

1 HOUSE BILL 547

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Stephanie Maez

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10 AN ACT

11 RELATING TO STATE GOVERNMENT; CREATING THE EARLY LEARNING
12 DEPARTMENT; PROVIDING POWERS AND DUTIES; TRANSFERRING
13 FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, RECORDS, PROPERTY,
14 CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
18 through 12 of this act may be cited as the "Early Learning
19 Department Act".

20 SECTION 2. [NEW MATERIAL] FINDING AND PURPOSE.--

21 A. The legislature finds that research shows that
22 an intense focus on young children age zero to five and early
23 childhood learning reaps significant rewards in student
24 achievement and taxpayer cost, including:

25 (1) substantial reading and mathematics gains

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1 when children enter elementary school, with students performing
2 at or above grade level;

3 (2) less academic intervention and
4 remediation;

5 (3) lower truancy rates;

6 (4) higher graduation rates; and

7 (5) higher attendance rates at colleges and
8 universities or technical vocational institutes.

9 B. The purpose of the Early Learning Department Act
10 is to provide that needed intense single-focus on children age
11 zero to five to ensure that every child in New Mexico is given
12 the best opportunity at the earliest time to succeed in school,
13 career and life. The early learning department is responsible
14 for early childhood services of the children, youth and
15 families department, including child care, home visitation and
16 pre-kindergarten, but not the licensing of child care
17 facilities; and pre-kindergarten and the even start family
18 literacy program from the public education department.

19 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
20 Early Learning Department Act:

21 A. "children" means children age zero to five
22 years;

23 B. "department" means the early learning
24 department; and

25 C. "secretary" means the secretary of early

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1 learning.

2 SECTION 4. [NEW MATERIAL] DEPARTMENT CREATED.--

3 A. The "early learning department" is created as a
4 cabinet department pursuant to the Executive Reorganization Act
5 and consists of the following divisions:

- 6 (1) administrative services;
- 7 (2) office of the secretary;
- 8 (3) child care; and
- 9 (4) pre-kindergarten education.

10 B. The secretary may reorganize the department.
11 The secretary shall report the reorganization to the
12 legislature.

13 SECTION 5. [NEW MATERIAL] SECRETARY OF EARLY LEARNING--
14 APPOINTMENT.--

15 A. The chief executive and administrative officer
16 of the department is the "secretary of early learning". The
17 secretary shall be appointed by the governor with the consent
18 of the senate. The secretary shall hold office at the pleasure
19 of the governor and shall serve in the executive cabinet.

20 B. An appointed secretary shall serve and have all
21 the duties, responsibilities and authority of that office
22 during the period of time prior to final action by the senate
23 confirming or rejecting the secretary's appointment.

24 SECTION 6. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL
25 POWERS.--

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1 A. The secretary is responsible to the governor for
2 the operation of the department. It is the secretary's duty to
3 manage all operations of the department and to administer and
4 enforce the laws with which the secretary or the department is
5 charged.

6 B. To perform the secretary's duties, the secretary
7 has every power expressly enumerated in the law, whether
8 granted to the secretary, the department or any division of the
9 department, except when any division is explicitly exempted
10 from the secretary's power by statute. In accordance with
11 these provisions, the secretary shall:

12 (1) except as otherwise provided in the Early
13 Learning Department Act, exercise general supervisory and
14 appointing power over all department employees, subject to
15 applicable personnel laws and rules;

16 (2) delegate power to subordinates as the
17 secretary deems necessary and appropriate, clearly delineating
18 such delegated power and the limitations to that power;

19 (3) organize the department into
20 organizational units as necessary to enable it to function most
21 efficiently, subject to any provisions of law requiring or
22 establishing specific organizational units;

23 (4) within the limitations of available
24 appropriations and applicable laws, employ and fix the
25 compensation of those persons necessary to discharge the

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1 secretary's duties;

2 (5) take administrative action by issuing
3 orders and instructions, not inconsistent with law, to assure
4 implementation of and compliance with the provisions of law for
5 which administration or execution the secretary is responsible
6 and to enforce those orders and instructions by appropriate
7 administrative action in the courts;

8 (6) conduct research and studies that will
9 improve the operation of the department and the provision of
10 services to the residents of the state;

11 (7) provide courses of instruction and
12 practical training for employees of the department and other
13 persons involved in the administration of programs with the
14 objectives of improving the operations and efficiency of
15 administration and of promoting comprehensive, coordinated,
16 culturally sensitive services that address the whole child and
17 early learning;

18 (8) prepare an annual budget for the
19 department; and

20 (9) provide cooperation, at the request of
21 administratively attached agencies and adjunct agencies, in
22 order to:

23 (a) minimize or eliminate duplication of
24 services and jurisdictional conflicts;

25 (b) coordinate activities and resolve

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1 problems of mutual concern; and

2 (c) resolve by agreement the manner and
3 extent to which the department shall provide budgeting,
4 recordkeeping and related clerical assistance to
5 administratively attached agencies.

6 C. The secretary may apply for and receive, with
7 the governor's approval, in the name of the department, any
8 public or private funds, including United States government
9 funds, available to the department to carry out its programs,
10 duties or services.

11 D. The secretary may make and adopt such reasonable
12 and procedural rules as may be necessary to carry out the
13 duties of the department and its divisions. No rule
14 promulgated by the director of any division in carrying out the
15 functions and duties of the division shall be effective until
16 approved by the secretary. Unless otherwise provided by
17 statute, no rule affecting any person or agency outside the
18 department shall be adopted, amended or repealed without a
19 public hearing on the proposed action before the secretary or a
20 hearing officer designated by the secretary. The public
21 hearing shall be held in Santa Fe unless otherwise permitted by
22 statute. Notice of the subject matter of the rule, the action
23 proposed to be taken, the time and place of the hearing, the
24 manner in which interested persons may present their views and
25 the method by which copies of the proposed rule or proposed

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1 amendment or repeal of an existing rule may be obtained shall
2 be published once at least thirty days prior to the hearing
3 date in a newspaper of general circulation and mailed at least
4 thirty days prior to the hearing date to all persons who have
5 made a written request for advance notice of hearing. All
6 rules shall be filed in accordance with the State Rules Act.

7 E. If the secretary certifies to the secretary of
8 finance and administration and gives contemporaneous notice of
9 such certification through the human services register that the
10 department has insufficient state funds to operate any of the
11 programs it administers and that reductions in services or
12 benefit levels are necessary, the secretary may engage in
13 interim rulemaking. Notwithstanding any provision to the
14 contrary in the State Rules Act, interim rulemaking shall be
15 conducted pursuant to Subsection D of this section, except:

16 (1) the period of notice of public hearing
17 shall be fifteen days;

18 (2) the department shall send individual
19 notices of the interim rulemaking and of the public hearing to
20 affected providers and beneficiaries;

21 (3) rules promulgated under this subsection
22 shall be in effect not less than five days after the public
23 hearing;

24 (4) rules promulgated under this subsection
25 shall not be in effect for more than ninety days; and

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1 (5) if final rules are necessary to replace
2 the interim rules, the department shall give notice of intent
3 to promulgate final rules at the time of notice as provided in
4 Subsection D of this section. The final rules shall be
5 promulgated not more than forty-five days after the public
6 hearing filed in accordance with the State Rules Act.

7 SECTION 7. [NEW MATERIAL] DEPARTMENT--ADDITIONAL
8 DUTIES.--In addition to other duties provided by law or
9 assigned to the department by the governor, the department
10 shall:

11 A. develop priorities for department services and
12 resources based on state policy and national best-practice
13 standards and local considerations and priorities;

14 B. strengthen collaboration and coordination in
15 state and local services for child care, home visitation and
16 early learning by integrating critical functions as
17 appropriate, including service delivery, and contracting for
18 services across divisions and related agencies;

19 C. develop and maintain a statewide database,
20 including client tracking of services for children;

21 D. develop standards of service within the
22 department that focus on prevention, monitoring and outcomes;

23 E. analyze policies of other departments that
24 affect children to encourage common contracting procedures,
25 common service definitions and a uniform system of access;

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1 F. develop reimbursement criteria for child care
2 centers and home providers licensed by the children, youth and
3 families department, establishing that accreditation by a
4 children, youth and families department-approved national
5 accrediting body is sufficient qualification for the child care
6 center or home provider to receive the highest reimbursement
7 rate paid by the department;

8 G. conduct biennial assessments of child care or
9 early learning service gaps and needs and establish outcome
10 measurements to address those service gaps and needs; and

11 H. fingerprint and conduct nationwide criminal
12 history record searches on all department employees, staff
13 members and volunteers whose jobs involve direct contact with
14 department clients, including prospective employees and
15 employees who are promoted, transferred or hired into new
16 positions, and the superiors of all department employees, staff
17 members and volunteers who have direct unsupervised contact
18 with department clients.

19 SECTION 8. [NEW MATERIAL] CRIMINAL HISTORY RECORD
20 INVESTIGATIONS--PROCEDURE--CONFIDENTIALITY--VIOLATION--
21 PENALTY.--

22 A. The department shall submit fingerprints for
23 each person required to be fingerprinted pursuant to the Early
24 Learning Department Act to the department of public safety and
25 the federal bureau of investigation. Child care facilities and

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1 pre-kindergarten programs are responsible for the cost of
2 obtaining criminal histories on their employees and volunteers;
3 provided that the facilities or programs may require the
4 employees or volunteers to pay the costs.

5 B. Criminal histories obtained are confidential and
6 shall be used only for the purpose of determining the
7 suitability of an employee or volunteer or prospective employee
8 or volunteer for employment or service by the department or a
9 contractor or an employee of a contractor or prospective
10 contractor; except that criminal histories may be released or
11 disclosed to another agency or person only upon court order or
12 with the written consent of the person who is the subject of
13 the criminal history record.

14 C. A person who releases or discloses criminal
15 history records or information contained in those records in
16 violation of the provisions of this section is guilty of a
17 misdemeanor and if convicted shall be sentenced pursuant to the
18 provisions of Section 31-19-1 NMSA 1978.

19 SECTION 9. [NEW MATERIAL] PROHIBITION ON EMPLOYMENT FOR
20 PERSONS WITH SUBSTANTIATED ALLEGATIONS OF CHILD ABUSE OR
21 NEGLECT--PROHIBITION ON CONVICTED FELONS--DISCIPLINARY ACTION--
22 CONFIDENTIALITY OF ABUSE AND NEGLECT RECORDS.--

23 A. No employee, staff member or volunteer at the
24 department or at a child care facility or pre-kindergarten
25 program, including prospective employees and volunteers, having

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1 direct unsupervised contact with department clients, nor the
2 superiors of any such employee, staff member or volunteer,
3 shall have been the subject of a substantiated allegation of
4 child abuse or neglect.

5 B. No employee, staff member or volunteer at the
6 department who has direct unsupervised contact with department
7 clients, or the superiors of an employee, staff member or
8 volunteer at the department who has direct unsupervised contact
9 with department clients, shall have been convicted of a felony
10 offense that is directly related to the job duties of the
11 employee by a court of this state, any other state or the
12 United States.

13 C. Any employee or staff member subject to the
14 Personnel Act who has been the subject of a substantiated
15 allegation of abuse or neglect as investigated and determined
16 by the department may be subject to increased supervision or
17 disciplinary action under the Personnel Act. Upon appeal of a
18 disciplinary action to the personnel board pursuant to this
19 section, the personnel board shall defer to the record of the
20 administrative hearing affirming a substantiated allegation of
21 abuse or neglect, if one exists, in determining whether the
22 action taken by the agency was with just cause.

23 D. An employee or a staff member of the department
24 subject to dismissal under this section shall have no right to
25 progressive discipline as a condition precedent to discipline

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1 under this section.

2 E. In any appeal of an employee or staff member to
3 the personnel board as provided by the Personnel Act, records
4 that are otherwise confidential pursuant to the Abuse and
5 Neglect Act shall be discoverable by the parties and admissible
6 as to any relevant fact; provided that any identifying
7 information related to the reporting party, any other party
8 providing information and information the department finds
9 would be likely to endanger the life or safety of any person
10 providing information to the department may be redacted.

11 SECTION 10. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
12 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO
13 INFORMATION.--

14 A. Those organizational units of the department and
15 the officers of those units specified by law shall have all of
16 the powers and duties enumerated in the specific laws involved.
17 However, the carrying out of those powers and duties shall be
18 subject to the direction and supervision of the secretary, who
19 shall retain the final decision-making authority and
20 responsibility for the administration of any such laws as
21 provided in Subsection B of Section 7 of the Early Learning
22 Department Act.

23 B. The department shall have access to all records,
24 data and information of other state departments that are not
25 specifically held confidential by law.

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1 SECTION 11. [NEW MATERIAL] DIVISION DIRECTORS.--The
2 secretary may appoint, with the approval of the governor,
3 "directors" of such divisions as are established within the
4 department. Directors are exempt from the Personnel Act.

5 SECTION 12. [NEW MATERIAL] BUREAUS--CHIEFS.--The
6 secretary may establish within each division such "bureaus" as
7 the secretary deems necessary to carry out the provisions of
8 the Early Learning Department Act. The secretary shall appoint
9 a "chief" to be the administrative head of any such bureau.
10 The chief and all subsidiary employees of the department shall
11 be covered by the provisions of the Personnel Act.

12 SECTION 13. Section 22-13-3.1 NMSA 1978 (being Laws 2001,
13 Chapter 168, Section 1) is amended to read:

14 "22-13-3.1. EVEN START FAMILY LITERACY PROGRAM--CREATED--
15 GUIDELINES--BENCHMARKS, PERFORMANCE STANDARDS AND
16 EVALUATIONS.--

17 A. The "even start family literacy program" is
18 created in the early learning department [~~of education~~] to
19 provide funding for preschool reading readiness and parenting
20 education. The purpose of the program is to support the
21 educational and developmental needs of [~~students~~] children in
22 preschool or pre-kindergarten; address cultural diversity; and
23 provide family support that leads to improved literacy,
24 improved ability for students to succeed in school and economic
25 self-sufficiency. Priority for funding shall be provided to

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1 those public schools that have the highest proportion of
2 limited English proficient students, students living in poverty
3 and Native American students.

4 B. The early learning department [~~of education~~]
5 shall develop even start family literacy program benchmarks and
6 performance standards, guidelines for program approval and
7 funding approval criteria. The department shall disseminate
8 the program information in all public schools and shall provide
9 technical assistance to public schools in developing proposals.

10 C. The early learning department [~~of education~~]
11 shall distribute money to public schools with approved even
12 start family literacy programs that meet the specified criteria
13 based upon actual program costs to ensure the implementation of
14 performance-based budgeting measures.

15 D. Public schools that receive even start family
16 literacy program funds shall annually evaluate and report to
17 the early learning department [~~of education~~] the results of the
18 program, including the number of children and families served,
19 the services provided and the gains achieved by the children
20 and their families.

21 E. If the early learning department [~~of education~~]
22 determines that a local even start family literacy program is
23 not meeting benchmarks and performance standards, the
24 department shall notify the public school that continued
25 failure to meet benchmarks and performance standards will

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1 result in cessation of funding for the program for the next
2 school year.

3 F. The early learning department [~~of education~~]
4 shall compile the results of the even start family literacy
5 program and report annually to the legislative education study
6 committee."

7 SECTION 14. Section 32A-22-1 NMSA 1978 (being Laws 2005,
8 Chapter 64, Section 1) is amended to read:

9 "32A-22-1. "SHORT TITLE.--~~[This act]~~ Chapter 32A, Article
10 22 NMSA 1978 may be cited as the "Children's Cabinet Act"."

11 SECTION 15. Section 32A-22-2 NMSA 1978 (being Laws 2005,
12 Chapter 64, Section 2) is amended to read:

13 "32A-22-2. CHILDREN'S CABINET CREATED.--

14 A. The "children's cabinet" is created and is
15 administratively attached to the office of the governor. The
16 children's cabinet shall meet at least six times each year.

17 B. The children's cabinet shall consist of the
18 following members:

- 19 (1) the governor;
20 (2) the lieutenant governor;
21 (3) the secretary of children, youth and
22 families;
23 (4) the secretary of corrections;
24 (5) the secretary of human services;
25 (6) the secretary of [~~labor~~] workforce

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1 solutions;

2 (7) the secretary of health;

3 (8) the secretary of finance and
4 administration;

5 (9) the secretary of economic development;

6 (10) the secretary of public safety;

7 (11) the secretary of aging and long-term
8 services;

9 (12) the secretary of Indian affairs; ~~and~~

10 (13) the secretary of public education; and

11 (14) the secretary of early learning.

12 C. Each year the children's cabinet shall select
13 the governor or lieutenant governor to be the chairperson."

14 SECTION 16. Section 32A-23-1 NMSA 1978 (being Laws 2005,
15 Chapter 170, Section 1) is amended to read:

16 "32A-23-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article
17 23 NMSA 1978 may be cited as the "Pre-Kindergarten Act"."

18 SECTION 17. Section 32A-23-3 NMSA 1978 (being Laws 2005,
19 Chapter 170, Section 3) is amended to read:

20 "32A-23-3. DEFINITIONS.--As used in the Pre-Kindergarten
21 Act:

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

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1 ~~[B. "departments" means the children, youth and~~
2 ~~families department and the public education department acting~~
3 ~~jointly;]~~

4 B. "department" means the early learning
5 department;

6 C. "early childhood development specialist" means
7 the adult responsible for working directly with four-year-old
8 children in implementing pre-kindergarten services;

9 D. "eligible provider" means a person licensed by
10 the children, youth and families department that provides early
11 childhood developmental readiness services or preschool special
12 education, or is a public school, tribal program or head start
13 program;

14 E. "pre-kindergarten" means a voluntary
15 developmental readiness program for children who have attained
16 their fourth birthday prior to September 1; and

17 F. "tribe" means an Indian nation, tribe or pueblo
18 located in New Mexico."

19 SECTION 18. Section 32A-23-4 NMSA 1978 (being Laws 2005,
20 Chapter 170, Section 4) is amended to read:

21 "32A-23-4. VOLUNTARY PRE-KINDERGARTEN--INTERAGENCY
22 COOPERATION--CONTRACTS--CONTRACT MONITORING--RESEARCH.--

23 A. The ~~[children, youth and families department and~~
24 ~~the public education]~~ department shall ~~[cooperate in the~~
25 ~~development and implementation of]~~ develop and implement a

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1 voluntary program for the provision of pre-kindergarten
2 services throughout the state. The pre-kindergarten program
3 shall address the total developmental needs of preschool
4 children, including physical, cognitive, social and emotional
5 needs, and shall include health care, nutrition, safety and
6 multicultural sensitivity.

7 B. The [~~departments shall collaborate on~~
8 ~~promulgating~~] department shall promulgate rules on pre-
9 kindergarten services, including state policies and standards
10 and shall review the process for contract awards and for the
11 expenditure and use of contract funds.

12 C. The [~~departments~~] department shall monitor pre-
13 kindergarten contracts to ensure the effectiveness of child-
14 centered, developmentally appropriate practices and outcomes.
15 The [~~departments~~] department shall assign staff to work on the
16 development and implementation of the program, [~~and on~~] the
17 monitoring of contract awards [~~The early childhood training and~~
18 ~~technical assistance programs of the children, youth and~~
19 ~~families department and assigned staff from the public~~
20 ~~education department staff shall provide~~] and the provision of
21 technical assistance to eligible providers.

22 D. The [~~departments~~] department shall provide an
23 annual report to the governor and the legislature on the
24 progress of the state's voluntary pre-kindergarten program."

25 SECTION 19. Section 32A-23-6 NMSA 1978 (being Laws 2005,

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1 Chapter 170, Section 6, as amended) is amended to read:

2 "32A-23-6. REQUESTS FOR PROPOSALS--CONTRACTS FOR
3 SERVICES.--

4 A. ~~[Each]~~ The department shall publish ~~[a request~~
5 ~~for proposals or]~~ a request for applications ~~[that contains the~~
6 ~~same requested information]~~ for pre-kindergarten services.

7 B. Eligible providers shall submit ~~[proposals or]~~
8 applications for pre-kindergarten services to the ~~[appropriate]~~
9 department. An eligible provider's ~~[proposal or]~~ application
10 shall include a description of the services that will be
11 provided, including:

12 (1) how those services meet ~~[children, youth~~
13 ~~and families department or public education]~~ department
14 standards;

15 (2) the number of four-year-old children the
16 eligible provider can serve;

17 (3) site and floor plans and a description of
18 the facilities;

19 (4) revenue sources and amounts other than
20 state funding available for the pre-kindergarten program;

21 (5) a description of the qualifications and
22 experience of the early childhood development staff for each
23 site;

24 (6) the plan for communicating with and
25 involving parents in the pre-kindergarten program;

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1 (7) how those services meet the state's
2 continuum of services to children; and

3 (8) other relevant information requested by
4 the [~~departments~~] department.

5 C. [~~Each~~] The department shall accept and evaluate
6 [~~proposals or~~] applications for funding for pre-kindergarten.

7 D. For funding purposes, applications [~~and~~
8 ~~proposals~~] shall be evaluated and priority given to programs in
9 communities with public elementary schools that are designated
10 as Title 1 schools and that have at least sixty-six percent of
11 the children served living within the attendance zone of a
12 Title 1 elementary school. Additional funding criteria
13 include:

14 (1) the number of four-year-olds residing in
15 the community and the number of four-year-olds proposed to be
16 served;

17 (2) the adequacy and capacity of pre-
18 kindergarten facilities in the community;

19 (3) language and literacy services in the
20 community;

21 (4) the cultural, historic and linguistic
22 responsiveness to the community;

23 (5) parent education services available for
24 parents of four-year-olds in the community;

25 (6) the qualifications of eligible providers

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1 in the community;

2 (7) staff professional development plans;

3 (8) the capacity of local organizations and
4 persons interested in and involved in programs and services for
5 four-year-olds and their commitment to work together;

6 (9) the extent of local support for pre-
7 kindergarten services in the community; and

8 (10) other relevant criteria specified by
9 [~~joint~~] rule of the [~~departments~~] department.

10 E. A contract or agreement with an eligible
11 provider shall specify and ensure that funds shall not be used
12 for any religious, sectarian or denominational purposes,
13 instruction or material."

14 SECTION 20. Section 32A-23-8 NMSA 1978 (being Laws 2005,
15 Chapter 170, Section 8) is amended to read:

16 "32A-23-8. [~~FUNDS~~] FUND CREATED--ADMINISTRATION.--[~~A-~~]

17 The "[~~public~~] pre-kindergarten fund" is created as a
18 nonreverting fund in the state treasury. The fund shall
19 consist of appropriations, income from investment of the fund,
20 gifts, grants and donations. The fund shall be administered by
21 the [~~public-education~~] department, and money in the fund is
22 appropriated to the department to carry out the provisions of
23 the Pre-Kindergarten Act. Disbursements from the fund shall be
24 by warrant of the secretary of finance and administration upon
25 vouchers signed by the secretary of [~~public-education~~] early

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1 learning or the secretary's authorized representative. The
2 department may use up to ten percent of the money in the fund
3 each year for administrative expenses.

4 [~~B. The "children, youth and families pre-~~
5 ~~kindergarten fund" is created as a nonreverting fund in the~~
6 ~~state treasury. The fund shall consist of appropriations,~~
7 ~~income from investment of the fund, gifts, grants and~~
8 ~~donations. The fund shall be administered by the children,~~
9 ~~youth and families department, and money in the fund is~~
10 ~~appropriated to the department to carry out the provisions of~~
11 ~~the Pre-Kindergarten Act. Disbursements from the fund shall be~~
12 ~~by warrant of the secretary of finance and administration upon~~
13 ~~vouchers signed by the secretary of children, youth and~~
14 ~~families or the secretary's authorized representative. The~~
15 ~~department may use up to ten percent of the money in the fund~~
16 ~~each year for administrative expenses.]"~~

17 SECTION 21. Section 32A-23-9 NMSA 1978 (being Laws 2011,
18 Chapter 126, Section 1) is amended to read:

19 "32A-23-9. EQUAL DIVISION OF APPROPRIATIONS.--Any money
20 appropriated for pre-kindergarten programs shall be divided
21 equally between [the] public [~~education department and the~~
22 ~~children, youth and families department]~~ schools and private
23 providers."

24 SECTION 22. Section 32A-23A-1 NMSA 1978 (being Laws 2011,
25 Chapter 123, Section 1) is amended to read:

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1 "32A-23A-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article
2 23A NMSA 1978 may be cited as the "Early Childhood Care and
3 Education Act"."

4 SECTION 23. Section 32A-23A-2 NMSA 1978 (being Laws 2011,
5 Chapter 123, Section 2) is amended to read:

6 "32A-23A-2. DEFINITIONS.--As used in the Early Childhood
7 Care and Education Act:

8 A. "council" means the state early learning
9 advisory council;

10 B. "department" means the [~~children, youth and~~
11 ~~families~~] early learning department;

12 C. "early childhood" means from prenatal to the age
13 of five years;

14 D. "fund" means the early childhood care and
15 education fund;

16 E. "pre-kindergarten" means a voluntary
17 developmental readiness program for children who have attained
18 their [~~fourth~~] third birthday prior to September 1; and

19 F. "secretary" means the secretary of [~~children,~~
20 ~~youth and families~~] early learning."

21 SECTION 24. Section 32A-23A-4 NMSA 1978 (being Laws 2011,
22 Chapter 123, Section 4) is amended to read:

23 "32A-23A-4. STATE EARLY LEARNING ADVISORY COUNCIL
24 CREATED--MEMBERSHIP.--

25 A. The "state early learning advisory council" is

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1 created. The council is attached to the department.

2 B. The council consists of fifteen members. The
3 secretary of early learning or the secretary's designee, the
4 secretary of public education or the secretary's designee, the
5 secretary of children, youth and families or the secretary's
6 designee and the director of the head start state collaboration
7 office of the department shall serve ex officio. The remaining
8 members shall be qualified electors and, if appointment is not
9 otherwise provided for in this subsection, shall be appointed
10 by the governor for four-year terms expiring on January 1 of
11 the appropriate year. Council members appointed by the
12 governor shall serve staggered terms as determined by the
13 governor at the time of their initial appointment, and no more
14 than five of the governor's appointees shall be from the same
15 political party. Along with the ex-officio members, the
16 council shall consist of the following members:

17 (1) one representative of an institution of
18 higher education;

19 (2) one representative of a local educational
20 agency;

21 (3) one representative from a head start or
22 early head start organization;

23 (4) two providers of early care and education
24 services, at least one of whom shall represent a privately
25 owned provider;

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1 (5) one representative of a state agency
2 responsible for programs under Section 619 or Part C of the
3 federal Individuals with Disabilities Education Act;

4 (6) one representative of the state agency
5 responsible for children's health or mental health care issues;

6 (7) three members of the New Mexico business
7 roundtable for educational excellence, appointed by and whose
8 terms shall be set by the roundtable's board of directors; and

9 (8) two public members with knowledge and
10 experience in early childhood care and education.

11 C. Annually, the members shall designate a chair
12 and vice chair from the members of the council.

13 D. A majority of the members constitutes a quorum
14 for the conduct of business. The council shall meet at the
15 call of the chair, and the chair shall coordinate the
16 activities of the council.

17 E. The council may form subcommittees or task
18 forces needed to make recommendations to the council. Task
19 force members may include [~~individuals~~] persons who are not
20 members of the council but have an interest or expertise in
21 early childhood education, health care or related matters.

22 F. Members of the council shall not be removed
23 except for incompetence, neglect of duty or malfeasance in
24 office. A vacancy in the membership of the council occurring
25 other than by expiration of term shall be filled in the same

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1 manner as the original appointment, but for the unexpired term
2 only.

3 G. Council members shall not be paid nor shall they
4 receive per diem and mileage as provided in the Per Diem and
5 Mileage Act."

6 SECTION 25. Section 32A-23B-1 NMSA 1978 (being Laws 2013,
7 Chapter 118, Section 1) is amended to read:

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

11 SECTION 26. Section 32A-23B-2 NMSA 1978 (being Laws 2013,
12 Chapter 118, Section 2) is amended to read:

13 "32A-23B-2. DEFINITIONS.--As used in the Home Visiting
14 Accountability Act:

15 A. "culturally and linguistically appropriate"
16 means taking into consideration the culture, customs and
17 language of an eligible family's home;

18 B. "department" means the [~~children, youth and~~
19 ~~families~~] early learning department;

20 C. "eligible family" means a family that elects to
21 receive home visiting and includes:

22 (1) a child, from birth until kindergarten
23 entry; or

24 (2) a pregnant woman, an expectant father, a
25 parent or a primary caregiver;

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1 D. "home visiting" means a program strategy that:

2 (1) delivers a variety of informational,
3 educational, developmental, referral and other support services
4 for eligible families who are expecting or who have children
5 who have not yet entered kindergarten and that is designed to
6 promote child well-being and prevent adverse childhood
7 experiences;

8 (2) provides a comprehensive array of services
9 that promote parental competence and successful early childhood
10 health and development by building long-term relationships with
11 families and optimizing the relationships between parents and
12 children in their home environments; and

13 (3) does not include:

14 (a) provision of case management or a
15 one-time home visit or infrequent home visits, such as a home
16 visit for a newborn child or a child in preschool;

17 (b) home visiting that is provided as a
18 supplement to other services; or

19 (c) services delivered through an
20 individualized family service plan or an individualized
21 education program under Part B or Part C of the federal
22 Individuals with Disabilities Education Act;

23 E. "home visiting program" means a program that:

24 (1) uses home visiting as a primary service
25 delivery strategy; and

1 (2) offers services on a voluntary basis to
2 pregnant women, expectant fathers and parents and primary
3 caregivers of children from birth to kindergarten entry;

4 F. "home visiting system" means the infrastructure
5 and programs that support and provide home visiting. A "home
6 visiting system":

7 (1) provides universal, voluntary access;

8 (2) provides a common framework for service
9 delivery and accountability across all home visiting programs;

10 (3) establishes a consistent statewide system
11 of home visiting; and

12 (4) allows for the collection, aggregation and
13 analysis of common data; and

14 G. "standards-based program" means a home visiting
15 program that:

16 (1) is research-based and grounded in
17 relevant, empirically based best practices and knowledge that:

18 (a) is linked to and measures the
19 following outcomes: 1) babies that are born healthy; 2)
20 children that are nurtured by their parents and caregivers; 3)
21 children that are physically and mentally healthy; 4) children
22 that are ready for school; 5) children and families that are
23 safe; and 6) families that are connected to formal and informal
24 supports in their communities;

25 (b) has comprehensive home visiting

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1 standards that ensure high-quality service delivery and
2 continuous quality improvement; and

3 (c) has demonstrated significant,
4 sustained positive outcomes;

5 (2) follows program standards that specify the
6 purpose, outcomes, duration and frequency of services that
7 constitute the program;

8 (3) follows a research-based curriculum or
9 combinations of research-based curricula, or follows the
10 curriculum of an evidence-based home visiting model or
11 promising approach that the home visiting program has adopted
12 pursuant to department rules defining "evidence-based model"
13 and "promising approach";

14 (4) employs well-trained and competent staff
15 and provides continual professional supervision and development
16 relevant to the specific program or model being delivered;

17 (5) demonstrates strong links to other
18 community-based services;

19 (6) operates within an organization that
20 ensures compliance with home visiting standards;

21 (7) continually evaluates performance to
22 ensure fidelity to the program standards;

23 (8) collects data on program activities and
24 program outcomes; and

25 (9) is culturally and linguistically

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1 appropriate."

2 SECTION 27. TEMPORARY PROVISION--TRANSFERS OF FUNCTIONS,
3 PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL
4 OBLIGATIONS AND REFERENCES.--

5 A. On July 1, 2015, all functions, personnel,
6 appropriations, money, records, furniture, equipment, supplies
7 and other property belonging to the children, youth and
8 families department pertaining to early childhood care and
9 education, including the following, shall be transferred to the
10 early learning department:

- 11 (1) the child care services bureau, not
12 including licensing of facilities;
- 13 (2) the headstart collaboration office;
- 14 (3) training and technical assistance
15 programs;
- 16 (4) child care resource and referral;
- 17 (5) the early childhood higher education task
18 force;
- 19 (6) home visitation programs;
- 20 (7) pre-kindergarten; and
- 21 (8) the office of child development as it
22 pertains to children age zero to five years.

23 B. On July 1, 2015, all contractual obligations of
24 the children, youth and families department pertaining to any
25 of the functions delineated in Subsection A of this section

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1 shall be transferred to the early learning department. All
2 contractual obligations of the public education department
3 pertaining to the Pre-Kindergarten Act shall be transferred to
4 the early learning department.

5 C. On July 1, 2015, all references in law to the
6 children, youth and families department pertaining to any of
7 the functions delineated in Subsection A of this section shall
8 be deemed to be references to the early learning department.
9 All references in law to the public education department
10 pertaining to the even start family literacy program or pre-
11 kindergarten shall be deemed to be references to the early
12 learning department.

13 SECTION 28. REPEAL.--Sections 32A-23-7 and 32A-23A-7 NMSA
14 1978 (being Laws 2005, Chapter 170, Section 7 and Laws 2011,
15 Chapter 123, Section 7) are repealed.

16 SECTION 29. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2015.