

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 803

Introduced by Stinner, 48.

Read first time January 04, 2018

Committee:

1 A BILL FOR AN ACT relating to children; to amend sections 79-728,
2 79-1101, and 79-1104, Reissue Revised Statutes of Nebraska, and
3 sections 71-1954, 71-1955, 71-1956, 71-1957, 71-1958, 71-1959,
4 71-1960, 71-1961, 71-1962, 71-1963, and 79-101, Revised Statutes
5 Cumulative Supplement, 2016; to amend the Step Up to Quality Child
6 Care Act; to redefine terms; to change school district requirements
7 for kindergarten; to change school district requirements for
8 prekindergarten programs and early childhood education programs; to
9 harmonize provisions; to repeal the original sections; and to
10 outright repeal section 79-212, Reissue Revised Statutes of
11 Nebraska.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-1954, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 71-1954 For purposes of the Step Up to Quality Child Care Act:

4 (1) Applicable ~~child care and early childhood education~~ programs
5 include:

6 (a) Child care programs licensed under the Child Care Licensing Act
7 which serve children from birth until enrollment in kindergarten ~~to~~
8 ~~kindergarten-entrance age~~;

9 (b) Prekindergarten services, ~~and~~ prekindergarten programs, and
10 early childhood education programs established pursuant to sections
11 79-1101 through section 79-1104; and

12 (c) The federal Head Start programs, 42 U.S.C. 9831 et seq., and
13 Early Head Start programs, 42 U.S.C. 9840a; and

14 (2) Fiscal year means the fiscal year of the State of Nebraska.

15 Sec. 2. Section 71-1955, Revised Statutes Cumulative Supplement,
16 2016, is amended to read:

17 71-1955 The State Department of Education and the Department of
18 Health and Human Services shall collaborate (1) to develop, implement,
19 and provide oversight for a quality rating and improvement system for
20 participating applicable ~~child care and early childhood education~~
21 programs, (2) to establish quality rating criteria for the system as
22 provided in sections 71-1956 and 71-1958, (3) to use the quality rating
23 criteria to assign quality scale ratings to participating applicable
24 ~~child care and early childhood education~~ programs as provided in sections
25 71-1956 and 71-1958, and (4) to provide incentives and support, including
26 professional development, training, and postsecondary education
27 opportunities, to participating applicable ~~child care and early childhood~~
28 ~~education~~ programs as provided in section 71-1961.

29 Sec. 3. Section 71-1956, Revised Statutes Cumulative Supplement,
30 2016, is amended to read:

31 71-1956 (1) Each applicable ~~child care and early childhood education~~

1 program which applies under section 71-1957 to participate in the quality
2 rating and improvement system developed pursuant to section 71-1955 shall
3 be rated on a quality scale using ratings labeled steps one through five
4 and based on quality rating criteria.

5 (2) Quality rating criteria shall be used to assign a quality scale
6 rating as appropriate for the specific step. The criteria shall include,
7 but not be limited to:

8 (a) Licensing requirements as specified in the Child Care Licensing
9 Act;

10 (b) Facility safety and management;

11 (c) Child development and school readiness outcomes;

12 (d) Program curriculum, learning environment, and adult-child
13 interactions;

14 (e) Professional development and training;

15 (f) Family engagement;

16 (g) Program administration;

17 (h) Standards used by nationally recognized accrediting bodies
18 approved by the State Department of Education; and

19 (i) Other standards as required by the State Department of Education
20 for ~~prekindergarten services and prekindergarten~~ programs established
21 pursuant to section 79-1104 and federal performance standards for Head
22 Start and Early Head Start programs.

23 Sec. 4. Section 71-1957, Revised Statutes Cumulative Supplement,
24 2016, is amended to read:

25 71-1957 Application to participate in the quality rating and
26 improvement system shall be voluntary for applicable ~~child care and early~~
27 ~~childhood education~~ programs with the following exceptions:

28 (1) Beginning July 1, 2014, and not later than December 31, 2014,
29 each applicable ~~child care or early childhood education~~ program that
30 received over five hundred thousand dollars in child care assistance
31 pursuant to section 68-1202 for FY2011-12 shall apply to participate in

1 the quality rating and improvement system and shall be assigned a quality
2 scale rating as provided in sections 71-1956 and 71-1958;

3 (2) Beginning July 1, 2015, and not later than December 31, 2015,
4 each applicable ~~child care or early childhood education~~ program that
5 received over two hundred fifty thousand dollars in child care assistance
6 pursuant to section 68-1202 for FY2011-12 shall apply to participate in
7 the quality rating and improvement system and shall be assigned a quality
8 scale rating as provided in sections 71-1956 and 71-1958; and

9 (3) Beginning July 1, 2016, each applicable ~~child care or early~~
10 ~~childhood education~~ program that received over two hundred fifty thousand
11 dollars in child care assistance pursuant to section 68-1202 in the
12 preceding fiscal year shall, not later than December 31 of the applicable
13 year or six months after actual receipt of such assistance, whichever is
14 later, apply to participate in the quality rating and improvement system
15 and shall be assigned a quality scale rating as provided in sections
16 71-1956 and 71-1958.

17 Sec. 5. Section 71-1958, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 71-1958 (1) Quality rating criteria shall be used as provided in
20 this section to assign a quality scale rating to each applicable ~~child~~
21 ~~care or early childhood education~~ program if the program applies under
22 section 71-1957 to participate in the quality rating and improvement
23 system developed pursuant to section 71-1955.

24 (2) Licensure under the Child Care Licensing Act for a program which
25 serves children from birth until enrollment in kindergarten ~~to~~
26 ~~kindergarten-entrance age~~ shall be sufficient criteria to be rated at
27 step one.

28 (3) Meeting criteria established by the State Department of
29 Education for a ~~prekindergarten service or prekindergarten~~ program
30 established pursuant to section 79-1104 and reporting to the Nebraska
31 Early Childhood Professional Record System created under section 71-1962

1 shall be sufficient criteria to be rated at step three.

2 (4) Meeting performance standards required by the federal government
3 for a federal Head Start program or Early Head Start program and
4 reporting to the Nebraska Early Childhood Professional Record System
5 created under section 71-1962 shall be sufficient criteria to be rated at
6 step three.

7 (5) Accreditation by a nationally recognized accrediting body
8 approved by the State Department of Education and reporting to the
9 Nebraska Early Childhood Professional Record System created under section
10 71-1962 shall be sufficient criteria to be rated at step three.

11 (6) A participating applicable ~~child care or early childhood~~
12 ~~education~~ program operating under a provisional license shall have a
13 quality scale rating at step one even if it meets other quality rating
14 criteria. If a participating applicable ~~child care or early childhood~~
15 ~~education~~ program is at a quality scale rating higher than step one and
16 the program's license is placed on disciplinary limitation, probation, or
17 suspension, such program shall have its quality scale rating changed to
18 step one. If an applicable ~~child care or early childhood education~~
19 program's license is revoked, the program is not eligible to participate
20 in or receive a quality scale rating under the quality rating and
21 improvement system until the program has an operating license which is in
22 full force and effect.

23 Sec. 6. Section 71-1959, Revised Statutes Cumulative Supplement,
24 2016, is amended to read:

25 71-1959 (1) An applicable ~~child care or early childhood education~~
26 program participating in the quality rating and improvement system
27 developed pursuant to section 71-1955 may apply no more than once each
28 fiscal year to have its quality scale rating reviewed.

29 (2) A participant shall meet all of the quality rating criteria for
30 a step-two rating prior to applying for a step-three, step-four, or step-
31 five rating. To meet quality rating criteria for a step-three, step-four,

1 or step-five rating, a participant shall be independently evaluated based
2 upon the quality rating criteria.

3 (3) A participant with a quality scale rating at step two through
4 step four shall be reevaluated at least once every two fiscal years but
5 no more than once in any fiscal year, including any review pursuant to
6 subsection (1) of this section. A participant with a quality scale rating
7 at step five shall be reevaluated at least once every five years but no
8 more than once in any fiscal year. If a participant has achieved
9 accreditation and is being reevaluated by a nationally recognized
10 accrediting body approved by the State Department of Education, the state
11 shall make reasonable efforts to conduct its reevaluation in the same
12 fiscal year that the accrediting body is reevaluating the program.

13 Sec. 7. Section 71-1960, Revised Statutes Cumulative Supplement,
14 2016, is amended to read:

15 71-1960 The Department of Health and Human Services may deny the
16 issuance of or take disciplinary action against a license issued under
17 the Child Care Licensing Act to a participating applicable ~~child care or~~
18 ~~early childhood education~~ program for failure to comply with the Step Up
19 to Quality Child Care Act.

20 Sec. 8. Section 71-1961, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 71-1961 Quality rating and improvement system incentives and support
23 under the Step Up to Quality Child Care Act shall include, but not be
24 limited to:

25 (1) Tiered child care subsidy reimbursements as provided in section
26 68-1206 based upon quality scale ratings of step three or higher that
27 reflect the cost of higher quality programs and promote affordability of
28 high-quality ~~child care and early childhood education~~ programs for all
29 families;

30 (2) Incentive bonuses given to providers of ~~child care and early~~
31 ~~childhood education~~ programs upon completion of specific requirements of

1 step two ratings or higher to improve quality based upon the quality
2 rating criteria established pursuant to sections 71-1956 and 71-1958;

3 (3) Professional development, training, and scholarships developed
4 in collaboration with community-based organizations, postsecondary
5 education representatives, and other stakeholders;

6 (4) Support that expands family engagement in and understanding of
7 high-quality early childhood education in ways that are inclusive and
8 respectful of diversity of families and children with special needs; and

9 (5) Other incentives as necessary to carry out the Step Up to
10 Quality Child Care Act.

11 Sec. 9. Section 71-1962, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 71-1962 (1) Not later than March 1, 2014, the State Department of
14 Education shall create and operate the Nebraska Early Childhood
15 Professional Record System. The system shall be designed in order to:

16 (a) Establish a data base of Nebraska's early childhood education
17 workforce;

18 (b) Verify educational degrees and professional credentials held and
19 relevant training completed by employees of participating applicable
20 ~~child care and early childhood education~~ programs; and

21 (c) Provide such information to the Department of Health and Human
22 Services for use in evaluating applications to be rated at a step above
23 step one under section 71-1959.

24 (2) When an applicable ~~child care or early childhood education~~
25 program participating in the quality rating and improvement system
26 developed pursuant to section 71-1955 applies under section 71-1959 to be
27 rated at a step above step one, the ~~child care or early childhood~~
28 ~~education~~ program shall report the educational degrees and professional
29 credentials held and relevant training completed by its child care and
30 early childhood education employees to the Nebraska Early Childhood
31 Professional Record System for the program to be eligible for a quality

1 scale rating above step one.

2 (3) Any child care or early childhood education provider residing or
3 working in Nebraska may report his or her educational degrees and
4 professional credentials held, relevant training completed, and work
5 history to the Nebraska Early Childhood Professional Record System.

6 (4) The State Department of Education shall develop a classification
7 system for all employees of applicable ~~child care and early childhood~~
8 ~~education~~ programs listed in the Nebraska Early Childhood Professional
9 Record System. The classification system shall be based on the employees'
10 educational degrees and professional credentials held, relevant training
11 completed, and work history and shall be made up of four levels, with
12 level one being the least qualified and level four being the most
13 qualified. The minimum qualification for an employee to be classified as
14 level one shall be a Child Development Associate Credential or a one-year
15 certificate or diploma in early childhood education or child development.
16 The classification system shall be used for purposes of the tax credit
17 granted in section 77-3605.

18 Sec. 10. Section 71-1963, Revised Statutes Cumulative Supplement,
19 2016, is amended to read:

20 71-1963 By July 1, 2017, the Department of Health and Human Services
21 in collaboration with the State Department of Education shall make the
22 quality scale ratings of participating applicable ~~child care and early~~
23 ~~childhood education~~ programs under the quality rating and improvement
24 system developed pursuant to section 71-1955 available on a publicly
25 accessible web site to provide parents a tool by which to evaluate the
26 quality of ~~child care and early childhood education~~ programs and to
27 promote accountability for public funding of such programs.

28 Sec. 11. Section 79-101, Revised Statutes Cumulative Supplement,
29 2016, is amended to read:

30 79-101 For purposes of Chapter 79:

31 (1) School district means the territory under the jurisdiction of a

1 single school board authorized by Chapter 79;

2 (2) School means a school under the jurisdiction of a school board
3 authorized by Chapter 79;

4 (3) Legal voter means a registered voter as defined in section
5 32-115 who is domiciled in a precinct or ward in which he or she is
6 registered to vote and which precinct or ward lies in whole or in part
7 within the boundaries of a school district for which the registered voter
8 chooses to exercise his or her right to vote at a school district
9 election or at an annual or special meeting of a Class I school district;

10 (4) Prekindergarten programs means all programs other than early
11 childhood education programs provided for children who have not been
12 enrolled as reached the age of five by the date provided in section
13 79-214 for kindergarten-entrance;

14 (5) Elementary grades means grades kindergarten through eight,
15 inclusive;

16 (6) High school grades means all grades above the eighth grade;

17 (7) School year means (a) for elementary grades—~~other than~~
18 ~~kindergarten~~, the time equivalent to at least one thousand thirty-two
19 instructional hours and (b) for high school grades, the time equivalent
20 to at least one thousand eighty instructional hours;

21 (8) Instructional hour means a period of time, at least sixty
22 minutes, which is actually used for the instruction of students;

23 (9) Teacher means any certified employee who is regularly employed
24 for the instruction of pupils in the public schools;

25 (10) Administrator means any certified employee such as
26 superintendent, assistant superintendent, principal, assistant principal,
27 school nurse, or other supervisory or administrative personnel who do not
28 have as a primary duty the instruction of pupils in the public schools;

29 (11) School board means the governing body of any school district.
30 Board of education has the same meaning as school board;

31 (12) Teach means and includes, but is not limited to, the following

1 responsibilities: (a) The organization and management of the classroom or
2 the physical area in which the learning experiences of pupils take place;
3 (b) the assessment and diagnosis of the individual educational needs of
4 the pupils; (c) the planning, selecting, organizing, prescribing, and
5 directing of the learning experiences of pupils; (d) the planning of
6 teaching strategies and the selection of available materials and
7 equipment to be used; and (e) the evaluation and reporting of student
8 progress;

9 (13) Permanent school fund means the fund described in section
10 79-1035.01;

11 (14) Temporary school fund means the fund described in section
12 79-1035.02;

13 (15) School lands means the lands described in section 79-1035.03.
14 Educational lands has the same meaning as school lands;

15 (16) Community eligibility provision means the alternative to
16 household applications for free and reduced-price meals in high-poverty
17 schools enacted in section 104(a) of the federal Healthy, Hunger-Free
18 Kids Act of 2010, section 11(a)(1) of the Richard B. Russell National
19 School Lunch Act, 42 U.S.C. 1759a(a)(1), as such act and section existed
20 on January 1, 2015, and administered by the United States Department of
21 Agriculture; and

22 (17) Certificate, certificated, or certified, when referring to an
23 individual holding a certificate to teach, administer, or provide special
24 services, also includes an individual who holds a permit issued by the
25 Commissioner of Education pursuant to sections 79-806 to 79-815.

26 The State Board of Education may adopt and promulgate rules and
27 regulations to define school day and other appropriate units of the
28 school calendar.

29 Sec. 12. Section 79-728, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 79-728 All ~~Class I, II, III, IV, and V~~ school districts shall offer

1 a kindergarten program, and beginning with the 2019-20 school year, all
2 school districts shall offer the same minimum hours of instruction in
3 kindergarten as all other elementary grades.

4 Sec. 13. Section 79-1101, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 79-1101 (1) The Legislature finds and declares that: (a) Early
7 childhood education programs can assist children in achieving their
8 potential as citizens, workers, and human beings and can strengthen
9 families; (b) early childhood education has been proven to be a sound
10 public investment of funds not only in assuring productive, taxpaying
11 workers in the economy but also in avoidance of increasingly expensive
12 social costs for those who drop out as productive members of society; (c)
13 the key ingredient in an effective early childhood education program is a
14 strong family development and support component because the role of the
15 parent is of critical importance; (d) while all children can benefit from
16 quality, developmentally appropriate early childhood education
17 experiences, such experiences are especially important for at-risk
18 infants and children; (e) current early childhood education programs
19 serve only a fraction of Nebraska's children and the quality of current
20 programs varies widely; (f) well-designed early childhood education
21 programs increase the likelihood that children who participate will enter
22 school prepared to achieve high standards; (g) effective early childhood
23 education programs require staff with knowledge about child growth,
24 development, and learning and family systems; and (h) both public and
25 nonpublic programs which meet recognized standards of quality can address
26 the growth, development, and learning needs of young children.

27 (2)(a) It is the intent of the Legislature and the public policy of
28 this state to encourage schools and community-based organizations to work
29 together to provide high-quality early childhood education programs for
30 infants and young children which include family involvement, with the
31 goal of assuring that every family in Nebraska has access to such

1 programs for, at the minimum, the school year prior to the school year
2 for which the child will be eligible to attend kindergarten. The purposes
3 of sections 79-1101 to 79-1104.05 are to provide state assistance to
4 selected school districts, cooperatives of school districts, and
5 educational service units for early childhood education, to encourage
6 coordination between public and private service providers of early
7 childhood education and child care programs, and to provide state support
8 for efforts to improve training opportunities for staff in such programs.

9 (b) It is the further intent of the Legislature that any additional
10 funds appropriated on or after January 1, 2014, for FY2014-15 for early
11 childhood education grants pursuant to section 79-1103 be used to assist
12 schools and community-based organizations in working together to expand
13 the access to such high-quality early childhood education programs for
14 children for the school year prior to the school year for which the child
15 will be eligible to attend kindergarten and that the unobligated balance
16 of any such funds be reappropriated for such purpose for FY2015-16 and
17 FY2016-17.

18 (3) For purposes of sections 79-1101 to 79-1104.05:

19 (a) Board of trustees means the Early Childhood Education Endowment
20 Board of Trustees;

21 (b) Early childhood education program means any prekindergarten
22 part-day or full-day program or in-home family support program with a
23 stated purpose of promoting social, emotional, intellectual, language,
24 physical, and aesthetic development and learning for children from birth
25 until enrollment in kindergarten ~~to kindergarten-entrance age~~ and family
26 development and support;

27 (c) Endowment agreement means an agreement between the State
28 Department of Education and an endowment provider entered into pursuant
29 to section 79-1104.01; and

30 (d) Endowment provider means an endowment that has met the criteria
31 described in section 79-1104.01 and that has entered into an endowment

1 agreement.

2 Sec. 14. Section 79-1104, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 79-1104 (1) Any school board in its discretion may (a) establish and
5 financially support programs providing before-and-after-school or
6 prekindergarten services, to which attendance shall be voluntary and
7 which the board may deem beneficial to the education of prekindergarten
8 or school-age children and (b) provide or financially support
9 transportation for children to, from, or to and from programs as defined
10 in section 71-1910. The board may charge a fee, not to exceed the actual
11 cost, for providing such programs and services but may waive such fee on
12 the basis of need. This section does not allow any school district to
13 fail to meet its responsibilities under the Special Education Act.

14 (2) Prekindergarten programs and early childhood education programs
15 established by school boards or educational service units shall be
16 approved by the State Department of Education. ~~The subject to regulations~~
17 ~~adopted and promulgated by the State Board of Education and may adopt and~~
18 promulgate rules and regulations for such programs that include such
19 components as (a) the qualifications and utilization of ~~appropriately~~
20 ~~qualified~~ staff, (b) an appropriate child-to-staff ratio, (c) appropriate
21 group size, (d) compliance with minimum health and safety standards, (e)
22 appropriate facility size and equipment, (f) a strong family development
23 and support component, (g) developmentally and culturally appropriate
24 curriculum, practices, and assessment, (h) well-defined language
25 development and early literacy emphasis, and (i) a plan for ongoing
26 professional development of staff, all in accordance with sound early
27 childhood educational practice, research, and evaluation. ~~All teachers~~
28 ~~and administrators in prekindergarten programs established pursuant to~~
29 ~~this section shall hold a valid certificate or permit issued pursuant to~~
30 ~~sections 79-806 to 79-815. The State Board of Education shall adopt and~~
31 ~~promulgate rules and regulations for the issuance of such permits or~~

1 ~~certificates required by this section.~~

2 Sec. 15. Original sections 79-728, 79-1101, and 79-1104, Reissue
3 Revised Statutes of Nebraska, and sections 71-1954, 71-1955, 71-1956,
4 71-1957, 71-1958, 71-1959, 71-1960, 71-1961, 71-1962, 71-1963, and
5 79-101, Revised Statutes Cumulative Supplement, 2016, are repealed.

6 Sec. 16. The following section is outright repealed: Section
7 79-212, Reissue Revised Statutes of Nebraska.