

## CHILD CARE SERVICES - BACKGROUND MEMORANDUM

Section 38 of 2013 Senate Bill No. 2018 provides for a study of child care services, including consideration of the current and potential needs for child care services and the current and potential workforce needs related to child care. The bill provides the study must include consideration of the current quality of child care services.

### BACKGROUND

According to the United States Census Bureau, in approximately 78 percent of the families in North Dakota with children under the age of 18 years, both the husband and wife are in the labor force. The 2013 *Kids Count Factbook* produced by the Annie E. Casey Foundation reports in 2010 over 82 percent of mothers with children under the age of 17 years in this state are engaged in the labor force. The *Factbook* also reports in 2011 there were an estimated 16,000 families in the state in which the family income was less than twice the federal poverty level, at least one parent worked 50 or more weeks during the previous year, and there was at least one child under the age of 18 years in the family.

Based upon the *Kids Count Factbook* data, North Dakota Child Care Resource & Referral developed estimates for child care demand in the state in its 2012 *Child Care Profile*. The *Profile* estimated there were approximately 89,000 children in the state potentially needing child care in 2012 due to having a mother in the labor force and the licensed child care capacity in the state was 33,190. Thus, the *Profile* estimated that statewide 38 percent of the potential demand for child care was met by available licensed care. The *Profile* reported the total workforce in the state attributable to licensed child care in 2012 was 4,686. The *Profile* also reported data relating to the cost of child care in the state. The data indicated the average annual cost of family and group child care for an infant was \$6,455; for a child aged 18 months to 35 months, \$6,285; and for a child aged 3 years to 5 years, \$6,158. In a child care center, the average costs were reported as \$8,066 for an infant, \$7,705 for a child aged 18 months to 35 months, and \$7,158 for a child aged 3 years to 5 years.

### North Dakota Law

North Dakota Century Code Chapter 50-11.1 addresses early childhood services. Section 50-11.1-01 defines early childhood services as "the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services." However, the following are excluded from the definition of early childhood services:

- Substitute parental child care provided pursuant to Chapter 50-11.
- Child care provided in any educational facility, whether public or private, in grade 1 or above.
- Child care provided in a kindergarten or a nonpublic elementary school.
- Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the Superintendent of Public Instruction.
- Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.
- Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
- Summer resident or day camps for children which serve no children under six years of age for more than two weeks.
- Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
- Head Start and early Head Start programs that are federally funded and meet federal Head Start performance standards.
- Child care provided in a medical facility by medical personnel to children who are ill.

Section 50-11.1-06 allows an in-home provider to apply for a voluntary annual registration document from the Department of Human Services. An in-home provider is defined under Section 50-11.1-01 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 the Department of Human Services. 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." A school-age child care program is "a child care program licensed to provide early childhood services on a regular basis for nineteen or more children aged 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 the Department of Human Services. In addition, Section 50-11.1-04 requires the department or an authorized agent of the department to investigate the applicant's activities and proposed standards of care and the applicant's premises. The applicant for a license and the 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 the rules adopted by the department to determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. 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 the Department of Human Services 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 below the age of 24 months or for no more than five children through the age of 11 years. An individual may apply to the Department of Human Services for a self-declaration, and the department is responsible for determining if the individual meets the standards determined by rule by the department for a self-declaration.

Section 50-11.1-07 authorizes the Department of Human Services to investigate and inspect an early childhood program, or a holder of a self-declaration or registration document and the conditions of their premises, the qualifications of a provider of early childhood services, of current and prospective staff members, of 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 the Department of Human Services 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 the Department of Human Services 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 the technical assistance.

In 2011 the Legislative Assembly adopted Senate Bill No. 2298 (codified as Section 50-11.1-18) which authorized the Department of Human Services to establish, in collaboration with the Department of Commerce, an early childhood services inclusion grant program for licensed early childhood services providers that provide care for children with disabilities or developmental delays. The bill also authorized the department to fund early childhood services specialists to make available technical assistance to early childhood services providers that care for children with special needs or developmental delays. The bill appropriated \$50,000 to the Department of Human Services for the purpose of funding the early childhood services inclusion support services. The Legislative Assembly also appropriated \$3.1 million in Senate Bill No. 2057 to the Department of Human Services for the purpose of providing grants to child care service providers for workforce development, quality improvement, technical assistance, and capacity building. Senate Bill No. 2298 provided the total amount of grants awarded under that bill which were funded by the Department of Commerce grant line item may not exceed 50 percent of the funds available under the Department of Commerce's grants for the early childhood facilities program.

Chapter 50-33 provides for a child care assistance program. Under that chapter, the Department of Human Services is responsible for paying child care costs required as a result of participation in allowable activities by the eligible caretaker in a temporary assistance for needy families household or diversion assistance household. Subject to the availability of funding, the department is authorized to expand child care assistance to include an eligible caretaker who is attending a postsecondary education program in pursuit of a one-year, two-year, or four-year degree or certificate. The chapter provides application requirements and requires the department to adopt rules for administration of the program.

### **2013 Legislation**

In 2013 the Legislative Assembly considered several bills relating to early childhood services.

House Bill No. 1422 made changes to the licensed child care requirements, including increasing the maximum number of children in a group child care from 18 to 30 children, providing that if a child care facility has sufficient indoor recreation space then outdoor play space is not required, and codifying staffing requirements for a child care center. The bill provided the maximum group size of children in a child care center must be:

1. For children less than eighteen months of age, the maximum group size is ten children;
2. For children eighteen months of age to thirty-six months of age, the maximum group size is fifteen children;
3. For children three years of age to four years of age, the maximum group size is twenty children;
4. For children four years of age to five years of age, the maximum group size is twenty-five children;
5. For children five years of age to six years of age, the maximum group size is thirty children; and
6. For children six years of age to twelve years of age, the maximum group size is forty children.

The provision of House Bill No. 1422, which established maximum group size for child care centers, excluded any child care center operator who has maintained a license since before January 1, 1999. The bill also provided the maximum group size requirements are effective until the date administrative rules containing those requirements take effect.

House Bill No. 1110 increased from 15 to 30 the number of days within which the Department of Human Services must make a decision on whether an applicant is eligible for child care assistance.

Senate Bill No. 2085 revised the definition of "family child care" to remove the limits on when family child care providers can care for school-age children, added a definition of "school-age children," updated the regulations on smoking on premises where early childhood services are provided, and removed the expiration date on the Early Childhood Services Advisory Board.

Senate Bill No. 2244 which, as introduced, would have appropriated funds for early childhood services specialists and grants to early childhood services providers, provided for a Legislative Management study of child care services. The bill was not prioritized for study.

Senate Concurrent Resolution No. 4019 directed a study of early childhood services. The resolution was not prioritized for study.

House Bill No. 1317, which failed to pass, would have established a student loan paydown program for early childhood education and care providers.

In addition to those bills, several bills included funding for programs related to child care services. The funding included:

- \$24,494,469 to the Department of Human Services for child care assistance programs, including \$20,898,665 for grant assistance payments; \$2,500,000 from the general fund contingent upon the amount of funding needed for the expansion of the child care assistance program, of which up to \$1,000,000 may be used for grants for workforce development pursuant to Section 50-11.1-14.1; \$897,336 for payments to temporary assistance for needy families; and \$198,468 for local Head Start programs.
- \$8,190,480 for workforce development and training, including \$4,150,000 to the Department of Human Services for grants to child care providers for workforce development pursuant to Section 50-11.1-14.1; \$2,717,399 to the Department of Human Services for contracts to provide technical assistance; \$773,081 to the Department of Human Services for child care administrative rule revision; \$400,000 to the Department of Human Services for grants to child care providers serving those with disabilities pursuant to Section 50-11.1-18; \$150,000 to the Department of Public Instruction for continuing education grants for preschool teachers; and child care provider tax credits equal to 50 percent of qualified child care expenses--the amount of tax credits that will be claimed is unknown.
- \$3,225,000 for child care facilities, including \$2,600,000 to the Department of Commerce for child care facility grants; \$500,000 from the Development Fund for early childhood facility financing; \$125,000 from the general fund to the Department of Public Instruction for grants to schools for safety compliant space; expansion of the beginning entrepreneur loan guarantee program to include child care facilities--the amount of loan guarantees is unknown; and financing assistance for child care facilities through the partnership in assisting community expansion--the amount of assistance is unknown.
- \$200,000 for an early childhood care and education study to the Department of Public Instruction.

### **POSSIBLE STUDY APPROACH**

In addressing this study, the committee may consider the following approach:

1. Solicit testimony and information from agencies, groups, and individuals involved in regulating and providing child care services, including:
  - a. The Department of Human Services;
  - b. Child care providers, including all licensed and registered types of providers; and
  - c. Child care referral services.
2. Solicit testimony regarding workforce issues related to child care services from the Department of Commerce and Job Service North Dakota.
3. Request participation and reports from the Department of Public Instruction relating to the early childhood care and education study.
4. Receive updates regarding the status of the child care incentive grant program and the funding of the early childhood services specialists.