

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED THIRD LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 507**

Final Reading

Introduced by Campbell, 25; Conrad, 46; Mello, 5; Bolz, 29;  
 Nordquist, 7; Cook, 13.

Read first time January 23, 2013

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to children; to amend sections 68-1206 and  
 2 71-1919, Reissue Revised Statutes of Nebraska, and  
 3 section 43-536, Revised Statutes Cumulative Supplement,  
 4 2012; to adopt the Step Up to Quality Child Care Act; to  
 5 change provisions relating to reimbursement rates for  
 6 child care, child care assistance, and grounds for  
 7 discipline of a license under the Child Care Licensing  
 8 Act; to harmonize provisions; to provide operative dates;  
 9 to repeal the original sections; and to declare an  
 10 emergency.

11 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 13 of this act shall be known  
2 and may be cited as the Step Up to Quality Child Care Act.

3           Sec. 2. The purposes of the Step Up to Quality Child Care  
4 Act are to (1) provide accountability for public funds invested in  
5 child care and early childhood education programs, (2) provide a path  
6 to higher quality for child care and early childhood education  
7 programs, (3) provide parents a tool by which to evaluate the quality  
8 of child care and early childhood education programs, and (4) improve  
9 child development and school readiness outcomes.

10           Sec. 3. For purposes of the Step Up to Quality Child Care  
11 Act:

12           (1) Applicable child care and early childhood education  
13 programs include:

14           (a) Child care programs licensed under the Child Care  
15 Licensing Act which serve children from birth to kindergarten-  
16 entrance age;

17           (b) Prekindergarten services and prekindergarten programs  
18 established pursuant to section 79-1104; and

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

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

23           Sec. 4. The State Department of Education and the  
24 Department of Health and Human Services shall collaborate (1) to  
25 develop, implement, and provide oversight for a quality rating and

1 improvement system for participating applicable child care and early  
2 childhood education programs, (2) to establish quality rating  
3 criteria for the system as provided in sections 5 and 7 of this act,  
4 (3) to use the quality rating criteria to assign quality scale  
5 ratings to participating applicable child care and early childhood  
6 education programs as provided in sections 5 and 7 of this act, and  
7 (4) to provide incentives and support, including professional  
8 development, training, and postsecondary education opportunities, to  
9 participating applicable child care and early childhood education  
10 programs as provided in section 10 of this act.

11           Sec. 5. (1) Each applicable child care and early  
12 childhood education program which applies under section 6 of this act  
13 to participate in the quality rating and improvement system developed  
14 pursuant to section 4 of this act shall be rated on a quality scale  
15 using ratings labeled steps one through five and based on quality  
16 rating criteria.

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

20           (a) Licensing requirements as specified in the Child Care  
21 Licensing Act;

22           (b) Facility safety and management;

23           (c) Child development and school readiness outcomes;

24           (d) Program curriculum, learning environment, and adult-  
25 child interactions;

- 1           (e) Professional development and training;  
2           (f) Family engagement;  
3           (g) Program administration;  
4           (h) Standards used by nationally recognized accrediting  
5 bodies approved by the State Department of Education; and  
6           (i) Other standards as required by the State Department  
7 of Education for prekindergarten services and prekindergarten  
8 programs established pursuant to section 79-1104 and federal  
9 performance standards for Head Start and Early Head Start programs.

10           Sec. 6. Application to participate in the quality rating  
11 and improvement system shall be voluntary for applicable child care  
12 and early childhood education programs with the following exceptions:

13           (1) Beginning July 1, 2014, and not later than December  
14 31, 2014, each applicable child care or early childhood education  
15 program that received over five hundred thousand dollars in child  
16 care assistance pursuant to section 68-1202 for FY2011-12 shall apply  
17 to participate in the quality rating and improvement system and shall  
18 be assigned a quality scale rating as provided in sections 5 and 7 of  
19 this act;

20           (2) Beginning July 1, 2015, and not later than December  
21 31, 2015, each applicable child care or early childhood education  
22 program that received over two hundred fifty thousand dollars in  
23 child care assistance pursuant to section 68-1202 for FY2011-12 shall  
24 apply to participate in the quality rating and improvement system and  
25 shall be assigned a quality scale rating as provided in sections 5

1 and 7 of this act; and

2 (3) Beginning July 1, 2016, each applicable child care or  
3 early childhood education program that received over two hundred  
4 fifty thousand dollars in child care assistance pursuant to section  
5 68-1202 in the preceding fiscal year shall, not later than December  
6 31 of the applicable year or six months after actual receipt of such  
7 assistance, whichever is later, apply to participate in the quality  
8 rating and improvement system and shall be assigned a quality scale  
9 rating as provided in sections 5 and 7 of this act.

10 Sec. 7. (1) Quality rating criteria shall be used as  
11 provided in this section to assign a quality scale rating to each  
12 applicable child care or early childhood education program if the  
13 program applies under section 6 of this act to participate in the  
14 quality rating and improvement system developed pursuant to section 4  
15 of this act.

16 (2) Licensure under the Child Care Licensing Act for a  
17 program which serves children from birth to kindergarten-entrance age  
18 shall be sufficient criteria to be rated at step one.

19 (3) Meeting criteria established by the State Department  
20 of Education for a prekindergarten service or prekindergarten program  
21 established pursuant to section 79-1104 and reporting to the Nebraska  
22 Early Childhood Professional Record System created under section 11  
23 of this act shall be sufficient criteria to be rated at step three.

24 (4) Meeting performance standards required by the federal  
25 government for a federal Head Start program or Early Head Start

1 program and reporting to the Nebraska Early Childhood Professional  
2 Record System created under section 11 of this act shall be  
3 sufficient criteria to be rated at step three.

4 (5) Accreditation by a nationally recognized accrediting  
5 body approved by the State Department of Education and reporting to  
6 the Nebraska Early Childhood Professional Record System created under  
7 section 11 of this act shall be sufficient criteria to be rated at  
8 step three.

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

22 Sec. 8. (1) An applicable child care or early childhood  
23 education program participating in the quality rating and improvement  
24 system developed pursuant to section 4 of this act may apply no more  
25 than once each fiscal year to have its quality scale rating reviewed.

1           (2) A participant shall meet all of the quality rating  
2 criteria for a step-two rating prior to applying for a step-three,  
3 step-four, or step-five rating. To meet quality rating criteria for a  
4 step-three, step-four, or step-five rating, a participant shall be  
5 independently evaluated based upon the quality rating criteria.

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

17           Sec. 9. The Department of Health and Human Services may  
18 deny the issuance of or take disciplinary action against a license  
19 issued under the Child Care Licensing Act to a participating  
20 applicable child care or early childhood education program for  
21 failure to comply with the Step Up to Quality Child Care Act.

22           Sec. 10. Quality rating and improvement system incentives  
23 and support under the Step Up to Quality Child Care Act shall  
24 include, but not be limited to:

25           (1) Tiered child care subsidy reimbursements as provided

1 in section 68-1206 based upon quality scale ratings of step three or  
2 higher that reflect the cost of higher quality programs and promote  
3 affordability of high-quality child care and early childhood  
4 education programs for all families;

5 (2) Incentive bonuses given to providers of child care  
6 and early childhood education programs upon completion of specific  
7 requirements of step two ratings or higher to improve quality based  
8 upon the quality rating criteria established pursuant to sections 5  
9 and 7 of this act;

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

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

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

19 Sec. 11. (1) Not later than March 1, 2014, the State  
20 Department of Education shall create and operate the Nebraska Early  
21 Childhood Professional Record System. The system shall be designed in  
22 order to:

23 (a) Establish a data base of Nebraska's early childhood  
24 education workforce;

25 (b) Verify educational degrees and professional

1 credentials held and relevant training completed by employees of  
2 participating applicable child care and early childhood education  
3 programs; and

4 (c) Provide such information to the Department of Health  
5 and Human Services for use in evaluating applications to be rated at  
6 a step above step one under section 8 of this act.

7 (2) When an applicable child care or early childhood  
8 education program participating in the quality rating and improvement  
9 system developed pursuant to section 4 of this act applies under  
10 section 8 of this act to be rated at a step above step one, the child  
11 care or early childhood education program shall report the  
12 educational degrees and professional credentials held and relevant  
13 training completed by its child care and early childhood education  
14 employees to the Nebraska Early Childhood Professional Record System  
15 for the program to be eligible for a quality scale rating above step  
16 one.

17 Sec. 12. By July 1, 2017, the Department of Health and  
18 Human Services in collaboration with the State Department of  
19 Education shall make the quality scale ratings of participating  
20 applicable child care and early childhood education programs under  
21 the quality rating and improvement system developed pursuant to  
22 section 4 of this act available on a publicly accessible web site to  
23 provide parents a tool by which to evaluate the quality of child care  
24 and early childhood education programs and to promote accountability  
25 for public funding of such programs.

1           Sec. 13. The State Department of Education and the  
2 Department of Health and Human Services may adopt and promulgate  
3 rules and regulations to carry out the Step Up to Quality Child Care  
4 Act.

5           Sec. 14. Section 43-536, Revised Statutes Cumulative  
6 Supplement, 2012, is amended to read:

7           43-536 In determining the rate of reimbursement for child  
8 care, the Department of Health and Human Services shall conduct a  
9 market rate survey of the child care providers in the state. The  
10 department shall adjust the reimbursement rate for child care every  
11 odd-numbered year at a rate not less than the sixtieth percentile and  
12 not to exceed the seventy-fifth percentile of the current market rate  
13 survey, except that (1) nationally accredited child care providers  
14 may be reimbursed at higher rates and (2) ~~for the two fiscal years~~  
15 ~~beginning July 1, 2011, such rate may not be less than the fiftieth~~  
16 ~~percentile or the rate for the immediately preceding fiscal year.~~ an  
17 applicable child care or early childhood education program, as  
18 defined in section 3 of this act, that is participating in the  
19 quality rating and improvement system and has received a rating of  
20 step three or higher under the Step Up to Quality Child Care Act may  
21 be reimbursed at higher rates based upon the program's quality scale  
22 rating under the quality rating and improvement system.

23           Sec. 15. Section 68-1206, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           68-1206 (1) The Department of Health and Human Services

1 shall administer the program of social services in this state. The  
2 department may contract with other social agencies for the purchase  
3 of social services at rates not to exceed those prevailing in the  
4 state or the cost at which the department could provide those  
5 services. The statutory maximum payments for the separate program of  
6 aid to dependent children shall apply only to public assistance  
7 grants and shall not apply to payments for social services. As part  
8 of the provision of social services authorized by section 68-1202,  
9 the department shall participate in the federal child care assistance  
10 program under 42 U.S.C. 618, as such section existed on January 1,  
11 2013, and provide child care assistance to families with incomes up  
12 to one hundred twenty-five percent of the federal poverty level for  
13 FY2013-14 and one hundred thirty percent of the federal poverty level  
14 for FY2014-15 and each fiscal year thereafter.

15 (2) In determining the rate or rates to be paid by the  
16 department for child care as defined in section 43-2605, the  
17 department shall adopt a fixed-rate schedule for the state or a  
18 fixed-rate schedule for an area of the state applicable to each child  
19 care program category of provider as defined in section 71-1910 which  
20 may claim reimbursement for services provided by the federal Child  
21 Care Subsidy program, except that the department shall not pay a rate  
22 higher than that charged by an individual provider to that provider's  
23 private clients. The schedule may provide separate rates for care for  
24 infants, for children with special needs, including disabilities or  
25 technological dependence, or for other individual categories of

1 children. The schedule may also provide tiered rates based upon a  
2 quality scale rating of step three or higher under the Step Up to  
3 Quality Child Care Act. The schedule shall be effective on October 1  
4 of every year and shall be revised annually by the department.

5           Sec. 16. Section 71-1919, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-1919 The department may deny the issuance of or take  
8 disciplinary action against a license issued under the Child Care  
9 Licensing Act on any of the following grounds:

10           (1) Failure to meet or violation of any of the  
11 requirements of the Child Care Licensing Act or the rules and  
12 regulations adopted and promulgated under the act;

13           (2) Violation of an order of the department under the  
14 act;

15           (3) Conviction of, or substantial evidence of committing  
16 or permitting, aiding, or abetting another to commit, any unlawful  
17 act, including, but not limited to, unlawful acts committed by an  
18 applicant or licensee under the act, household members who reside at  
19 the place where the program is provided, or employees of the  
20 applicant or licensee that involve:

21           (a) Physical abuse of children or vulnerable adults as  
22 defined in section 28-371;

23           (b) Endangerment or neglect of children or vulnerable  
24 adults;

25           (c) Sexual abuse, sexual assault, or sexual misconduct;

- 1 (d) Homicide;
- 2 (e) Use, possession, manufacturing, or distribution of a  
3 controlled substance listed in section 28-405;
- 4 (f) Property crimes, including, but not limited to,  
5 fraud, embezzlement, and theft by deception; and
- 6 (g) Use of a weapon in the commission of an unlawful act;
- 7 (4) Conduct or practices detrimental to the health or  
8 safety of a person served by or employed at the program;
- 9 (5) Failure to allow an agent or employee of the  
10 department access to the program for the purposes of inspection,  
11 investigation, or other information collection activities necessary  
12 to carry out the duties of the department;
- 13 (6) Failure to allow state or local inspectors,  
14 investigators, or law enforcement officers access to the program for  
15 the purposes of investigation necessary to carry out their duties;
- 16 (7) Failure to meet requirements relating to sanitation,  
17 fire safety, and building codes;
- 18 (8) Failure to comply with or violation of the Medication  
19 Aide Act;
- 20 (9) Failure to file a report of suspected abuse or  
21 neglect as required by sections 28-372 and 28-711;
- 22 (10) Violation of any city, village, or county rules,  
23 regulations, or ordinances regulating licensees; ~~or~~
- 24 (11) Failure to pay fees required under the Child Care  
25 Licensing Act; or -

1                   (12) Failure to comply with the Step Up to Quality Child  
2 Care Act.

3                   Sec. 17. Sections 15, 17, 18, and 20 of this act become  
4 operative on their effective date. The other sections of this act  
5 become operative three calendar months after the adjournment of this  
6 legislative session.

7                   Sec. 18. Original section 68-1206, Reissue Revised  
8 Statutes of Nebraska, is repealed.

9                   Sec. 19. Original section 71-1919, Reissue Revised  
10 Statutes of Nebraska, and section 43-536, Revised Statutes Cumulative  
11 Supplement, 2012, are repealed.

12                   Sec. 20. Since an emergency exists, this act takes effect  
13 when passed and approved according to law.