

**SENATE BILL NO. 2108**

Introduced by

Education Committee

(At the request of the Superintendent of Public Instruction)

1 A BILL for an Act to create and enact two new sections to chapter 15.1-22 and sections  
2 15.1-32-05.1 and 15.1-34-01.5 of the North Dakota Century Code, relating to kindergarten  
3 admission and the provision of special education services; to amend and reenact subsection 5  
4 of section 15-19-01 and sections 15.1-06-01, 15.1-20-02, 15.1-22-02, 15.1-22-03, 15.1-32-01,  
5 and 15.1-34-01 of the North Dakota Century Code, relating to the minimum and maximum age  
6 of eligibility for school services and compulsory attendance; and to repeal section 15.1-20-01 of  
7 the North Dakota Century Code, relating to compulsory attendance.

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

9 **SECTION 1. AMENDMENT.** Subsection 5 of section 15-19-01 of the North Dakota Century  
10 Code is amended and reenacted as follows:

11 5. Students exempt from the compulsory school attendance laws pursuant to  
12 subdivision ~~ed~~ of subsection ~~4~~2 of section 15.1-20-02 may enroll in distance education  
13 courses offered through the center for distance education. These students may study  
14 their distance education lessons in their learning environment under the supervision of  
15 a parent. The tests for the distance education study must be administered by an  
16 individual who is licensed to teach by the education standards and practices board or  
17 approved to teach by the education standards and practices board and employed  
18 either by the public school district in which the parent resides or a state-approved  
19 private or nonpublic school.

20 **SECTION 2. AMENDMENT.** Section 15.1-06-01 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **15.1-06-01. Schools free and accessible - ~~School ages~~Transfer provisions.**

23 1. Each public school ~~must be~~is free, open, and accessible at all times to any child under  
24 the age of twenty-one. provided:

Sixty-fourth  
Legislative Assembly

- 1           a. ~~The child may not enroll in grade one unless the child reaches the age of six~~  
2           ~~before August first of the year of enrollment;~~
- 3           b. ~~The child may not enroll in kindergarten unless the child reaches the age of five~~  
4           ~~before August first of the year of enrollment; and~~
- 5           c. ~~The child has not reached the age of twenty-one before August first of the year of~~  
6           ~~enrollment.~~
- 7        2. ~~Notwithstanding subsection 1, a school district may not enroll in grade one a child who~~  
8        ~~is not six years old before August first, unless the child will be six years old before~~  
9        ~~December first and:~~
- 10       a. ~~The child, by means of developmental and readiness screening instruments~~  
11       ~~approved by the superintendent of public instruction and administered by the~~  
12       ~~school district, can demonstrate academic, social, and emotional readiness; or~~
- 13       b. ~~The child has completed an approved kindergarten program.~~
- 14       3. ~~Notwithstanding subsection 1, a school district may not enroll in kindergarten a child~~  
15       ~~who is not five years old before August first unless the child will be five years old~~  
16       ~~before December first and the child, by means of developmental and readiness~~  
17       ~~screening instruments approved by the superintendent of public instruction and~~  
18       ~~administered by the school district, can demonstrate superior academic talents or~~  
19       ~~abilities and social and emotional readiness. the child meets the age of enrollment~~  
20       ~~requirements or exceptions set forth in this title.~~
- 21       2. a. If a child's parent relocates to this state during the school calendar, the child must  
22       be permitted to transfer into the grade level in which the child had been enrolled,  
23       even if the child does not meet the age of enrollment requirements set forth in  
24       this title.
- 25       b. If a child's parent relocates to this state at any time outside of the school  
26       calendar, and if the child can demonstrate successful completion of a grade level,  
27       including kindergarten, at an approved public school or at an approved nonpublic  
28       school, the child must be permitted to advance to the next grade level, even if the  
29       child does not meet the age of enrollment requirements set forth in this title.
- 30       4.3. ~~The requirements of this section~~Any age of enrollment and transfer provisions set forth  
31       in this title are not applicable to the children of military families, to the extent that the-

1 requirements~~they~~ conflict with enrollment provisions otherwise agreed to by the state  
2 in the compact on educational opportunity for military children.

3 **SECTION 3. AMENDMENT.** Section 15.1-20-02 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **15.1-20-02. Compulsory attendance - Exceptions.**

6 1. ~~The provisions of section 15.1-20-01 del~~ a child reaches the age of six on or before  
7 June thirtieth, that child must be enrolled in and attend a public school or an approved  
8 nonpublic school, in accordance with the school calendar for the school year  
9 beginning July first.

10 2. ~~This section does not apply if the person having responsibility for the child-~~  
11 ~~demonstrates to the satisfaction of the school board that:~~

12 a. ~~The child is in attendance for the same length of time at an approved nonpublic-~~  
13 ~~school~~ has reached the age of sixteen;

14 b. ~~The child has completed~~ graduated from high school;

15 c. ~~The child is necessary to the support of the child's family;~~

16 d. ~~A~~ The child's multidisciplinary team that includes the child's school district-  
17 superintendent, the director of the child's special education unit, the child's-  
18 classroom teacher, the child's physician, and, together with the child's parent, has  
19 determined that the child has a child's disability that renders attendance or  
20 participation in a regular or special education program inexpedient or  
21 impracticable; or

22 e.d. ~~The child is receiving~~ child's parent has filed with the child's school district of  
23 residence an annual statement of intent to supervise home education-

24 2. ~~A decision by the board of a school district under subsection 1 is appealable to the-~~  
25 ~~district court, as required by section 15.1-23-02.~~

26 **SECTION 4. AMENDMENT.** Section 15.1-22-02 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **15.1-22-02. Public School district kindergarten - Requirements.**

29 A school district operating a kindergarten shall:

- 1        1. ~~May not employ an individual~~Employ as a kindergarten teacher ~~unless the~~only an  
2            individual who is licensed to teach by the education standards and practices board or  
3            approved to teach by the education standards and practices board;
- 4        2. ~~Shall submit~~Submit to the superintendent of public instruction and follow a  
5            developmentally appropriate curriculum;
- 6        3. ~~Shall provide~~Provide kindergarten instruction, on a half-day or a full-day basis, as  
7            determined by the ~~school~~ board of the district;
- 8        4. ~~Shall provide~~Provide for a kindergarten instructional calendar equal to at least fifty  
9            percent of the full-time instructional days required in accordance with section  
10           15.1-06-04; and
- 11       5. ~~Shall apply~~Comply with all municipal and state health, fire, and safety requirements  
12           applicable to the kindergarten; ~~and~~
- 13       6. ~~May not enroll a child who is not five years old before August first of the year of~~  
14           ~~enrollment, unless the child will be five years old before December first and:~~
  - 15           a. ~~The child, by means of developmental and readiness screening instruments~~  
16              ~~approved by the superintendent of public instruction and administered by the~~  
17              ~~kindergarten operator, can demonstrate superior academic talents or abilities and~~  
18              ~~social and emotional readiness; or~~
  - 19           b. ~~The child has been enrolled in another approved kindergarten.~~

20        **SECTION 5.** A new section to chapter 15.1-22 of the North Dakota Century Code is created  
21 and enacted as follows:

22        **School district kindergarten - Age of admission.**

23        If a child reaches the age of five on or before June thirtieth, that child may be enrolled in  
24 and attend a school district kindergarten in accordance with the school calendar for the school  
25 year beginning July first.

26        **SECTION 6.** A new section to chapter 15.1-22 of the North Dakota Century Code is created  
27 and enacted as follows:

28        **School district kindergarten - Readiness testing.**

- 29        1. A child who has not met the age requirement set forth in section 5 of this Act must be  
30           permitted to enroll in and attend a school district kindergarten, provided the child has  
31           demonstrated cognitive and developmental readiness through an assessment and

- 1           evaluation process approved by the superintendent of public instruction and  
2           administered by the school district.
- 3        2. The assessment and evaluation process must be requested by the child's parent.
- 4        3. The cost of the assessment and evaluation process is the responsibility of the school  
5           district.
- 6        4. For purposes of this section, a child may be assessed and evaluated only once during  
7           a school year.
- 8        5. A determination by the school district regarding the child's readiness for kindergarten  
9           is not appealable.

10        **SECTION 7. AMENDMENT.** Section 15.1-22-03 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12        **15.1-22-03. Nonpublic kindergarten - Requirements - Approval.**

13        Any person operating a nonpublic kindergarten may request approval of the kindergarten  
14 from the superintendent of public instruction. The superintendent shall approve a nonpublic  
15 kindergarten if it meets:

- 16        1. Meets the requirements established for a school district kindergarten in section  
17           15.1-22-02; and
- 18        2. Provides for the enrollment of a child who has not yet met the age requirement set  
19           forth in section 5 of this Act, if the child demonstrates cognitive and developmental  
20           readiness through an assessment and evaluation process approved by the  
21           superintendent of public instruction.

22        **SECTION 8. AMENDMENT.** Section 15.1-32-01 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24        **15.1-32-01. Definitions.**

25        As used in this chapter:

- 26        1. "Related services" means transportation and developmental and corrective or  
27           supportive services required to assist a student with disabilities to benefit from special  
28           education;
- 29        2. "Special education" means instruction designed to meet the needs of a student with  
30           disabilities, transportation, and corrective and supporting services required to assist a

1 student with disabilities in taking advantage of, or responding to, educational programs  
2 and opportunities;

3 3. "Student who is gifted" means an individual who is identified by qualified professionals  
4 as being capable of high performance and who needs educational programs and  
5 services beyond those normally provided in a regular education program;

6 4. a. "Student with a disability" means:

7 a. Means an individual who is at least three years of age but who has not reached  
8 the age of twenty-one before September first of the year in which the individual  
9 turns twenty-one and who requires special education and related services  
10 because of:

11 (1) An intellectual disability;

12 (2) A hearing impairment, including deafness;

13 (3) Deaf-blindness;

14 (4) A speech or language impairment;

15 (5) A visual impairment, including blindness;

16 (6) An emotional disturbance;

17 (7) An orthopedic impairment;

18 (8) Autism;

19 (9) A traumatic brain injury;

20 (10) Other health impairment; or

21 (11) A specific learning disability; and

22 b. ~~"Student with a disability" includes~~Includes a student age eighteen through

23 twenty-one who is incarcerated in an adult correctional facility and who, in the

24 last educational placement prior to incarceration, was identified as being a

25 student with a disability and did not have an individualized education program or

26 was identified as being a student with a disability and had an individualized

27 education program.

28 **SECTION 9.** Section 15.1-32-05.1 of the North Dakota Century Code is created and

29 enacted as follows:

1        **15.1-32-05.1. Special education services - Provision after age twenty-one.**

2        Notwithstanding any other law, if a student with a disability reaches the age of twenty-one  
3 during a school calendar, the school district in which the student is enrolled, at the request of  
4 the student's multidisciplinary team, shall continue the provision of services until the conclusion  
5 of that school calendar.

6        **SECTION 10. AMENDMENT.** Section 15.1-34-01 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8        **15.1-34-01. Definitions.**

9        As used in this chapter:

- 10        1. "Boarding home care for a student with disabilities" means the provision of food,  
11        shelter, security, and safety, on a twenty-four-hour basis, to an individual who has  
12        reached the age of three years but who has not reached the age of twenty-one before  
13        ~~September first of the year in which the individual turns twenty-one~~ and who because  
14        of mental, physical, emotional, or learning characteristics requires regular or special  
15        education and related services designed to meet the individual's educational needs;  
16        2. "Department" means the department of human services;  
17        3. "Family boarding home" means a private residence at which boarding home care is  
18        regularly provided by the owner or lessee to no more than four students with  
19        disabilities. ~~The, except that the~~ limit of four students may be exceeded if all the  
20        students boarding at the home are related to each other by blood or marriage;  
21        4. "Registration" means the process by which the department maintains a record of all  
22        family boarding homes, prescribes standards and adopts rules under section  
23        15.1-34-14, and requires the operator of a home to certify that the operator has  
24        complied with the prescribed standards and adopted rules;  
25        5. "Registration certificate" means a document issued by the department to provide  
26        public notice that the certificate holder is in compliance with this chapter and the  
27        applicable rules and standards prescribed by the department; and  
28        6. "Relative" means a grandparent, brother, sister, stepparent, stepsister, stepbrother,  
29        uncle, or aunt of the student by marriage, blood, or adoption.

30        **SECTION 11.** Section 15.1-34-01.5 of the North Dakota Century Code is created and  
31 enacted as follows:

1        **15.1-34-01.5. Boarding home care for a student with disabilities - Provision of**  
2 **services after age twenty-one.**

3        Notwithstanding any other law, if a student with a disability reaches the age of twenty-one  
4 during a school calendar, the student, at the request of the student's multidisciplinary team, is  
5 entitled to receive boarding home care under this chapter until the conclusion of that school  
6 calendar.

7        **SECTION 12. REPEAL.** Section 15.1-20-01 of the North Dakota Century Code is repealed.