drive, Suite 300
Raleigh, NC 27609
(919)782-1130

N.C. Foster Parent Association
Ms. Pam Peace
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Sophia, NC 27350
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N.C. Hemophilia Foundation
2303 Meadowview Street, Suite #44
Kinston Building
Greensboro, NC 27407
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N.C. Home Economics Association
Ms. Betty Penny, President
Route 1, Box 45-H
Nashville, NC 27856
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N.C. Hospital Association
Mr. William Pulley, Director, Government
Relations
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Raleigh, NC 27605
(919)832-9550

N.C. Juvenile Services Association
Ms. Marian B. Hartman, President
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Raleigh, NC 27629
(704)669-3377

N.C. Lions Foundation
Mr. Robert Spencer, Executive Director
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Sherrills Ford, NC 28673
(704)478-2135

N.C. Nurses Association
Ms. Hazel Browning Moore, Registered Nurse
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N.C. Organization for the Advancement
of Visually Impaired
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Raleigh, NC 27608
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N.C. Public Health Association Inc.
P.O. Box 10387
800 St. Mary's Street
Raleigh, NC 27605
(919)821-2226

N.C. School Psychology Association Guilford County
Schools
120 Franklin Blvd.
Greensboro, NC 27401
(919)854-2334

N.C. Social Services Association
P.O. Box 25546
Raleigh, NC 27611
(919)821-7181

N.C. Society to Prevent Blindness Inc.
Ms. Jennifer Green, Executive Director
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Raleigh, NC 27605
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N.C. Speech, Hearing and Language Association
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N.C. Subdivision of the Division for Early Childhood
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Morganton, NC 28655
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National Child Rights Alliance
Ms. Cindy Arthur
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National Kidney Foundation of N.C. Inc.
P.O. Box 2383
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Chapel Hill, NC 27515-2383
(919)929-7181 or (800)356-5362

National Tuberos Sclerosis Association
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Snow Hill, NC 28580
(919)747-8592
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Parents & Professionals for Children with Special
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N.C. Bar Association
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N.C. Center for Public Policy Research
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 Raleigh, NC 27602
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N.C. Chapter Leukemia Society of America
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N.C. Chapter of National Assn. of Ped. Nurse Assn. & Practitioner
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N.C. Child Advocacy Institute
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N.C. Child Care Association
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 Raleigh, NC 27603-1712
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N.C. Citizens for Public Health
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 Raleigh, NC 27611

N.C. Civil Liberties Union
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N.C. Coalition on Adolescent Pregnancy
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N.C. Coalition on Adolescent Pregnancy
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N.C. Council of Child and Adolescent Psychiatry
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N.C. Day Care Association
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N.C. Division for the Blind
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To: Legislative Study Committee on Child Day Care

From: Stephanie D. Fanjul
North Carolina Day Care Association

Date: February 11,1992

I am speaking today on behalf of the 1200 members of the North Carolina Day Care Association. We are the providers in your neighborhoods. The membership includes providers and teachers from all corners of the child care community. Approximately 31% work in private tax paying programs, 18% in programs that are church related, 26% are non-profit agencies, and 26% other (which includes technical support personnel, day care home operators, Head Start).

For over 28 years we have been coming to groups like you to speak up for the working families in North Carolina. We have been adamant about better standards, more accessible care, and affordable services. It has long been our belief that all the children of North Carolina deserve to have a quality preschool experience. We have been out there providing the best care possible- at times under adverse conditions - asking the legislature repeatedly for support to do an even better job.

I would like to take this opportunity to thank those of you who have been supportive of our issues for all these years. We will continue to advocate for the needs of all the children and the child care workers across the state.

The issues that I want to address this morning are primarily related to NCDCA's legislative goals for 1991. It was about a year ago when I was called to the Governor's office for a press conference announcing the beginning of the administration's child care plan called "Uplift Child Care". As I sat and listened to the outline of the program, I was hopeful that perhaps we were making serious inroads into solving some of our longstanding issues. I was impressed by the fact that everyone seemed to be working together toward a better life for the children. I thought that perhaps the days were over where children's lives were subjected to the whimsy of politics. I have been sorely disappointed.

The Uplift Plan had several components each of which attempted to address issues of importance to the families, the workers, and the children in child care. I don't know of one that has been implemented successfully since the funds arrived in the state. When Uplift was announced the Governor and Secretary Flaherty promised that they were committed to encouraging involvement from everyone interested in the issues. It appeared at first as if they were going to take child care out of the political arena and stop using children as political fodder. Again I have been sorely disappointed.

Child Day Care Services: The plan had stated that the bulk of the funds be funneled into the purchase of care system to help subsidize low income families' child care services. Eligibility was to be increased and more children were to be served, input by the child care community was to be considered as the voucher program was developed.

The reality is that there has been no change in eligibility and that the state fund has been robbed by the Family Support Act, making fewer slots available and causing major confusion in some counties. The child care providers have had no input into the voucher program the entire plan is being developed behind closed doors.

Child Care Resource and Referral; The concept of the plan was to use child care resource and referral agencies to improve the accessibility of care and to help develop new child care services in rural counties. Again, the plan was to be developed in a non-political setting, with the benefit of everyone's thinking.

The reality is bizarre. The political power brokers created an outrageous spectacle that made the state look absolutely stupid. The famous gag order was written up in newspapers across the state, it wasted time, and lost almost one million dollars in grant funding. But worse yet, it meant that the money has still not been sent to resource and referrals. There are families and children doing without while political power games are being acted out.

County Day Care Coordinator Grants; This part of the plan was heralded as a way to address the serious needs in rural counties. The hope was that there would be individuals in the least served counties helping parents locate and pay for child care services. There is no question that the needs in rural communities are enormous and that as a state we must step in and be pro active before the existing infrastructure collapses.

The reality is nothing. For whatever reason, the money has not been distributed and the ramifications are severe. There are several rural counties that are not utilizing their purchase of care allocations, there are centers closing in rural areas, and there are still children eligible but not being served.

Child Care Worker Compensations Study; NCDCA was truly delighted to finally have someone acknowledge that the staff in child care programs are subsidizing the real cost of care. Workers have long been expected to do this work because they love children. We can no longer afford to love children that much, we must be able to earn a living that allows us to feed our own children. The continued turnover in centers is directly related to wages and the turnover is related to quality.

The reality is that requests for proposals are being distributed for the first time this month. Clearly there is not adequate staff in the Day Care Section to implement the Uplift plan.

Child Care Worker Credential; Children's advocates have been committed to improving the quality of care by increasing the training and creating professionals in child development. This component was visualized as a cost effective way to make a significant improvement in the quality of child care.

The reality is that while the plan has been developed by a group of child development educators and is ready to take off through the community college system, there is vocal political opposition. This opposition is causing the process to slow and may create another spectacle like the R&R fight. Support is directly related to politics, not good sense or good child care. The Child Day Care Commission just last year weakened the training requirements and they continue to complain that the training is a burden on the providers. Meanwhile, the Chair of the Commission who is

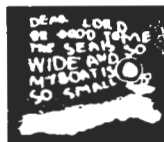
opposing the credential, now makes her living selling another credential.

And then there's quality an issue we at NCDCA have long been promoting. We have worked with the Children's Coalition to attempt to have a voice in what is happening. But committees continue to be chosen on the basis of political pressure not based upon understanding of the issues. Committees without the "proper" political members are disbanded and other committees pop up in their place. Decisions about the well being of our children are being made behind closed doors by political handlers not child development experts.

The quality of care across the state is not what young children need, it is not what workers need, it is not what parents or employers need. Please take a stand for quality care. Do not be swayed by the providers who say it will make it unaffordable, do not believe the child care workers who say ratios don't impact care. Please make it your mission to figure out a way for us to have both - quality and affordability. The workers and the children can not wait for much longer. Make it your commitment not to sacrifice the children for one or the other. It is time that as a state we stop using children as pawns in the political game.

WHO KNOWS HOW SAFE?

The Status of State Efforts to
Ensure Quality Child Care (1990)



CHILDREN'S DEFENSE FUND
122 C Street, N.W.
Washington, D.C. 20001
(202) 628-8787

G-183

7.1.83

Child-to-Staff Ratios in Child Care Centers

Key Finding: Good quality child care can be provided only if the caregiver is not responsible for too many children. Yet more than one-third of the states have child-to-staff ratios for child care centers that exceed recommended levels for infants, nearly half have levels higher than recommended for toddlers, and two-thirds have ratios for preschool-age children that exceed recommended levels.

The number of children cared for by a single staff member is a key determinant of the quality of child care. It is particularly important for very young children. Numerous studies have documented that infants in child care programs with high child-to-staff ratios exhibit more distress, more apathy, and are in more situations that involve potential danger. Toddlers in such programs are less likely to be talking and playing, and less likely to be closely attached to the caregiver. Furthermore, low child-to-staff ratios can improve children's test scores and behavior.

Child development experts recommend that, in order to provide good quality child care, a single caregiver be responsible for no more than three or four infants, four or five toddlers, or 10 preschool-age children. ^{10/} These recommendations make practical sense. It is hard to imagine how a single caregiver could feed and diaper as many as five or six infants, much less carry them out of the building in the event of a fire or provide them with the stimulating and nurturing environment that they need at this critical age. Caregivers face similar problems in providing good quality child care for large groups of toddlers and preschoolers.

Despite this clear need for child-to-staff ratios that not only protect children in child care centers but also allow them to thrive, the majority of states fall short of these recommended levels in one or more key areas (Table 5), although a number of states do meet recommended levels:

- Nearly one-third (16) of the states do not require child care centers to maintain child-to-staff ratios at recommended levels for any age group surveyed.
- Only 10 states mandate child-to-staff ratios that are consistent with recommended levels for all of the age groups surveyed, while another 10 states meet the recommended range for all but one of the six selected ages examined.
- Nineteen states allow a single caregiver in a child care center to care for five or more infants (age six months). Some of these states permit alarmingly high infant-to-staff ratios--**Georgia** and **North Carolina** allow seven infants,

South Carolina allows eight infants, and **Idaho** allows up to 12 infants per caregiver. 11/

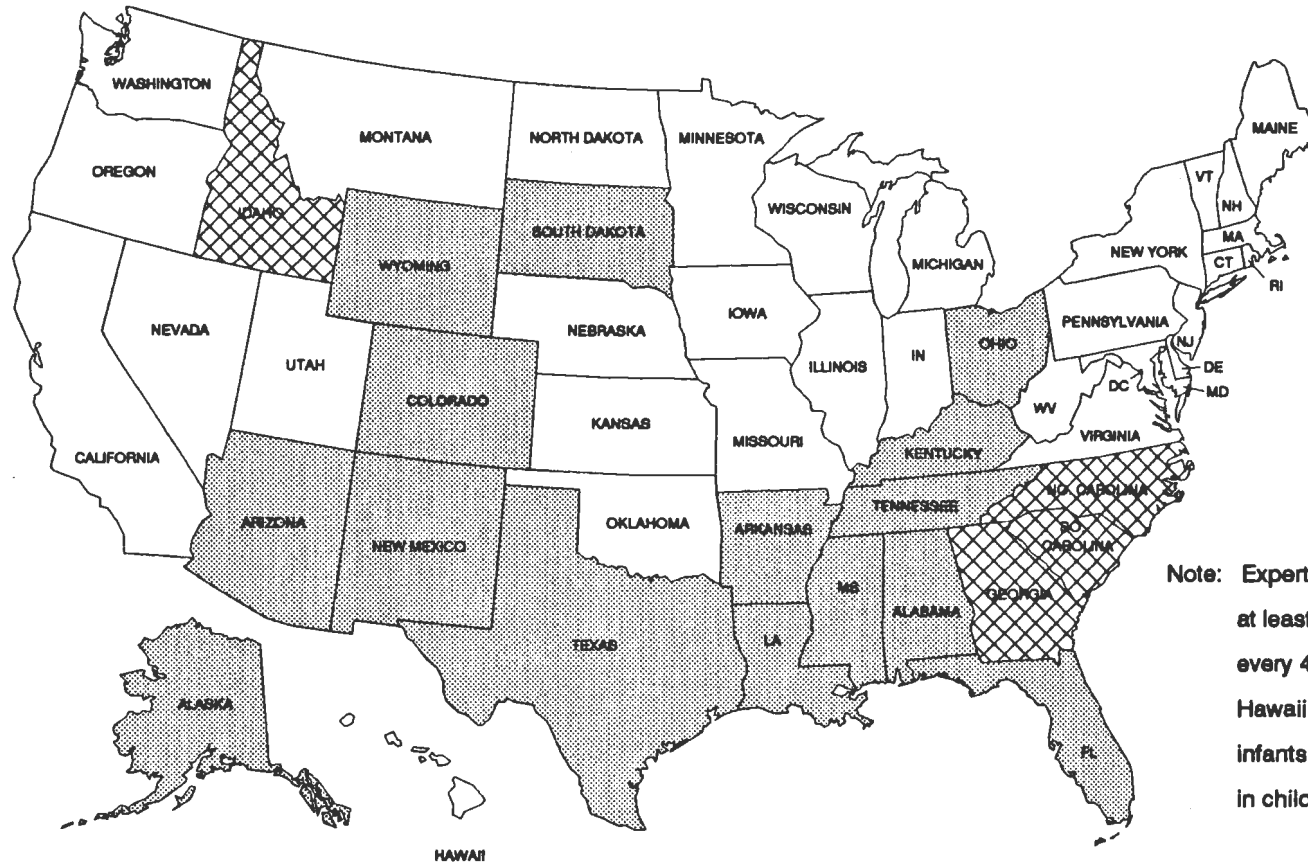
- Twenty-four states allow a single caregiver to care for six or more toddlers (age 18 months). Again, some of these states permit a single caregiver in a child care center to care for very large numbers of toddlers--**Arkansas** and **Mississippi** allow nine toddlers, **Georgia** and **Texas** allow 10 toddlers, and **Idaho** allows 12 toddlers per caregiver.
- Thirty-three states allow a single caregiver to care for more than 10 four-year-olds. **Georgia** allows 18 four-year-olds per caregiver, while **Alabama**, **Florida**, **North Carolina**, **South Carolina**, and **Texas** allow 20 children per staff member.

Some states--including **Arizona**, **New Jersey**, **Delaware**, and **Michigan**--strengthened their policies regarding child-to-staff ratios between the summer of 1988 and early 1990. **Arizona** changed its ratio from 10:1 to 8:1 for two-year-olds, from 15:1 to 13:1 for three-year-olds, and from 20:1 to 15:1 for four-year-olds. **New Jersey** maintained its ratios, but effectively strengthened them by changing the way the ratios are computed--moving from the "averaging method" to gathering an exact count of children.




Alabama, on the other hand, weakened its standards for child-to-staff ratios in centers by raising its ratio from 10:1 to 12:1 for children between the ages of two and a half and four years old.

3 6-184

States Not Requiring Child Care Centers to Maintain Recommended Staff Levels for Care of Infants



Note: Experts recommend at least 1 staff person for every 4 infants age 6 months. Hawaii currently prohibits infants younger than 2 years in child care centers.

-  States that allow 3 or 4 infants (age 6 mos.) per staff person
-  States that allow 5 or 6 infants per staff person
-  States that allow 7 or more infants per staff person

Source: Children's Defense Fund, 1990

4 6-185

Group Size Limits in Child Care Centers

Key Finding: The size of groups in child care facilities has consistent and pervasive effects on teacher and child behavior, and on children's cognitive development. Yet nearly half of the states have no group size requirements whatsoever, and only eight states impose group size limits that meet recommended levels for all age groups.

Small group size is another critical element in good quality care. ^{12/} Many studies have shown the benefits derived from small groups--for example, children in smaller groups are more cooperative, engage in more creative play, are more innovative and involved in tasks, and make greater gains on cognitive tests. In addition, a teacher's interaction with the children is enhanced greatly by smaller group size.

Despite the broad consensus among child development experts that small group size is one of the most important factors in the quality of child care programs, nearly half of the states do not regulate group size at all. Furthermore, many of the states that do have group size requirements for child care centers fail to meet recommended levels for ensuring good quality care (Table 6). ^{13/}

- Twenty-two states have no group size requirements for any of six selected age groups.
- When those states that do not regulate group size are combined with those that regulate group size but exceed recommended levels, the result is that more than half (26) of the states do not meet recommended levels for any of the age groups surveyed.
- More than half of the states (29) allow 12 or more infants (age six months) to be cared for in a single group, either because the state sets no limits or because it imposes limits that exceed recommended levels.
- Twenty-three states have no group size requirements for two-year-olds, while another 17 states have limits that exceed recommended levels of eight to 12 children. Nearly two-thirds of the states allow 16 or more two-year-olds to be cared for in a single group.
- Some states explicitly allow group sizes for two-year-olds to be as high as 24 (North Carolina), 25 (Utah), and 35 (Texas).
- Twenty-seven states have no group size requirements for three-year-olds, and another six states have limits that

exceed the recommended levels of no more than 14 to 20 children.

- Only eight states (Alabama, Connecticut, the District of Columbia, Maryland, Massachusetts, Oregon, Rhode Island, and Vermont) have group size requirements that meet the recommended levels for all of the age groups surveyed, and another three states (New Hampshire, New York, and Wisconsin) meet the recommended levels for all but one age group.

There are some indications that states are recognizing the importance of small group sizes to the quality of child care programs. Between mid-1988 and early 1990, Mississippi and New Jersey added group size requirements. Two other states-- Pennsylvania and Hawaii--hoped to have group size limits in place by late 1990 or 1991.

6-187

Child-to-Staff Ratios and Group Size Limits in Family Day Care

Key Finding: Two-thirds of all states allow a single caregiver to care for three or more infants and toddlers in a family day care home. In many states, at least some of the children of family day care providers are not included in these limits, raising actual child-to-staff ratios in family day care homes even higher.

Reasonable child-to-staff ratios or group size limits in family day care homes are essential to good quality care. No matter how well-intentioned a child care provider may be, it is simply impossible for one person to provide a large number of children with the stimulation and attention they need to thrive while also protecting their health and safety. Therefore it is essential that states set mandatory limits on the number of children allowed at any given time in a family day care home. 14/

These limits are especially important in family day care homes, as providers usually have no other adults available to help them cope with emergencies such as a fire or sudden illness. Infants in family day care are particularly vulnerable if the provider is caring for too many children--both because infants need more care and stimulation, and because they must be carried in the event of an emergency.

Too many states, however, allow far too many infants and children to be cared for by one family day care provider. Some states impose no limit on the number of infants that a family day care provider can care for, or set limits too high. Some states do not count the provider's own children in their limits, while others do not count the number of school-age children who are cared for during the hours after school. These policies can result in extraordinarily large numbers of children being cared for by a single person.

These gaps and exemptions in current state standards leave large numbers of children in family day homes without assurances of adequate supervision and good quality care (Table 7):

- Thirty-five states allow three or more infants (younger than two) to be cared for by a single caregiver. Many of these states also allow the same provider to care for additional older children without having to count them toward their maximum limit.
- Thirteen of these states allow five or more infants (younger than two) to be cared for by a single caregiver, sometimes with additional older children. **Arizona, Florida, North Carolina, and Oklahoma** allow five infants to be cared for by a single caregiver; **Alabama, Georgia, Idaho, Indiana, Kentucky, and South Carolina** allow six infants; and **West**

Virginia allows seven infants. **Mississippi** allows nine infants between the ages of one and two (or five infants younger than one) to be cared for by one provider. Finally, **Louisiana** does not regulate any family day care home serving fewer than eight children.

- Only 19 states require family day care providers to count all of their own children younger than eight in meeting the required limit of children. Seven states do not count any of the provider's own children. Another 24 states count only some of the provider's children, often including them only if they are of preschool age.

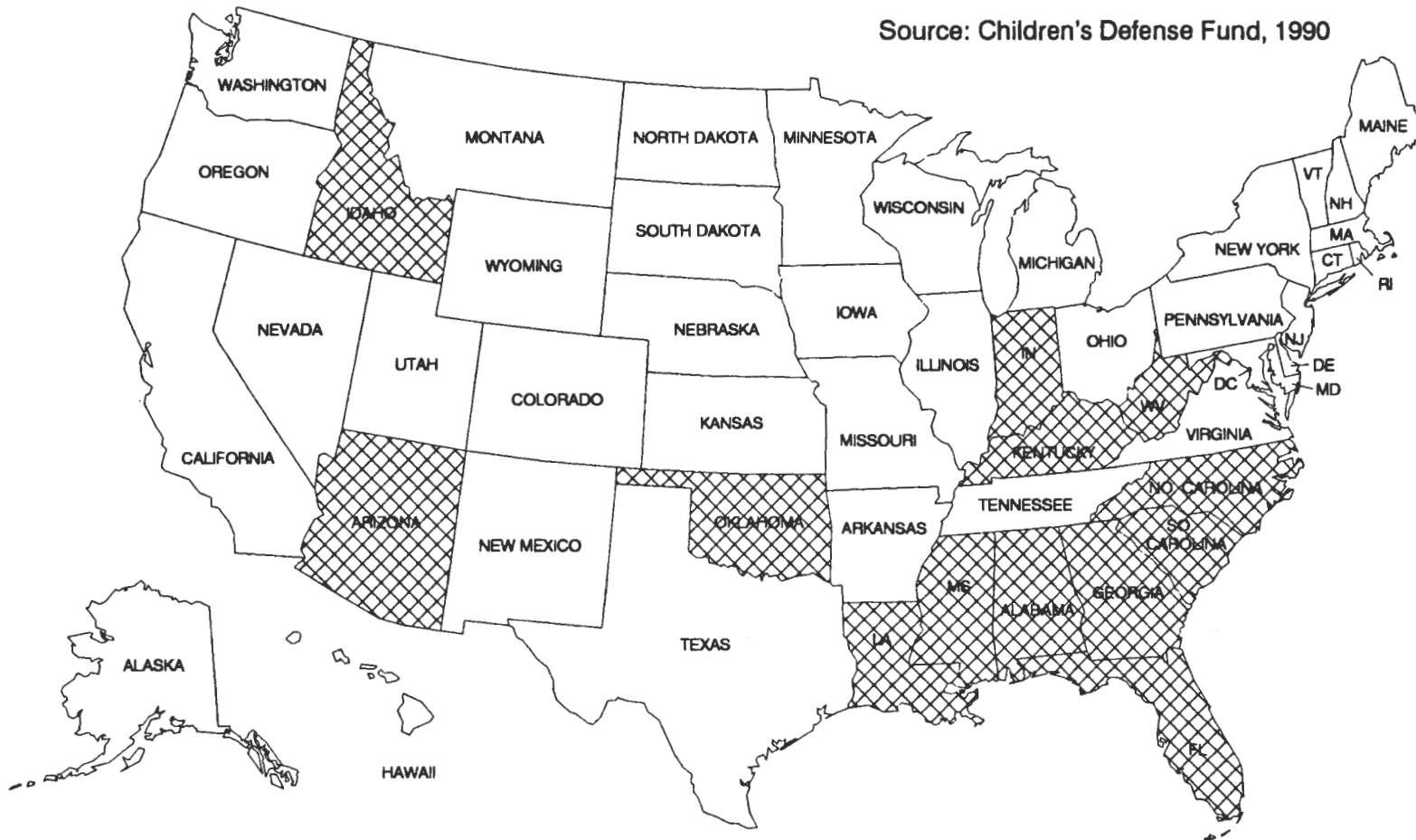
With almost two-thirds of the states authorizing at least partial exemptions for the provider's own children, effective group size limits in family day care homes continue to be the exception rather than the rule. The combination of extremely high child-to-staff ratios in some states and gaping loopholes in others means that many children in family day care homes currently are not protected by adequate state regulations.

Very few states are strengthening their regulation of group size in family day care homes. One exception, however, is **Virginia**, which recently passed legislation eliminating exemptions for relatives and school-age children in family day care. This change, which takes effect in July 1992, will lower effective group sizes and subject more homes to licensure.

Unfortunately, other states are changing their policies to allow even higher numbers of children to be cared for in family day care homes by allowing additional school-age children to be cared for after school without being counted in maximum group size limits. While this policy allows more providers to care for school-age children (and can have the effect of improving the supply of school-age child care), it can be problematic in states that already allow homes to serve large numbers of children. Care must be taken to ensure that group sizes don't become unmanageable for providers when numerous children are added at the end of the school day. States changing their regulations to allow additional school-age children in 1989 and early 1990 include **Vermont** and **Texas**. **California** is trying a pilot project in two counties to test the effects of this policy change.

States Allowing Five Infants/Toddlers to be Cared for By One Provider in a Family Day Care Home

Source: Children's Defense Fund, 1990



□ States prohibiting a single family day care provider from caring for 5 children younger than two

▣ States allowing a single family day care provider to care for 5 children younger than two

19-19

**NAEYC ACCREDITATION CRITERIA
RECOMMENDED STAFF-CHILD RATIOS WITHIN GROUP SIZE**

Age of children	Size of Group										
	6	8	10	12	14	16	18	20	22	24	28
Infants (birth–12 mos.)	1:3	1:4									
Toddlers (12–24 mos.)	1:3	1:4	1:5	1:4							
Two-year-olds (24–30 mos.)	1:4	1:5	1:6								
Two-1/2-years (30–36 mos.)			1:6	1:7							
Three-year-olds					1:7	1:8	1:9	1:10			
Four-year-olds						1:8	1:9	1:10			
Five-year-olds						1:8	1:9	1:10			
Six- to eight-year-olds								1:10	1:11	1:12	
Nine- to twelve-year-olds										1:12	1:14

**Smaller group sizes and lower staff-child ratios have been found to be strong predictors of compliance with indicators of quality such as positive interactions among staff and children and developmentally appropriate curriculum. Variations in group sizes and ratios are acceptable only in cases where the program demonstrates a very high level of compliance with criteria for interactions, curriculum, staff qualifications, health and safety, and physical environment.*

greater consistency in the daily experiences of children and enables the staff to be highly familiar with the child's needs, interests, and background.

- **Small groups**

The number of children in a group is limited to facilitate constructive interaction and activity. For infants, groups should not exceed 6 to 8 children. Group size will increase with age, but should not exceed 20 for older preschool children and 28 for school-age children.

PROGRAM ADMINISTRATION

The quality of the early childhood experience for children is affected by the efficiency and stability of the program's administration. Effective administration includes good communication, positive community relations, fiscal stability, and attention to the needs and working conditions of staff members.

- **Written policies and procedures**

The program has written policies and operating procedures.

**Issues for Consideration
Child Care Legislative Study Committee**

(1) **Focus**

Prior recommendations of other study commissions which have reviewed child day care services since 1980 and an assessment of compliance with these recommendations;

Questions

- When were other study committees on child care convened?
- What were the recommendations of these study committees?
- What other comprehensive child care reports have been issued in North Carolina?
- Which of these recommendations have been implemented?
- Are there any other Legislative Commissions working on child care issues? If so, what are these Commissions and how is their work relevant to the work of this Commission?
- To what extent did the work of previous committees address the six issue areas described below?

(2) **Focus**

The advantages and costs associated with measures to improve the quality of day care, including:

- a. lowering staff/child ratios,
- b. enhancing day care teacher credentialing,
- c. improving training of day care teachers, and
- d. improving the salaries of all day care workers;

Questions--lowering staff/child ratios

- What are North Carolina's standards for ratios and group sizes for each age group in both centers and homes?
- While we know what the maximum allowable number of children per caregiver is in North Carolina, what are the predominant ratios and group sizes for each age group?
- How does North Carolina's child/staff ratios and group sizes compare with (1) the national average, (2) contiguous states, (3) states with high SAT scores, (4) standards set by federal child care programs such as Headstart and programs run by the military; and (5) ratios and group sizes recommended by professional organizations such as the American Academy of Pediatrics, the American Public Health Association, the National Association for the Education of Young Children, the Child Welfare League of America, etc.?
- Do better child/staff ratios and smaller group sizes result in better outcomes for children?
- What are the advantages and disadvantages of better child/staff ratios and group sizes?
- What are the physical abuse and neglect numbers for children in child care programs in North Carolina? Do they differ by the age of the child or type of child care arrangement?
- Have studies been conducted that describe a correlation between the quality of child care

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services and economic development, industry recruitment, worker retention, and/or the basic education levels in a community?

- How much more would it cost the state's subsidized day care program to improve the ratios by one child in the infant and toddler age groups and by two children in the two year old group? How much of an increase would parents be expected to pay?
- What are the kinds of care routines that require extra time for children under three? How much time does it take per child per day to provide a child with what she needs?
- How has the Child Care Block Grant attempted to address this issue?

Questions--enhancing day care teacher credentialing and improving training of day care teachers

- What are the current education, training and experience requirements for teachers working in day care centers and homes, in public school child care programs, in developmental day programs and in Head Start?
- How does North Carolina's standards for education, training and experience compare with (1) the national average, (2) contiguous states, (3) states with high SAT scores, (4) standards set by federal child care programs such as Headstart and programs run by the military; and (5) education and training standards recommended by professional organizations such as the American Academy of Pediatrics, the American Public Health Association, the National Association for the Education of Young Children, the Child Welfare League of America, etc.?
- What are the education and training resources available for day care teachers in N.C.?
- How are the early childhood training programs in high schools, community colleges and universities coordinated in terms of curriculum, continuous career development, and the need and demand for trained child care providers?
- Who pays for education and training of child care teachers? What scholarship programs are available? Are there any business initiatives that have addressed these needs?
- What special training is available for providers who are serving children with special needs?
- What special training is targeted to family day care providers?
- What progress is being made toward developing a child care credential? Will it be voluntary? Is there any type of credential for family day care home providers?
- How has the Child Care Block Grant attempted to address this issue?

Questions--improving the salaries of all day care workers

- What are the current salaries, benefits and working conditions of staff working in child care centers and homes in our state? In other states?
- How do issues of compensation affect turnover rates and the training level of staff in child care programs?
- How do NC's average child care salaries and benefits compare with those paid to workers in other fields with jobs that require the same level of education, training and experience and

have the same level of importance?

- Do any child care providers earn less than the federal minimum hourly wage?
- What are other states doing to address the low wages, lack of benefits and high turnover rates of child care workers? What programs exist in NC to address this problem?
- How do the salary and benefit level of staff and the high turnover rates affect the quality of care for children?
- How has the Child Care Block Grant attempted to address this issue?

(3) **Focus**

Measures to enhance the availability and affordability of day care in currently underserved areas of the State, especially rural communities;

Questions--availability

- Is there enough of all types of child care in NC to meet the needs of families? If not, what types of child care are unavailable and in what areas of our state are child care services unavailable?
- In the past, what efforts have been made to facilitate the development of more child care services in NC? Were these efforts successful?
- What costs might be associated with unavailable child care in underserved areas? (Eg. costs associated with slow economic development, future educational costs, costs associated with loss of community development growth potential or increases of child abuse and neglect)
- Why don't enterprising day care operators open new centers in rural North Carolina?
- How do parents find child care when they need it?
- To what extent are child care slots available for children with developmental delays?
- Before 1985 the state reimbursed child care providers at higher rates if they provided higher quality child care. How has the change in payment rates affected the supply of quality child care in NC?
- Are any businesses in NC trying to make child care more available to families? How successful are these efforts? How widespread are these efforts? Can these be expanded?
- Are there any recruitment efforts underway, either by the state or other agencies to expand the supply of child care?
- How do the payment rates established for subsidized child care affect the development and maintenance of child care in underserved areas of NC?
- What type of loans, grants and/or tax credits are available to stimulate the development of child care where it is needed?
- How has the Child Care Block Grant attempted to address this issue?

Questions--affordability

- How much does child care cost a parent in NC? By location, age of child, type of care?

- much does it cost to provide quality child care for each age group and how does this relate to the fees charged to parents?
- How are payment rates for subsidized child care determined? How often are rates updated? Does this process adequately reflect the cost of providing quality child care? How does this process affect the supply of child care?
 - How much can parents afford to pay for child care?
 - For different family sizes, at what family income does child care become unaffordable?
 - Under what conditions and at what income are families eligible for direct subsidized child care? How do these eligibility requirements vary by funding source? How often are eligibility requirements changed? Are the working poor, those at or above poverty level, eligible for direct child care subsidy?
 - How many children are currently waiting for child care subsidy across North Carolina? How has this number changed over the last five years?
 - Is there a gap between what families in NC can afford for child care and who is eligible for subsidized care?
 - Which types of families are given priority for child care subsidy?
 - How do the NC and federal child care tax credits help families? Are there any statewide initiatives designed to help low income families learn about the earned income, child care and health insurance tax credits?
 - How many businesses in NC helping make child care more affordable for families?
 - Are differential rates paid for children with special needs? Are these rates adequate, how do they affect the supply of care, and are they reflective of the added services needed by these children?
 - How many children in NC need subsidized child care? By age?
 - How many families are receiving subsidized care through the state's day care program, Headstart, the Department of Public Instruction, or the DMHDDSAS?
 - What are the requirements for the distribution of child care funds across the state? Is there equity in the allocation and reallocation process?
 - How successful has the Family Support Act's provision of child care been in enabling poor AFDC families to achieve family self-sufficiency? How has this program been implemented in NC?
 - How do Head Start and public school efforts to serve at risk four year old children fit with the state's subsidy program?
 - How has the Child Care Block Grant attempted to address this issue?

Focus

Ways to maximize the positive impact on North Carolina's child day care providers and source and referral networks from the availability of federal funds under the Child Care Block Grant:

Questions

- What was the intent of the Child Care Block Grant legislation that provided guidance on the proportion of funds to be spent for subsidy and quality? How does NC's plan relate to the federal intent? How much of the Child Care Block Grant in NC will be spent to address the issues of affordability, availability and quality?
- How does NC's plan compare to those of other states?
- Does NC's plan provide for adequate regulatory and administrative staff to insure the timely implementation of the plan?
- What role do community child care providers and professionals, parents, and state and local human service agencies have on advisory committees for the Child Care Block Grant?
- What are child care resource and referral agencies? What is the history of these programs in NC? What has been the impact of these programs on the delivery of child care services?
- Who can use a child care resource and referral agency. Are fees charged for these services?
- Which communities in NC have child care resource and referral agencies? Who operates child care resource and referral agencies?
- How are child care resource and referral agencies funded and regulated?
- How have business used child care resource and referral agencies?
- How effective have child care resource and referral agencies been in assisting parents in finding child care, in improving the quality of child care, in developing child care, in helping parents afford child care, and in helping coordinate child care services in communities?
- What is the role of the day care coordinator in departments of social services across North Carolina? Do their roles vary from county to county?
- What is the role of public-private partnerships in implementing NC's plan for development and continuation of child care resource and referral services?

(5) **Focus**

The implementation of the Governor's Uplift Child Day Care initiative;

Questions

- What is the Governor's Uplift Child Day Care initiative and how does this relate to the Child Care Block Grant?
- What are the barriers to the implementation of the Governor's Uplift Child Day Care initiative?
- To what extent does the Governor's Uplift Child Day Care initiative address the issues of affordability, quality and availability outlined above?
- How does the Governor's Uplift Child Day Care initiative enhance, replace or complement existing child day care services?
- How does the Governor's Uplift Child Day Care initiative address services for children with

special needs? Have these initiatives provided effective incentives for providers to serve children with special needs? How many special needs children are being served? Is this plan coordinated with other state and local initiatives (eg. PL 99-457, Part H) designed to address services for children with special needs?

- How does the Governor's Uplift Child Day Care initiative address "equity" for all families in North Carolina?

(6) **Focus**

The current statutory regulation of child day care and the procedures used to develop policies and rules under the current structure; and

Questions

- What is the role of the Child Day Care Commission? Whose interests should the Commission protect, children, families or child care providers? Who serves on the Commission? How are appointments made? Does representation by special categories on the Commission affect the decisions made by the Commission? What is the relationship between regulatory legislation and rulemaking?
- What is the role of the State Budget Office in the development of policies and rules affecting child day care services?
- What is the role of the Social Services Commission in the development of rules affecting child day care services? How does their work relate to the work of the Child Day Care Commission?
- Is a public hearing process available for rulemaking activities? Are providers and parents given ample opportunity to comment on rules and regulations that may affect them?
- Is there a need for a state-level advisory committee to develop a long-range plan for child care across all systems?
- Does the Child Day Care Section prepare an annual report on the status of child care in North Carolina including information on compliance with and enforcement of regulations, the use of subsidy, the prevalence and use of child care, the cost and quality of child care, etc.?
- What role do special interest groups have in the enforcement of the regulations for child day care services?
- Are child day care regulations adequately enforced in NC? What is the caseload of a child day care consultant in the Child Day Care Section? How do these caseloads compare with those in other states?
- How are regulations for children with special needs coordinated with child care regulations in NC?
- Are regulations for the provision of child care services consistent and equitable for all providers (eg. churches, public school, summer child care programs, etc)?
- Who regulates child care provided by the Public Schools and the DMHDDSAS? Who

insures that there is regulatory consistency between the Child Day Care Section, Public Schools and the DMHDDSAS?

- How will the American with Disabilities Act affect the regulation of child care in NC?
- How often are visits (planned and drop-in) made to child day care centers and homes?
- Do parents and providers understand child day care regulations in NC? Are regulations written in other states easier to understand, implement and enforce?

(7) **Focus**

The relationship between child day care services offered by for-profit and nonprofit, public and private, daycare providers to other potential sources of child care and child development services including Headstart programs and North Carolina's public schools, with a view toward developing a unified State policy for funding and delivery of all early childhood development services.

Questions

- Is there a unified State policy for funding and delivery of all early childhood development services? If yes, what is it? If no, why not? Do other states have unified policies?
- Should all child care programs, regardless of auspices or sponsorship, meet the same standards and regulations? How can this be accomplished? What are the advantages and disadvantages of a unified state policy?•To what degree are the various services provided by different agencies coordinated?
- Should there be a single State agency charged with the coordination of all child day care services?
- How is Head Start regulated in North Carolina? What children are served in Head Start? What kinds of services are offered to Head Start children? How are they similar/different to services provided to children by other types of child care providers? Is there equity based on need for the service in the prevalence of Head Start programs statewide?
- How can collaboration across DHR, DPI and Head Start be promoted to insure equal services for all children and families? What opportunities and barriers exist to coordinate different funding streams?
- What is the relationship between regulations for child day care programs, early intervention programs, Head Start and public school programs that serve children from birth until school entry?
- What are the different funding sources for child care subsidy? How are the eligibility qualifications for each funding source interrelated to provide continuity of care for the family? What opportunities and constraints exist to coordinate different funding streams for child care?
- Is there a need for a standing study committee on child care?

Issues for Action
Recommendations to the Child Care Legislative Study Committee
From the North Carolina Child Care Coalition

There are many issues facing the coordination and delivery of child care services in North Carolina. The North Carolina Child Care Coalition has been studying these issues for a number of years and would like to make the following recommendations to the Child Care Legislative Study Committee.

Administration

1. Child Day Care Commission

The Committee needs to look at the composition of the Commission and to determine if a Commission so heavily weighted with child care providers can operate in the best interests of children and families.

2. Proposed State Voucher and Day Care Payment Plan

The Committee needs to immediately learn about the voucher and payment plan that are being implemented by the Department of Human Resources. It would dramatically change how subsidized child care services are administered and delivered. Opposition is mounting from both local county departments of social services and child care providers. The plan needs to be reviewed by the legislature with a hearing from all of the involved parties. North Carolina already has a modified voucher system which should be examined before a new system is implemented in all counties across all sources of federal and state day care funds.

Quality

1. Staff/Child Ratios

Improvements in staff/child ratios in centers should be phased in gradually so the North Carolina is at national average in all age groups by 1997. Efforts should begin with children under three.

2. Improved Teacher Education and Compensation

North Carolina must provide incentives for teachers of young children to become better educated. These incentives should include programs to provide salary supplements for teachers who have attained certain educational levels. In addition, North Carolina should create an insurance pool to help reduce costs and increase the availability of health insurance in order to help reduce the high turnover rate in programs.

Affordability

1. Use of State Day Care Dollars

The 16 million dollars of state funds originally earmarked for child care subsidy for employed parents or children who have been abused or neglected should not be used as match funds for the Family Support Act day care program. FSA day care is an entitlement program and new funds should be appropriated for that purpose.

2. Increase Income Eligibility

Eligibility for the state child care subsidy program should be raised to serve working North Carolina families. This can be accomplished by increasing eligibility by 5% of median per year, until all families earning up to 75% of median income are eligible. In the meantime, families who are currently eligible and receiving assistance, should remain eligible until their income exceeds 75% of the median income.

Accessibility

1. Payment Rates

Payment rates using the market rate approach should be fairly constructed to insure that rates for care and transportation in rural and poor counties in North Carolina are not disadvantageous to the development of child care in those areas. In 1991, the Legislature gave administrative flexibility to the Department of Human Resources to address this problem, but no action has been taken.

2. Children with Special Needs

There should be one state definition of special needs used by all state agencies. Payment rates for centers mainstreaming children with special needs should be increased to stimulate their enrollment in regular child care settings.

Table 3 Child-Staff Ratios and Group Size for Centers

States	Under 6 Weeks Old	Up to 1 Year Old	1 Year Old or Younger	18 Months Old	2 Years Old	30 Months Old	3 Years Old	4 Years Old	5 Years Old	6 Years Old	7 Years Old	8 Years Old & Up
AK	PRH to 6 Weeks	5:1 NR	6:1 NR	6:1 NR	6:1 NR	10:1 NR	10:1 NR	10:1 NR	15:1 NR	20:1 NR	20:1 NR	20:1 NR
AL	6:1 6	6:1 6	6:1 6	8:1 8	8:1 8	12:1 12	12:1 12	20:1 20	20:1 20	22:1 22	22:1 22	25:1 25
AR	PRH to 6 Weeks	6:1 NR	6:1 NR	9:1 NR	9:1 NR	12:1 NR	12:1 NR	15:1 NR	18:1 NR	25:1 [#] NR	25:1 NR	25:1 NR
AZ	5:1/11:2 NR	5:1/11:2 NR	6:1/13:2 NR	6:1/13:2 NR	8:1 NR	8:1 NR	13:1 [#] NR	15:1 [#] NR	20:1 [#] NR	20:1 [#] NR	20:1 [#] NR	20:1 [#] NR
CA [#]	4:1 NR	4:1 NR	4:1 NR	4:1 NR	4:1 NR	4:1 NR	12:1 NR	12:1 NR	12:1 NR	14:1 NR	14:1 NR	14:1 NR
CO	PRH to 6 Weeks	5:1 10	5:1 10	5:1 10	7:1 14	8:1 NR	10:1 NR	12:1 NR	15:1 NR	15:1 NR	15:1 NR	15:1 NR
CT	4:1 8	4:1 8	4:1 8	4:1 11	4:1 8	4:1 8	10:1 20	10:1 20	10:1 20	10:1 20	10:1 20	10:1 20
DC	PRH to 6 Weeks	4:1 8	4:1 8	4:1 11	4:1 8	8:1 16	8:1 16	10:1 20	15:1 25	15:1 30	15:1 30	15:1 30
DE	4:1 NR	4:1 NR	7:1 NR	7:1 NR	10:1 NR	10:1 NR	12:1 NR	15:1 NR	25:1 NR	25:1 NR	25:1 NR	25:1 NR
FL	6:1 NR	6:1 NR	8:1 NR	8:1 NR	12:1 NR	12:1 NR	15:1 NR	20:1 NR	25:1 NR	25:1 NR	25:1 NR	25:1 NR

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Table 3 Child Staff Ratios and Group Size for Centers

States	Under 6 Years Old	Up to 1 Year Old	1 Year Old or Younger	18 Months Old	2 Years Old	30 Months Old	3 Years Old	4 Years Old	5 Years Old	6 Years Old	7 Years Old	8 Years Old & Up
GA	7:1 NR	7:1 NR	7:1 NR	10:1 NR	10:1 NR	12:1 NR	15:1* NR	18:1 NR	20:1 NR	25:1 NR	25:1 NR	25:1 NR
HI	PRH to 2 Years*	PRH to 2 Years*	PRH to 2 Years*	PRH to 2 Years*	8:1 20*	8:1 20*	12:1 NR	16:1 NR	20:1 NR	20:1 NR	20:1 NR	20:1 NR
IA	4:1 NR	4:1 NR	4:1 NR	4:1 NR	6:1 NR	6:1 NR	8:1 NR	12:1 NR	15:1 NR	15:1 NR	15:1 NR	15:1/20:1* NR
ID	12:1 NR	12:1 NR	12:1 NR	12:1 NR	12:1 NR	12:1 NR	12:1 NR	12:1 NR	12:1 NR	12:1 NR	12:1 NR	12:1 NR
IL	PRH to 6 Weeks	4:1 12	4:1 12	5:1 15	8:1 16	8:1 16	10:1 20	10:1 20	20:1 30	20:1/30:2 30	20:1/30:2 30	20:1/30:2 30
IN*	4:1 9	4:1 9	5:1 10	5:1 10	5:1 15	5:1 15	10:1 NR	12:1 NR	15:1 NR	20:1 NR	20:1 NR	20:1 NR
KS*	3:1 9	3:1 9	5:1 10	5:1 10	5:1/7:1 10/14	7:1/10:1 14/20	10:1/12:1 20/24	10:1/12:1 20/24	14:1 28	16:1 32	16:1 32	16:1 32
KY	6:1 NR	6:1 NR	6:1 NR	6:1 NR	10:1 NR	10:1 NR	12:1 NR	14:1 NR	15:1 NR	15:1 NR	25:1* NR	25:1* NR
LA*	6:1 NR	6:1 NR	8:1 NR	8:1 NR	12:1 NR	12:1 NR	14:1 NR	16:1 NR	20:1 NR	25:1* NR	25:1 NR	25:1 NR
MA*	3:1/7:2 7	3:1/7:2 7	3:1/7:2 7	4:1/9:2 9	4:1/9:2 9	4:1/9:2 9	10:1/12:1 20/24	10:1/12:1 20/24	15:1 30	15:1 30	NR NR	NR NR

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Table 3. Child Staff Ratios and Group Size for Centers

States	Under 6 Weeks Old	Up to 1 Year Old	1 Year Old or Younger	18 Mos.s Old	2 Years Old	30 Mon.s Old	3 Years Old	4 Years Old	5 Years Old	6 Years Old	7 Years Old	8 Years Old & Up
MD ^a	PRH to 2 Months	3:1 6	3:1 6	3:1 6	6:1 12	6:1 12	10:1 20	10:1 20	13:1 26	13:1 26	13:1 26	13:1 26
ME	PRH to 6 Weeks	4:1 12	5:1 15	5:1 15	3:1 15	8:1 NR	10:1 NR	10:1 NR	10:1 NR	10:1 NR	10:1 NR	10:1 NR
MI	4:1 NR	4:1 NR	4:1 NR	4:1 NR	4:1 NR	10:1 NR	10:1 NR	12:1 NR	12:1 NR	20:1 NR	20:1 NR	20:1/30:1 NR
MN	PRH to 6 Weeks	4:1 8	4:1 8	7:1 14	7:1 14	10:1 ^a 20	10:1 20	10:1 20	10:1 20	15:1 30	15:1 30	15:1 30
MO	PRH to 6 Weeks	4:1 8	4:1 8	4:1 8	8:1 16	8:1 16	10:1 NR	10:1 NR	16:1 NR	16:1 NR	16:1 NR	16:1 NR
MS	5:1 NR	5:1 NR	9:1 NR	9:1 NR	12:1 NR	12:1 NR	14:1 NR	16:1 NR	20:1 NR	20:1 NR	20:1 NR	20:1 NR
MT	4:1 NR	4:1 NR	4:1 NR	4:1 NR	8:1 NR	8:1 NR	8:1 NR	10:1 NR	10:1 NR	14:1 NR	14:1 NR	14:1 NR
NC ^a	7:1 14	7:1 14	7:1 14	7:1 14	12:1 24	12:1 24	15:1 25	20:1 25	25:1 25	25:1 25	25:1 25	25:1 25
ND	4:1 NR	4:1 NR	4:1 NR	4:1 NR	5:1 NR	5:1 NR	7:1 NR	10:1 NR	12:1 NR	18:1 NR	18:1 NR	18:1 NR
NE	PRH to 6 Weeks	4:1 NR	4:1 NR	6:1 NR	6:1 NR	6:1 NR	10:1 NR	12:1 NR	15:1 NR	15:1 NR	15:1 NR	15:1 NR

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Table 3 Child-Staff Ratios and Group Size for Centers

States	Under 6 Years Old	Up to 1 Year Old	1 Year Old or Walking	18 Mos. Old	2 Years Old	30 Mos. Old	3 Years Old	4 Years Old	5 Years Old	6 Years Old	7 Years Old	8 Years Old & Up
SC	8:1 NR	8:1 NR	8:1 NR	8:1 NR	12:1 NR	12:1 NR	15:1 NR	20:1 NR	25:1 NR	25:1 NR	25:1 NR	25:1 NR
SD	5:1 20	5:1 20	5:1 20	5:1 20	5:1 20	5:1 20	10:1 20	10:1 20	10:1 20	15:1 20	15:1 20	15:1 20
TH	PRH to 6 Weeks	5:1 10	5:1/7:1* 10/14	7:1 14	7:1/9:1* 14/16	8:1 16	10:1 20	15:1 20	20:1 20	25:1 25	25:1 25	25:1 25
TX*	5:1/12:2 5/12	5:1/12:2 5/12	6:1/14:2 6/14	9:1/10:1 10	11:1/13:1 35	11:1/13:1 35	15:1/17:1 35	18:1/20:1 35	22:1/24:1 35	26:1 35	26:1 35	26:1 35
UT	4:1 0	4:1 0	4:1 0	4:1 0	7:1 25	7:1 25	15:1 25	15:1 25	20:1 25	25:1 25	25:1 25	25:1 25
VA	4:1 NR	4:1 NR	4:1 NR	5:1 NR	10:1 NR	10:1 NR	10:1 NR	12:1 NR	12:1* NR	20:1 NR	20:1 NR	20:1 NR
VT	PRH to 6 Weeks	4:1 0	4:1 0	4:1 0	5:1 10	5:1 10	10:1 20	10:1 20	10:1 20	13:1 NR	13:1 NR	13:1 NR
VA	4:1 0	4:1 0	7:1 14	7:1 14	7:1 14	10:1 20	10:1 20	10:1 20	10:1 20	15:1 30	15:1 30	15:1 30
VI	4:1 0	4:1 0	4:1 0	4:1 0	6:1 12	8:1 16	10:1 20	13:1 24	17:1 32	18:1 32	18:1 32	18:1 32
VV	PRH to 3 Months	4:1 NR	4:1 NR	4:1 NR	8:1 NR	8:1 NR	10:1 NR	12:1 NR	15:1 NR	16:1 NR	16:1 NR	16:1 NR

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Table 5 Child Staff Ratios and Group Size for Centers

States	Under 6 Weeks Old	Up to 1 Year Old	1 Year Old or Walking	18 Months Old	2 Years Old	30 Months Old	3 Years Old	4 Years Old	5 Years Old	6 Years Old	7 Years Old	8 Years Old & Up
VT	5:1	5:1	5:1	5:1	8:1	8:1	10:1	15:1	20:1	25:1	25:1	25:1
	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR
	PRH= Prohibited NR= Not Regulated NOTES: *AR: ratio of 25:1 applies to first graders and above *AZ: ratios for 3 & 4 year olds became effective 7/1/89; ratios for 5 year olds & older became effective 1/1/90 *CA: ratio of 4:1 applies to "infants"; ratio of 12:1 applies to "preschoolers", if an assistant is present ratio of 15:2 applies; ratio of 14:1 applies to "school age" *GA: ratio of 12:1 applies to 30-42 month olds; ratio of 15:1 applies to 3-4 year olds *IL: infants under 2 years of age are not allowed in centers except with permission of the licensing office; group size is not regulated, except for infants/toddlers (20) *IA: ratio of 15:1 applies to 5-10 year olds; ratio of 20:1 applies to 10 year olds and older *IN: ratio of 4:1 applies to "infants"; ratio of 5:1 applies to "toddlers" *KS: ratios and group size apply as follows: 5:1 (10) for 12 months & walking 7:1 (14) for 2-3 year olds 10:1 (20) for 30 month-school age 12:1 (24) for 3 years-school age 14:1 (28) for kindergarten 16:1 (32) for school age *KY: ratio of 20:1 applies to 7 year olds and older who attend full-day *LA: ratios given apply to centers with 11 or more children; ratio of 25:1 applies to school age *MA: ratio of 10:1 (20) applies to children attending full-day; ratio of 12:1 (24) applies to children attending part-day *MD: Montessori nursery schools are allowed ratio of 15:1 as of July 1989 *MI: ratio of 20:1 applies to 6-12 year olds; ratio of 30:1 applies to 13-17 year olds *MN: ratio of 10:1 begins at 31 months											

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Table 3 Child:Staff Ratios and Group Size for Centers

NOTES:											
*NC: ratios given are for medium & large centers with 30 or more children											
*ND: preschools have separate ratios as follow -											
6:1 for 2-3 year olds											
11:1 for 3-4 year olds											
13:1 for 4-5 year olds											
16:1 for 5-6 year olds											
*NH: does not regulate group size for children 3 years and older, but does state that there may be no more than 2 groups in 1 room											
*NV: ratio of 4:1 applies to children up to 9 months; ratio of 6:1 applies to children 9-18 months											
*NY: ratio of 10:1 (20) applies to 6-10 year olds; ratio of 15:1 (30) applies to 10-14 year olds											
*OH: ratio of 18:1 (36) applies to 6-10 year olds, ratio of 20:1 (40) applies to 11-15 year olds											
*PA: ratio of 4:1 applies to "infants;" ratio of 5:1 applies to "toddlers;" ratio of 10:1 applies to "preschoolers;"											
ratio of 12:1 applies to "school age"											
*RI: does not have required ratios; however, group size is regulated and it is stated that every group must have at least 1 staff member											
*TN: ratio of 5:1 (10) applies to 6 weeks-15 months; ratio of 7:1 (14) applies to 12-30 months; ratio of 8:1 (16) applies to 24-35 months											
*TX: ratios are as follow -											
9:1 for 18 month olds if 4 or more are under 2 years of age; 10:1 if 3 or fewer are under 2 years of age											
11:1 for 2 year olds if 5 or more are under 2 years of age; 13:1 if 4 or fewer are under 2 years of age											
15:1 for 3 year olds if 7 or more are under 3 years of age; 17:1 if 6 or fewer are under 3 years of age											
18:1 for 4 year olds if 11 or more are under 4 years of age; 20:1 if 10 or fewer are under 4 years of age											
22:1 for 5 year olds if 15 or more are under 5 years of age; 24:1 if 12 or fewer are under 5 years of age											
*VA: ratio of 12:1 applies to 4 year olds-school age; ratio of 20:1 applies to school age											

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TESTIMONY ON CHILD CARE ISSUES

Michele Rivest
N.C. Child Advocacy Institute
February 12, 1992

Good Morning. I am pleased to have a chance to talk with you today on the Child Advocacy Institute's concerns regarding child care in North Carolina. This is a very important committee that is very much needed. With nearly two-thirds of all mothers with young children in the work force, child care affects the lives of nearly 300,000 children in North Carolina. We spend over \$100 million each year on child care, without including various federal and state tax credits. And child care is the fourth largest item on the family budget after food, shelter, and taxes. In North Carolina, child care is a confusing and uncoordinated maze of services involving six different agencies and the Department of Revenue.

Child care has been a longstanding issue of importance for the Institute. The report we wrote in 1989, Child Care in North Carolina: Issues and Options, frames the concerns we have regarding the availability, affordability, and quality of child care in our state. It offers issues that still need attention, and strategies and solutions that we continue to support.

Today I want to officially present the paper sent to you by the Child Care Coalition. The Coalition is an adhoc group of organizations that are working together on child care, including: The Institute, the NC Day Care Association, the NC Association for the Education of Young Children, the NC Child Care Resource and Referral Network, NC Equity, The League of Women Voters, the NC Pediatric Society, and other agencies such as Frank Porter Graham Child Development Center and the 4H Association, who do not take public positions because of their state affiliation. Together, we offer you this paper as one way to approach studying the many child care challenges facing this state and this committee. We offer our collective resources to you in finding solutions, and look forward to working together.

Next, I want to talk to you about the Child Care and Development Block Grant, and quality child care. The Institute was part of the original team of people that worked to develop the CCDBG plan, which is the centerpiece of Governor Martin's Uplift Day Care Plan. Although it will not solve all of the child care problems in our state, and it won't even address some of them, the CCDBG will take us faster and further toward developing child care services than any other public policy event in our state of the past decade.

"Children First"

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Think of child care as a three-legged stool of affordability, availability, and quality. Overall, this plan focuses on affordability--75% of the block grant is dedicated to helping parents purchase child care services which we applaud. There are far too many families weighted down by the burden of child care costs. However, the other two legs - availability and quality - are missing. I want to call several issues to your attention:

1. Quality Child Care through better staff/child ratios. The most pressing quality issue that is only briefly addressed by CCDBG is that of staff/child ratios. We are grateful for the improvement in the infant ratios, but distressed by this state's inability to acknowledge through policy the importance of standards that protect children. We have two decades of research that proves that small staff/child ratios equals quality, and that children thrive in quality environments.

Research also shows that high turnover and large numbers of children to caregivers is actually detrimental to the growth of infants and toddlers, in particular. Until we address this issue, we will continue to have the disgraceful distinction of having some of the weakest standards for protecting children in the nation. We need to work toward at least the national average. You can see from the chart on page 26, that we fall far short of national averages, let alone the NAEYC standards which are being adopted and promoted across this country by such business leaders as IBM, AT&T, and Nations and Wachovia Banks.

You will hear from private providers that improving staff/child ratios will put them out of business and that it costs too much. Yes, it will cost more, and we recommend that this committee conduct a random sample survey to determine the real cost implications of improving staff/child ratios. Because we contend that the arguments put forth by the state and private providers on the costs are just a smokescreen, and here's why.

- Last year, The CCR&R Network did a survey of all infant care centers in the state, and found that half already had better ratios than the current state minimum. At the Institute we are tracking the impact of new ratios that went into effect, and will have conclusive data for you by June as to whether there is less infant care in this state because of better ratios.
- Second, the Child Day Care Section argues that you will drive children out of care with better ratios, and in fact, put in roughly \$200,000 for better infant ratios in the Block Grant. However, these dollars are not flowing directly to providers that cannot financially meet rising costs, nor to parents with infants to help them find other care. Instead, these funds are lumped

in with the state child day care program for all eligible parents and providers. So, if you accept arguments for higher costs, these funds ought to be directed to parents and providers experiencing the negative cost impact of better ratios.

- Third, in any community in the state, you will find centers with the same ratios for children charging different prices for child care. Staff/child ratios alone do not dictate the cost of child care. While staff are the 50–75% of the cost in operating a child care program, child care is a business and administrators make decisions on teacher pay, facilities, equipment, services, and their profit margin, which all affect the bottom line cost of child care.
- Fourth, and most importantly, parents want quality child care, and good providers want better staff/child ratios. At public hearings across the state last year, this was one of the top priorities of nearly everyone who spoke. This year, the Coalition started circulating a petition asking parents and providers to sign and indicate their desire for better staff/child ratios. To date, we have nearly 3,000 signatures from parents and providers in 83 counties. We will send you these petitions at the start of the legislative session. Parents may not come to Raleigh to ask you directly, but it is clear quality is what they want.

Throughout the past decade, we have pursued child care policies that focus almost exclusively on affordability for poor and low-income families. It is time we recognize and admit that much of the child care in this state is not good, let alone quality. It is time we put as much energy into improving the quality of child care in this state. If we are going to meet the President's goal of "every child ready to learn" by the year 2000, we must begin to be sure that child care is a partner in our strategies to achieve this goal and not another obstacle to overcome. Quality child care costs, and our children are worth it.

2. Child Care Resource and Referral and child care availability.

Let me talk about one of the most positive aspects of the CCBDG, and that is the development of a statewide system of child care resource and referral agencies — agencies that help parents find child care, recruit and develop new child care, provide resources and training to providers, and extend services to business and industry. CCR&R are community-based, private, non-profit agencies that serve as the child care hub in their communities. Over 20 states have developed and supported CCR&R, and several others will also through the block grant funds.

Child care resources are in scarce supply in many areas of the state. Successful implementation of the block grant and other child care services will depend on the availability of child care, and the expansion of family day care in particular. CCR&R has the potential to create a child care infrastructure across this state. It can ensure a supply of child care, improve the quality of child care, help parent's choose child care, and coordinate all child care services in a community.

The CCDBG offers the beginning, and we hope that this committee will support the development of CCR&R and expand the block grant funds dedicated to CCR&R. We will need to double or triple the current level of funding to make this service reach statewide. Again, you may hear from people that CCR&R is involved too much in advocacy and political activity, and shouldn't be funded. As a member of the statewide CCR&R advisory committee, I think it is this very committee that is too political and has stood in the way of helping communities and families access child care services that are desperately needed. We hope you will look to CCR&R as a partner in your efforts to study child care and strengthen the service system.

3. Child Care Affordability. In this area I would like to touch on two issues.

First, under the CCDBG the federal government allowed, and the state plan calls for expanding the eligibility for child care subsidy to families at 75% of the current state median family income. Those of us who worked on the plan applauded this component because it provides critical support for poor and low-income working families. Child care is now the fourth largest item on the family budget, after food, shelter, and taxes.

Now, we hear that the Child Day Care Section is not planning to recommend this expansion because there are not adequate funds to support the expanded need for services this will create. We recognize that changing the eligibility to 75% of median family income will bring in new families, and we urge the state and this committee to support this proposal. The federal government provided this provision because it urged states to get a handle on what is the true need of working families for child care. Under a current system, a single mother earning \$12,000 a year is not eligible for child care assistance, and probably spends 25%–40% of her income on child care. A two-parent family earning minimum wage is not eligible. These are the families who need our support. Without child care support, these families teeter on the line between self-sufficiency and welfare dependency.

A related issue is the current practice of using state day care dollars as match for the Family Support Act Child Care. You will no doubt hear more about this issue,

and the Child Care Coalition sent you a letter this week so I will be brief. Essentially, we urge you to view the Family Support Act child care provisions as an entitlement program, and that either new or alternative state funds be developed to support FSA child care. Secretary Flaherty understands the urgency of this problem, and has authority from Governor Martin to reallocate existing DHR funds *for this year. However, we need a permanent solution. It makes no sense to rob one child care program to pay for another, especially at the expense of the working poor in this state. Providing an alternative source of match will release funds to support the needs of working parents. I will be happy to talk more about this issue.

4. Parent Choice. You will hear many references to "Parent Choice", and we support the rights of parents to choose child care that best meets their needs and their child's needs. However, parent choice is meaningless unless quality, accessible consumer resources and education are available to parents. Parent choice is meaningless unless poor and low-income parents have the same access to child care as other families. Parent choice is meaningless if parents can't afford child care. Parent choice is meaningless unless there are child care choices in a community from which to select child care that meets both the needs of children and their parents.

Under the banner of "parent choice" the Department of Human Resources and the Child Day Care Section are talking about implementing a state-administered voucher system that removes local control from the county departments of social services as we now know it. While the Block grant requires that a certificate system be in place by October '92, this administration is talking about a radical transformation of the current day care system.

In their plan, the state would issue the checks directly to the provider, and the child care payment level would be capped at the 75th percentile of market rate. This plan has major problems.

1. The cost associated with establishing a new system would be tremendous, creating a new bureaucracy. There is no need to create a new system to meet any federal mandates. We have a system in place that is working. If no new funds are allocated to support this system, it will come from existing block grant resources and would decrease the slots now available, when there are still 7,800 children on the waiting list for services.
2. It removes local control which has the distinct advantage of being able to develop relationships among and with parents and providers.

3. It will most likely drive out county child care dollars. County commissioners will not want to send dollars to Raleigh to support child care in their own communities.
4. Last but not least, limiting payment for child care will greatly reduce parent choice as parents will be forced to choose only less expensive care, which often also means poor quality child care. Providers will not be willing to further subsidize or accept poor children. We will go back to the days when we had segregated care for poor children, and that is a mistake.

We recommend that this committee watch these proposals, and go slowly. We do not want to see either parents or providers in the position of having to track child care payments. Quality child care is not just a check. The current system is not perfect, but we cannot imagine that this plan would bring any improvements for parents or providers.

On behalf of the Child Advocacy Institute and the Child Care Coalition, thank you for the opportunity to speak with you today. There are many challenges facing you in the child care arena, and I have highlighted just a few. We are pleased that this Committee has been created, and stand ready to assist you in your work.

ACTION FOR BETTER QUALITY CHILD CARE

WHAT IS ACTION FOR BETTER QUALITY CHILD CARE? Several statewide organizations are concerned about the quality of child care in North Carolina. Quality child care depends on small staff/child ratios, group sizes, and well-trained teachers. Yet in North Carolina, the staff/child ratios are well behind the national average and those standards recommended by professional organizations such as the American Academy of Pediatrics and the National Association for the Education of Young Children.

<u>Age of Child</u>	<u>North Carolina Now</u>	<u>Proposed N.C.</u>	<u>Nat'l Ave.</u>	<u>Professional Associations</u>
0-12 months	1/6	?	1/4	1/4
12-24 months	1/7	?	1/5	1/5
24-36 months	1/12	?	1/8	1/7

During the 1992 legislative session, several groups will join together to promote legislation for better quality child care through improved staff/child ratios in centers.

WHAT IS THE PROBLEM?

1. North Carolina lags way behind the national average and recommended ratios for young children. Many children are in overcrowded classrooms with too few teachers, which is dangerous to their health, safety, and well-being. Infants and toddlers need more than assembly line care. Children need individual attention to help them develop language and social skills.
2. It will save money in the long run. Quality early childhood education makes a difference in children's later success. Every \$1.00 invested in quality child care today will equal \$4.75 in savings on problems tomorrow with school failure, dropouts, teen pregnancy, and welfare dependency.
3. Nearly 40% of all child care providers quit the field each year. Many cite the stressful condition of having to care for too many children, which prevents them from doing a good job.
4. Better ratios may cost more in some centers, although some centers already have ratios that meet the national average. New federal funds and tax credits will help many parents pay for child care costs.
5. The Governor has recognized that our state's staff/child ratios are a problem and has called for better infant ratios in his Uplift Day Care Program.

WHAT YOU CAN DO!

If you are concerned about quality child care, sign this petition today. And get others to sign this petition also. Your concern will be expressed to state legislators, the Governor, and agency officials to let them know that our children deserve quality child care.

PREPARED BY: Day Care Services Association, N.C. Child Advocacy Institute, N.C. Association for the Education of Young Children, N.C. Day Care Association, N.C. Child Care Resource & Referral Network, NC Equity, N.C. Pediatric Society, National Association of Social Workers-NC Chapter, NOW, Partnerships in Mainstreaming and The League of Women Voters of North Carolina.

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6-9-08

PETITION FOR QUALITY CHILD DAY CARE THROUGH BETTER STAFF/CHILD RATIOS

Children need and deserve quality child care. One of the most critical characteristics of quality child care is small staff/child ratios (i.e., small numbers of children per caregiver). North Carolina's child/staff ratio standards are far behind those of other states. By signing this petition, I indicate my support for reducing the current staff/child ratios for children in regulated center-based day care. I want policymakers to know that it is time to act on this issue so that children and families can have safe, nurturing, and reliable child day care.

This petition has been developed and circulated by: Day Care Services Association, N.C. Child Advocacy Institute, N.C. Association for the Education of Young Children, N.C. Day Care Association, N.C. Child Care Resource and Referral Network, NC Equity, N.C. Pediatric Society, National Association of Social Workers-NC Chapter, NOW, Partnerships in Mainstreaming, The League of Women Voters of North Carolina.

Name	Address	County	Affiliation (circle one) Parent, Provider, Citizen
Name	Address	County	Affiliation (circle one) Parent, Provider, Citizen
Name	Address	County	Affiliation (circle one) Parent, Provider, Citizen
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Making Sense of Research on Childcare: Consequences for Children's Development

By Alison Clarke-Stewart

For most American children today, childcare is a fact of life. From their earliest months until they are old enough to be on their own after school, more and more children are spending more and more time in some kind of childcare, in the care of some adult other than their parents. As a result, questions that were once of academic interest have become the concern of a majority of parents and prospective parents in this country. Of particular concern are two broad questions: What effect does nonparental childcare have on children's well-being and development? And what kinds of alternative care are best—or worst?

Answers to these questions, unfortunately, are not obvious. Experts asked by reporters about the effects of daycare on children's development must still base their replies on personal values and beliefs about what is best for mothers and for children rather than strictly on systematic scientific studies. Although a substantial number of studies have been undertaken since research in this area began in the early 1970s, their findings have not been entirely consistent or reliable. The results, therefore, are open to interpretation. There are many discrepancies and confusions in research literature in this area. There are significant gaps in the available results. The studies themselves are easily criticized; they lack representativeness, random assignment, and rigor.

Rather than dwelling on these flaws and failures in the research literature, I have chosen here to present a broad overview of these studies. I have integrated and summarized results of the available investigations of the effects of childcare in what I hope is a coherent and sensible way, but in a way that reflects my own interpretation of what the results mean. I have stressed possible links between childcare and child development, although the empirical basis for these associations is not as strong as one would hope.

The Effect of Any Kind of Daycare

Is daycare—in any shape or form—good for children's development? The answer to this question is perhaps clearest with respect to the *intellectual development of preschool-aged children (2-4) who attend daycare centers.*

Regarding the cognitive development of preschoolers, there is a substantial body of research suggesting that within the limits of the daycare programs that have been studied (and clearly this does not include the most inadequate), daycare is not harmful to children and may even help their development. Only one of the two dozen or so studies comparing the development of children who attended daycare centers, nursery schools, or early childhood programs in the preschool years with that of children from comparable family back-

grounds who did not (see reviews by Belsky, 1984; Clarke-Stewart & Fein, 1983; Hayes, Palmer, & Zaslow, 1990) showed that children in daycare programs did more poorly in overall intellectual development. That was a study of poor daycare in which adult-child ratios for 2- and 3-year-olds averaged 1 adult to 20 children (Peaslee, 1976). The other studies, of better daycare, all showed that children in daycare programs did at least as well—and sometimes better—on tests of mental or intellectual development (e.g., Andersson, 1989; Burchinal, Lee, & Ramey, 1989; Cochran, 1977; Fowler, 1978; Garber & Heber, 1980; Golden, Rosenbluth, Grossi, Policare, Freeman, & Brownlee, 1978; Kagan, Kearsley, & Zelazo, 1978; Ramey, Dorval, & Baker-Ward, 1983; Robinson & Robinson, 1971; Rubenstein & Howes, 1983; Scarr, Lande, & McCartney, 1988; Stukat, 1969; Winnett, Fuchs, Moffatt, & Nerviano, 1977).

Daycare is potentially beneficial to preschool children's development— if it is of high quality

In the studies showing differences, children in daycare scored higher on IQ tests, were more advanced in their eye-hand coordination, were more creative in the ways in which they explored and played with materials, knew more about the physical world, had more of the beginning arithmetic skills like counting and measuring before they went to school, could remember and recite back information (e.g., their names and addresses) more accurately, and were able to use and understand more advanced language. In a Chicago study (Clarke-Stewart, 1984, 1987) of 2- to 4-year-old children from a range of family backgrounds and a wide variety of nursery school and daycare center programs, subjects were an average of 6 to 9 months advanced on tests of these kinds of intellectual competence over children cared for at home (by their mothers, babysitters, or daycare home staff). Significant differences favoring center attendees have not been found in all studies, in all samples, or on all indices of intellectual competence; but when differences have been observed, they have consistently been in this direction.

This does not mean that children attending daycare programs are given a permanent head start toward a life of superior intelligence. The research suggests that their advanced development reflects a temporary gain, a speeding up in the rate of their early acquisition of these kinds of mental abilities and competent behav-

iors; the gains are not cumulative, nor are they linked to length of time in the daycare program or to age of entry (see Clarke-Stewart & Fein, 1983). They show up by the time the children have been in daycare for a year, then level off. By the end of first grade, children who did *not* have experience in a preschool program generally have caught up to those who did (e.g., Fowler, 1978; Lally & Honig, 1977; Ramey, MacPhee, & Yeates, 1982).

These gains are most evident in the school-related behaviors and abilities I have just described. They do not appear in all aspects of development (e.g., emotional adjustment, relations with parents, empathy and social sensitivity). However, the research also indicates that preschool children who attend daycare programs are likely to be more self-confident, outgoing, assertive, and self-sufficient, more comfortable in new situations, less timid and fearful, more helpful and cooperative, and more verbally expressive (Cochran, 1977; Fowler, 1978; Kagan et al., 1978; Lally & Honig, 1977; Rubenstein, Howes, & Boyle, 1981; Schwarz, Krolick, & Strickland, 1973). They know more about social rules (Siegal & Storey, 1985) and gender roles (Clarke-Stewart, 1984) and are better liked by adults who meet them (Clarke-Stewart, 1984). Like the differences in intellectual competence, these differences in social competence do not appear in all studies of all centers for all children (e.g., Golden et al., 1978; Lamb, Hwang, Broberg, & Bookstein, 1988); but when differences do appear, they are in this direction.

So, considering all this research, it looks as if daycare, at least the daycare that has been studied, is basically good for children; it promotes or at least does not hinder their cognitive and social development. But there is another side to the story. The same studies also show that these children in daycare are sometimes less polite, less agreeable, less compliant with their mother's/caregiver's demands and requests, are louder and more boisterous, more irritable and more rebellious, more likely to use profane language, and more aggressive than children who are not or have not been in daycare (e.g., Haskins, 1985; Rubenstein & Howes, 1983; Schwarz, Strickland, & Krolick, 1974; and see Clarke-Stewart & Fein, 1983).

These differences in social behavior, although not inevitable, appear in tests and in natural observations, in the daycare center and on the playground, with adults and with other children, with strangers and with parents. They appear for both boys and girls, and for children from both model and mediocre daycare programs. They are more marked for children from lower-income families, but they also appear for middle-class children.

Problems of Interpretation

One problem, obviously, is how to interpret these differences.

Are daycare children *more* socially competent or *less*? They were helpful but also demanding, cooperative but also bossy, friendly but also aggressive, outgoing but also rude. My interpretation is that preschool-aged daycare children as a group are developmentally advanced in the social realm, just as they are in the intellectual realm, and that is why they are more knowledgeable, self-sufficient, and able to cooperate. More determined to get their own way, they do not always have the social skills to achieve this smoothly; and that is why they are also more aggressive, irritable, and noncompliant.

Another problem is whether the childcare experienced by the children in these studies is typical of childcare found in the U.S. today. The studies were biased toward high-quality childcare, because many of them were studies of university-based, "model" preschool programs, and because even studies which included community daycare were limited to those parents and childcare providers willing to be studied. Nevertheless, according to the current evidence (national surveys by Mathematica Policy Research and the Urban Institute: Kisker, Hofferth, & Phillips, 1990; Hofferth, Brayfield, Deich, & Holcomb, 1991), the childcare in these studies is in line with available preschool care on at least three critical characteristics: class sizes (average=17), adult-child ratios (average=1:10), and caregiver qualifications (93% of center caregivers have some childcare training). Standards of acceptable practice set by the National Association for the Education of Young Children are met by more than two thirds of the programs for preschool children in the U.S. today (Kisker et al., 1990). Thus it seems likely that the results of the studies would apply to at least the top two thirds of contemporary daycare programs.

A third problem is that these are general statements about *all* children in *all* daycare center or nursery school programs compared with *all* children at home. These findings are based on differences between groups of children, not individuals. Do all daycare programs by their very nature have these effects, or are some better than others at enhancing children's

intelligence—or worse than others for promoting children's aggressiveness? What is it about daycare programs that enhances children's intellectual development or increases their aggressiveness?

High quality in daycare is most clearly defined by four critical factors

Childcare Quality

Consistent with common sense and casual observation, researchers have discovered that there are differences in children's development related to the kinds of daycare programs they are in. Although associations are not observed in every study or for every sample (e.g., Kontos & Fiene, 1987; Goelman & Pence, 1987; Lamb et al., 1988), several studies have revealed significant associations between children's cognitive and social development and indices of global quality in the childcare setting (Howes & Olenick, 1986; McCartney, 1984; Ruopp, Travers, Glantz, & Coelen, 1979)—associations that persist into elementary school (Howes, 1988; Vandell, Henderson, & Wilson, 1988). These results prompt the question: Are these associations really the result of a single critical factor (e.g., adult-child ratio), or are there a number of critical features that determine daycare quality?

Distilling results from all the studies linking children's development to different kinds of daycare programs, it is possible to identify four different aspects of daycare that are most clearly, consistently, and independently related to children's behavior and development, four aspects that might be considered indices of quality. These are the physical environment, the caregiver's behavior, the curriculum, and the number of children.

Physical Setting

Perhaps surprisingly, the results of studies of children in daycare centers show that children's intellectual and social development

is not related to the number of toys available or to the amount of physical space available—unless it is extremely crowded, which does have negative effects (Connolly & Smith, 1978; Smith & Connolly, 1980). What matters more is the *organization* of the space and the *quality* of the materials available. Children, as any tidy and sensitive grandmother might have predicted, do better in centers that are neat, clean, safe, and orderly, that are organized into interest areas and oriented toward children's activities (Clarke-Stewart, 1987; Howes, 1983; Prescott & David, 1976). They do better in centers with toys and materials that are varied and educational (Clarke-Stewart, 1987; Connolly & Smith, 1978; Howes & Rubenstein, 1985). Children are more likely to do constructive, mentally challenging things with materials for building, to have interesting and mature conversations in play if they are using dramatic props, to cooperate with peers in playing social games like checkers and pickup sticks (Sylva, Roy, & Painter, 1980). Having a variety of materials adds to the range of children's educational experiences. So the general conclusion to draw from the research on the physical environment might be that it is not quantity but quality that matters most. Simply adding more balls or games or space will not necessarily improve the program or enhance children's development, if the center already has some balls and some games and enough space. What is more, simply adding materials to preschool classrooms or having more varied materials does not lead to cognitive gains except in combination with teachers' behavior (Ruopp et al., 1979). This brings us to the second important aspect of daycare programs.

Caregivers' Behavior

Children are also more likely to develop social and intellectual skills, the results of research suggest, when caregivers are stimulating, educational, and respectful, not custodial or demeaning (Carew, 1980; Clarke-Stewart, 1984, 1987; Clarke-Stewart & Gruber, 1984; Golden et al., 1978; McCartney, 1984; Phillips, Scarr, & McCartney, 1987). The children in our Chicago study who did best, for

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instance, had caregivers who were responsive, positive, accepting, and informative, who read to the children, offered them choices, and gave them gentle suggestions, rather than simply hugging and holding or helping them, and rather than directing, controlling, restricting, or punishing them. The latter kinds of teacher behavior were associated with poorer development: caregivers who initiated more physical contact, physical help, and physical control with those in their charge had children who did more poorly in the assessments of their social and mental competence. If teachers were very busy and there were many children demanding their attention, it seemed to affect just how much one-to-one conversation the teachers managed to have with the children; but if conversation was relatively frequent, it was the quality of the one-to-one conversation (its positive tone, responsive and accepting nature, informative content) that seemed to be more important than the sheer amount. Again we see that, once a floor of quantity has been achieved, it is quality of care that matters.

Researchers have also asked how these positive kinds of behavior are associated with the caregiver's background. Their studies show that the caregivers most likely to behave in these positive ways are those with more experience as childcare professionals, those who have been in the daycare program longer, and those who have higher levels of training in child development (Arnett, 1987; Clarke-Stewart, 1987; Howes, 1983; Rosenthal, 1988; Ruopp et al., 1979). On all these dimensions, however, there is some suggestion that these relations are curvilinear: past a certain point, having more experience, stability, or training is not advantageous.

Teachers who have more professional experience are likely to be more responsive, accepting, positive, and so on, and the children in their care tend to perform better, than teachers with less experience (Clarke-Stewart, Gruber, & Fitzgerald, in preparation; Howes, 1983; Kontos & Fiene, 1987)—but only up to a certain point. Teachers with more extensive experience in the field have been observed in several studies to provide less stimulating and educational interaction than caregivers with less experience (e.g., Ruopp et al., 1979). Although there are too few studies to reach a firm conclusion, extrapolating from available results suggests that the optimal length of experience might be around 10 years (Kontos & Fiene, 1987; Phillips et al., 1987; Ruopp et al., 1979). There are several possible explanations for this finding: burnout (teachers just get worn down after years of challenging and demanding working conditions, constant giving of themselves, and meager economic rewards); generational or age effects (the younger generation of teachers may be more positive than the older); selective attrition (the better teachers have become administrators or politicians); or simply inadequate information (we have not systematically studied the full range of caregivers' experience in a single comprehensive study). We need further research to sort out these possibilities.

Stability of the caregiver in a particular daycare setting may also be related to the quality of care in a curvilinear way. Staff turnover is negatively related to daycare quality: the more staff changes, the worse for the program—and the children. In the National Staffing Study (Whitebook, Howes, & Phillips, 1990), centers rated higher on overall quality, those in which children spent less time in aimless wandering and scored higher on a test of intelligence, also had lower staff turnover. The question is whether any given caregiver who stays in the center longer will provide better care. When a caregiver stays in one center for 3 or 4 years, it makes sense that this is better than staying for only 1 year or 2 and that, within this period, staying longer is better. But beyond this length of time, does staying longer improve the quality of care provided? Available data, scant though they are, suggest not (Clarke-Stewart et al., in preparation). Staff stability is an important aspect of daycare quality, not only because it is good for children to form relationships with their daily caregivers and vice versa, but also, I suspect, because such stability indicates that the center offers good working conditions and wages that encourage teachers to stay for several years.

The research results indicate that more is not necessarily better: quality matters more than quantity

In the National Staffing Study, too, higher quality centers were found to have better educated, better trained teachers. This association between training and quality of care has appeared in many earlier studies and caregiver training is now generally considered to be a *sine qua non* of quality care (e.g., Arnett, 1987; Clarke-Stewart, 1987; Howes, 1983; Klinzing & Klinzing, 1974; Lazar, Darlington, Murray, Royce, & Snipper, 1982; Ruopp et al., 1979). But here again, the picture is not so simple. Although having no training in child development is clearly worse than having some, more training is not a guarantee of better care; taking 10 courses is not necessarily better than taking 6. It depends on the content and quality and variety of the courses. As it is, with the training that is currently taken by childcare workers in America, there is some suggestion found in my research (Clarke-Stewart, 1987) that when teachers have taken *more* training in child development, they move toward an academic orientation, which translates in the daycare classroom into an emphasis on school activities (reading, counting, lesson, learning) to the exclusion of activities to promote children's social or emotional development. Formal training in child development may indeed be good

background for providing a daycare environment that promotes children's intellectual development, but it is not necessarily so good for children's social development. In our Chicago study, for example, the caregivers who had completed more formal training in child development were found with children who were advanced intellectually but were significantly less competent in interactions with unfamiliar peers. Caregivers who had a moderate level of training were found with children who did well in both social and cognitive realms.

Curriculum

The same kind of complex, curvilinear associations appear when researchers examine the significance of the daycare program's curriculum, the third important component of daycare. Having some kind of curriculum—some lessons, some structure, some organized and supervised activities—is clearly better than having none (Clarke-Stewart, 1987; Clarke-Stewart & Fein, 1983; McCartney, 1984). But having too much structure, too much regimentation is not beneficial (Miller & Dyer, 1975; Sylva et al., 1980). Children in daycare want to express their needs and interests, and the day's activities cannot all be planned by the teacher. Children benefit from the opportunity and encouragement to explore and play and learn on their own. But on the other hand, children who spend their time in daycare *just* playing with other children, without educational activities or teacher direction, do not make the gains in intellectual or social development that have been observed in other children.

As for the *type* of curriculum—Montessori, Piagetian, Distar, behavioral—it seems that this is not critical for the children's intellectual development; there are apparently many curricula available and in use today that promote the acquisition of children's intellectual knowledge (Miller & Dyer, 1975; Royce, Darlington, & Murray, 1983; Schweinhart, Weikart, & Larner, 1986). The curriculum may matter more to children's social and motivational development. The children most likely to be cooperative, self-confident, assertive, and aggressive have teachers who, directly and indirectly, are most likely to encourage their self-direction and independence, cooperation and knowledge, self-expression and social interaction, intellectual development and academic skills—but who do not focus on teaching the children social skills (Miller & Dyer, 1975; Schweinhart et al., 1986). Daycare children who were observed to interact 13 times more aggressively with other children, for example, came from a model, university-based program which was particularly focused on promoting the children's intellectual development (Haskins, 1985). Children who have developed social skills in daycare or early childhood education programs, children who have learned nonaggressive strategies for solving social problems, apparently do not pick them up incidentally by hanging around in a benign and permissive environment with other children, even if they are saying their ABC's or building with blocks together. These social skills came only from daycare programs in which special

efforts were made to teach them. In the most satisfactory daycare, it appears, children are offered a balanced menu of social and intellectual lessons.

Number of Children

Finally, the last important dimension of daycare is the number of children who are in the program or in the class. Repeating the themes of "quality versus quantity" and "you can have too much of a good thing," the research on this dimension suggests that although opportunity to interact with other children in daycare is good (because others offer advanced models of behavior, direct tutoring, and challenging play), having *more* interaction with other children typically is not so good. When children spend more of their time in the daycare center just watching, playing around with, fighting, and imitating other children (especially younger ones), they tend to be less competent in social and cognitive ways (Clarke-Stewart, 1987; McCartney, 1984; Phillips et al., 1987).

Often the reason children spend their time in daycare just hanging around with the other kids is that the class is large or the ratio of adults to children is low. We are all well aware of the importance of class size and adult-child ratio as indices of daycare quality (Howes, 1983; Howes & Rubenstein, 1985; Holloway & Reichart-Erickson, 1988; Ruopp et al., 1979; Smith & Connolly, 1980; Sylva et al., 1980). But again, the relation between class size or adult-child ratio and children's behavior is not a simple one.

First, on *some* measures of competence, children in larger classes have been observed to do better. In our Chicago study, children in larger classes were more knowledgeable about social rules and emotional expressions and less avoidant of an unfamiliar peer; children with a lower adult-child ratio were more socially competent with unfamiliar adults and peers (Clarke-Stewart, 1987; Clarke-Stewart & Gruber, 1984). Second, the extent of the negative developmental influence of the class size or ratio of adults to children depends on the range of class sizes and ratios, the absolute level of class sizes and ratios, and the age of the

children being considered. Significant associations with class size and adult-child ratio have been found in studies that included a larger range of sizes, class sizes at the high end of the range, and younger children (Howes, 1983, 1987; Howes & Rubenstein, 1985; Howes, Rodning, Galluzzo, & Myers, 1988; Phillips et al., 1987; Ruopp et al., 1979), but not in studies that included a smaller range, smaller classes, or older children (e.g., Clarke-Stewart, 1987; Kontos & Fiene, 1987; McCartney, 1984). Extrapolating from these studies, it seems that children are more likely to be affected when the number in the class is very large (for 3-to-4-year-olds, larger than 20) or the adult-child ratio is very low (lower than 1:10), or when the age of the children is very young (under 3 years). *Within* these limits, effects seem less likely.

Childcare Quality in Brief

In sum, then, these four aspects of daycare—physical setting, caregivers' behavior, curriculum, and number of children—are linked to children's behavior and development in ways that are clear and sensible, but not simple. One way in which the relation is not simple is that on these dimensions, more is not necessarily better—whether it be more training, more experience, or more time in the center for the caregiver, more toys or more space, more structure or more academic activities, more direction or more physical contact from the caregiver, more other children to play with, or more time to play with them. Another way in which the relation is not simple is that, on these dimensions, quality seems to matter more than quantity. Beyond the minimal acceptable standards of quantity, it is the quality of the program that matters: organization of the physical space, responsiveness of caregivers' behavior, content of the curriculum, and type of interactions with peers. These factors seem of greater importance than increase in the indices of quantity: more space, more toys, more interaction with the caregiver or other children, more lessons on the ABC's.

Type of Daycare

So far I have been discussing quality in center daycare—because most research is about

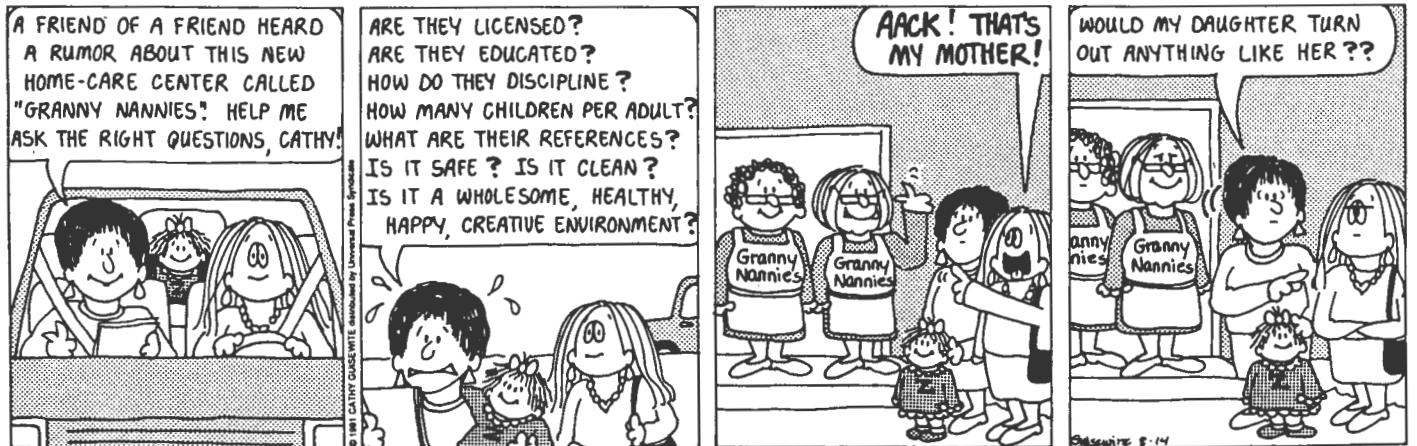
centers. But given the current daycare scene, it is also important to ask whether home daycare has the same effects and whether these same indices of quality predict child development outcomes in home daycare, as well as in centers. There is a little research that speaks to these questions. In daycare homes, of course, unlike centers, quality is not usually defined by presence of a curriculum; but the other three dimensions that were important in centers do appear to be linked to good care in homes, as well. Children do better when the physical environment in the daycare home is organized to encourage their activities, when the homecare provider has a professional attitude and some training or education, and when there is a moderate number of children: more than 2, fewer than 10 (Clarke-Stewart, 1987; Fosburg, Hawkins, Singer, Goodson, Smith, & Brush, 1980; Howes, 1983; Howes & Rubenstein, 1985; Stith & Davis, 1989).

As to which type of care is better, center or home, most people in the field think that either can offer excellent care. But in our Chicago study and in other research, children's development and observed experiences with a sitter or in a daycare home were not different from those of children at home with their own mothers (Andersson, 1989; Clarke-Stewart, 1987; Cochran, 1977; Golden et al., 1978). They did not exhibit the advanced competence of the children in daycare centers and nursery schools. This may be because in the real world of childcare in America, or at least in the centers and homes that have been targets of study, centers on the average offer care and stimulation of higher quality than do homes, on the average. Differences are less when the daycare homes are of high quality. For example, in one study, although the competence of children in *unregulated* daycare homes was inferior to that of children in centers, the competence of children in *regulated* homes was equivalent (Goelman & Pence, 1987). More telling, in another study, when care in daycare homes was enriched by the experimental addition of a structured educational curriculum, the intellectual competence of the children was observed to improve to the level of children in

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daycare centers (Goodman & Andrews, 1981).

Daycare for Infants

So far, we have focused our discussion on the effects of daycare on *preschool-aged* children. What about infants who are placed in daycare in the first year of life? In the last few years there has been a heated debate about whether daycare is bad for infants, whether it places them at risk for developing emotional insecurity and causes them to become socially maladjusted. The major source of the debate is the research assessing infants' relationships with their mothers. This relationship is, of course, central in the infant's psychological development. It is also vulnerable when infants are separated from their mothers for 8 to 10 hours a day. Although research consistently has shown that infants of working mothers do form relationships with their mothers and prefer them to their substitute caregivers (Clarke-Stewart & Fein, 1983), the question is whether the quality of their relationships is as good, as emotionally secure, as the relationships of infants who are being raised exclusively at home.

As a first step in answering this question, one can look at data from all studies of infants in daycare that have included the current standard assessment of children's relationships with their mothers. Combining 16 studies that have used this assessment (Clarke-Stewart, 1989) reveals that the infants in fulltime daycare, compared with those in daycare part-time or not at all, are indeed more likely to be classified as having an insecure relationship with their mothers. But the problem, again, is how to interpret this difference. Does the standard assessment that was used really reflect emotional insecurity in these children? And if it does, is the difference large enough that we need to be concerned about it? It is because the difference is open to interpretation that controversy about infant daycare exists.

To appreciate the first problem, one must consider the assessment on which the judgment that these babies have insecure relationships with their mothers is based. The standard assessment of infants' relationships with their mothers (the "Strange Situation") involves the following scenario: the infant plays with toys in an unfamiliar room; he or she is left by the mother alone in the room with an unfamiliar woman, plays with and is comforted by that woman in the mother's absence; and the mother returns and picks the child up. The relationship is assessed by observing how the child responds at this final step when the mother returns to the room. If the child goes to or greets the mother, this is a sign of secure relationship. If the child avoids or ignores her, this is the sign of an insecure relationship.

Unfortunately there is a problem with using this assessment for daycare infants, because the scenario sounds similar to the kind of experience that infants in daycare go through regularly. Could it be that infants who have had this kind of experience repeatedly are therefore less likely to seek physical closeness with their mothers—which is the basis for saying their relationship with the mother is

insecure? When other methods of assessing infants' relationships with their mothers are used, it turns out, the differences are not as marked (see Clarke-Stewart, 1989). Even if babies did have less secure relationships with their mothers, would this mean they were emotionally disturbed? On other measures of emotional adjustment, children who were in daycare as infants have been observed to do as well as children who were not, suggesting that daycare infants are not more emotionally disturbed overall.

We should proceed with caution as we provide and study daycare for infants over the next decade

Even if the observed difference in these infants' relationships with their mothers does indicate a degree of emotional insecurity, is the difference large enough that we should be concerned about it? Among the approximately 1200 children in the 16 studies tabulated by Clarke-Stewart (1989), 36% of those who were in daycare fulltime were classified as insecurely attached to their mothers; 29% of the children who were not in daycare fulltime were insecurely attached. Is this difference between 36% and 29% large enough to be of concern? This is a difference that turns out to be within the normal range when one looks at research from around the world; it is a difference that is found only in infants from low-risk, middle-class families. For infants from high-risk families, those who are in daycare are more likely to have secure relationships with their mothers, not less. The meaning of the difference is open to interpretation. The significance of the difference, I think, lies not in demonstrating that daycare *is* harmful to infants, but in alerting us to possible problems that daycare *may* create for them.

Another problem that research alerts us to is in the intellectual domain. Recent evidence from the National Longitudinal Study of Youth (Desai, Chase-Lansdale, & Michael, 1989) suggests that boys from high-income families in fulltime infant care may be at risk for lower intellectual development. There were no negative effects for girls or for children from low-income families. This confirms other, earlier research showing that children who were in daycare as infants were advanced in development in the same ways as children who started daycare at 2 or 3 or 4 years of age (e.g., Ramey et al., 1982).

The data so far collected on infants in daycare suggest that we need to be cautious as we try out different forms and programs of daycare for infants and as we evaluate the effects of these forms and programs. We need to put our effort into trying to discover under what circumstances infants in daycare are likely to suffer. It would not be surprising to discover

that some daycare is good and some is bad for babies, just as for older children. Perhaps for infants, also, some daycare is good and too much daycare is bad. Perhaps daycare is good for some infants but bad for others. We need to identify the conditions which, in combination with the infant's home circumstances and individual constitution, are likely to lead to negative (or positive) outcomes—conditions like the kind of training and personal qualities that prepare a person to be a good caregiver, or the maximum number of infants that a caregiver can adequately care for at one time. For example, while it is clear that no adult regardless of training can provide adequate care and stimulation for 8 infants, let alone evacuate them in an emergency, it is not clear whether the minimum acceptable ratio is 1:5 or 1:4 or 1:3—or 3:1.

Cautions and Conclusions

The cautions stem from the fact that the research and results on which this discussion is based are limited in significant ways. The research was, for the most part, not experimental; the samples, not nationally representative. The correlations and group differences reported, even when statistically significant, were disappointingly modest in size and inconsistent from sample to sample. The differences that were robust were short-lived. Perhaps most troublesome of all, the contribution of self-selection to the correlations and group differences observed could not be adequately evaluated because few investigators assessed pre-existing differences among children and their families.

Although the few investigations that used either an experimental design (see Bryant & Ramey, 1986) or regression analyses (Clarke-Stewart, 1984; Howes & Stewart, 1987; Owen & Henderson, 1987) do support the suggestion that childcare makes a contribution to children's development beyond that of family characteristics, the fact that the vast majority of studies confound family background with daycare quality suggests that even the modest associations that have been discovered overestimate the effects of childcare quality. These limitations must be kept in mind before any extrapolation to policy recommendations should be attempted.

In the not-so-distant future, we may learn more about the effects of childcare on children's development from several large-scale studies that have just begun. The NICHD Study of Early Child Care identifies children at birth and observes them throughout their first 3 years, at home and in any regular childcare arrangement of at least 10 hours per week. Their experiences in both settings will be assessed using a variety of standard and original instruments and related to their cognitive, social, and emotional development. The studies will include 1200 infants from a wide range of family backgrounds, in 10 different sites across the country. The Child and Family Study conducted by ChildTrends and the Manpower Demonstration Research Corporation is studying the effects of 1 year of childcare on children of welfare mothers who are randomly

assigned to the JOBS (Job Opportunity and Basic Skills Training) program. The cognitive, physical, emotional, and social development of 2500 3-to-5-year-olds will be studied over a 5-year follow-up period. In a third study, the Expanded Child Care Options (ECCO) demonstration project funded by the Rockefeller Foundation, the development of 1800 children will be assessed, beginning in early childhood and extending into young adulthood, to compare the effects of basic childcare (1 year of care), extended childcare (lasting until first grade), and extended enhanced childcare (high-quality care lasting until first grade). Welfare mothers with a child under 3 years will be randomly assigned to one of these conditions. Because of their scope and design, these studies promise to yield important data on childcare effects.

In the meantime, until these studies are completed, keeping in mind the cautions regarding existing data, it is possible to make some general summary conclusions on the basis of this simple and interpretive review of the available research. Four conclusions seem most reasonable:

1. Daycare is *potentially* beneficial to preschool children's development—if it is of high quality.
2. High quality is most clearly defined by the following: a well-organized and stimulating physical environment, a responsive and trained caregiver, a balanced curriculum, and relatively small classes.
3. Because of the finding that the relation between dimensions of quality and outcomes with children tends to be curvilinear, putting our efforts into ensuring that all daycare programs meet minimal acceptable standards is probably more important than trying to improve the quality of already adequate care. For example, present state regulations of adult-child ratios for 3-year-olds vary from 1:7 to 1:15 (Kisker et al., 1990). Requiring that ratios of 1:15 be increased to 1:10 (the ratio recommended by NAEYC and actually observed for preschoolers in the national survey of childcare settings by Kisker et al., 1990) would probably make more sense than requiring 1:10 ratios to be increased to 1:7. We should probably also require a moderate amount of training for all caregivers rather than stressing high levels of training for a few. Currently, only 27 states require any pre-service training for daycare center caregivers; less than half that number require such training for daycare home providers (Kisker et al., 1990).
4. We are on shakier ground in making recommendations about optimal or even adequate care for infants and toddlers, but we have every reason to believe that doing so is even more important than for preschoolers. We should proceed with caution as we provide and study daycare for infants over the next decade.

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Hunt continued from page 4

Moreover, in the future those who become concerned with the question of the effectiveness of Montessori's model, and of revisions to come, should have more than the impressionistic reports of observers to go on. They should have demonstrations employing the experimental method and the best techniques available for educational and psychological assessment (pp. xxxiv-xxxv).

Montessori's legacy obliges us to encourage children to develop from within, in an environment that supports independent and liberating activity. To live up to this legacy, we set up classrooms that encourage children to explore, to move about, to interact with one another, places where learning is a process that is respected. Hunt's legacy obliges us to find ways to experiment, document, and assess the results of that activity. His contribution reminds us there is still work to be done.

DOUGLAS GRAVEL teaches a class of 3-to-6-year-olds at the Edgemont Montessori Magnet School in Montclair, NJ.

TESTIMONY for Members of the Legislative Research
Commission's Study Committee on Child Care

FROM Betsy Thigpen, President North Carolina
Head Start Association

DATE February 12, 1992

The state of North Carolina is to be commended for its initial efforts in addressing the needs of young children and their families. Especially notable is the state's Uplift Day Care Plan formulated this past year in response to the federal Child Care Development Block Grant allocation. The Uplift Day Care Plan is a serious attempt to combine state, federal, and foundation funding in a manner which will enhance numerous programs and services to young children across the state. Among these is the Head Start program.

As of January 1, 1992 forty-four Head Start programs in North Carolina received from the federal government total funds of approximately \$38,500,000 to provide comprehensive child development services to just over 13,000 low-income children. The state was extremely wise in designating a portion of the Child Care Development Block Grant monies for wrap-around services for about 1/3 of these children, thereby combining federal and state resources to provide full day, full year child care for Head Start children whose parents either work or are in school. In addition the state provided \$600,000 to match a \$495,000 federal allocation for five new Head Start Parent and Child Centers across the state. These new Parent and Child Centers will begin a new service delivery system to pregnant women, infants and toddlers and their families. It should be noted that much national attention has been focused on this state/federal collaboration and North Carolina has been recognized as progressive and innovative in the way it has used blended funding to meet the needs of young children and their families.

President Bush recently announced that he will add \$600 million to FY93 Head Start funding. A Democratic Congress promises to raise that figure to \$800 million. Such an increase would be three times the increase received in 1992. With such impressive support for Head Start at the federal level, why should the state be concerned with providing supplemental funding for the program?

As most of you know, federal Head Start dollars cannot be used to build or buy facilities. Most programs are plagued with the use of abandoned schools and other inadequate facilities which no longer meet licensing standards. Many programs find themselves in the unfortunate dilemma of receiving operational funds to serve additional numbers of children, but having no facility in which to serve the children. Some programs have actually been forced to refuse additional funding for expansion because of the facility problem. This is obviously an ideal opportunity for state government to step in and maximize federal funding by providing monies for Head Start facilities. At a time when the availability of federal funding is on the increase, our state needs to supply supplemental facility funding so that the goal of serving all eligible low-income preschool children in our state can be reached. Again, North Carolina and our General Assembly are to be commended for the initial steps taken this past year in this direction.

Earlier I mentioned the state/federal blended funding for five new Head Start Parent and Child Centers in our state. These Parent and Child Centers will begin serving children even before they are born. As impressive as the Head Start track record is, many of us recognize that often our intervention when the child is three or four years old is simply "too little too late." Parent and Child Centers will allow us to work with pregnant women, infants and toddlers and provide intense day-to-day services such as parent education, parenting skills, child development information, good nutrition for both mother and child, medical and dental services including pre- and postnatal care, updated immunizations and many other services which will assure each child a healthy, stable, and stimulating early environment. The potential for changing some of our state's embarrassing statistics (i.e. high infant mortality and low SAT scores) through Parent and Child Centers is both promising and exciting. Again the state can enhance these services by addressing the need for adequate facilities in which to house Parent and Child Center services.

In closing let me broaden my concerns beyond Head Start and focus on the needs of all North Carolina children and families. The first goal among our now familiar national education goals is: By the year 2000, all children in America will start school ready to learn. It is imperative that North Carolina responds to this goal both expediently and appropriately. School readiness is far more than academic knowledge and skills. Readiness is based on children's physical health, self-confidence and social competence. These can only be achieved by offering convenient, affordable, and effective services that help build strong families and by providing appropriate environments for young children prenatally and through their early school years. Specifically, the readiness goal will be reached through:

- Integrated and comprehensive services
- Developmentally appropriate practice
- Parent involvement and family-focused policies and services
- Well-trained and adequately compensated staff

Our youngest and most precious resources deserve this careful and caring approach and the future of our state rests on our ability to provide it. The Head Start community stands ready to work cooperatively and collaboratively with all child care and early childhood systems to assure that indeed all children in our state will be ready to start school ready to learn.

APPENDIX H
LEGISLATIVE PROPOSALS

1>

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 466 H466-PCSRG-001
Attention: Line Numbers May Change After Adoption

FOR REVIEW ONLY

Short Title: Day Care Provider Records.

(Public)

Sponsors:

Referred to:

February 1, 1992

1 A BILL TO BE ENTITLED
2 AN ACT TO MANDATE CRIMINAL RECORD CHECKS OF CHILD DAY CARE
3 PROVIDERS AND SPOUSES OF CHILD DAY CARE OPERATORS.
4 The General Assembly of North Carolina enacts:
5 Section 1. Chapter 110 of the General Statutes is
6 amended by adding a new section to read:
7 "§ 110-90.2. Mandatory day care providers' Criminal Record
8 Checks.
9 (a) For purposes of this section, 'day care provider' means any
10 employee, prospective employee, or operator, directly providing
11 day care. 'Day care provider' does not mean a day care employer,
12 if that employer does not provide direct day care but employs an
13 operator and employees to provide that care or if the day care is
14 provided in a child day care home that does not receive State
15 purchase-of-care funds.
16 This section mandates criminal record checks of all day care
17 facilities, including church-sponsored day care facilities and

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1 those child day care homes that receive State purchase-of-care
2 funds.

3 (b) Effective December 1, 1992, the Department shall ensure
4 that no applicant to provide day care may be employed in or may
5 operate a day care facility or a State-subsidized child day care
6 home who has been convicted of the crime of felony or misdemeanor
7 child abuse.

8 Effective December 1, 1992, the Department shall also ensure
9 that no applicant to become a day care operator may operate a day
10 care facility or a State-subsidized child day care home if his or
11 her spouse has been convicted of the crime of felony or
12 misdemeanor child abuse.

13 (c) All applicants to provide day care in any day care
14 facility or State-subsidized child day care home shall be
15 fingerprinted on two cards by the local sheriff or the municipal
16 police, depending on where the home or facility is located, in
17 the manner prescribed by the State Bureau of Investigation.

18 All spouses of applicants to operate a day care facility or
19 State-subsidized child day care home shall be fingerprinted in
20 the manner prescribed by the first paragraph of this subsection.

21 The local sheriff or the municipal police may charge a fee not
22 to exceed five dollars (\$5.00) for the fingerprinting under this
23 subsection. The applicant's or operator's employer, prospective
24 or actual, shall pay this cost. If the employer is the operator,
25 the operator shall pay the cost.

26 The employer, prospective or actual, shall submit to the
27 Department:

- 28 (1) The two fingerprint cards; and
- 29 (2) A completed standardized record check form from the
30 clerk of superior court reflecting a check of any
31 conviction of misdemeanor or felony child abuse
32 within the county of the applicant's residence.

33 (d) Upon receipt of required forms prescribed by subsection
34 (b), the Department shall:

- 35 (1) Forward both fingerprint cards, fees required by
36 the State Bureau of Investigation and the Federal
37 Bureau of Investigation, and record check form to
38 the State Bureau of Investigation for a Police
39 Information Network (PIN) check and manual
40 fingerprint check for a conviction of crimes
41 prescribed in subsection (b). The State Bureau of
42 Investigation shall forward one fingerprint card to
43 the Federal Bureau of Investigation for a manual

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national check for conviction of crimes prescribed in subsection (b); and

(2) Notify the employer as to whether the applicant qualifies for continued employment under this section. If the employer is the operator-applicant and if the procedures under this section reveal that the operator-applicant does not qualify for continued employment, the Department shall remove the day care license, registration, or notice of approval pursuant to G.S. 110-106, or shall refuse to issue such.

The Department shall notify the employer as to whether the spouse of an applicant to operate a child day care facility or a State subsidized child day care home has been convicted of a crime prescribed by subsection (b) of this section. If the spouse of a day care operator has such a conviction, the employer shall terminate the operator's employment. If the employer is the operator, the Department shall remove the day care license, registration, or notice of approval pursuant to G.S. 110-106, or shall refuse to issue such.

Fingerprint cards used by the State Bureau of Investigation and the Federal Bureau of Investigation are returned to the Department after the checks.

(e) The employer may employ an otherwise qualified applicant for the period of time pending the outcome of the State and federal record checks. The employer shall terminate this provisional employment immediately upon the Department's notification that the provisional provider or the day care operator's spouse has a State or federal record of conviction of a crime prescribed by subsection (b) of this section. If the employer is the operator, the Department shall terminate the employment and revoke the day care license, registration, or notice of approval pursuant to G.S. 110-106.

(f) When a new day care facility seeks a license, or reports pursuant to G.S. 110-106, or a new State-subsidized child day care home seeks registration, or when a facility seeks relicensure or reports annually pursuant to G.S. 110-106, or a new State-subsidized child day care home seeks reregistration, the Department shall make it a condition of the issuance of the license, of the reporting pursuant to G.S. 110-106, registration,

1 renewal of license, of the reporting pursuant to G.S. 110-106,
2 renewal of registration, that all applicants to provide day care
3 and all spouses of applicants to operate a day care facility or
4 State subsidized day care home have their State and federal
5 records checked pursuant to the process mandated by this section.
6 The Commission shall adopt rules to establish a procedure to
7 permit new providers of day care to receive a provisional
8 license, notice of compliance pursuant to G.S. 110-106, or
9 registration pending the outcome of these checks. The Department
10 shall terminate this license, notice of compliance or
11 registration immediately upon finding that the provisional
12 provider or spouse of a provisional day care operator has a State
13 or federal record of a crime prescribed by subsection (a) of this
14 section.

15 (g) Any person who fails to disclose a criminal conviction of
16 misdemeanor or felony child abuse is guilty of a misdemeanor and
17 shall be punished as prescribed by G.S. 110-103."

18 Sec. 2. The North Carolina Child Day Care Commission
19 shall adopt rules to implement this act, in consultation with the
20 Child Day Care Section of the Division of Facility Services,
21 Department of Human Resources, and the State Bureau of
22 Investigation.

23 Sec. 3. There is appropriated from the General Fund to
24 the North Carolina Department of Human Resources the sum of
25 \$593,940 for the 1992-93 fiscal year to implement Section 1 of
26 this act.

27 Sec. 4. This act becomes effective July 1, 1992. This
28 act applies to persons applying or reapplying for work as day
29 care providers and spouses of persons applying or reapplying for
30 work as day care operators on or after this date. This act also
31 applies to persons employed as day care providers and spouses of
32 persons employed as day care operators as of this date when the
33 provider or operator changes their place of employment.

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SUMMARY OF LEGISLATIVE PROPOSAL 1

FOR REVIEW ONLY

House Bill 466 is currently in House Judiciary III. It contains an appropriations section but may, as it did not meet the cross-over deadline and as it may not be construed AS PRIMARILY affecting the State budget, not be eligible for consideration by the short session. The LRC Committee on Child Care Issues heard the bill and the proposed committee substitute and recommends that the LRC recommend that the 1991 General Assembly, Regular Session 1992, enact the proposed committee substitute, which is Legislative Proposal 1, entitled "AN ACT TO MANDATE CRIMINAL RECORD CHECKS OF CHILD DAY CARE PROVIDERS AND SPOUSES OF CHILD DAY CARE OPERATORS".

Section 1 of the proposed committee substitute for H466 adds new GS 110-90.2 to direct the Department of Human Resources to prohibit, beginning December 1, 1992, persons convicted of misdemeanor or felony child abuse from working in or operating a day care facility and to prohibit operators whose spouses are convicted of these crimes from operating a facility. Church-sponsored day care facilities and homes that receive State purchase-of-care funds are included in this regulation. The bill requires day care operators to submit fingerprints and completed standard criminal record check of prospective providers and spouses of operators, to the Department. The operators are to bear the cost for the fingerprinting, (a fee not to exceed \$5.00) . The Department is required to submit fingerprints to State Bureau of Investigation for check for prior child abuse convictions. The State Bureau of Investigation is required to forward one fingerprint card to the Federal Bureau of Investigation for a manual record check for convictions. License or registration application rejection, license or registration revocation, or rejection of renewal is the penalty for any operator's continuing to operate after receipt of notification by the Department that a prospective provider has a conviction. The bill does make provision for provisional employment of an otherwise qualified provider until notification. If any person regulated by this section fails to disclose a conviction of misdemeanor or felony child abuse, that person is guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars (\$300.00), imprisonment for not more than 30 days, or both.

Section 2 requires the North Carolina Child Day Care Commission to adopt rules to implement the act, in consultation with the Child Day Care Section of the Division of Facility Services of the Department of Human Resources and the State Bureau of Investigation.

Section 3 appropriates five hundred ninety-three thousand nine hundred forty dollars (\$593,940) for the 1992-93 fiscal year to implement the act.

Section 4 makes the act effective July 1, 1992 and makes the act applicable to people applying or reapplying for work as day care providers and to spouses of operators applying or reapplying to be providers. Thus, it does not cover currently employed providers, unless they change their place of employment, or leave employment and reapply.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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91-LFY-273(3.26)

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

FOR REVIEW ONLY

Short Title: Amend SBI Task Force Law.

(Public)

Sponsors: Representative Easterling.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND CHAPTER 593 OF THE 1991 SESSION LAWS TO PROVIDE
3 FOR THE STATE BUREAU OF INVESTIGATION'S IMMEDIATE NOTIFICATION
4 OF ALLEGED SEXUAL ABUSE IN DAY CARE.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 7A-542 reads as rewritten:
7 "§ 7A-542. Protective services.
8 The Director of the Department of Social Services in each
9 county of the State shall establish protective services for
10 juveniles alleged to be abused, neglected, or dependent.
11 Protective services shall include the investigation and
12 screening of complaints, casework or other counseling services to
13 parents or other caretakers as provided by the director to help
14 the parents or other caretakers and the court to prevent abuse or
15 neglect, to improve the quality of child care, to be more
16 adequate parents or caretakers, and to preserve and stabilize
17 family life.
18 The provisions of this Article shall also apply to ~~day-care~~
19 child day care facilities and day-care plans child day care homes
20 as defined in G.S. 110-86."
21 Sec. 2. G.S. 7A-543 reads as rewritten:
22 "§ 7A-543. Duty to report child abuse or neglect.
23 Any person or institution who has cause to suspect that any
24 juvenile is abused or neglected shall report the case of that

FOR REVIEW ONLY

1 juvenile to the Director of the Department of Social Services in
2 the county where the juvenile resides or is found. The report may
3 be made orally, by telephone, or in writing. The report shall
4 include information as is known to the person making it including
5 the name and address of the juvenile; the name and address of the
6 juvenile's parent, guardian, or caretaker; the age of the
7 juvenile; the present whereabouts of the juvenile if not at the
8 home address; the nature and extent of any injury or condition
9 resulting from abuse or neglect and any other information which
10 the person making the report believes might be helpful in
11 establishing the need for protective services or court
12 intervention. If the report is made orally or by telephone, the
13 person making the report shall give his name, address, and
14 telephone number. Refusal of the person making the report to give
15 his name shall not preclude the Department's investigation of the
16 alleged abuse or neglect.

17 In the case of any report of abuse, the Director of Social
18 Services, upon receipt of the report, may immediately provide the
19 appropriate local law-enforcement agency with information on the
20 nature of the report. The law-enforcement agency may investigate
21 the report, and upon request of the Director of the Department of
22 Social Services, the law-enforcement agency shall provide
23 assistance with the investigation.

24 Upon receipt of any report of child sexual abuse in a day care
25 facility or day care home, the Director shall notify the State
26 Bureau of Investigation within 24 hours or on the next work day.
27 If child sexual abuse in a day care facility or day care home is
28 not alleged in the initial report, but during the course of the
29 investigation there is reason to suspect that child sexual abuse
30 has occurred, the Director shall immediately notify the State
31 Bureau of Investigation. Upon notification that child sexual
32 abuse may have occurred in a day care facility or day care home,
33 the State Bureau of Investigation may form a task force to
34 investigate the report."

35 Sec. 3. G.S. 7A-544 reads as rewritten:

36 "~~§ 7A-544. Investigation by Director; notification of State~~
37 ~~Bureau of Investigation if sexual abuse in day care; notification~~
38 ~~of person making the report.~~

39 When a report of abuse or neglect is received, the Director of
40 the Department of Social Services shall make a prompt and
41 thorough investigation in order to ascertain the facts of the
42 case, the extent of the abuse or neglect, and the risk of harm to
43 the juvenile, in order to determine whether protective services
44 should be provided or the complaint filed as a petition. When

FOR REVIEW ONLY

1 the report alleges abuse, the Director shall immediately, but no
2 later than 24 hours after receipt of the report, initiate the
3 investigation. When the report alleges neglect, the Director
4 shall initiate the investigation within 72 hours following
5 receipt of the report. The investigation and evaluation shall
6 include a visit to the place where the juvenile resides. All
7 information received by the Department of Social Services shall
8 be held in strictest confidence by the Department.

9 If the investigation reveals abuse or neglect, the Director
10 shall decide whether immediate removal of the juvenile or any
11 other juveniles in the home is necessary for their protection.
12 If immediate removal does not seem necessary, the Director shall
13 immediately provide or arrange for protective services. If the
14 parent or other caretaker refuses to accept the protective
15 services provided or arranged by the Director, the Director shall
16 sign a complaint seeking to invoke the jurisdiction of the court
17 for the protection of the juvenile or juveniles.

18 If immediate removal seems necessary for the protection of the
19 juvenile or other juveniles in the home, the Director shall sign
20 a complaint which alleges the applicable facts to invoke the
21 jurisdiction of the court. Where the investigation shows that it
22 is warranted, a protective services worker may assume temporary
23 custody of the juvenile for the juvenile's protection pursuant to
24 Article 46 of this Chapter.

25 In performing any of these duties, the Director may utilize the
26 staff of the county Department of Social Services or any other
27 public or private community agencies that may be available. The
28 Director may also consult with the available State or local
29 law-enforcement officers who shall assist in the investigation
30 and evaluation of the seriousness of any report of abuse or
31 neglect when requested by the Director. ~~If the Director's
32 initial investigation of a report of abuse in a day care facility
33 reveals sexual abuse may have occurred, the Director shall notify
34 the State Bureau of Investigation of the results of the initial
35 investigation within 24 hours or on the next working day. The
36 State Bureau of Investigation may send a task force to
37 investigate the alleged sexual abuse and gather evidence that may
38 be presented at a criminal trial.~~

39 Unless a petition is filed within five working days after
40 receipt of the report of abuse or neglect, the Director shall
41 give written notice to the person making the report that:

42 (1) There is no finding of abuse or neglect; or

FOR REVIEW ONLY

1 (2) The county Department of Social Services is taking
2 action to protect the welfare of the juvenile and
3 what specific action it is taking.

4 The notification shall include notice that, if the person making
5 the report is not satisfied with the Director's decision, he may
6 request review of the decision by the prosecutor within five
7 working days of receipt. The person making the report may waive
8 his right to this notification and no notification is required if
9 the person making the report does not identify himself to the
10 Director."

11 Sec. 4. G.S. 7A-548 reads as rewritten:

12 "§ 7A-548. Duty of Director to report evidence of abuse,
13 neglect; notification of Department of Human Resources and State
14 Bureau of Investigation.

15 (a) If the Director finds evidence that a juvenile has been
16 abused as defined by G.S. 7A-517(1), he shall immediately make a
17 written report of the findings of his investigation to the
18 district attorney, who shall determine if criminal prosecution is
19 appropriate, and who may request the Director or his designee to
20 appear before a magistrate.

21 If the Director receives information that a juvenile has been
22 physically harmed in violation of any criminal statute by any
23 person other than the juvenile's parent or other person
24 responsible for his care, he shall make an oral or written report
25 of that information to the district attorney or the district
26 attorney's designee within 24 hours after receipt of the
27 information. The district attorney shall determine whether
28 criminal prosecution is appropriate.

29 If the report received pursuant to G.S. 7A-543 involves abuse
30 or neglect of a juvenile in day care, either in a day care
31 facility or a day care home, the Director shall notify the
32 Department of Human Resources within 24 hours or on the next
33 working day of receipt of the report.

34 (a1) If the Director finds evidence that a juvenile has been
35 abused or neglected as defined by G.S. 7A-517 in a day care
36 facility or day care home, he shall immediately so notify the
37 Department of Human Resources and, in the case of child sexual
38 abuse, the State Bureau of Investigation, in such a way as does
39 not violate the law guaranteeing the confidentiality of the
40 records of the Department of Social Services.

41 (a2) Upon completion of the investigation, the Director shall
42 notify give the Department written notification of the results of
43 the investigation required by G.S. 7A-544. If the Director's
44 initial investigation, carried out pursuant to G.S. 7A-544, of a

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~~1 report of abuse in a day care facility reveals that sexual abuse~~
~~2 may have occurred, the Director shall notify the State Bureau of~~
~~3 Investigation of the results of the initial investigation. The~~
~~4 State Bureau of Investigation may send a task force to~~
~~5 investigate the alleged sexual abuse and gather evidence that may~~
~~6 be presented at a criminal trial. Upon completion of an~~
~~7 investigation of child sexual abuse in a day care facility or day~~
~~8 care home, the Director shall also make written notification of~~
~~9 the results of the investigation to the State Bureau of~~
10 Investigation.

11 The Director of the Department of Social Services shall submit
12 a report of alleged abuse or neglect to the central registry
13 under the policies adopted by the Social Services Commission.

14 ~~(b) If the Director finds evidence that a juvenile has been~~
~~15 abused or neglected as defined by G.S. 7A-517 in a day care~~
~~16 facility or home, he shall immediately so notify the Department~~
~~17 of Human Resources and the State Bureau of Investigation in such~~
~~18 a way as does not violate the law guaranteeing the~~
~~19 confidentiality of the records of the Department of Social~~
20 Services."

21 Sec. 5. G.S. 114-15.3 reads as rewritten:

22 "§ 114-15.3. Investigations of child sexual abuse in day care.

23 The Director of the Bureau may form a task force to investigate
24 and ~~prepare~~ gather evidence following a notification by the
25 director of a county department of social services, pursuant to
26 ~~G.S. 7A-544, G.S. 7A-543,~~ that ~~the director's initial~~
27 investigation of a report of abuse in a day care facility reveals
28 that child sexual abuse may have occurred. occurred in a day care
29 facility or day care home."

30 Sec. 6. This act becomes effective July 1, 1992 and
31 applies to investigations of allegations received by directors of
32 local departments of social services on and after that date.

SUMMARY OF LEGISLATIVE PROPOSAL 2

"A BILL TO BE ENTITLED AN ACT TO AMEND CHAPTER 593 OF THE 1991 SESSION LAWS TO PROVIDE FOR THE STATE BUREAU OF INVESTIGATION'S IMMEDIATE NOTIFICATION OF ALLEGED SEXUAL ABUSE IN DAY CARE amends several statutes.

Section 1 amends G.S. 7A-542 to provide that protective services apply to child day care homes as well as child day care facilities.

Sections 2 and 3 amend G.S. 7A-543 and G.S. 7A-544, as amended in Chapter 593, to require that the director of the local social services department notify the SBI within 24 hours or the next work day, of the director's receipt of any report of child sexual abuse in day care rather than to require notification only after the director's initial investigation reveals that sexual abuse may have occurred.

Section 4 amends G.S. 7A-548 to restate the director's duties of notification and to make clarifying changes to that statute.

Section 5 amends G.S. 114-15.3 to make conforming changes in the SBI law regarding investigations of child sexual abuse in day care.

Section 6 makes the act effective July 1, 1992 and makes it apply to investigations of allegations received by the director of the local social services department on and after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

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91-LFY-274(3.26)

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Change "Day Care" Definition.

(Public)

Sponsors: Representative Easterling.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE DEFINITION OF "DAY CARE" TO EXCLUDE DROP-IN
3 CARE.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 110-86(2) reads as rewritten:
6 "(2) Child day care. -- Any child care arrangement
7 ~~except seasonal recreational programs operated for~~
8 ~~less than four consecutive months in a year,~~
9 wherein three or more children less than 13 years
10 old receive care away from their own home by
11 persons other than their parents, grandparents,
12 aunts, uncles, brothers, sisters, first cousins,
13 guardians or full-time custodians, or in the
14 child's own home where other unrelated children are
15 in care. Child day care does not include seasonal
16 recreational programs operated for less than four
17 consecutive months in a year. Child day care also
18 does not include arrangements that provide only
19 drop-in or short term child care for parents
20 participating in activities that are not employment
21 related and where the parents are on the premises
22 or otherwise easily accessible, such as drop-in or
23 short term child care offered in health spas,

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1 bowling alleys, shopping malls, resort hotels, and
2 churches."
3 Sec. 2. The Department of Human Resources shall conduct
4 a study of how the State may assure the health and safety of
5 those children provided care in the drop-in and short term care
6 excluded from day care regulation pursuant to Section 1 of this
7 act. The Department shall report its findings, together with any
8 legislative recommendations, to the Legislative Research
9 Commission Study Committee on Child Care Issues by November 1,
10 1992.
11 Sec. 3. This act is effective upon ratification.

SUMMARY OF LEGISLATIVE PROPOSAL 3

"A BILL TO BE ENTITLED AN ACT TO AMEND THE DEFINITION OF 'DAY CARE' TO EXCLUDE DROP-IN CARE" AMENDS G.S. 110-86(2) To exclude drop-in care or short term care from the day care law. Such care is given in arrangements providing drop-in or short term child care for parents who are not working when they place their children in this care and who remain "easily accessible" to the care providers. Places giving such care are shopping malls, bowling alleys, churches, health spas, and resort hotels. The term "easily accessible" is not defined and will be dealt with by rule under the Child Day Care Commission's rule-making authority.

Section 2 required the Department of Human Resources to conduct a study on how to ensure the health and safety of those children in this care that is being removed from day care regulation and to report the result of this study to the LRC Child Day Care Committee by November 1, 1992, in time for it to make any needed recommendations to the 1993 General Assembly.

GENERAL ASSEMBLY OF NORTH CAROLINA

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91-LFY-275

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

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Short Title: Child Care Commission.

(Public)

Sponsors: Representative Easterling.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE LEGISLATIVE STUDY COMMISSION ON CHILD
3 CARE ISSUES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 120 of the General Statutes is
6 amended by adding a new article to read:

7 "ARTICLE 12F.

8 "Legislative Commission on Child Care Issues.

9

10 "§ 120-70.80. Commission established.

11 The Legislative Commission on Child Care Issues is established
12 as a permanent commission. As used in this Article, the term
13 "Commission" means the Legislative Commission on Child Care
14 Issues.

15 "§ 120-70.71. Powers and duties; study.--

16 The Commission shall study State government policy and programs
17 affecting child care issues, specifically addressing child care
18 issues from the point of existing laws, governmental programs
19 needed or already functioning, and current child care issues.
20 The Commission shall work in close collaboration with all
21 agencies and programs dealing with child care. Among the issues
22 the Commission may consider studying are:

23 (1) Prior recommendations of other study commissions
24 that have reviewed child day care and other child

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1 care services since 1980 and an assessment of
2 compliance with these recommendations;

- 3 (2) The advantages and costs associated with measures
4 to improve the quality of child care, including
5 lowering staff/child ratios, enhancing child care
6 teaching credentialing, improving training of child
7 care teachers, and improving salaries of all child
8 care workers;
- 9 (3) Ways to maximize the positive impact on North
10 Carolina of the federal block grant;
- 11 (4) Ongoing examination of the current statutory
12 regulation of child care and the procedures used to
13 develop policies and rules in order to ensure that
14 all North Carolina's children in child care can
15 receive quality care that is both enriching and
16 safe;
- 17 (5) The relationship between child care services
18 offered by for-profit and nonprofit, public and
19 private, child care providers, including the public
20 schools, to ensure that parents have full choice of
21 safe, quality child care;;
- 22 (6) Ways to continue towards the development of a
23 unified State policy for funding and delivery of
24 all child care services;
- 25 (7) Any additional issues the Commission may consider
26 necessary to study.

27 "§ 120-70.82. Membership; cochair; vacancies.--

28 The Commission shall consist of 14 members. Members serving ex
29 officio may designate other people to represent them:

- 30 (1) The Secretary of Human Resources;
31 (2) The Superintendent of Public Instruction;
32 (3) Three members of the House of Representatives
33 appointed by the Speaker of the House;
34 (4) Three members of the Senate appointed by the
35 President Pro Tempore of the Senate;
36 (5) Two members at-large appointed by the Speaker of
37 the House, one of whom shall be from an urban area
38 in the west and one of whom shall be from a rural
39 area in the east;
40 (6) Two members at-large appointed by the President of
41 the Senate, one of whom shall be from a rural area
42 in the west and one of whom shall be from an urban
43 area in the east; and

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1 (7) Two members at-large appointed by the Governor, one
2 of whom shall be from a rural area in the piedmont
3 and one of whom shall be from an urban area in the
4 piedmont.

5 Vacancies shall be filled in the same manner as the initial
6 appointments. Ex officio members are voting members.

7 The Commission shall have its initial meeting no later than
8 December 1, 1992, at the call of the Speaker of the House and the
9 President Pro Tempore of the Senate. The Speaker of the House
10 and the President Pro Tempore shall each appoint a cochair from
11 the membership of the Commission. The membership shall meet upon
12 the call of the cochair.

13 "§ 120-70.83. Compensation and expenses of members.--

14 The Commission members shall receive no salary for serving but
15 shall receive necessary subsistence and travel expenses in
16 accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6
17 as applicable.

18 "§ 120-70.84. Additional powers.

19 The Commission may hold public meetings across the State to
20 solicit public input with respect to the issues of child care.

21 The Commission shall have authority to obtain information and
22 data from all State officers, agents, agencies, and departments
23 while in the discharge of its duties, pursuant to the provisions
24 of G.S. 120-19 as if it were a committee of the General Assembly.

25 The Commission shall have the authority to call witnesses, compel
26 testimony relevant to any matter properly before the Commission,
27 and subpoena relevant records and documents. The provisions of
28 G.S. 120-19.1 through G.S. 120-19.4 shall apply to the

29 proceedings of the Commission as if it were a joint committee of
30 the General Assembly. In addition to the other signatures
31 required for the issuance of a subpoena under this section, the
32 subpoena shall also be signed by the cochair of the Commission.

33 Any cost of providing information to the Commission not covered
34 by G.S. 120-19.3 may be reimbursed by the Commission from funds
35 available for the Commission's work.

36 The Commission shall report its findings and recommendations to
37 the General Assembly and the Governor no later than February 1 of
38 each odd-numbered year. The Commission may report no later than
39 June 1 of each even-numbered year to the General Assembly and the
40 Governor.

41 "§ 120-70.85. Staffing.--

42 At the request of the Commission, the Legislative Services
43 Commission may supply members of the staff of the Legislative
44 Services Office and clerical assistance to the Commission as it

1 considers appropriate. The Commission may, with the approval of
2 the Legislative Services Commission, meet in the State
3 Legislative Building or the Legislative Office Building."

4 Sec. 2. There is appropriated from the General Fund to
5 the General Assembly the sum of fifteen thousand dollars
6 (\$15,000) for the 1992-93 fiscal year to fund the Legislative
7 Study Commission on Child^{Day}Care Issues.

8 Sec. 3. This act becomes effective July 1, 1992.

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SUMMARY OF LEGISLATIVE PROPOSAL 4
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"A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE LEGISLATIVE STUDY COMMISSION ON CHILD CARE ISSUES", as its title states, creates a new study commission to examine, on an on-going basis the entire spectrum of child care issues, not only those involved in child day care.

Section 1 adds a new article, Article 12F, to Chapter 120 of the General Statutes in order to create the Legislative Commission on Child Care Issues. The powers and duties of this Commission are those of a formal commission. The study authorized is very broad. The Commission is authorized to examine, in addition to the issues described, any additional issues it considers necessary to provide an on-going examination of the role the State can and should play in child care in North Carolina. The Commission is to consist of 14 members, two serving ex officio (the Secretary of Human resources and the Superintendent of Public Instruction) and 12 appointed. The appointed members are appointed so as to guarantee a demographically broad representation. The first meeting of the Commission is to be held no later than December 1, 1992, in order to enable the Commission to mesh its beginning, on-going study with the LRC Study Committee on Child Day Care Issues' last meetings. The Commission will be able to have at least a couple of meetings, if not more, before the 1993 General Assembly Session without overlapping or duplicating the work of the Committee.

Section 2 appropriated fifteen thousand dollars (\$15,000) for the Study Commission for the 1992-93 fiscal year.

Section 3 provides that the act becomes effective July 1, 1992.

