

Sixty-seventh  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1416**

Introduced by

Representatives Weisz, Devlin, J. Nelson, Westlind

Senators Hogan, Lee, K. Roers

1 A BILL for an Act to create and enact a new subsection to section 50-06-05.1 and sections  
2 50-11.1-21, 50-11.1-22, 50-11.1-23, and 50-11.1-24 of the North Dakota Century Code, relating  
3 to the four-year old program approval and the North Dakota early childhood council; to amend  
4 and reenact sections 15.1-09-58 and 15.1-37-05, subdivision d of subsection 6 of section  
5 50-11.1-02, subsection 2 of section 50-11.1-07, and section 50-11.1-10 of the North Dakota  
6 Century Code, relating to four-year old program approval; to repeal sections 15.1-37-01,  
7 15.1-37-02, 15.1-37-03, 15.1-37-04, and 15.1-37-07 of the North Dakota Century Code, relating  
8 to early childhood education programs; to provide a transfer of full-time equivalent positions;  
9 and to provide a statement of legislative intent.

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

11 **SECTION 1. AMENDMENT.** Section 15.1-09-58 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **15.1-09-58. ~~Early childhood education~~ Four-year old program - Authorization -**  
14 **Support.**

15 The board of a school district may establish ~~an early childhood education four-and five year~~  
old, and students served under IDEA part B section 619 (hereafter called four-year old  
program)

16 program and, provided the program is approved by the ~~superintendent of public~~  
17 ~~instruction department of human services~~ public instruction in accordance with ~~chapter 15.1-~~  
~~37~~ section 50-11.1-21,

18 may support that program with:

- 19 1. Local tax revenues, other than those necessary to support the district's kindergarten  
20 program and the provision of elementary and high school educational services;  
21 2. State moneys specifically appropriated for the program;  
22 3. Federal funds specifically appropriated or approved for the program; and



**SECTION 2. AMENDMENT.** Section 15.1-37-05 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-37-05. Early childhood education providers - Coalition - Eligibility.**

1. The superintendent of a school district shall invite all public and private providers at the expense of private providers of early childhood education services within the district to meet, ~~in order~~ to:
  - a. Initiate the identification of all available options for cost-effectively maximizing the provision of early childhood education services within the district;
  - b. Address the coordinated utilization of facilities, personnel, and transportation, for the provision of early childhood education services within the district; and
  - c. (1) Form a coalition of early childhood education service providers; and  
(2) Provide for the selection of a coalition governing board.
2. The board of the school district in which the coalition of service providers is located shall provide advice and guidance to the coalition in all matters pertaining to this section through section 15.1-37-08.
3. Any early childhood service provider who agrees to participate in the coalition or on its governing board may submit an application to the department of commerce for a grant under this section, provided the governing board certifies to the department that the provider:
  - a. Is a participating member in the coalition or on the governing board.
  - b. Operates an early childhood education program that:
    - (1) Is approved in accordance with section ~~15.1-37-04~~50-11.1-21; and
    - (2) Incorporates within its curriculum at least ten hours of research-based parental involvement.
  - c. Has documented the provider's willingness to admit and provide service to children of all learning abilities into the early childhood education program.

~~**SECTION 3. A new subsection to section 50-06-05.1 of the North Dakota Century Code is created and enacted as follows:**~~

~~To act on behalf of the department of public instruction to administer part B section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].~~

1       **SECTION 4. AMENDMENT.** Subdivision d of subsection 6 of section 50-11.1-02 of the  
2 North Dakota Century Code is amended and reenacted as follows:

- 3           d. Child care, preschool, and prekindergarten services provided to children under  
4 six years of age in any ~~educational~~ facility through a program approved by the  
5 ~~superintendent of public instruction department.~~ Programs offered which are  
attached to a public school are subject to approval requirements under the  
department of public instruction.

6       **SECTION 5. AMENDMENT.** Subsection 2 of section 50-11.1-07 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8           2. Upon request of the department or its authorized agent, the state department of health  
9 or the state fire marshal, or the fire marshal's designee, shall inspect the premises for  
10 which a license, non-public school four-year old program approval, or self-declaration is  
11 applied or  
12 issued and shall report the findings to the department or the department's authorized  
agent.

13       **SECTION 6. AMENDMENT.** Section 50-11.1-10 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15       **50-11.1-10. Denial or revocation of license, four-year old program approval,**  
16 **self-declaration, or registration document - Administrative hearing.**

17       Before the department may deny any application for a license, four-year old program  
18 approval, self-declaration, or registration document under this chapter or before the department  
19 may revoke any license, four-year old program approval, self-declaration, or registration  
20 document, the department shall provide a written notice to the applicant, licensee, or holder of  
21 the four-year old program approval, self-declaration, or registration document of the reasons for  
22 the denial or revocation. The applicant, licensee, holder of a four-year old program approval or  
23 self-declaration, or registrant may request an administrative hearing appealing the denial or  
24 revocation in the manner provided in chapter 28-32. The applicant, licensee, holder of a  
25 self-declaration, or registrant shall make a request for hearing to the department within ten days  
26 after receipt of the notice of denial or revocation from the department.

27       **SECTION 7.** Section 50-11.1-21 of the North Dakota Century Code is created and enacted  
28 as follows:

1       **50-11.1-21. Four-year old program - Approval.**

- 2       1. Any person or school district operating or seeking to operate a four-year old program  
3       may request approval for a two-year period of the four-year old program from the  
4       department. The department shall approve a four-year old program if the program:  
5       a. Is taught by individuals licensed to teach in early childhood education by the  
6       education standards and practices board or approved to teach in early childhood  
7       education by the education standards and practices board;  
8       b. Follows four-year old program requirements approved by the department;  
9       c. Is in compliance with all municipal and state health, fire, and safety requirements;  
10      d. Limits enrollment to children who have reached the age of four years old before  
11      August first in the year of enrollment;  
12      e. Submits a nonrefundable fee of fifty dollars at the time the application is filed. All  
13      fees collected under this section must be paid to the department and must be  
14      used to defray the cost of investigating, inspecting, and evaluating applications  
15      for approval; and  
16      f. Is in compliance with this chapter.  
17      2. In determining the state aid payments to which a school district is entitled, the  
18      superintendent of public instruction may not count a student enrolled in a regular  
19      four-year old program.  
20      3. The department may investigate and inspect a four-year old program applicant or  
21      four-year old program and the conditions of the premises and the qualifications of  
22      current and prospective staff. The department may use the findings of the investigation  
23      and inspection to determine approval.  
24      4. The department may revoke the four-year old program upon proper showing that:  
25      a. Any applicable conditions as prerequisites for the issuance of the approval no  
26      longer exist.  
27      b. The program is no longer in compliance with the minimum standards prescribed  
28      by the department.  
29      c. The program approval was issued upon fraudulent or untrue presentation.  
30      d. The program has violated any rules of the department.

- 1        5. If an action to revoke a four-year old program approval is appealed, the provider may  
2                    continue the operation of the program pending the final administrative determination or  
3                    until the approval expires, whichever occurs first.

4        **SECTION 8.** Section 50-11.1-22 of the North Dakota Century Code is created and enacted  
5 as follows:

6        **50-11.1-22. North Dakota early childhood council - Membership - Terms.**

7        1. The North Dakota early childhood council consists of:

- 8            a. A chairman appointed by the governor;  
9            b. The superintendent of public instruction, or the superintendent's designee;  
10           c. The state health officer, or the officer's designee;  
11           d. The director of the department, or the director's designee;  
12           e. The North Dakota head start - state collaboration administrator, or the  
13           administrator's designee;  
14           f. The commissioner of higher education, or the commissioner's designee;  
15           g. The commissioner of commerce, or the commissioner's designee;  
16           h. The chairman of the senate education committee, or the chairman's designee;  
17           i. The chairman of the house of representatives education committee, or the  
18           chairman's designee;  
19           j. The chairman of the senate human services committee, or the chairman's  
20           designee;  
21           k. The chairman of the house of representatives human services committee, or the  
22           chairman's designee; and  
23           l. The following individuals appointed by the governor:  
24                (1) The superintendent of a school district having at least one thousand  
25                students in average daily membership;  
26                (2) The superintendent of a school district having fewer than one thousand  
27                students in average daily membership;  
28                (3) The superintendent of a school district headquartered on a reservation or  
29                including reservation land within its boundaries;  
30                (4) An individual representing a non-religious-based provider of a four-year old  
31                program;

1                   (5) An individual representing a religious-based provider of a four-year old  
2                   program;

3                   (6) An individual representing a center-based licensed child care provider;

4                   (7) An individual representing a home-based licensed child care provider;

5                   (8) An individual representing a reservation-based head start program;

6                   (9) An elected member of a school board;

7                   (10) The parent of a child not yet enrolled in elementary school;

8                   (11) The parent of a child with disabilities not yet enrolled in elementary school;  
                    and

9                   (12) An individual representing children with disabilities.

10                  and

11                  (13). An individual representing special education as recommended by the North  
                    Dakota council of educational leaders.

12                  2. The term of each member enumerated in subdivision I of subsection 1 is three years  
13                  and begins on July first. The terms must be staggered by lot so four of the terms  
14                  expire each year.

15                  3. If at any time during a member's term the member ceases to possess the  
16                  qualifications required by this section, the member's seat is deemed vacant and the  
17                  governor shall appoint another qualified individual to serve for the remainder of the  
18                  term.

19                  4. A member may not serve more than two consecutive terms. If an individual is  
20                  appointed to complete a vacancy, that service is not counted as a term, for purposes  
21                  of this section, unless the duration of that service exceeds one year.

22                  5. The council shall meet at least twice each year, at the call of the chairman.

23                  **SECTION 9.** Section 50-11.1-23 of the North Dakota Century Code is created and enacted  
24 as follows:

25                  **50-11.1-23. North Dakota early childhood council - Duties - Reports.**

26                  The North Dakota early childhood council shall:

27                  1. Review the availability and provision of early childhood services in this state;

28                  2. Identify opportunities for public and private sector collaboration in the provision of early  
29                  childhood services in this state;

30                  3. Identify ways to assist with the recruitment and retention of individuals interested in  
31                  working as providers of early childhood services, including training and continuing





- 1        4. Seek the advice and guidance of individuals uniquely familiar with the nature, scope,  
2        and associated challenges of providing early childhood services in geographically and  
3        socioeconomically diverse settings, and develop recommendations pertaining to the  
4        short-term and longer-term improvement and expansion of early childhood services in  
5        this state; and  
6        5. Provide a biennial report regarding the council's findings and recommendations to the  
7        governor and the legislative assembly.

8        **SECTION 10.** Section 50-11.1-24 of the North Dakota Century Code is created and enacted  
9 as follows:

10        **50-11.1-24. North Dakota early childhood council members - Reimbursements for**  
11 **expenses.**

12        Each member of the North Dakota early childhood council is entitled to receive  
13 reimbursement for expenses as provided by law for state officers if the member is attending  
14 meetings or performing duties directed by the council. In addition, each member of the  
15 legislative assembly who serves on the council is entitled to receive compensation in the  
16 amount provided per day for members of the legislative management under section 54-35-10  
17 for attending meetings or performing duties as directed by the council.

18        **SECTION 11. REPEAL.** Sections 15.1-37-01, 15.1-37-02, 15.1-37-03, 15.1-37-04, and  
19 15.1-37-07 of the North Dakota Century Code are repealed.

20        **SECTION 12. TRANSFER OF FULL-TIME EQUIVALENT POSITIONS - DEPARTMENT**  
21 **OF PUBLIC INSTRUCTION - DEPARTMENT OF HUMAN SERVICES.** The department of  
22 public instruction shall transfer three full-time equivalent positions to the department of human  
23 services for the purpose of administering the four-year old program during the biennium  
24 beginning July 1, 2021, and ending June 30, 2023. The transferred employees are entitled to  
25 receive a salary in an amount not less than the salary received while working for the department  
26 of public instruction, plus any increase for all state employees provided on July 1, 2021, and  
27 any other increase that was scheduled and budgeted to occur between July 1, 2021, and  
28 December 31, 2021, if the employee had remained an employee of the department of public  
29 instruction.

30        **SECTION 13. LEGISLATIVE INTENT.** It is the intent of the sixty-seventh legislative  
31 assembly that:

- 1           1.    The North Dakota head start state collaboration office, duties, functions, and  
2                appropriation be transferred to the department of human services;
- 3           2.    The department of public instruction's office of early learning duties, functions, and  
4                appropriation be transferred to the department of human services; and
- 5           3.    The office of management and budget transfer the appropriate department of public  
6                instruction's appropriation into the department of human services appropriation for the  
7                biennium beginning July 1, 2021, and ending June 30, 2023.