



North Dakota Legislative Council

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PROGRAM EVALUATION OF CHILD CARE SERVICES - BACKGROUND MEMORANDUM

Section 2 of House Bill No. 1119 (2025) ([appendix](#)) directs the Legislative Council to consider conducting a program evaluation of the Department of Health and Human Services (DHHS) child care services. The program evaluation must include:

- Review and analysis of state and federal laws, administrative rules, and policies related to child care.
- Evaluation of the child care services framework, identifying strengths, challenges, and opportunities, including opportunities to streamline the administrative process, to enhance clarity for providers, and to provide services for more children.
- Consideration of licensing requirements, the federal and state assistance programs available, education requirements for program operators, training and certification requirements for staff members, the number of children in an early childhood program, child-to-provider ratios, and square footage requirements.
- Review and analysis of child care funding sources, expenditures, assistance penetration rates, and the distribution of resources to determine whether the program efficiently and effectively uses and distributes resources to support access to affordable and safe child care.
- Review of recently enacted legislation regarding child care services to determine if the policies have been timely implemented and properly administered, including an analysis of measurable goals, performance data, and options to improve enrollment.

Section 1 of the bill directs the Legislative Management to study the laws, administrative rules, and policies relating to child care provider licensing. That study must be informed by the child care services program evaluation.

BACKGROUND

Child Care and Early Childhood Development

Research indicates that accessible, affordable, and high-quality child care has significant benefits for children, parents, businesses, and the economy. Access to high-quality child care can lead to greater productivity, job growth, and increased earnings for working parents. A 2023 study by the United States Federal Reserve found that 40 percent of women not working cited inadequate child care as the primary reason.¹ Reliable child care enables parents, especially mothers, to join the workforce, boosting productivity for businesses. According to a 2017 report from the United States Chamber of Commerce Foundation, when investments are made in early childhood education, employers realize higher outputs and revenues and states benefit from higher tax revenue and economic growth.²

Child care and early childhood education, occurring during a child's most formative years, play a critical role in a child's development and long-term health and well-being. Research shows investments in early childhood education yield the highest rate of return for states. Despite this finding, a 2024 study by

¹ *Economic Well-Being of U.S. Households in 2023*: Board of Governors of the Federal Reserve System.

² *Untapped Potential: Economic Impact of Childcare Breakdowns in the U.S.*, U.S. Chamber of Commerce Foundation.

Northern Illinois University found the United States invests 85 percent less in education programs for children under the age of 5 compared to programs for school age children.³

FEDERAL LAW

Child Care and Development Fund

The Child Care and Development Fund (CCDF) combines the Child Care and Development Block Grant (CCDBG) and the Child Care Entitlement to States into a single stream of federal funding. The United States Department of Health and Human Services (USDHHS) Administration for Children and Families administers the funding allocated to states, territories, and tribes under a federal formula. Funding allocated under the CCDF is administered to a lead agency, through which states design their own subsidy programs in accordance with federal requirements. For fiscal year 2025, the federal government allocated \$12.3 billion through the CCDF, consisting of \$8.75 billion in discretionary funding and \$3.55 billion in mandatory funding.⁴ The CCDF is considered a "federal public benefit" under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and eligibility is limited by a child's citizenship or immigration status.⁵

To qualify for funding and programs administered under CCDF, eligible children generally must:

- Be under age 13;
- Reside with a parent or parents who are working or attending a job training or education program;
- Reside with a family whose income does not exceed 85 percent of the state median income (SMI), or lower depending on state policy; and
- Reside with a family whose assets do not exceed \$1 million.

Child Care and Development Block Grant

The Child Care and Development Block Grant Act of 1990 is the primary federal law governing child care programs for low-income working families with children under age 13.⁶ Last reauthorized in 2014 by the Child Care and Development Block Grant Act of 2014, funding is discretionary and subject to annual congressional appropriations.⁷

The Act identifies seven program purposes:

1. Allowing states flexibility in developing child care programs and policies;
2. Promoting parental choice to empower working parents to choose the care that best suits their family;
3. Encouraging states to provide consumer education information to parents and to promote family involvement;
4. Helping states to deliver high-quality, coordinated early childhood care and education services that maximize parents' options and support parents trying to become independent of public assistance;
5. Assisting states in improving overall quality of care by implementing health, safety, licensing, training, and oversight standards;
6. Improving child care and development of participating children; and
7. Raising the number and percentage of low-income children in high-quality care.

³ *Shortchanged: Tracking Public Investment in Early Learning*, Center for Early Learning Funding Equity, Northern Illinois University.

⁴ *The Child Care and Development Block Grant: In Brief*, Congressional Research Service.

⁵ Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104-193; 110 Stat. 2105].

⁶ Child Care and Development Block Grant of 1990 as amended [42 U.S.C. § 9858 et seq.].

⁷ Child Care and Development Block Grant of 2014 [Pub. L. 113-186; 128 Stat. 1971].

Discretionary CCDBG funds are awarded using a formula based on the share of children under age 5, the share of children receiving free and reduced priced lunch, and the state per capita income. Though CCDBG funds are not contingent on state matching fund requirements, Congress generally clarifies that funds are intended to supplement state general fund child care spending. In 2022, an estimated 918,694 children received services under the CCDBG. However, only 13 percent of CCDBG federally eligible children are receiving support through the Act, which equates to 3.7 percent of children under age 5 nationwide.⁸

Child Care and Development Block Grant funds are awarded to lead agencies designated by each state's governor. These agencies have broad discretion in the implementation, design, and operation of child care programs. Under federal requirements, lead agencies must give priority to children in families with very low income, children with special needs, and children experiencing homelessness as defined by the federal McKinney-Vento Act.⁹ However, neither the CCDBG Act nor its regulations define "very low income" or "special needs," leaving each lead agency to establish its own definitions. Lead agencies also set income eligibility limits, which may not exceed the federal requirement of 85 percent of the SMI. States that set income limits below 85 percent of the SMI are required to implement policies permitting a graduated phase out of assistance and two-tier eligibility systems to avoid a sudden loss in benefits.

Eligible families may use CCDBG funds to subsidize the cost of child care through certificates or vouchers, allowing families to choose a child care provider of their choice. Historically, the majority of CCDBG assistance has been delivered through voucher programs. In 2021, 94 percent of individuals subsidized nationwide were served through certificates. Child care services also may be obtained through a grant or contract awarded by a lead agency to an eligible provider. Following a 2024 federal rule, lead agencies now are required to enter grants and contracts with providers to help address supply shortages in underserved areas.¹⁰ Lead agencies work with providers to designate slots for subsidy-eligible children and to recruit and retain a qualified, fairly compensated workforce.

To ensure safe environments and high-quality care, lead agencies must adopt licensing and health and safety standards. In addition to qualification requirements for providers and group-size limits, lead agencies must certify that providers will receive orientation or training on:

- Prevention and control of infectious diseases;
- Prevention of sudden infant death syndrome and use of safe sleeping practices;
- Administration of medication, consistent with standards for parental consent;
- Prevention and response to emergencies due to food and allergic reactions;
- Building and physical premises safety;
- Emergency preparedness and response planning;
- Handling and storage of hazardous materials;
- Precautions in transporting children;
- Pediatric first aid and cardiopulmonary resuscitation; and
- Recognition and reporting of child abuse and neglect.¹¹

⁸ 2024 CCDBG State Fact Sheets, First Five Years Fund.

⁹ Usage of the McKinney-Vento Act [Pub. L. 100-77; 101 Stat. 482] is notable for the definition of homelessness as generally used by the United States Department of Education; USDHHS generally uses the Runaway and Homeless Youth Act [34 U.S.C. § 11201 et seq.].

¹⁰ 45 C.F.R. Part 98.

¹¹ 45 C.F.R § 98.41.

Child Care Entitlements to the States

Child Care Entitlements to the States (CCES) are permanently authorized under Section 418 of the Social Security Act and provide mandatory federal funding, currently set at \$3.55 billion each fiscal year. These funds are appropriated in two parts--a fixed historical amount and a formulaic amount determined by the share of children under age 13 and conditioned on maintenance of effort and matching fund requirements. States must spend at least 70 percent of CCES funds on families receiving, at risk of receiving, or transitioning away from receiving temporary assistance for needy families (TANF). Additionally, \$100 million of CCES funding must be distributed directly to Indian tribes and tribal organizations.

North Dakota and the Child Care Development Fund

The Economic Assistance and Early Childhood Sections of DHHS administer the CCDF programs and funding in the state. In North Dakota, CCDF funding supports:

- The Child Care Assistance Program (CCAP);
- Health and safety standards for all licensed or self-declared providers;
- Resources and referrals through Child Care Aware of North Dakota;
- Bright & Early North Dakota, the state's quality rating and improvement system;
- Licensing inspection and monitoring information; and
- The complaint process for families and providers.

In North Dakota, eligibility for services under the CCDF is capped at 85 percent of SMI. For a family of three, this results in an income threshold of approximately \$76,500 per year. Taking into account the sliding fee scale, a family of three receiving a CCDBG subsidy may pay between \$15 and \$446 per month for child care, depending on their income. The state waives copayments for families with very low incomes and families receiving TANF.

Only 10 percent of the approximately 19,100 eligible children in this state aged 5 and under are served by CCDBG funding. In 2022, USDHHS reported the state had 942 unique providers receiving CCDF funds which were legally operating, with or without licensure. The following table includes CCDF funding allocated to the state over the past 3 federal grant years.

North Dakota Child Care Development Fund Allocations		
Grant Year	Total Federal Funds	State Share
2022	\$19,226,615.39	\$2,905,919.60
2023	\$22,637,749.14	\$4,304,259.73
2024 ¹	\$22,580,222.00	\$4,751,449.00

¹Funding allocation based on appropriations, not final.

Secondary Federal Funding

Head Start, Early Head Start, and Early Head Start-Child Care Partnership

The Office of Head Start, under the USDHHS Administration for Children and Families, administers the federal Head Start program, which provides comprehensive early learning, health, nutrition, and family support services to children in low-income families and children with disabilities. The program serves children from birth to age 5, expectant mothers, and families. Eligible participants include children whose family income is at or below the federal poverty guidelines, or who receive TANF, supplemental security income, or supplemental nutrition assistance program services. Children in the foster care system or experiencing homelessness also are eligible.

The Head Start program encompasses three distinct service programs, each serving specific populations, including:

- Head Start, which provides services to eligible children aged 3 to 5, and their families;

- Early Head Start, which provides services to children from birth to age 3, their families, and expectant families; and
- Early Head Start-Child Care Partnership, which offers competitive grants to local child care providers, either in-home or center based, serving low-income families who agree to meet the program performance standards.

The goal of Head Start programming is to increase the chances of success in school and life through experiences designed to meet the changing needs of children and their families. Key service areas include early learning and development, health and wellness, family well-being, and family engagement. Head Start programs must meet federal performance standards to ensure high-quality, comprehensive services.¹²

Head Start is a federal to local service model, with programs designed in response to community needs. Unless a waiver is granted, local grantees are required to provide a minimum 20 percent match. Head Start collaboration offices facilitate partnerships between Head Start agencies and other state entities to provide services.

Head Start funding also is awarded directly to tribal governments to support American Indian and Alaska Native children program services. These programs operate in 26 states, with some services crossing state lines. For fiscal year 2025, \$12.27 billion was awarded to states and tribal governments for Head Start programs.

Head Start in North Dakota

Head Start programs have operated in North Dakota since 1965. The North Dakota Head Start Association lists 14 Head Start programs in the state, some of which operate multiple centers. Four of the 14 programs operating in the state have tribal government connections. For fiscal year 2024, North Dakota received \$39.96 million in federal funding for Head Start and Early Head Start programs, \$12.7 million of which went to tribal governments for American Indian and Alaska Native children program services. The following schedules provide a comparison of funding for Head Start programs in North Dakota for fiscal year 2022 through fiscal year 2024.¹³

Funding for Head Start Programs in North Dakota						
	Head Start Preschool Funded Enrollment	Early Head Start Funded Enrollment	Head Start Preschool Annual Operations Funded Amount	Early Head Start Annual Operations Funded Amount	Total Enrollment	Total Funded Amount
FY 2024	1,117	314	\$18,973,673	\$8,275,290	1,431	\$27,248,963
FY 2023	1,381	356	\$19,620,418	\$8,090,422	1,737	\$27,710,840
FY 2022	1,455	406	\$18,177,254	\$7,493,380	1,861	\$25,670,634

American Indian and Alaska Native Children Funding to Tribal Governments						
	Head Start Preschool Funded Enrollment	Early Head Start Funded Enrollment	Head Start Preschool Annual Operations Funded Amount	Early Head Start Annual Operations Funded Amount	Total Enrollment	Total Funded Amount
FY 2024	743	153	\$9,584,707	\$3,126,466	896	\$12,711,173
FY 2023	743	153	\$9,404,475	\$3,070,567	896	\$12,475,042
FY 2022	667	153	\$7,920,447	\$2,844,486	820	\$10,764,933

Preschool Development Grants Birth Through Five

The Preschool Development Grants Birth Through Five (PDG B-5) is a competitive federal program designed to assist states in improving quality initiatives to strengthen, align, and expand early learning systems, helping to ensure child care programs operate effectively. The grants may be used for a wide range of activities, including need assessments, strategic planning, family engagement, quality improvement, workforce compensation and support, and direct services. States and territories may apply

¹² Head Start Program Performance Standards, 45 CFR Chapter XIII, USDHHS Administration for Children and Families, Office of Head Start.

¹³ *Head Start Program Annual Fact Sheets*, USDHHS Administration for Children & Families.

for two types of PDG B-5 grants, a 1-year planning grant and a 3-year renewal grant, both requiring a 30 percent nonfederal match. For fiscal year 2024, Congress appropriated \$315 million for the PDG B-5 program.

North Dakota and Preschool Development Grants Birth Through Five

In 2018, the inaugural year for the PDG B-5 program, the Department of Public Instruction (DPI) was awarded an initial PDG B-5 grant of \$2.7 million, matched with \$1 million in nonfederal funds, for a total investment of \$3.7 million. The department used grant funds to complete a statewide needs assessment and strategic plan, and to begin development of an integrated early childhood data system. In 2022, DHHS Early Childhood Section was awarded the PDG B-5 renewal grant to continue that work. The initial renewal grant awarded to the Early Childhood Section was \$6.75 million, with the potential for up to an additional \$6.75 million in federal funding over the following 2 years.

Individuals With Disabilities Education Act

The Individuals with Disabilities Education Act (IDEA) provides federal funding to states and public agencies to ensure early intervention, special education, and related services to eligible children and youth with disabilities.¹⁴ Created in 1975, IDEA serves children and youth from birth to age 21. The Individuals with Disabilities Education Act has never been fully federally funded, requiring states to contribute a significant portion of funding.

The Individuals with Disabilities Education Act Part C focuses on early intervention services to children with developmental delays or disabilities from birth to age 3. Children are eligible under Part C if they are experiencing a developmental delay or have been diagnosed with a condition resulting in a high probability of developmental delay. Some states also offer services to children if they are "at risk" for a developmental delay. Services generally are provided in the child's natural environment and include audiology, vision, speech-language pathology, psychological services, physical therapy, assistive technology, social work, and referral and coordination services. For fiscal year 2025, infant and family grants through IDEA Part C are funded at \$420 million. During the 2023-24 school year, IDEA Part C programs served 2,697 children in North Dakota.¹⁵

The Individuals with Disabilities Education Act Part B provides supplementary grants to preschool programs serving children with disabilities aged 3 to 5. Under federal law and guidance, states determine eligibility for preschool grants under IDEA Part B. For fiscal year 2025, IDEA Part B preschool grants are funded at \$540 million. During the 2022-23 school year, IDEA Part B programs served 1,754 children in North Dakota.¹⁶

Child Care Access Means Parents in Schools

Child Care Access Means Parents in Schools (CCAMPIS) is a federal grant program that provides funding to institutions of higher education to support or establish campus-based child care services that primarily support low-income students. First funded in 1999, CCAMPIS generally serves undergraduate students who are eligible for Pell grants. Grant competitions are conducted every 4 years, and participating institutions of higher education must meet eligibility requirements, including Title IV compliance and the use of a sliding fee scale for child care services. Student-parents receiving CCAMPIS subsidies also may access other federal child care resources.

Federal Funding Sources Supporting Early Childhood

Temporary Assistance for Needy Families

Federal TANF grants provide funding to states to operate programs to assist low-income families in achieving economic self-sufficiency. The amount of federal TANF funding each state receives is based on historical spending from 1996 and state maintenance of effort provisions. While states have broad

¹⁴ Individuals with Disabilities Education Improvement Act of 2004 [Pub. L. 108-446; 118 Stat. 2647].

¹⁵ IDEA Section 618 Data Products: Static Tables Part C Child Count and Settings, U.S. Department of Education.

¹⁶ IDEA Section 618 Data Products: Static Tables Part B Child Count and Settings, U.S. Department of Education.

flexibility in how TANF funds are used, spending must align with the federal program's purposes, including:

- Providing assistance to needy families so that children may be cared for in a parental or familial home;
- Ending the dependence of needy parents on government assistance through the promotion of job preparation, work, and marriage;
- Preventing and reducing the incidence of non-marital pregnancies; and
- Encouraging the formation and maintenance of two-parent families.

Federal TANF funds may be spent directly on child care, without having to meet CCDBG requirements. For fiscal year 2022, 34 states used a portion of their TANF block grants to support child care. States also may choose to supplement CCDF programs by transferring up to 30 percent of their TANF block grants to CCDBG. For fiscal year 2022, 27 states transferred funding from TANF to CCDBG.

Elementary and Secondary Education Act Title I-A

Elementary and Secondary Education Act (ESEA) Title I-A formula grants are the largest federal funding source for K-12 education and are designed to support schools in serving low-income families. However, states may use ESEA Title I-A funding to support early childhood education, including through school, district, or community-based programs. Preschool programs funded through ESEA Title I-A must comply with Head Start federal standards.

Social Services Block Grant

Title XX of the federal Social Security Act provides for the Social Services Block Grant (SSBG), a flexible funding source that allows states to support a broad range of social services for vulnerable children and adults.¹⁷ While specific services and eligibility requirements vary by state, SSBG provides 29 broad service categories that states must adhere to for reporting purposes. Commonly funded services include child care, child welfare, services for individuals with disabilities, case management services, and protective services for adults. For fiscal year 2025, the federal government allocated \$1.7 billion to SSBG.

Historically, DHHS has received approximately \$3.7 million annually from SSBG. In recent fiscal years, DHHS has used the funding to provide counseling services through the regional human service centers.

United States Department of Agriculture Rural Development Programs

The United States Department of Agriculture's Rural Development Office has several grant and loan programs focused on public service and business facilities in rural areas, which may be used to support child care. The United States Department of Agriculture and USDHHS compiled a joint resource guide dedicated to strengthening and expanding child care facilities in rural communities.¹⁸

Federal Child Care Tax Credits

Congress historically has addressed child care costs through tax code provisions designed to help working families. The three main tax credits available to qualifying parents with children under age 17 to offset child care expenses are the child and dependent care tax credit (CDCTC), the employer-provided child care credit, and dependent care assistance plans (DCAP). In July 2025, Congress expanded child care tax credits through the 2025 tax reconciliation package, also known as the federal One Big Beautiful Bill Act.¹⁹

¹⁷ Title XX of the federal Social Security Act, Subtitle A - Block Grants to the States for Social Services [42 U.S.C 1397 et seq.].

¹⁸ *Joint Resource Guide: To strengthen and expand child care facilities in rural communities*, U.S. Department of Agriculture Rural Development and USDHHS Administration for Children and Families.

¹⁹ One Big Beautiful Bill Act [Pub. L. 119-21; 139 Stat. 72].

Child and Dependent Care Tax Credit

The CDCTC is a nonrefundable income tax credit intended to offset the cost of child care for parents with children up to age 13. The CDCTC allows parents to claim a portion of child care expenses on their annual income taxes and receive a credit for a percentage of their claimed expenses as a tax credit. The percentage of claimed expenses received as a tax credit is dependent upon income level and determined by a sliding scale, with the percentage gradually decreasing as income rises. The CDCTC is the only tax credit that directly helps low- and middle-income working parents offset the costs of child care and is the most widely applicable child care tax credit.

The CDCTC was initially enacted by the federal Tax Reform Act of 1976, with a credit formula of 20 percent of eligible expenditures subject to a maximum level of \$2,000 for one child and \$4,000 for two or more children.²⁰ Expanded by the federal Economic Recovery Tax Act of 1981, the sliding scale was introduced, with the lowest income tax payers starting at 30 percent and maximum qualified expenditures increased to \$2,400 for one child and \$4,800 for two or more children.²¹ In 2001, the sliding scale credit rate was modified by the federal Economic Growth and Tax Relief Reconciliation Act, increasing the top rate from 30 to 35 percent and expenditures from \$2,400 to \$3,000 for one child and \$4,000 to \$6,000 for two or more children.²² The changes made in 2001 were set to expire in 2010 but were extended for 2011 and 2012 by the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and made permanent by the federal American Taxpayer Relief Act of 2012.²³

Snapshot of the Child and Dependent Care Tax Credit	
Average annual cost of child care in 2001 ²⁴	\$3,500
Average annual cost of child care in 2024 ²⁵	\$13,128
Average benefit of 2001 levels set through FY 2025	\$552
Average benefit under 2021 expansion	\$2,099
Predicted average benefit in FY 2026 ²⁶	\$3,500

The CDCTC was temporarily expanded in tax year 2021 by the federal American Rescue Plan Act, making the credit fully refundable, increasing the highest credit rate to 50 percent, and extending the lowest credit rate of 20 percent to families with incomes up to \$400,000.²⁷ The Act also temporarily increased the amount of eligible expenses to \$8,000 for one child and \$16,000 for two or more children. For North Dakota families, the average CDCTC benefit amount increased to \$2,321 in 2021. However, in 2022, CDCTC benefits decreased to pre-rescue plan levels resulting in an average credit of \$613. The federal One Big Beautiful Bill Act of 2025 increased the credit cap from 35 to 50 percent, resulting in a \$900 increase in the maximum credit available to married couples filing jointly with income under \$150,000.

Employer-Provided Child Care Credit

The employer-provided child care credit supports both businesses and working parents by offering a tax credit for qualified expenses incurred when helping employees access child care. The credit covers four categories of qualified expenses:

- Purchasing, building, or updating property used to provide child care;

²⁰ Tax Reform Act of 1976 [Pub. L. 94-455; 90 Stat. 1520].

²¹ Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 172].

²² Economic Growth and Tax Relief Reconciliation Act of 2001 [Pub. L. 107-16; 115 Stat. 38].

²³ Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 [Pub. L. 111-312; 124 Stat. 3296]; American Taxpayer Relief Act of 2012 [Pub. L. 112-240; 126 Stat. 2313].

²⁴ *2025 Child Care & The Federal Tax Code*, First Five Years Fund, www.ffyf.org/wp-content/uploads/2025/02/2025-FFYF-TAX-RESOURCE.

²⁵ *Child Care in America: 2024 Price & Supply*, Child Care Aware of America, www.childcareaware.org/price-landscape24/.

²⁶ *What it Means: Child care Tax Credits Expanded in the 2025 Tax Reconciliation*, First Five Years Fund, www.ffyf.org/wp-content/uploads/2025/06/Topline-Senate-Tax-Package.

²⁷ American Rescue Plan Act of 2021 [Pub. L. 117-2; 135 Stat. 4].

- Child care operating costs, including training, scholarships, and wages for child care staff;
- Contracting with a qualified child care provider; and
- Contracting for resource and referral services.

Prior to the 2025 tax reconciliation package, the credit was capped at 25 percent of qualified child care expenses plus 10 percent of resource and referral expenses. Under the previous credit framework, to receive the maximum \$150,000 credit a business had to spend \$600,000 on qualified expenses. The 2025 tax reconciliation package increased the caps to 40 percent for large businesses and 50 percent for small businesses for a maximum credit of \$500,000 and \$600,000 respectively. The new credit rates also are indexed for inflation and multiple employers are permitted to jointly contract with a qualified child care provider and seek credit.

Dependent Care Assistance Plan

A DCAP is an employer-offered program enabling a parent to deduct a set amount from their pre-tax gross earnings to pay for dependent care expenses, similar to a health spending account. A DCAP allows a parent to reduce their tax burden while permitting pre-tax funds to cover dependent care. The employer must offer DCAP, and the employee is required to opt-in and determine their contribution rate for the year, subject to maximum limits. An employer also may contribute or match DCAP funding; however, all contributions are subject to the maximum limit. The 2025 tax reconciliation package increased the annual contribution cap from \$5,000 to \$7,500.

NORTH DAKOTA LAW

North Dakota Century Code Chapter 50-11.1 addresses early childhood services, defined as "the care, supervision, education, or guidance of a child provided in exchange for money, goods, or other services." Early childhood services do not include foster care, education provided in accordance with Title 15.1, child care provided in connection with an organization for less than 4 hours, classes for religious instruction, summer or day camps for children over age 6 for more than 2 weeks, sports activities, Head Start programs, child care in a medical facility to ill children, or Department of Defense Family Child Care Certification Programs. The Department of Health and Human services regulates early childhood services under Chapter 50-11.1.

Section 50-11.1-06 allows an in-home provider to apply for a voluntary annual registration document from DHHS. An in-home provider is defined under Section 50-11.1-02 as "any person who provides early childhood services to children in the children's home." Except for onsite child care services for fewer than 10 children per location and which are located in the actual building in which the child's parent is employed, a person may not operate a family child care, group child care, preschool, school-age child care, or child care center unless licensed by DHHS. A family child care is defined as "a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children." A group child care is defined as "a child care program licensed to provide early childhood services for thirty or fewer children." A preschool is "a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day." School-age child care means "a child care program licensed to provide early childhood services on a regular basis for children aged at least five years through eleven years." A child care center is "an early childhood program licensed to provide early childhood services to nineteen or more children."

To obtain a license to operate an early childhood program, an applicant must submit an application and a license fee to DHHS. In addition, Section 50-11.1-04 requires the department or an authorized agent of the department to investigate the applicant's activities, proposed standards of care, and the premises. The applicant for a license, all staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence, must be investigated in accordance with department rules to determine whether a criminal record or a finding of services required for child abuse or neglect exists for each applicable individual. Section 50-11.1-06.2 requires upon a

determination by the department that a criminal history record check is appropriate, a provider holding or an applicant for early childhood services licensure, self-declaration, or in-home provider, as well as new staff members of early childhood services programs and new household members of a residence out of which early childhood services are provided, must obtain two sets of the individual's fingerprints from a law enforcement agency or other local agency authorized to take fingerprints. The individual is required to request the agency to submit the fingerprints and a completed fingerprint card for each set to the Division of Children and Family Services of DHHS or to the department's authorized agent. If the division has no record of a determination of services required for child abuse or neglect, the division is required to submit the fingerprints to the Bureau of Criminal Investigation to determine if there is any criminal history record information regarding the applicant, household members, or staff members. The results of the investigations must be forwarded to the division or to the department's authorized agent.

In addition to the licensed early childhood programs, Chapter 50-11.1 provides for a voluntary self-declaration for documentation of an individual providing early childhood services in a private residence for up to three children under the age of 24 months or for no more than five children through age 11. An individual may apply to DHHS for a self-declaration, and the department is responsible for determining whether the individual meets the standards determined by its rules for a self-declaration.

Section 50-11.1-07 authorizes DHHS to investigate and inspect an early childhood program or a holder of a self-declaration or registration document. This authority includes department inspection of the conditions of the premises, the qualifications of an early childhood services provider, current and prospective staff members, and any in-home provider or applicant seeking or holding a license, self-declaration, or registration document. In addition, Chapter 50-11.1 provides procedures under which the department may issue correction orders, fiscal sanctions, or suspension or revocation of a license, self-declaration, or registration document.

Section 50-11.1-08 authorizes DHHS to adopt reasonable minimum standards for early childhood programs and adopt rules for the regulation of early childhood services. Section 50-11.1-14 authorizes DHHS to establish a statewide system to build systematic early childhood workforce voluntary training which may include distance learning formats, a professional registry, certificates, and specializations.

Section 50-11.1-14.1 also addresses early childhood care and education workforce issues. Under that section, the department is required to provide voluntary, progressive training opportunities leading to credentials, provide supports for the early childhood care and education workforce, and implement a registry to track workforce participation. In addition, that section requires the department to implement a voluntary quality improvement process for licensed early childhood facilities. The department is authorized to provide a quality incentive payment and a higher reimbursement rate for child care assistance program payments to a participating early childhood facility, provide technical assistance and support to an early childhood facility that applies for quality improvement, and provide financial incentives to an early childhood facility that sustains and increases program quality. The department may contract with a private, nonprofit agency to provide technical assistance.

Section 50-11.1-18 authorizes DHHS to establish an early childhood inclusion support services program and hire early childhood services specialists for providing direct payments and technical assistance to providers serving children with disabilities, special needs, or developmental delays.

EARLY CHILDHOOD PROGRAMS AND SERVICES

Child Care Assistance Program

Chapter 50-33 establishes CCAP, which helps working families and families in training or education programs who meet income eligibility criteria pay a portion of the cost of child care. The chapter establishes application criteria and requires DHHS to adopt rules for administration of the program. The Child Care Assistance Program is funded through the federal CCDF program and must meet all federal requirements. Section 50-33-03 provides DHHS must pay child care costs required as a result of participation in allowable activities by the eligible caretaker in a TANF program household or diversion assistance household. Subject to the availability of funding, the department may expand child care

assistance to include an eligible caretaker who is attending a postsecondary education program in pursuit of a 1-year, 2-year, or 4-year degree or certificate. Payments are made directly to the child care provider unless the provider requests payments be made to the family.

In 2022, North Dakota raised the income level for CCAP to 85 percent of the SMI, increasing the number of children and families eligible for the program. As of July 2023, families with incomes below 30 percent of the SMI no longer have a copay for CCAP services. In June 2025, 7,408 North Dakota children from 3,833 families benefited from child care assistance.²⁸ Among these beneficiaries, 32 percent were infants and toddlers, 37 percent were pre-school age, and 30 percent were school age. During the same month, DHHS received 437 applications for child care assistance. Of those applications, 241 (55 percent) were approved, 175 (40 percent) were denied, and the remaining 5 percent were pending as of the end of the month.

The following schedule provides a comparison of funding for CCAP for the 2007-09 biennium through the 2025-27 biennium.

Biennium	Budget	Increase (Decrease)
2007-09	\$19,730,448	N/A
2009-11	\$22,359,834	\$2,629,386
2011-13	\$20,554,852	(\$1,804,982)
2013-15	\$23,398,665	\$2,843,813
2015-17	\$31,706,038	\$8,307,373
2017-19	\$22,274,519	(\$9,431,519)
2019-21	\$27,787,643	\$5,513,124
2021-23 ¹	\$34,710,875	\$6,923,232
2023-25 ²	\$50,811,261	\$16,100,386
2025-27	\$82,337,226	\$31,525,965

¹Does not include carryover funds appropriated to CCAP during the 2021 special legislative session or any program specific COVID carryover funding.

²Does not include carryover funding or funds appropriated to CCAP within House Bill No. 1540 (2023).

Best in Class

North Dakota's Best in Class Program is a state-funded initiative designed to improve early childhood education by supporting early childhood programs that demonstrate high-quality, developmentally appropriate practices. The program focuses on strengthening adult-child interactions, using play-based learning, and applying observation-based assessments to support individualized instruction for 4-year-olds in the year before kindergarten. For the 2025-27 biennium, the Best in Class program was appropriated \$16 million from the general fund.

Best in Class participating programs must meet specific guidelines for enrollment, staffing, curriculum, assessments, family engagement, and quality improvement. Participating programs are monitored and evaluated to ensure the effectiveness of the state's investment. Half of all seats offered by participating programs must be set aside for children from underrepresented groups, including low-income families, children experiencing homelessness, children experiencing developmental delays, and children in the foster care system.

Participating programs are not required to charge tuition; however, programs that do charge tuition must follow the Best in Class sliding fee scale. The primary purpose of Best in Class funding is to offset the revenue difference associated with the reduced cost. Funding to participating programs is distributed quarterly, based on deliverables completed by program staff. Eligible applicants include:

- Licensed child care programs (center or group) in good standing, participating in Bright & Early ND with a Step 3 or 4 rating or national accreditation;

²⁸ Child Care Assistance Program: ND Integrated Eligibility Data System, DHHS.

- Public or private educational programs that complete the 4-year-old program approval every 2 years; and
- Federally funded Head Start programs, with completed 4-year-old program approval if not licensed by DHHS.

Bright & Early ND

Bright & Early ND is the state's quality rating and improvement system administered by DHHS. The purpose of the system is to evaluate, enhance, and communicate the quality of early childhood programs statewide. Participation in Bright & Early ND offers early childhood providers personalized support, professional development opportunities, and access to financial incentives. Providers are guided through a collaborative process that includes setting goals, developing improvement plans, and tracking progress. The program offers low or no-cost training, leadership development, and potential financial benefits such as quality improvement grants and increased payments for serving children receiving child care assistance. The quality rating and improvement system process is structured as a progressive, four-step system, with each step building on the last. Upon licensing, programs start at Step 1 and may advance through Step 4 by meeting defined quality standards.

Step 1: Health and Safety

Step 1 establishes the foundational standard for all licensed early childhood programs in North Dakota. Programs at this level meet basic health, safety, and staffing requirements set by DHHS. These include appropriate space, cleanliness, staff qualifications, and staff-to-child ratios. Programs receive regular monitoring visits to ensure compliance. This step also emphasizes the importance of injury prevention and encourages safe, age-appropriate risk taking that supports children's development. At this step, all licensed programs are automatically enrolled in Bright & Early ND.

Step 2: Space and Materials

Step 2 builds on the health and safety foundation by focusing on the quality of the learning environment. Programs design indoor and outdoor spaces that are organized, inclusive, and provide age-appropriate materials tailored to children's developmental stages and interests. These environments promote hands-on exploration, creativity, independence, and meaningful engagement. Programs regularly assess and adjust their settings to meet the evolving needs of each child.

Step 3: Activities and Experiences

Step 3 emphasizes the importance of intentional, developmentally appropriate learning experiences. Programs use a curriculum aligned with the *North Dakota Early Learning Standards: Birth to Kindergarten* to guide instruction and plan activities.²⁹ Observation-based assessments are used to monitor children's progress toward key developmental milestones. This step supports the development of academic, social, and emotional skills through purposeful and responsive teaching practices.

Step 4: Relationships and Interactions

Step 4 represents the highest level of quality, where programs foster nurturing, respectful, and responsive relationships. At this stage, caregivers create emotionally secure environments that encourage children to explore, take risks, and express themselves. Programs incorporate children's interests and perspectives into daily routines and promote thinking and language development through engaging interactions.

North Dakota Afterschool Network

The North Dakota Afterschool Network (Network) is a statewide initiative dedicated to ensuring that all students from prekindergarten through grade 12 have access to safe, high-quality, and affordable afterschool and summer learning opportunities. An afterschool program is defined as any program serving youth in prekindergarten through grade 12 with organized, regularly scheduled academic or enrichment activities in a supervised environment. After school programs may take place in schools, child care facilities, community-based organizations, libraries, or summer camps. The Network provides

²⁹ *North Dakota Early Learning Standards: Birth to Kindergarten*, DPI and DHHS.

technical assistance, professional development, and advocacy to help afterschool programs launch, grow, and improve. The overarching goals of the Network are to expand access, raise program quality, strengthen partnerships, and increase public awareness about the positive impact of afterschool programming.

Child Care Workforce Benefit

The Child Care Workforce Benefit is a program designed to support employees of licensed child care providers in North Dakota by covering their child care expenses. Eligible participants may receive payments up to the state's full-time maximum rate for child care costs, with their copayment waived. Employees can receive the benefit even if their child is enrolled in a different child care program than where the employee works.

To qualify for the program, a child care provider must:

- Reside in North Dakota, unless otherwise approved;
- Be employed by a North Dakota licensed child care provider;
- Work a minimum of 25 hours per week; and
- Meet the eligibility criteria for the CCAP, excluding some income limits.

LICENSED CHILD CARE

Licensing and child-to-staff ratios play a key role in ensuring the safety of young children in child care. Section 50-11.1-03 requires a license for:

- Family child care if early childhood services are provided for four or more children ages 24 months and under, or six or seven children through age 11 at any one time, including no more than three children under the age of 24 months;
- Group child care if early childhood services are provided for at least 8 but no more than 30 children at one time; or
- A child care center if early childhood services are provided for more than 30 children at one time.

Child Care License Categories

Family Child Care License

Licensed family child care providers may care for up to seven children, plus an additional two school age children. The family provider's own children under age 2 must be included in the total. A provider with a family child care license may either:

- Care for up to three children under the age of 24 months with additional children over 24 months, plus two school-age children; or
- Care for up to four children under the age of 24 months plus school age children.

Group Child Care License

Licensed group child care providers may care for up to 30 children, depending on local ordinance. The group child care provider's own children under age 2 must be included in the total. The total number of children who may attend at any given time is based on age, adult-to-child ratios, square footage, and point levels. One adult may care for children totaling 1.34 points. However, ratios of children must be met and a group of children may not contain more than four children under the age of 18 months per provider. Each additional child care provider counts as 1.00 point. Group providers also may care for children according to the family child care guidelines.

Child Care Center License

A licensed child care center may care for 19 or more children. The total number of children able to attend at any given time is based on age, adult-to-child ratios, square footage, point levels, and maximum

group size. Each adult may care for children totaling 1.34 points while complying with ratio and maximum group size requirements.

Preschool Programs

The Department of Health and Human Services licensed preschool programs provide part-time care, with programs permitted to operate for up to 3 hours per day. Children aged 2 to 5 years are served by preschool programs. The total number of children able to attend at any given time is based on age, adult-to-child ratios, square footage, and point levels.

School-Age Care

School age programs may offer care before and after school, as well as on school holidays and throughout the summer. The total number of children able to attend at any given time is based on adult-to-child ratios, square footage, and local ordinances.

Point System and Ratios

The CCDF requires state lead agencies to set adult to child ratios and group size requirements. The Department of Health and Human Services utilizes the following point system for child care groups and centers:

Age of Children	Point Level
0-17 months	.25 points
18-35 months	.20 points
3 years	.14 points
4 years	.10 points
5 years	.08 points
6-12 years	.05 points

The following adult-to-child ratios and group size requirements apply to child care center classrooms:

Age of Children	Adult-to-Child Ratio	Maximum Group Size of the Same Ages ¹
0-17 months	1:4	10
18-35 months	1:5	15
3 years	1:7	20
4 years	1:10	25
5 years	1:12	30
6-12 years	1:20	40

¹If mixed ages are grouped in the classroom, group size must be consistent with the age of the majority of the children. An exception exists if children under the age of 18 months are part of the mixed age group. In that case, the maximum size of the age group must be maintained.

2021-23 BIENNIUM LEGISLATION

In House Bill Nos. 1012 and 1466 and Senate Bill No. 2018, the 2021 Legislative Assembly transferred the Early Childhood Education Grant Program, also known as the Prekindergarten Community Grant Program, and \$1.5 million from the general fund, from the Department of Commerce to DHHS. Funding provided to the Department of Commerce for the program for the 2017-19 and 2019-21 bienniums was \$1.5 million from the general fund each biennium.

In House Bill No. 1416, the 2021 Legislative Assembly transferred 3 full-time equivalent positions and related salaries of \$600,000 and operating expenses of \$100,000 from DPI to DHHS relating to the administration of an Early Childhood Education Program for 4-year-olds. The Budget Section increased the 2021-23 biennium special funds spending authority by \$1.7 million in the grants line item to accept and spend federal Elementary and Secondary School Emergency Relief funds from DPI for early childhood programs.

Section 61 of House Bill No. 1012 (2021) required DHHS to provide a report to the Legislative Management regarding the status of 4-year-old program approvals, the North Dakota Early Childhood Council, and the early childhood grant for Best In Class 4-year-old experiences.

House Bill No. 1466 (2021) created the Best in Class 4-year-old program grant. Four-year-old programs are approved child care programs operated by a public or private educational entity or an early childhood program designed to serve 4-year-olds. A 4-year-old program may apply for a grant of up to \$120,000 per group size and must provide \$20,000 of matching funds. Grant recipients must follow guidelines regarding the admission of children into the program and educational content provided. The grant program was effective through June 30, 2025. The Legislative Assembly authorized 3.7 full-time equivalent positions and appropriated \$5,458,910, of which \$1,500,000 is from the general fund, for the program for the 2021-23 biennium. In June 2021, the Emergency Commission and Budget Section authorized DHHS to receive and expend an additional \$1,700,000 of federal COVID-19 relief funding received by DPI for the grant program.

A representative of DHHS reported the Best in Class 4-year-old program provided funding to 23 programs during the 2021-22 school year and 38 programs had been approved through June 2022 to receive 2022-23 school year grants.

2023-25 BIENNIUM LEGISLATION

The 2023 Legislative Assembly passed House Bill No. 1540, which provided \$3 million from the general fund to the Office of Management and Budget for state employee child care benefits and \$62.6 million from the general fund to DHHS for the following:

- \$22 million for investment in CCAP to serve more working families;
- \$15 million for enhanced CCAP payments for infant and toddler care;
- \$3 million, which is considered one-time funding, for quality tiers in CCAP;
- \$2.3 million for waiving a fee to a family whose income does not exceed 30 percent of the state median income for a family of the same size;
- \$500,000 for providing CCAP application assistance and outreach;
- \$5 million, which is considered one-time funding, for the employer-led child care cost share program;
- \$7 million, which is considered one-time funding, for grants and shared services;
- \$1.8 million for partnerships care during nontraditional hours;
- \$2 million for stipends of worker training;
- \$3 million, which is considered one-time funding, for quality infrastructure for providers; and
- \$1 million, which is considered one-time funding, for the streamlining background checks project.

The 2023 Legislative Assembly also passed Senate Bill No. 2012, which appropriated an additional \$14.4 million from the general fund to DHHS for the Best in Class Program, to provide a total of \$19.9 million.

2025-27 BIENNIUM LEGISLATION

House Bill No. 1012 (2025) includes \$11.8 million in one-time funding from the general fund for DHHS child care programs. Section 9 of the bill provides \$11 million in one-time funding to DHHS from the general fund for direct payments to licensed child care providers to support high-quality early childhood care for infants and toddlers. To receive payments from the direct payment program, a provider may not be receiving a CCAP bonus payment, be licensed in the state, and be enrolled in the Bright & Early ND Program with a 2-, 3-, or 4-star rating. The department is required to report to the Legislative Management and the Appropriations Committees on the effectiveness of the direct payments.

Section 41 of House Bill No. 1012 expands the state's eligibility requirements for child care assistance to include out-of-state residents employed by an early childhood program located in the state and approved for the state's child care assistance Child Care Workforce Benefit.

House Bill No. 1497 (2025) creates a Best in Class Program enrollment exception to the August 1 cutoff date for children who turn age 4 before December 1, when the school district determines, based upon child development factors, to allow a child to enroll in response to a request.

Senate Bill No. 2107 (2025) expands annual training for licensure requirements to permit a staff member to count training completed after fee and application submission towards annual licensing requirements for the following year.

Senate Bill No. 2282 (2025) creates an employer income tax credit for qualified employee child care contributions. The total credit available for each qualified employer is 50 percent of the taxpayer's aggregate child care contributions paid during the taxable year. Beginning with the 2025 tax year, an employer may claim up to \$1,000 in credits against state income tax per employee.

POSSIBLE PROGRAM EVALUATION APPROACH

The following is a proposed child care services program evaluation plan for the committee's consideration:

- Receive testimony and information from agencies, groups, and individuals involved in regulating and providing child care services, including DHHS child care licensing specialists, supervisors, and administrators, and CCAP administrators;
- Receive testimony and information from child care providers, including all licensed and registered types of providers;
- Receive testimony regarding child care funding, assistance penetration rates, and resource availability from DHHS;
- Receive testimony regarding workforce issues related to child care services from the Department of Commerce and Job Service of North Dakota;
- Receive testimony regarding child care tax incentives from the Tax Department;
- Receive updates regarding the status of recently enacted legislation regarding child care services to determine if the policies have been timely implemented and properly administered, including an analysis of measurable goals and performance data; and
- Receive a program evaluation report from the Legislative Council.

ATTACH:1