

1 SENATE BILL 58

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Michael Padilla

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10 AN ACT

11 RELATING TO EARLY CHILDHOOD; ENACTING THE CHILD CARE FACILITY
12 LICENSING ACT; PROVIDING DUTIES AND POWERS TO THE EARLY
13 CHILDHOOD EDUCATION AND CARE DEPARTMENT; PROHIBITING A CHILD
14 CARE FACILITY FROM OPERATING WITHOUT A DEPARTMENT-ISSUED
15 LICENSE; ALLOWING LICENSE-EXEMPT CHILD CARE FACILITIES TO
16 REGISTER WITH THE DEPARTMENT; PROVIDING FOR REVOCATION OR
17 SUSPENSION OF LICENSES, SANCTIONS AND PENALTIES FOR FACILITIES
18 THAT ARE NOT IN COMPLIANCE; EXEMPTING PROCUREMENT BY THE EARLY
19 CHILDHOOD EDUCATION AND CARE DEPARTMENT OF CHILD CARE FOR
20 FAMILIES ELIGIBLE FOR CHILD CARE ASSISTANCE; AMENDING SECTIONS
21 OF THE PRE-KINDERGARTEN ACT; ADDING APPLICATION REQUIREMENTS
22 AND PRIORITIES FOR EARLY PRE-KINDERGARTEN AND PRE-KINDERGARTEN
23 PROGRAM SERVICES SOLICITED BY THE EARLY CHILDHOOD EDUCATION AND
24 CARE DEPARTMENT; UPDATING DEFINITIONS AND REFERENCES IN THE
25 EARLY CHILDHOOD CARE ACCOUNTABILITY ACT.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Child Care Facility Licensing Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the Child Care Facility Licensing Act:

A. "child" means a person who is less than eighteen years of age;

B. "child care" means the provision of care and supervision for less than twenty-four hours a day to nonresident children;

C. "child care facility" means a person or publicly or privately funded program that provides child care in the state to more than four nonresident children;

D. "department" means the early childhood education and care department;

E. "license-exempt child care facility" means a person that provides child care in the person's residence to four or fewer nonresident children and who is exempt from child care licensing requirements pursuant to the Children's Code; and

F. "licensee" means a child care facility that is licensed by the department or a license-exempt child care facility that is registered with the department.

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1 SECTION 3. [NEW MATERIAL] DEPARTMENT POWERS AND

2 DUTIES.--The department may make inspections and investigations
3 of child care facilities and license-exempt child care
4 facilities that register with the department pursuant to the
5 Child Care Facility Licensing Act. The department shall
6 promulgate rules necessary to administer the provisions of the
7 Child Care Facility Licensing Act and to promote the health,
8 safety, welfare, education and development of children in child
9 care facilities, including rules that specify:

- 10 A. criteria for a license, license renewal and
11 registration;
- 12 B. requirements for a facility to pass an
13 inspection;
- 14 C. criteria for granting a waiver or variance to
15 facilities that are not in compliance;
- 16 D. adjudicatory hearing rules and procedures; and
- 17 E. criteria for imposition of any intermediate
18 sanction, civil monetary penalty or order pursuant to the Child
19 Care Facility Licensing Act. The criteria shall provide for
20 more severe sanctions for a violation that results in any abuse
21 or neglect of a child or violations that place children at
22 substantial risk of serious physical or mental harm.

23 SECTION 4. [NEW MATERIAL] LICENSURE--CHILD CARE
24 FACILITY--RENEWAL--COMPLAINTS.--

- 25 A. A child care facility shall not be operated

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1 without a license issued by the department. If a child care
2 facility is found to be operating without a license, in order
3 to protect human health or safety, the department may issue a
4 cease-and-desist order. A child care facility that receives a
5 cease-and-desist order may request from the department a
6 hearing that shall be held in the manner provided in Section 5
7 of the Child Care Facility Licensing Act.

8 B. A license-exempt child care facility may elect
9 to register with the department. Upon department approval and
10 for the purposes of this section, registration shall be treated
11 as a license. A license-exempt child care facility that
12 registers pursuant to this subsection may enroll to participate
13 in the United States department of agriculture child and adult
14 care food program administered by the department and receive
15 child care assistance.

16 C. Upon written application for a license to
17 operate a child care facility or for registration by a license-
18 exempt child care facility, the department shall promptly
19 inspect the facility to determine if it is in compliance with
20 the law and all rules of the department.

21 D. Upon inspection of a child care facility or a
22 license-exempt child care facility, if the department finds a
23 violation of its rules or the Child Care Facility Licensing
24 Act, the department may deny the application for licensure or
25 registration, whether initial or renewal, or, for a child care

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1 facility, it may issue a temporary license. A temporary
2 license shall not be issued for a period exceeding one hundred
3 twenty days, nor shall more than two consecutive temporary
4 licenses be issued to the same child care facility.

5 E. A three-year nontransferable license shall be
6 issued to a child care facility complying with all rules of the
7 department, and a three-year registration shall be issued to a
8 license-exempt child care facility complying with all rules of
9 the department. Licenses shall be posted in a conspicuous
10 place on the licensed premises.

11 F. Upon filing of a renewal application, the
12 license or registration shall be renewable for a successive
13 three-year period if the department is satisfied that the child
14 care facility or license-exempt child care facility is in
15 compliance with all rules of the department or, if not in
16 compliance with a rule, has been granted a waiver or variance
17 of that rule by the department pursuant to procedures,
18 conditions and guidelines adopted by rule of the department.

19 G. The department may charge a child care facility
20 or license-exempt child care facility a reasonable fee not to
21 exceed one thousand dollars (\$1,000) for each license
22 application or registration, whether initial or renewal, of an
23 annual license or the second consecutive issuance of a
24 temporary license. The fee charged shall be assessed pursuant
25 to a tiered fee structure adopted by the department based on

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1 the size and type of facility. All fees collected pursuant to
2 this section shall be deposited with the state treasurer for
3 credit in a designated department recurring account for use
4 administering the Child Care Facility Licensing Act.

5 H. The department shall allow for a person to
6 submit a complaint about a child care facility or license-
7 exempt child care facility. The department shall promptly
8 investigate a submitted complaint and take appropriate action
9 if the complaint is substantiated. The department shall
10 cross-reference among appropriate agencies, including the
11 children, youth and families department, allegations of abuse,
12 neglect or exploitation.

13 I. The name of and information regarding a person
14 making a complaint shall not be disclosed publicly absent the
15 consent of the person or a court order.

16 J. A complaint received by the department pursuant
17 to this section shall not be disclosed publicly in a manner as
18 to identify a person or facility if upon investigation the
19 complaint is unsubstantiated.

20 SECTION 5. [NEW MATERIAL] REVOCATION OR SUSPENSION OF
21 CHILD CARE FACILITY LICENSE--HEARINGS--APPEALS--SANCTIONS--
22 CIVIL PENALTY.--

23 A. Upon determination that a child care facility or
24 license-exempt child care facility is not in compliance with a
25 licensing requirement, department rule or provision of the

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1 Child Care Facility Licensing Act, the department, after notice
2 and opportunity for a hearing before a hearing officer
3 designated by the department to hear the matter, may:

4 (1) revoke or suspend a licensee's license or
5 registration;

6 (2) impose on a child care facility or
7 license-exempt child care facility an intermediate sanction
8 established by rule, including:

9 (a) conditions of operation;

10 (b) denial of payment of child care
11 assistance;

12 (c) restricted admissions;

13 (d) reduction of capacity; and

14 (e) cease-and-desist order of action;

15 and

16 (3) assess a civil penalty, with interest, not
17 to exceed ten thousand dollars (\$10,000) per day for each day
18 the facility is or was out of compliance. Penalties and
19 interest amounts assessed under this paragraph and recovered on
20 behalf of the state shall be remitted to the department in a
21 recurring account in the state treasury for the sole purpose of
22 funding the nonreimbursed cost of child care facility
23 compliance investigations.

24 B. If immediate action is required to protect human
25 health and safety, the department may suspend a licensee's

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1 license or registration or impose an intermediate sanction
2 pursuant to Subsection A of this section pending a hearing;
3 provided that the hearing is held within five working days of
4 the suspension or imposition of the sanction, unless waived by
5 the licensee.

6 C. The department shall schedule a hearing if the
7 department receives a request for a hearing from a child care
8 facility or license-exempt child care facility:

9 (1) within ten working days after receipt by
10 the facility of the notice of suspension, revocation,
11 imposition of an intermediate sanction or civil monetary
12 penalty or denial of an initial or renewal application;

13 (2) within five working days after receipt by
14 the facility of an emergency suspension order or emergency
15 intermediate sanction imposition and notice of hearing unless
16 the facility wishes to waive the early hearing scheduled and
17 request a hearing at a later date; or

18 (3) within five working days after receipt by
19 the facility of a cease-and-desist order.

20 D. The department shall provide timely notice of
21 the date, time and place of a hearing, identity of the hearing
22 officer, subject matter of the hearing and alleged violations.

23 E. A hearing held pursuant to this section shall be
24 conducted in accordance with adjudicatory hearing rules and
25 procedures adopted by rule of the department. A child care

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1 facility or license-exempt child care facility has the right to
2 be represented by counsel, present all relevant evidence by
3 means of witnesses and books, papers, documents, records, files
4 and other evidence and examine all opposing witnesses who
5 appear on any matter relevant to the issues. The hearing
6 officer has the power to administer oaths on request of any
7 party and issue subpoenas and subpoenas duces tecum prior to or
8 after the commencement of the hearing to compel discovery and
9 the attendance of witnesses and the production of relevant
10 books, papers, documents, records, files and other evidence.

11 F. A party to the hearing may appeal the final
12 decision of the department pursuant to the provisions of
13 Section 39-3-1.1 NMSA 1978.

14 SECTION 6. [NEW MATERIAL] VIOLATION OF ACT, ORDER OR
15 RULE--PETTY MISDEMEANOR--PENALTIES.--A person who violates a
16 provision of the Child Care Facility Licensing Act or an order
17 or rule adopted pursuant to the provisions of the Child Care
18 Facility Licensing Act is guilty of a petty misdemeanor and
19 shall be punished by a fine not to exceed five hundred dollars
20 (\$500) or imprisonment in the county jail for a definite term
21 not to exceed six months or both such fine and imprisonment in
22 the discretion of the court. Each day of a continuing
23 violation of Subsection A of Section 4 of the Child Care
24 Facility Licensing Act after conviction shall be considered a
25 separate offense. The department may also enforce its rules

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1 and orders by any appropriate civil action. The attorney
2 general shall represent the department.

3 SECTION 7. Section 13-1-98 NMSA 1978 (being Laws 1984,
4 Chapter 65, Section 71, as amended by Laws 2023, Chapter 149,
5 Section 2 and by Laws 2023, Chapter 174, Section 1) is amended
6 to read:

7 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
8 provisions of the Procurement Code shall not apply to:

9 A. procurement of items of tangible personal
10 property or services by a state agency or a local public body
11 from a state agency, a local public body or external
12 procurement unit except as otherwise provided in Sections
13 13-1-135 through 13-1-137 NMSA 1978;

14 B. procurement of tangible personal property or
15 services for the governor's mansion and grounds;

16 C. printing and duplicating contracts involving
17 materials that are required to be filed in connection with
18 proceedings before administrative agencies or state or federal
19 courts;

20 D. purchases of publicly provided or publicly
21 regulated gas, electricity, water, sewer and refuse collection
22 services;

23 E. purchases of books, periodicals, instructional
24 materials and training materials in printed, digital or
25 electronic format from the publishers, designated public-

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1 education-department-approved instructional material
2 depositories or copyright holders thereof and purchases of
3 print, digital or electronic format library materials by
4 public, school and state libraries for access by the public;

5 F. travel or shipping by common carrier or by
6 private conveyance or to meals and lodging;

7 G. purchase of livestock at auction rings or to the
8 procurement of animals to be used for research and
9 experimentation or exhibit;

10 H. contracts with businesses for public school
11 transportation services;

12 I. procurement of tangible personal property or
13 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
14 by the corrections industries division of the corrections
15 department pursuant to rules adopted by the corrections
16 industries commission, which shall be reviewed by the
17 purchasing division of the general services department prior to
18 adoption;

19 J. purchases not exceeding ten thousand dollars
20 (\$10,000) consisting of magazine subscriptions, web-based or
21 electronic subscriptions, conference registration fees and
22 other similar purchases where prepayments are required;

23 K. municipalities having adopted home rule charters
24 and having enacted their own purchasing ordinances;

25 L. the issuance, sale and delivery of public

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1 securities pursuant to the applicable authorizing statute, with
2 the exception of bond attorneys and general financial
3 consultants;

4 M. contracts entered into by a local public body
5 with a private independent contractor for the operation, or
6 provision and operation, of a jail pursuant to Sections 33-3-26
7 and 33-3-27 NMSA 1978;

8 N. contracts for maintenance of grounds and
9 facilities at highway rest stops and other employment
10 opportunities, excluding those intended for the direct care and
11 support of persons with handicaps, entered into by state
12 agencies with private, nonprofit, independent contractors who
13 provide services to persons with handicaps;

14 O. contracts and expenditures for services or items
15 of tangible personal property to be paid or compensated by
16 money or other property transferred to New Mexico law
17 enforcement agencies by the United States department of justice
18 drug enforcement administration;

19 P. contracts for retirement and other benefits
20 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

21 Q. contracts with professional entertainers;

22 R. contracts and expenditures for legal
23 subscription and research services and litigation expenses in
24 connection with proceedings before administrative agencies or
25 state or federal courts, including experts, mediators, court

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1 reporters, process servers and witness fees, but not including
2 attorney contracts;

3 S. contracts for service relating to the design,
4 engineering, financing, construction and acquisition of public
5 improvements undertaken in improvement districts pursuant to
6 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
7 improvement districts pursuant to Subsection L of Section
8 4-55A-12.1 NMSA 1978;

9 T. works of art for museums or for display in
10 public buildings or places;

11 U. contracts entered into by a local public body
12 with a person, firm, organization, corporation or association
13 or a state educational institution named in Article 12, Section
14 11 of the constitution of New Mexico for the operation and
15 maintenance of a hospital pursuant to Chapter 3, Article 44
16 NMSA 1978, lease or operation of a county hospital pursuant to
17 the Hospital Funding Act or operation and maintenance of a
18 hospital pursuant to the Special Hospital District Act;

19 V. purchases of advertising in all media, including
20 radio, television, print and electronic;

21 W. purchases of promotional goods intended for
22 resale by the tourism department;

23 X. procurement of printing, publishing and
24 distribution services for materials produced and intended for
25 resale by the cultural affairs department;

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1 Y. procurement by or through the public education
2 department from the federal department of education relating to
3 parent training and information centers designed to increase
4 parent participation, projects and initiatives designed to
5 improve outcomes for students with disabilities and other
6 projects and initiatives relating to the administration of
7 improvement strategy programs pursuant to the federal
8 Individuals with Disabilities Education Act; provided that the
9 exemption applies only to procurement of services not to exceed
10 two hundred thousand dollars (\$200,000);

11 Z. procurement of services from community
12 rehabilitation programs or qualified individuals pursuant to
13 the State Use Act;

14 AA. purchases of products or services for eligible
15 persons with disabilities pursuant to the federal
16 Rehabilitation Act of 1973;

17 BB. procurement, by either the department of health
18 or Grant county or both, of tangible personal property,
19 services or construction that are exempt from the Procurement
20 Code pursuant to Section 9-7-6.5 NMSA 1978;

21 CC. contracts for investment advisory services,
22 investment management services or other investment-related
23 services entered into by the educational retirement board, the
24 state investment officer or the retirement board created
25 pursuant to the Public Employees Retirement Act;

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1 DD. the purchase for resale by the state fair
2 commission of feed and other items necessary for the upkeep of
3 livestock;

4 EE. contracts entered into by the crime victims
5 reparation commission to distribute federal grants to assist
6 victims of crime, including grants from the federal Victims of
7 Crime Act of 1984 and the federal Violence Against Women Act of
8 1994;

9 FF. procurement by or through the early childhood
10 education and care department of early pre-kindergarten and
11 pre-kindergarten services purchased pursuant to the
12 Pre-Kindergarten Act and of child care for families that are
13 eligible for child care assistance;

14 GG. procurement of services of commissioned
15 advertising sales representatives for New Mexico magazine;

16 HH. contracts entered into by the forestry division
17 of the energy, minerals and natural resources department to
18 distribute federal grants to nongovernmental entities and
19 individuals selected through an application process conducted
20 by the United States department of agriculture, the United
21 States department of the interior or any division or bureau
22 thereof for programs for wildfire prevention or protection,
23 urban forestry, forest and watershed restoration and
24 protection, reforestation or economic development projects to
25 advance the use of trees and wood biomass for hazardous fuel

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1 reduction; and

2 II. procurements exempt from the Procurement Code
3 as otherwise provided by law."

4 SECTION 8. Section 32A-23-2 NMSA 1978 (being Laws 2005,
5 Chapter 170, Section 2, as amended) is amended to read:

6 "32A-23-2. FINDINGS.--The legislature finds that:

7 A. [~~special needs are~~] all young children,
8 including those with disabilities, must have access to high-
9 quality early childhood programs. The need to maintain early
10 education opportunities for all young children is present among
11 the state's population of three- and four-year-old children and
12 those needs warrant the provision of universal and free early
13 pre-kindergarten and pre-kindergarten programs;

14 B. participation in quality early pre-kindergarten
15 and pre-kindergarten has a positive effect on children's
16 intellectual, emotional, social and physical development; and

17 C. early pre-kindergarten and pre-kindergarten will
18 advance governmental interests and childhood development and
19 school readiness."

20 SECTION 9. Section 32A-23-3 NMSA 1978 (being Laws 2005,
21 Chapter 170, Section 3, as amended) is amended to read:

22 "32A-23-3. DEFINITIONS.--As used in the Pre-Kindergarten
23 Act:

24 A. "community" means an area defined by school
25 district boundaries, tribal boundaries or joint boundaries of a
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1 school district and tribe or any combination of school
2 districts and tribes;

3 B. "department" means the early childhood education
4 and care department;

5 C. "early pre-kindergarten program" means a
6 statewide, voluntary developmental readiness program for
7 eligible children [~~who have attained their third birthday prior~~
8 ~~to September 1 that delivers to eligible children programs~~]
9 that [~~address~~] addresses their total developmental needs,
10 including their physical, cognitive, social and emotional
11 needs, and that supports their development in the areas of
12 health care, nutrition and safety and multicultural awareness;

13 D. "eligible child" means:

14 (1) for early pre-kindergarten, a person [~~age~~
15 ~~three or four~~] who is three years old on September 1 of the
16 early pre-kindergarten [~~or~~] program year, who is enrolled in a
17 head start preschool or who is eligible for special education
18 and related services under Part B, Section 19 of the federal
19 Individuals with Disabilities Education Act; and

20 (2) for pre-kindergarten, a person who is four
21 years old on September 1 of the pre-kindergarten program year;

22 E. "eligible provider" means a person:

23 (1) licensed by the department to provide
24 early childhood developmental readiness services or preschool
25 special education; or

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1 (2) who is a public provider or a tribal
2 program or head start program and who participates in the
3 department's tiered quality system and maintains compliance
4 with the department's rules on pre-kindergarten standards;

5 F. "mixed delivery programming" means the provision
6 of pre-kindergarten programs through an equal distribution of
7 funds to programs administered by the public schools and other
8 programs licensed by the department;

9 G. "pre-kindergarten program" means a statewide,
10 voluntary developmental readiness program for eligible children
11 [~~who have attained their fourth birthday prior to September 1~~]
12 that delivers [~~to eligible children~~] programs that address
13 their total developmental needs, including their physical,
14 cognitive, social and emotional needs, and that supports their
15 development in the areas of health care, nutrition and safety
16 and multicultural awareness;

17 H. "public provider" means a school district or
18 charter school; and

19 I. "tribe" means an Indian nation, tribe or pueblo
20 located in New Mexico."

21 SECTION 10. Section 32A-23-4 NMSA 1978 (being Laws 2005,
22 Chapter 170, Section 4, as amended) is amended to read:

23 "32A-23-4. EARLY PRE-KINDERGARTEN AND PRE-KINDERGARTEN
24 PROGRAMS--INTERAGENCY COOPERATION--CONTRACTS--CONTRACT
25 MONITORING--RESEARCH.--

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1 A. The department shall develop and implement an
2 early pre-kindergarten program and a pre-kindergarten program.
3 The department may transfer funds to the public education
4 department for an approved public provider or may contract with
5 any other eligible provider for the delivery of early pre-
6 kindergarten and pre-kindergarten program services.

7 B. The department shall establish standards and
8 performance measures for the early pre-kindergarten and pre-
9 kindergarten programs to ensure the delivery of high-quality,
10 effective services that prepare participating children for
11 kindergarten. The department and the public education
12 department shall cooperate to align standards for [~~early pre-
13 kindergarten, pre-kindergarten and kindergarten programs~~] the
14 transition of children from pre-kindergarten to kindergarten.
15 Those departments shall enter into an agreement to share data
16 necessary to report on the early pre-kindergarten and pre-
17 kindergarten programs' performance, including the percentage of
18 program participants who:

- 19 (1) enter kindergarten:
20 (a) developmentally prepared for it;
21 (b) needing special services; and
22 (c) proficient in reading and
23 mathematics; and
24 (2) are retained in kindergarten or first,
25 second or third grade.

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1 C. The department shall coordinate with federal
2 head start agencies grantees to avoid duplication of effort and
3 maximize the use of available resources in the implementation
4 of the early pre-kindergarten and pre-kindergarten programs.

5 D. The department shall promulgate rules on pre-
6 kindergarten and early pre-kindergarten program services,
7 including state policies and standards defining length of
8 service for pre-kindergarten and early pre-kindergarten
9 programs, and shall review the process for making contract
10 awards and for the expenditure and use of contract funds.

11 E. The department shall monitor activity under
12 early pre-kindergarten and pre-kindergarten program [~~contracts~~]
13 agreements to ensure adherence to child-centered,
14 developmentally appropriate practices and outcomes. The
15 department shall provide early childhood training and technical
16 assistance to [~~contract~~] award recipients, including training
17 on social-emotional learning, early literacy and early
18 mathematics.

19 F. Each year, the department shall provide an
20 annual report to the governor and the legislature on the early
21 pre-kindergarten and pre-kindergarten programs."

22 SECTION 11. Section 32A-23-6 NMSA 1978 (being Laws 2005,
23 Chapter 170, Section 6, as amended) is amended to read:

24 "32A-23-6. REQUESTS FOR [~~PROPOSALS--CONTRACTS FOR~~
25 ~~SERVICES~~] APPLICATIONS--AWARD OF FUNDS.--

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1 A. The department shall solicit the delivery of
2 ~~[both]~~ half-day and full-day early pre-kindergarten and pre-
3 kindergarten program services based on community need to
4 support a system of mixed delivery programming by publishing [~~a~~
5 ~~request for proposals or~~] a request for applications that
6 contains the same requested information for pre-kindergarten
7 services.

8 B. Eligible providers shall submit [~~proposals~~]
9 applications to the department that shall include a description
10 of the services that will be provided, including:

11 (1) how the provider's services meet
12 [~~department~~] and adhere to New Mexico's pre-kindergarten
13 standards;

14 (2) the number of eligible children the
15 provider [~~can~~] intends to serve;

16 ~~[(3) the provider's site and floor plans and a~~
17 ~~description of its facilities;~~

18 ~~(4)]~~ (3) the revenue sources and non-state
19 funding available for the provider's delivery of services;

20 ~~[(5)]~~ (4) a description of the qualifications
21 and experience of the provider's service-delivery staff for
22 each site, including evidence that the provider's lead teachers
23 have at minimum a bachelor's degree in early childhood and the
24 provider's educational assistants have at minimum an
25 associate's degree in early childhood;

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1 [~~(6)~~] (5) the provider's plan for
2 communicating with and involving parents of children in the
3 early pre-kindergarten and pre-kindergarten programs;

4 [~~(7)~~] (6) how the provider's services meet the
5 continuum of services to children;

6 (7) a description of the provider's approach
7 to the curriculum that will be implemented;

8 (8) a description of the provider's plan to
9 support children with special needs;

10 (9) a description of the provider's plan to
11 provide each child with age-appropriate health and development
12 screenings;

13 (10) how the sizes of the provider's classes
14 and the teacher-to-child ratios will follow the highest level
15 of the department's tiered quality rating system;

16 (11) a description of the provider's intended
17 nutrition plan; and

18 [~~(8)~~] (12) other relevant information.

19 C. The department shall accept and evaluate
20 [~~proposals or~~] applications for the delivery of early pre-
21 kindergarten and pre-kindergarten program services by eligible
22 providers.

23 D. In selecting among [~~proposals and~~] applications
24 for the delivery of early pre-kindergarten and pre-kindergarten
25 program services, the department shall give priority to

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1 programs in communities with public elementary schools
2 designated as Title I schools in which at least sixty-six
3 percent of the children served reside within the attendance
4 zone of a Title I elementary school. It shall further
5 consider:

6 (1) the number of eligible children residing
7 in the community and the number of eligible children proposed
8 to be served;

9 (2) the adequacy and capacity of pre-
10 kindergarten facilities in the community;

11 [~~(3)~~] ~~the availability of language and literacy~~
12 ~~services in the community;~~

13 ~~(4)]~~ (3) the cultural, historic and linguistic
14 responsiveness to the community;

15 [~~(5)~~] ~~the availability of parent education~~
16 ~~services for parents of eligible children in the community;~~

17 ~~(6)]~~ (4) staff professional development plans;

18 [~~(7)]~~ (5) the capacity of local organizations
19 and persons interested in and involved in programs and services
20 for eligible children and their commitment to work together;

21 [~~(8)]~~ (6) the degree of local support for
22 early pre-kindergarten and pre-kindergarten program services in
23 the community; and

24 [~~(9)]~~ (7) other relevant criteria specified by
25 department rule.

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1 E. ~~[A contract]~~ An agreement with an eligible
2 provider for early pre-kindergarten and pre-kindergarten
3 program services shall provide that funds not be used for any
4 religious, sectarian or denominational purposes, instruction or
5 material."

6 SECTION 12. Section 32A-23C-1 NMSA 1978 (being Laws 2018,
7 Chapter 44, Section 1) is amended to read:

8 "32A-23C-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article
9 23C NMSA 1978 may be cited as the "Early Childhood Care
10 Accountability Act"."

11 SECTION 13. Section 32A-23C-2 NMSA 1978 (being Laws 2018,
12 Chapter 44, Section 2) is amended to read:

13 "32A-23C-2. DEFINITIONS.--As used in the Early Childhood
14 Care Accountability Act:

15 A. "child care assistance" means the assistance
16 administered by the department that provides child care through
17 the child care assistance program for school-aged children as
18 the primary service delivery strategy through a contract with
19 the department that offers services based on income and need
20 for care to parents with children who are school-aged, as
21 department rules define "school-aged";

22 B. "culturally and linguistically appropriate"
23 means taking into consideration the culture, customs and
24 language of an eligible family;

25 C. "department" means the early childhood education

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1 and care department;

2 ~~[G.]~~ D. "early childhood care assistance" means
3 assistance administered by the department that provides child
4 care through the child care assistance program for children
5 under five years of age as the primary service delivery
6 strategy through a contract with the department and that offers
7 services based on income criteria and need for care to parents
8 with children who have not yet entered kindergarten;

9 ~~[D.]~~ E. "eligible family" means a family that
10 receives early childhood care assistance or child care
11 assistance through the department;

12 ~~[E.]~~ F. "licensed child care program" means a
13 publicly or privately funded program that:

14 (1) provides child care in the state in
15 accordance with department standards to school-aged children,
16 as department rules define "school-aged"; and

17 (2) is licensed by the department;

18 ~~[F.]~~ G. "licensed early childhood care program"
19 means a publicly or privately funded program that provides
20 child care in accordance with department standards to children
21 under five years of age in the state and that is licensed by
22 the department; and

23 ~~[G.]~~ H. "licensed exempt child care program" means
24 a child care home or facility that is exempt from child care
25 licensing requirements pursuant to the ~~[Public Health Act]~~

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1 Children's Code."

2 SECTION 14. Section 32A-23C-3 NMSA 1978 (being Laws 2018,
3 Chapter 44, Section 3) is amended to read:

4 "32A-23C-3. LICENSED EARLY CHILDHOOD CARE PROGRAMS--
5 REQUIREMENTS.--

6 A. The department shall adopt and promulgate rules
7 to establish specific standards for licensure and registration
8 of licensed early childhood care programs that provide care for
9 children from birth to five years of age. As part of these
10 standards, the department shall establish and implement a
11 voluntary rating scale and determine levels that accord with
12 levels of service quality. The standards shall ensure that the
13 health, safety, social-emotional support, school readiness and
14 staff qualifications components are consistent in accordance
15 with the tier levels that the department has established by
16 rule. The department shall use the tiered ratings it has
17 established to pay higher rates for higher-rated individual
18 licensed early childhood care program providers. Standards for
19 licensed early childhood care programs shall:

- 20 (1) specify the purpose and outcomes of
- 21 services that constitute the program;
- 22 (2) define high-quality service delivery and
- 23 continuous quality improvement;
- 24 (3) provide a common framework for early
- 25 childhood care service delivery and accountability across all

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1 early childhood care programs;

2 (4) be designed to promote child well-being,
3 early education, social-emotional support and an emphasis on
4 school readiness;

5 (5) allow for the collection, aggregation and
6 analysis of common data;

7 (6) be grounded in best practices geared
8 toward optimal health and developmental outcomes; and

9 (7) establish foundational and continuing
10 education requirements for staff.

11 B. A licensed early childhood care program shall:

12 (1) ensure the health and safety of children
13 while they are in care;

14 (2) comply with the department's background
15 check requirements for all staff members, educators and
16 volunteers in licensed early childhood care programs;

17 (3) provide positive discipline and guidance;

18 (4) continually evaluate program performance;

19 (5) collect data on program activities and
20 outcomes for reporting in accordance with the tier levels that
21 the department has established in rule, pursuant to Section [~~4~~
22 ~~of the Early Childhood Care Accountability Act~~] 32A-23C-4 NMSA
23 1978;

24 (6) be culturally and linguistically
25 appropriate;

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1 (7) measure the promotion of positive
2 development and appropriate early childhood educational
3 practices, in accordance with the tier levels that the
4 department has established in rule, pursuant to Section ~~[4 of~~
5 ~~the Early Childhood Care Accountability Act]~~ 32A-23C-4 NMSA
6 1978;

7 (8) ensure that enrolled children are up-to-
8 date with immunizations, in accordance with state law;

9 (9) train staff on reporting any suspected
10 child abuse and neglect to the department's protective services
11 division and to local authorities;

12 (10) ensure that the program has established
13 and shared with parents a curriculum statement that supports
14 school readiness; and

15 (11) follow a curriculum that is aligned with
16 child development functional areas, including the New Mexico
17 early learning guidelines, in accordance with the tier levels
18 that the department has established by rule."

19 SECTION 15. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2025.

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