

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 22

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO STATE GOVERNMENT; CREATING THE EARLY CHILDHOOD
EDUCATION AND CARE DEPARTMENT; TRANSFERRING
SFC → ~~SEC~~ → ~~CERTAIN~~ ← ~~SEC~~ ← SFC EARLY CHILDHOOD-RELATED FUNCTIONS OF
OTHER STATE AGENCIES TO THE EARLY CHILDHOOD EDUCATION AND CARE
DEPARTMENT; EXPANDING SFC → ~~SEC~~ → ~~EARLY PRE-KINDERGARTEN~~
~~AND~~ ← ~~SEC~~ ← SFC SFC → ~~EARLY PRE-KINDERGARTEN~~ AND ← SFC PRE-
KINDERGARTEN PROGRAM ELIGIBILITY; TRANSFERRING PERSONNEL,
FUNCTIONS, MONEY, APPROPRIATIONS, OTHER PROPERTY AND
CONTRACTUAL OBLIGATIONS; CHANGING REFERENCES IN LAW; MAKING
APPROPRIATIONS.

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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 12 of this act may be cited as the "Early Childhood Education and Care Department Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Early Childhood Education and Care Department Act:

- A. "child" means a person from birth to age five or, where the context otherwise provides, to age eight or thirteen;
- B. "department" means the early childhood education and care department; and
- C. "secretary" means the secretary of early childhood education and care.

SECTION 3. [NEW MATERIAL] DEPARTMENT CREATED--
ORGANIZATIONAL UNITS.--

A. The "early childhood education and care department" is created as a cabinet department and consists of the:

- (1) administrative services division;
- (2) office of the secretary;
- (3) child care licensing and services division;
- (4) early childhood education division; and
- (5) early intervention services division,

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which consists of the:

- (a) home visitation bureau; and
- (b) family, infant, toddler program.

B. The office of the secretary shall include an assistant secretary for Native American early childhood education and care who will be advised by the Indian education advisory council created pursuant to Section 22-23A-6 NMSA 1978.

SECTION 4. [NEW MATERIAL] SECRETARY--APPOINTMENT.--The chief executive and administrative officer of the department is the "secretary of early childhood education and care". The governor, with the advice and consent of the senate, shall appoint a person who has experience in early childhood education or care programs to serve as secretary. The secretary shall serve in and have the duties, responsibilities and authority of that position during the period before final action by the senate confirming or rejecting the secretary's appointment. The secretary shall serve in the executive cabinet and shall serve in the role of secretary at the pleasure of the governor.

SECTION 5. [NEW MATERIAL] DEPARTMENT REORGANIZATION AND ORGANIZATIONAL UNIT CREATION.--

A. The secretary may reorganize the department. If the secretary does so, the secretary shall report on the reorganization to the legislature.

B. The secretary shall, with the approval of the governor, appoint directors of the department's divisions.

C. The secretary may establish within each of the

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department's divisions additional bureaus as necessary to implement the Early Childhood Education and Care Department Act. The secretary shall appoint chiefs to serve as the administrative heads of the department's bureaus.

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

A. The secretary is responsible to the governor for the operation of the department. The secretary shall manage the department's operations and ensure compliance with laws applicable to the department.

B. To perform the secretary's duties, and except as otherwise provided by law, the secretary may exercise powers granted to the department.

C. The secretary shall:

(1) except as otherwise provided by the Early Childhood Education And Care Department Act, exercise general supervisory and appointing power over all department employees in accordance with personnel laws;

(2) delegate power to department employees as necessary and appropriate and, in doing so, clearly delineate the limits of the delegated power;

(3) employ and fix the compensation of employees as necessary to perform the duties imposed by law on the secretary and the department;

(4) issue administrative orders and

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instructions to ensure implementation of and compliance with laws the secretary is charged with administering and enforce those orders and instructions through the courts;

(5) conduct research and studies to improve the department's operations and its delivery of programs;

(6) improve department operations and efficiency and promote the delivery of comprehensive, coordinated, culturally sensitive programs that address overall child well-being and early learning;

(7) provide courses of instruction and practical training for department employees and others involved in administering department programs; and

(8) prepare an annual budget for the department.

D. The secretary, in the name of the department and with the governor's approval, may apply for and receive public or private funding to carry out department programs, duties and services.

E. The secretary and division directors may promulgate reasonable rules as necessary to perform the department's duties. A rule promulgated by a division director is effective only with the secretary's approval.

**SECTION 7. [NEW MATERIAL] ASSISTANT SECRETARY--
APPOINTMENT--DUTIES.--**

A. The secretary shall, with the consent of the governor, appoint an assistant secretary for Native American early education and care.

B. The assistant secretary shall:

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(1) be responsible to the secretary for the administration, coordination and oversight of Indian early childhood education and care programs;

(2) the assistant secretary shall, in cooperation with the secretary, collaborate with state and federal departments and agencies, tribal governments, eligible providers and community partners to identify ways such entities can assist the department in the implementation of the Early Childhood Education and Care Department Act;

(3) consult with the New Mexico Indian nations, tribes and pueblos for delivery of learning guidelines in Native American language, culture and history designed for tribal and nontribal students;

(4) provide assistance to school districts and educational agencies to expand appropriate Indian education programs for Native American infants, toddlers, children, youth and families pursuant to the federal Indian Child Welfare Act of 1978;

(5) assist with the delivery of culturally relevant education and care for Native American children;

(6) seek funding to establish and strengthen programs related to Native American infants, toddlers, children, youth and families; and

(7) help ensure that Native American language and cultural considerations are included in programs

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administered through the department.

SECTION 8. [NEW MATERIAL] DEPARTMENT--DUTIES.--The department shall:

A. develop priorities for department programs and the use of department resources based on state policy, national best-practice standards, evidence-based interventions and practices and local considerations and priorities;

B. coordinate and align an early childhood education and care system to:

(1) include child care, pre-kindergarten, SFC→~~SEG→early pre-kindergarten,~~←SEG early pre-kindergarten,←SFC home visitation, early head start, head start, early childhood special education and early intervention and family support; and

(2) provide New Mexico families with consistent access to appropriate care and education services;

C. administer the child care assistance, child care licensing and registered child care home programs;

D. develop standards for the department-sponsored delivery of early childhood programs;

E. cooperate with other state agencies that affect children to develop common contracting procedures and service definitions and a uniform system of access to early childhood programs;

F. develop reimbursement criteria for child care centers and home providers licensed by the department;

G. conduct biennial assessments of child care or early learning service gaps and needs and establish plans to

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address those service gaps and needs;

H. conduct pre-employment fingerprint-based national criminal background checks on all department employees, including those whose employment by the department arises as a result of the transfer provisions of Section 34 of this 2019 act, and on staff members and volunteers of department-contracted providers whose jobs involve direct contact with children participating in programs delivered by the department or those providers;

I. provide a system of seamless transition from prenatal to early childhood programs to kindergarten;

J. provide consumer education and accessibility to early childhood care and education programs;

K. advance quality early childhood education and care programs to support the development of children to prepare them for success in school;

L. ensure effective collaboration with state and local child welfare programs and early childhood health and behavioral health programs;

M. develop and manage effective data systems to support the necessary functions of a coordinated program;

N. develop an aligned system of workforce development for early childhood professionals; and

O. promote culturally and linguistically appropriate programming and provide equal education and care

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opportunities to non-English speaking families.

SECTION 9. [NEW MATERIAL] RECORDS AND CONFIDENTIALITY.--

The department may access records and data of other state agencies that are not made expressly confidential by law. The department shall enter into agreements with the children, youth and families department and the public education department to share and maintain confidential information in accordance with federal and state confidentiality laws.

SECTION 10. [NEW MATERIAL] FAMILY, INFANT, TODDLER PROGRAM.--

A. As used in this section:

(1) "early intervention programs" means programs, including physical development, communications development, adaptive development, social and emotional development and sensory development programs, designed to meet the developmental needs of eligible children;

(2) "eligible child" means a child from birth to age thirty-six months with developmental delay or who, according to department of health-established criteria, is at risk of developmental delay; and

(3) "program" means the family, infant, toddler program.

B. The department is the lead state agency for the program. Through the program, the department shall develop and administer a statewide system of comprehensive, coordinated, multidisciplinary and interagency early intervention programs to eligible children.

C. The parent of an eligible child may choose

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whether to enroll the child in the program.

D. The children, youth and families department, the department of health, the human services department, the public education department and other publicly funded providers of services to eligible children shall collaborate with the department to provide program services and shall establish the division of responsibilities for providing those services in interagency agreements.

E. The secretary shall comply with the federal Individuals with Disabilities Education Act, Part C, contingent on participation by the state, including by:

- (1) establishing related policies and promulgating program rules;
- (2) implementing procedures to ensure that program services are timely delivered;
- (3) administering and overseeing the program;
- (4) resolving complaints related to the program;
- (5) maintaining and expanding interagency and state and local coordination in implementing the program;
- (6) identifying and coordinating resources for delivering early intervention programs through the program; and
- (7) establishing minimum requirements to qualify personnel to deliver services through the program.

F. The department is the custodian of money

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received by the state from the federal government for the purpose of implementing the federal Individuals with Disabilities Education Act, Part C.

SECTION 11. [NEW MATERIAL] EARLY CHILDHOOD PROGRAMS.--

A. The department shall convene an advisory council consisting primarily of eligible providers, community organizations, employees who reflect the demographics of the current early childhood workforce throughout the state, employee representatives and representatives of the legislative finance committee and the department of finance and administration to:

(1) develop an outcomes measurement plan to monitor outcomes for children and families receiving services through early childhood programs;

(2) as part of that plan, develop goals and objectives with corresponding indicators that measure whether each of those objectives is reached;

(3) as part of the work of the council, a workforce development plan shall be developed to include a career ladder, wage structure and professional development plan that applies to the full continuum of programs within the department, as well as other items deemed appropriate by the secretary; and

(4) submit the plan by December 31, 2020 to the legislature and the governor.

B. By December 31 of each year, the department shall develop and submit to the legislature and the governor an annual report on outcomes for children and families receiving

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services through early childhood programs that includes:

- (1) the number and type of early childhood programs funded by the department;
- (2) the income levels of families served through those programs;
- (3) the reasons stated by families for applying for participation in those programs;
- (4) the number of children served through those programs, including by county and the monthly average;
- (5) evidence of improved school readiness, child development and literacy among children served through those programs;
- (6) the number of kindergarten-age children served through those programs who enter kindergarten ready to learn;
- (7) the number and percentage of children served through those programs who receive regular immunizations;
- (8) evidence that children served through those programs are served meals regularly;
- (9) retention rates, wages and certification and education levels of those programs' staff members; and
- (10) evidence that families of children served through those programs are engaged in the programs.

SECTION 12. [NEW MATERIAL] EARLY CHILDHOOD EDUCATION AND

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CARE FINANCE PLAN.--

A. The department shall prepare and update a four-year early childhood education and care finance plan to provide the legislature and the governor with demographic information on at-risk children, data on the efficacy of early childhood education and care programs and recommendations for financing the early childhood education and care system.

B. The department shall include in the early childhood education and care finance plan:

(1) an identification of:

(a) the social, emotional, cognitive, health, educational, safety and other needs and risk factors of children by age and location;

(b) the availability of, cost of and funding for programs that address those needs and reduce those risks by: 1) type of program; 2) age of program participant; and 3) geographic location;

(c) the gaps between those needs and the programs that address those needs and the reasons for those gaps; and

(d) the funding for each of the previous four years for programs that address those needs and reduce those risks;

(2) an evaluation of the early childhood education and care system by service type;

(3) an assessment of whether desired outcomes have been reached for each of the previous four years; and

(4) recommendations for legislation, funding

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and other changes necessary to improve that system and to close the gaps in those programs.

C. The department shall post prominently on its website the early childhood education and care finance plan in a user-friendly, searchable format.

SECTION 13. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended) is amended to read:

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

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

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

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

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

E. purchases of books, periodicals and training materials in printed or electronic format from the publishers

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or copyright holders thereof;

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

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

H. contracts with businesses for public school transportation services;

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

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

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

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26

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and 33-3-27 NMSA 1978;

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

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

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

Q. contracts with professional entertainers;

R. contracts and expenditures for legal subscription and research services and litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county

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improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

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

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

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

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

X. procurement of printing services for materials produced and intended for resale by the cultural affairs department;

Y. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed

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two hundred thousand dollars (\$200,000);

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

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

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

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

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

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

FF. procurement by or through the [~~children, youth~~

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and families] early childhood education and care department of
~~SFC~~→~~SEC~~→~~early pre-kindergarten and~~←~~SEC~~←SFC SFC→early
pre-kindergarten and←SFC pre-kindergarten services purchased
pursuant to the Pre-Kindergarten Act;

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

HH. procurements exempt from the Procurement Code
as otherwise provided by law."

SECTION 14. Section 13-7-7 NMSA 1978 (being Laws 2001,
Chapter 351, Section 3, as amended) is amended to read:

"13-7-7. CONSOLIDATED ADMINISTRATIVE FUNCTIONS--
BENEFIT.--

~~[A. By December 1, 2001, the publicly funded health
care agencies, political subdivisions and other persons
participating in the consolidated purchasing single process
pursuant to the Health Care Purchasing Act shall cooperatively
study and provide a status report on the consolidation of
administrative functions to the legislative health and human
services committee and the governor.~~

~~B. By December 31, 2003, the publicly funded health
care agencies, political subdivisions and other persons
participating in the consolidated purchasing single process
pursuant to the Health Care Purchasing Act shall consolidate,
standardize and administer the administrative functions that
those entities can effectively and efficiently administer as
reflected in the study.~~

~~G.]~~ A. The publicly funded health care agencies,
political subdivisions and other persons participating in the

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consolidated purchasing single process pursuant to the Health Care Purchasing Act may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act with the publicly funded health care agencies and political subdivisions to determine assessments or provisions of resources to consolidate, standardize and administer the consolidated purchasing single process and subsequent activities pursuant to the Health Care Purchasing Act. The publicly funded health care agencies, political subdivisions and other persons participating in the consolidated purchasing single process pursuant to the Health Care Purchasing Act may enter into contracts with nonpublic persons to provide the service of determining assessments or provision of resources for consolidation, standardization and administrative activities.

~~[D.]~~ B. Each agency ~~[will]~~ shall retain its responsibility to determine policy direction of the benefit plans, plan development, training and coordination with respect to participants and its benefits staff, as well as to respond to benefits eligibility inquiries and establish and enforce eligibility rules.

~~[E.]~~ C. Notwithstanding Subsection ~~[D]~~ B of this section, publicly funded health care agencies, political subdivisions and other persons participating in the consolidated purchasing single process pursuant to the Health Care Purchasing Act shall provide coverage for children, from

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birth through three years of age, for or under the family, infant, toddler program administered by the early childhood education and care department [~~of health~~], provided eligibility criteria are met, for a maximum benefit of three thousand five hundred dollars (\$3,500) annually for medically necessary early intervention services provided as part of an individualized family service plan and delivered by certified and licensed personnel [~~as defined in 7.30.8 NMAC~~] who are working in early intervention programs approved by the early childhood education and care department [~~of health~~]. No payment under this subsection shall be applied against any maximum lifetime or annual limits specified in the policy, health benefits plan or contract."

SECTION 15. Section 22-23A-6 NMSA 1978 (being Laws 2003, Chapter 151, Section 6, as amended by Laws 2007, Chapter 295, Section 5 and by Laws 2007, Chapter 296, Section 5) is amended to read:

"22-23A-6. ADVISORY COUNCIL.--

A. The "Indian education advisory council" is created and shall advise the [~~secretary~~] secretaries of early childhood education and care and public education and the assistant [~~secretary~~] secretaries for Native American early childhood education and care and for Indian education on implementation of the provisions of the Indian Education Act. The council consists of sixteen members as follows:

- (1) four representatives from the Navajo Nation;
- (2) two representatives, one from the

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Mescalero Apache Tribe and one from the Jicarilla Apache Nation;

(3) four representatives, two from the southern pueblos and two from the northern pueblos;

(4) three urban Indians representing urban areas, including Albuquerque, Gallup and Farmington; and

(5) three at-large representatives, one from the federal bureau of Indian affairs, one from a head start organization and one from the general public, at least one of whom shall be nontribal, but all of whom shall have knowledge of and involvement in the education of tribal students.

B. Members shall be appointed by the secretary with input from New Mexico tribes and organizations involved in the education of tribal students for staggered terms so that the terms of the at-large members and of one-half of each of the tribal representatives end on December 31, 2009 and the terms of the remaining members end on December 31, 2011. Thereafter, appointments shall be for terms of four years. The terms of existing members shall expire on [~~the effective date of this 2007 act~~] June 15, 2007.

C. A majority of the members of the Indian education advisory council constitutes a quorum. The advisory council shall elect a chair from its membership.

D. On a semiannual basis, representatives from all New Mexico tribes, members of the commission, the office of the

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governor, the Indian affairs department, the legislature, the secretary, the assistant secretary and the Indian education advisory council shall meet to assist in evaluating, consolidating and coordinating all activities relating to the education of tribal students.

E. Members of the Indian education advisory council may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act."

SECTION 16. Section 32A-22-1 NMSA 1978 (being Laws 2005, Chapter 64, Section 1) is amended to read:

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

SECTION 17. Section 32A-22-2 NMSA 1978 (being Laws 2005, Chapter 64, Section 2) is amended to read:

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

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

B. The children's cabinet ~~[shall consist]~~ consists of ~~[the following members]~~:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the secretary of children, youth and families;
- (4) the secretary of early childhood education and care;
- ~~[4]~~ (5) the secretary of corrections;
- ~~[5]~~ (6) the secretary of human services;

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[~~(6)~~] (7) the secretary of [~~labor~~] workforce solutions;

[~~(7)~~] (8) the secretary of health;

[~~(8)~~] (9) the secretary of finance and administration;

[~~(9)~~] (10) the secretary of economic development;

[~~(10)~~] (11) the secretary of public safety;

[~~(11)~~] (12) the secretary of aging and long-term services;

[~~(12)~~] (13) the secretary of Indian affairs; and

[~~(13)~~] (14) the secretary of public education.

C. Each year, the [~~children's cabinet~~] governor shall select [~~the governor or lieutenant governor to be the chairperson~~] a person to serve as chair of the cabinet."

SECTION 18. Section 32A-23-1 NMSA 1978 (being Laws 2005, Chapter 170, Section 1) is amended to read:

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

SFC → ~~SEC → SECTION 19. Section 32A-23-2 NMSA 1978 (being Laws 2005, Chapter 170, Section 2) is amended to read:~~

~~"32A-23-2. FINDINGS [AND PURPOSE].--The legislature finds that:~~

~~A. special needs are present among the state's~~

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~~population of three- and four-year-old children and those needs warrant the provision of early pre-kindergarten and pre-kindergarten programs;~~

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

~~C. early pre-kindergarten and pre-kindergarten will advance governmental interests and childhood development and readiness."~~

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

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

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

~~B. ["departments"] "department" means the [children, youth and families] early childhood education and care department; [and the public education department acting jointly;~~

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

~~C. "early pre-kindergarten program" means a statewide, voluntary developmental readiness program for children who have attained their third birthday prior to September 1 that delivers to eligible children programs that~~

~~address their total developmental needs, including their physical, cognitive, social and emotional needs, and that supports their development in the areas of health care, nutrition, safety awareness and multicultural sensitivity;~~

~~D. "eligible child" means a person age three or four on September 1 of the early pre-kindergarten or pre-kindergarten program year;~~

~~[D.] E. "eligible provider" means a person licensed by the [children, youth and families] department [that provides] to provide early childhood developmental readiness services or preschool special education, or is a public provider or a [public school] tribal program or head start program;~~

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

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

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~~{and}~~

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

~~{F.} I. "tribe" means an Indian nation, tribe or pueblo located in New Mexico."~~

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

~~"32A-23-4. [VOLUNTARY] EARLY PRE-KINDERGARTEN AND PRE-KINDERGARTEN PROGRAMS--INTERAGENCY COOPERATION--CONTRACTS--CONTRACT MONITORING--RESEARCH.--~~

~~A. The {children, youth and families department and the public education} department shall {cooperate in the development and implementation of a voluntary} develop and implement an early pre-kindergarten program and a pre-kindergarten program {for the provision of pre-kindergarten services throughout the state. The pre-kindergarten program shall address the total developmental needs of preschool children, including physical, cognitive, social and emotional needs, and shall include health care, nutrition, safety and multicultural sensitivity}. The department may approve a public provider or contract with any other eligible provider for the delivery of early pre-kindergarten and pre-kindergarten program services at the per-child rate paid to public elementary schools designated as Title I schools in that locality where the services are provided.~~

~~B. The department shall establish standards and performance measures for the early pre-kindergarten and pre-kindergarten programs to ensure the delivery of high-quality,~~

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~~effective services that prepare participating children for kindergarten. The department and the public education department shall cooperate to align standards for early pre-kindergarten, pre-kindergarten and kindergarten programs. Those departments shall enter into an agreement to share data necessary to report on the early pre-kindergarten and pre-kindergarten programs' performance, including the percentage of program participants who:~~

~~(1) enter kindergarten:~~

~~(a) developmentally prepared for it;~~

~~(b) needing special services; and~~

~~(c) proficient in reading and~~

~~mathematics; and~~

~~(2) are retained in kindergarten or first, second or third grade.~~

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

~~{B.} D. The {departments} department shall {collaborate on promulgating} promulgate rules on pre-kindergarten program services, including state policies and standards defining length of service for pre-kindergarten and early pre-kindergarten programs, and shall review the process for making contract awards and for the expenditure and use of~~

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~~contract funds.~~

~~[C.] E. The [departments] department shall monitor activity under early pre-kindergarten and pre-kindergarten program contracts to ensure [the effectiveness of] adherence to child-centered, developmentally appropriate practices and outcomes. The [departments shall assign staff to work on the development and implementation of the program and on the monitoring of contract awards. The early childhood training and technical assistance programs of the children, youth and families department and assigned staff from the public education department staff] department shall provide early childhood training and technical assistance to [eligible providers] contract award recipients.~~

~~[D.] F. Each year, the [departments] department shall provide an annual report to the governor and the legislature on the [progress of the state's voluntary] early pre-kindergarten and pre-kindergarten [program] programs."~~

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

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

~~A. [Each] The department shall [publish] solicit the delivery of full-day early pre-kindergarten and pre-kindergarten program services by publishing a request for proposals or a request for applications that contains the same requested information for pre-kindergarten services.~~

~~B. Eligible providers shall submit proposals [or applications for pre-kindergarten services to the appropriate~~

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~~department. An eligible provider's proposal or application] to the department that shall include a description of the services that will be provided, including:~~

~~(1) how [those] the provider's services meet [children, youth and families department or public education] department standards;~~

~~(2) the number of [four-year-old] eligible children the [eligible] provider can serve;~~

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

~~(4) the revenue sources and [amounts other than state] non-state funding available for the [pre-kindergarten program] provider's delivery of services;~~

~~(5) a description of the qualifications and experience of the [early childhood development] provider's service-delivery staff for each site;~~

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

~~(7) how [those] the provider's services meet the continuum of services to children; and~~

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

~~G. [Each] The department shall accept and evaluate proposals or applications for [funding for] the delivery of~~

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~~early pre-kindergarten and pre-kindergarten [D. For funding purposes, applications and proposals shall be evaluated and priority given] program services by eligible providers.~~

~~D. In selecting among proposals and applications for the delivery of early pre-kindergarten and pre-kindergarten program services, the department shall give priority to programs in communities with public elementary schools [that are] designated as Title [1] I schools [and that have] in which at least sixty-six percent of the children served [living] reside within the attendance zone of a Title [1] I elementary school. [Additional funding criteria include] It shall further consider:~~

~~(1) the number of [four-year-olds] eligible children residing in the community and the number of [four-year-olds] eligible children proposed to be served;~~

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

~~(3) the availability of language and literacy services in the community;~~

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

~~(5) the availability of parent education services [available] for parents of [four-year-olds] eligible children in the community;~~

~~[(6) the qualifications of eligible providers in the community;~~

~~(7)] (6) staff professional development plans;~~

~~[(8)] (7) the capacity of local organizations~~

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~~and persons interested in and involved in programs and services for [four-year-olds] eligible children and their commitment to work together;~~

~~[(9)] (8) the [extent] degree of local support for early pre-kindergarten and pre-kindergarten program services in the community; and~~

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

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

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

~~"32A-23-9. EQUAL DIVISION OF APPROPRIATIONS.--Any money appropriated for pre-kindergarten programs shall be divided equally between [the public education department and the children, youth and families department] programs administered by the public schools and other programs licensed by the department."~~

~~SECTION 24. A new section of the Pre-Kindergarten Act is enacted to read:~~

~~"[NEW MATERIAL] MIXED DELIVERY OF PRE-KINDERGARTEN PROGRAMS.--Any money appropriated for pre-kindergarten programs~~

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~~shall be distributed for mixed delivery programming. The public education department shall access funds from the early childhood education and care department to support pre-kindergarten in the public education system. Pre-kindergarten funding transfers to public providers shall be processed through the public education department to those public providers that demonstrate adherence to standards developed by the department."~~←SEC

SEC→SECTION 19. Section 32A-23-2 NMSA 1978 (being Laws 2005, Chapter 170, Section 2) is amended to read:

~~"32A-23-2. FINDINGS [AND PURPOSE].--The legislature finds that:~~

~~A. special needs are present among the state's population of three- and four-year-old children and those needs warrant the provision of pre-kindergarten programs;~~

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

~~C. pre-kindergarten will advance governmental interests and childhood development and readiness."~~

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

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

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

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~~B. "departments" means the [children, youth and families] early childhood education and care department and the public education department acting jointly;~~

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

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

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

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

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

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

~~A. The [children, youth and families department and the public education department] departments shall cooperate in the development and implementation of a voluntary program for the provision of pre-kindergarten services throughout the~~

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~~state. The pre-kindergarten program shall address the total developmental needs of preschool children, including physical, cognitive, social and emotional needs, and shall include health care, nutrition, safety and multicultural sensitivity.~~

~~B. The departments shall collaborate on promulgating rules on pre-kindergarten services, including state policies and standards and shall review the process for contract awards and for the expenditure and use of contract funds.~~

~~C. The departments shall coordinate with federal head start agencies to avoid duplication of effort and maximize the use of available resources in the implementation of pre-kindergarten.~~

~~[C.] D. The departments shall monitor pre-kindergarten contracts to ensure the effectiveness of child-centered, developmentally appropriate practices and outcomes. The departments shall assign staff to work on the development and implementation of [the program] statewide voluntary pre-kindergarten and on the monitoring of contract awards. The [early childhood training and technical assistance programs of the children, youth and families department and assigned staff from the public education department] departments' staff shall provide technical assistance to eligible providers.~~

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

~~SECTION 22. Section 32A-23-5 NMSA 1978 (being Laws 2005, Chapter 170, Section 5, as amended) is amended to read:~~

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~~"32A-23-5. PRE-KINDERGARTEN--ELIGIBILITY.--Pre-kindergarten services may be provided by public schools or other eligible providers on a per-child reimbursement rate [in communities with public elementary schools that are designated as Title I schools]."~~

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

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

~~A. Each department shall publish a request for proposals or a request for applications that contains the same requested information for pre-kindergarten services.~~

~~B. Eligible providers shall submit proposals or applications for pre-kindergarten services to the appropriate department. An eligible provider's proposal or application shall include a description of [the] services, [that will be provided, including] facilities, staff education and experience, revenues and other information as follows:~~

~~(1) how [those] provided services meet [children, youth and families] early childhood education and care department or public education department standards;~~

~~(2) the number of three- and four-year-old children the eligible provider can serve;~~

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

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

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

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

~~(7) how [those] the services meet the continuum of services to children; and~~

~~(8) other relevant information requested by the departments.~~

~~C. Each department shall accept and evaluate proposals or applications for funding for pre-kindergarten.~~

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

~~(1) the number of three- and four-year-olds residing in the community and the number of three- or four-year-olds proposed to be served;~~

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

~~(3) language and literacy services in the community;~~

~~(4) the cultural, historic and linguistic~~

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~~responsiveness to the community;~~

~~(5) parent education services available for parents of three- and four-year-olds in the community;~~

~~(6) the qualifications of eligible providers in the community;~~

~~(7) staff professional development plans;~~

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

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

~~(10) other relevant criteria specified by joint rule of the departments.~~

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

~~SECTION 24. Section 32A-23-7 NMSA 1978 (being Laws 2005, Chapter 170, Section 7) is amended to read:~~

~~"32A-23-7. PROGRAM FUNDING.--The [children, youth and families] early childhood education and care department shall reimburse eligible providers for programs that are not offered in [a] public [school] schools. The public education department shall reimburse eligible providers that are public~~

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~~school programs."~~

~~SECTION 25. Section 32A-23-8 NMSA 1978 (being Laws 2005, Chapter 170, Section 8) is amended to read:~~

~~"32A-23-8. FUNDS CREATED--ADMINISTRATION.--~~

~~A. The "public pre-kindergarten fund" is created as a nonreverting fund in the state treasury. The fund shall consist of appropriations, income from investment of the fund, gifts, grants and donations. The fund shall be administered by the public education department, and money in the fund is appropriated to the department to carry out the provisions of the Pre-Kindergarten Act. Disbursements from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the secretary of public education or the secretary's authorized representative. The department may use up to ten percent of the money in the fund each year for administrative expenses.~~

~~B. The "[children, youth and families] early childhood education and care pre-kindergarten fund" is created as a nonreverting fund in the state treasury. The fund shall consist of appropriations, income from investment of the fund, gifts, grants and donations. The fund shall be administered by the [children, youth and families] early childhood education and care department, and money in the fund is appropriated to the department to carry out the provisions of the Pre-Kindergarten Act. Disbursements from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the secretary of [children, youth and families] early childhood education and~~

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~~care or the secretary's authorized representative. The department may use up to ten percent of the money in the fund each year for administrative expenses."~~

~~SECTION 26. Section 32A-23-9 NMSA 1978 (being Laws 2011, Chapter 126, Section 1) is amended to read:~~

~~"32A-23-9. EQUAL DIVISION OF APPROPRIATIONS.--Any money appropriated for pre-kindergarten programs shall be divided equally between the public education department and the [children, youth and families] early childhood education and care department.←SEC←SFC~~

SFC→SECTION 19. Section 32A-23-2 NMSA 1978 (being Laws 2005, Chapter 170, Section 2) is amended to read:

"32A-23-2. FINDINGS [AND PURPOSE].--The legislature finds that:

A. special needs are present among the state's population of three- and four-year-old children and those needs warrant the provision of early pre-kindergarten and pre-kindergarten programs;

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

C. early pre-kindergarten and pre-kindergarten will advance governmental interests and childhood development and readiness."

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SECTION 20. Section 32A-23-3 NMSA 1978 (being Laws

2005, Chapter 170, Section 3) is amended to read:

"32A-23-3. DEFINITIONS.--As used in the Pre-

Kindergarten Act:

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

B. [~~"departments"~~] "department" means the [~~children, youth and families~~] early childhood education and care department; [~~and the public education department acting jointly~~];

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

C. "early pre-kindergarten program" means a statewide, voluntary developmental readiness program for children who have attained their third birthday prior to September 1 that delivers to eligible children programs that address their total developmental needs, including their physical, cognitive, social and emotional needs, and that supports their development in the areas of health care, nutrition SFC→, and←SFC safety SFC→awareness←SFC and multicultural SFC→sensitivity awareness←SFC;

D. "eligible child" means a person age three or four on September 1 of the early pre-kindergarten or pre-kindergarten program year;

[D.] E. "eligible provider" means a person

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licensed by the ~~[children, youth and families]~~ department ~~[that provides]~~ to provide early childhood developmental readiness services or preschool special education, or is a public provider or a ~~[public school]~~ tribal program or head start program;

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

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

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

~~[F.]~~ I. "tribe" means an Indian nation, tribe or pueblo located in New Mexico."

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

"32A-23-4. [VOLUNTARY] EARLY PRE-KINDERGARTEN AND PRE-

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KINDERGARTEN PROGRAMS--INTERAGENCY COOPERATION--CONTRACTS--
CONTRACT MONITORING--RESEARCH.--

A. The [children, youth and families department and the public education] department shall [cooperate in the development and implementation of a voluntary] develop and implement an early pre-kindergarten program and a pre-kindergarten program [for the provision of pre-kindergarten services throughout the state. The pre-kindergarten program shall address the total developmental needs of preschool children, including physical, cognitive, social and emotional needs, and shall include health care, nutrition, safety and multicultural sensitivity]. ~~SFC→The department may approve a public provider or contract with any other eligible provider for the delivery of early pre-kindergarten and pre-kindergarten program services at the per-child rate paid to public elementary schools designated as Title I schools in that locality where the services are provided.~~ ←SFC SFC→The department may transfer funds to the public education department for an approved public provider or may contract with any other eligible provider for the delivery of early pre-kindergarten and pre-kindergarten program services. ←SFC

B. The department shall establish standards and performance measures for the early pre-kindergarten and pre-kindergarten programs to ensure the delivery of high-quality, effective services that prepare participating children for kindergarten. The department and the public education department shall cooperate to align standards for early pre-kindergarten, pre-kindergarten and kindergarten programs.

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Those departments shall enter into an agreement to share data necessary to report on the early pre-kindergarten and pre-kindergarten programs' performance, including the percentage of program participants who:

(1) enter kindergarten:

(a) developmentally prepared for it;

(b) needing special services; and

(c) proficient in reading and

mathematics; and

(2) are retained in kindergarten or first, second or third grade.

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

[B.] D. The [departments] department shall [collaborate on promulgating] promulgate rules on pre-kindergarten program services, including state policies and standards defining length of service for pre-kindergarten and early pre-kindergarten programs, and shall review the process for making contract awards and for the expenditure and use of contract funds.

[G.] E. The [departments] department shall monitor activity under early pre-kindergarten and pre-kindergarten program contracts to ensure [the effectiveness

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~~of] adherence to child-centered, developmentally appropriate practices and outcomes. The [departments shall assign staff to work on the development and implementation of the program and on the monitoring of contract awards. The early childhood training and technical assistance programs of the children, youth and families department and assigned staff from the public education department staff] department shall provide early childhood training and technical assistance to [eligible providers] contract award recipients.~~

~~[D-] F. Each year, the [departments] department shall provide an annual report to the governor and the legislature on the [progress of the state's voluntary] early pre-kindergarten and pre-kindergarten [program] programs."~~

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

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

A. ~~[Each]~~ The department shall ~~[publish]~~ solicit the delivery of SFC→both half-day and←SFC full-day early pre-kindergarten and pre-kindergarten program services by publishing a request for proposals or a request for applications that contains the same requested information for pre-kindergarten services.

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

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(1) how ~~[those]~~ the provider's services meet [children, youth and families department or public education] department standards;

(2) the number of ~~[four-year-old]~~ eligible children the [eligible] provider can serve;

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

(4) the revenue sources and [amounts other than state] non-state funding available for the [pre-kindergarten program] provider's delivery of services;

(5) a description of the qualifications and experience of the ~~[early childhood development]~~ provider's service-delivery staff for each site;

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

(7) how ~~[those]~~ the provider's services meet the continuum of services to children; and

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

C. ~~[Each]~~ The department shall accept and evaluate proposals or applications for [funding for] the delivery of early pre-kindergarten and pre-kindergarten [D. For funding purposes, applications and proposals shall be evaluated and priority given] program services by eligible

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providers.

D. In selecting among proposals and applications for the delivery of early pre-kindergarten and pre-kindergarten program services, the department shall give priority to programs in communities with public elementary schools [that are] designated as Title [1] I schools [and that have] in which at least sixty-six percent of the children served [living] reside within the attendance zone of a Title [1] I elementary school. [Additional funding eriteria include] It shall further consider:

(1) the number of [four-year-olds] eligible children residing in the community and the number of [four-year-olds] eligible children proposed to be served;

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

(3) the availability of language and literacy services in the community;

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

(5) the availability of parent education services [available] for parents of [four-year-olds] eligible children in the community;

~~(6) the qualifications of eligible providers in the community;~~

~~(7)] (6) staff professional development plans;~~

~~(8)] (7) the capacity of local organizations and persons interested in and involved in~~

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programs and services for ~~[four-year-olds]~~ eligible children and their commitment to work together;

~~[(9)]~~ (8) the ~~[extent]~~ degree of local support for early pre-kindergarten and pre-kindergarten program services in the community; and

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

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

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

"32A-23-9. EQUAL DIVISION OF APPROPRIATIONS.--Any money appropriated for pre-kindergarten programs shall be divided equally between ~~[the public education department and the children, youth and families department]~~ programs administered by the public schools and other programs licensed by the department."

SECTION 24. A new section of the Pre-Kindergarten Act is enacted to read:

"[NEW MATERIAL] MIXED DELIVERY OF PRE-KINDERGARTEN PROGRAMS.--Any money appropriated for pre-kindergarten programs shall be distributed for mixed delivery programming."

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The public education department shall access funds from the early childhood education and care department to support pre-kindergarten in the public education system. Pre-kindergarten funding transfers to public providers shall be processed through the public education department to those public providers that demonstrate adherence to standards developed by the department."←SFC

SECTION SFC→~~SEC→25. 27.~~←SEC 25.←SFC Section 32A-23A-1 NMSA 1978 (being Laws 2011, Chapter 123, Section 1) is amended to read:

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

SECTION SFC→~~SEC→26. 28.~~←SEC 26.←SFC Section 32A-23A-2 NMSA 1978 (being Laws 2011, Chapter 123, Section 2) is amended to read:

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

~~[A. "council" means the state early learning advisory council;~~

~~B.]~~ A. "department" means the ~~[children, youth and families]~~ early childhood education and care department;

~~[G.]~~ B. "early childhood" means the period of a person's life from [prenatal] birth to [the] age [of] five [years];

~~[D.]~~ C. "fund" means the early childhood care and education fund; and

~~[E. "pre-kindergarten" means a voluntary~~

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~~developmental readiness program for children who have attained their fourth birthday prior to September 1; and~~

F.] D. "secretary" means the secretary of ~~[children, youth and families]~~ early childhood education and care."

SECTION SFC → ~~SEC → 27. 29.~~ ← SEC 27. ← SFC Section 32A-23B-1 NMSA 1978 (being Laws 2013, Chapter 118, Section 1) is amended to read:

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

SECTION SFC → ~~SEC → 28. 30.~~ ← SEC 28. ← SFC Section 32A-23B-2 NMSA 1978 (being Laws 2013, Chapter 118, Section 2) is amended to read:

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

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

B. "department" means the ~~[children, youth and families]~~ early childhood education and care department;

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

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

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

D. "home visiting":

(1) means: [~~a program strategy that:~~

~~(1) delivers]~~

(a) delivering a variety of informational, educational, developmental, referral and other support services for eligible families who are expecting or who have children who have not yet entered kindergarten and that is designed to promote child well-being and prevent adverse childhood experiences; [~~(2) provides]~~ and

(b) providing a comprehensive array of services that promote parental competence and successful early childhood health and development by building long-term relationships with families and optimizing the relationships between parents and children in their home environments; and

[~~(3)~~] (2) does not include:

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

(b) home visiting [~~that is~~] provided as a supplement to other services; or

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

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

(1) uses home visiting as a primary service

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delivery strategy; and

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

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

(1) provides universal, voluntary access;

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

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

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

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

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

(a) is linked to and measures the following outcomes: 1) babies [~~that~~] are born healthy; 2) children [~~that~~] are nurtured by their parents and caregivers; 3) children [~~that~~] are physically and mentally healthy; 4) children [~~that~~] are ready for school; 5) children and

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families [~~that~~] are safe; and 6) families [~~that~~] are connected to formal and informal supports in their communities;

(b) has comprehensive home visiting standards that ensure high-quality service delivery and continuous quality improvement; and

(c) has demonstrated significant, sustained positive outcomes;

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

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

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

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

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

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

(8) collects data on program activities and

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program outcomes; and

(9) is culturally and linguistically appropriate."

SECTION SFC → ~~SEC 29. 31.~~ ← SEC 29. ← SFC Section 32A-23B-3 NMSA 1978 (being Laws 2013, Chapter 118, Section 3) is amended to read:

"32A-23B-3. HOME VISITING PROGRAMS--ACCOUNTABILITY--EXCLUSIONS--CONTRACTING--REPORTING.--

A. The department shall provide statewide home visiting services using a standards-based program [~~The department shall adopt~~] and promulgate rules [~~by which the standards-based home visiting~~] governing the program [~~shall operate~~].

B. The department shall fund only standards-based home visiting programs that include periodic home visits to improve the health, well-being and self-sufficiency of eligible families. The department may prioritize funding for programs associated with strong evidence of effectiveness and for programs that serve high-risk populations.

C. A home visiting program shall provide culturally and linguistically appropriate, face-to-face visits by nurses, social workers and other early childhood and health professionals or by trained and supervised lay workers.

D. A home visiting program shall do two or more

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of the following:

- (1) improve prenatal, maternal, infant or child health outcomes, including reducing preterm births;
- (2) promote positive parenting practices;
- (3) build healthy parent and child relationships;
- (4) enhance children's social-emotional and language development;
- (5) support children's cognitive and physical development;
- (6) improve the health of eligible families;
- (7) provide resources and supports that may help to reduce child maltreatment and injury;
- (8) increase children's readiness to succeed in school; and
- (9) improve coordination of referrals for, and the provision of, other community resources and supports for eligible families.

E. The department shall ~~[work with the early learning advisory council and]~~ develop internal processes that provide for a greater ability to collaborate with other state agencies, local governments and private entities and share relevant home visiting data and information. The processes may include a uniform format for the collection of data relevant to each home visiting program.

F. The department shall enter into a joint powers agreement with the human services department to use medicaid to finance department-approved, evidence-based home visiting

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programs. Providers approved for medicaid home visiting are subject to the Home Visiting Accountability Act.

[F.] G. When the department authorizes funds through payments, contracts or grants that are used for home visiting programs, it shall include language regarding home visiting in its funding agreement contract or grant that is consistent with the provisions of the Home Visiting Accountability Act.

~~G. The department and the providers of home visiting services, in consultation with one or more experts in home visiting program evaluation, shall:~~

~~(1) jointly develop an outcomes measurement plan to monitor outcomes for children and families receiving services through home visiting programs;~~

~~(2) develop indicators that measure each objective established pursuant to Subsection D of this section; and~~

~~(3) complete and submit the outcomes measurement plan by November 1, 2013 to the legislature, the governor and the early learning advisory council.]~~

H. Beginning January 1, [2014] 2020 and annually thereafter, the department shall [~~produce an annual outcomes report~~] submit to the governor and the legislature [~~and the early learning advisory council.~~]

I. The] an annual outcomes report [~~shall include~~]

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that includes:

(1) the goals and achieved outcomes of the home visiting system implemented pursuant to the Home Visiting Accountability Act; and

(2) data regarding:

(a) the cost per eligible family served;

(b) the number of eligible families served;

(c) demographic data on eligible families served;

(d) the duration of participation by eligible families in the program;

(e) the number and type of programs that the department has funded;

(f) any increases in school readiness, child development and literacy;

(g) decreases in child maltreatment or child abuse;

(h) any reductions in risky parental behavior;

(i) the percentage of children receiving regular well-child exams, as recommended by the American academy of pediatrics;

(j) the percentage of infants on schedule to be fully immunized by age two;

(k) the number of children ~~[that]~~ who received an ages and stages questionnaire and what percent

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scored age appropriately in all developmental domains;

(l) the number of children identified with potential developmental delay and, of those, how many began services within two months of the screening; and

(m) the percentage of children receiving home visiting services who are enrolled in high-quality licensed child care programs."

SECTION SFC → ~~SEC → 30. 32.~~ ← SEC 30. ← SFC Section 59A-22-34.2 NMSA 1978 (being Laws 1994, Chapter 64, Section 2, as amended) is amended to read:

"59A-22-34.2. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

- (1) was born out of wedlock;
- (2) is not claimed as a dependent on the parent's federal tax return; or
- (3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

- (1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;
- (2) permit the custodial parent or the

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provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage, the insurer shall be required:

(1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled

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in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

E. An insurer shall provide coverage for children, from birth through three years of age, for or under the family, infant, toddler program administered by the early childhood education and care department [~~of health~~], provided eligibility criteria are met, for a maximum benefit of three thousand five hundred dollars (\$3,500) annually for medically necessary early intervention services provided as part of an individualized family service plan and delivered by certified and licensed personnel [~~as defined in 7.30.8 NMAC~~] who are working in early intervention programs approved by the early childhood education and care department [~~of health~~]. No payment under this subsection shall be applied against any maximum lifetime or annual limits specified in the policy, health benefits plan or contract."

SECTION SFC → ~~SEC 31. 33.~~ ← SEC 31. ← SFC Section 59A-23-7.2 NMSA 1978 (being Laws 1994, Chapter 64, Section 5, as .213094.9

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amended) is amended to read:

"59A-23-7.2. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

- (1) was born out of wedlock;
- (2) is not claimed as a dependent on the parent's federal tax return; or
- (3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

- (1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;
- (2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and
- (3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage, the insurer shall be required:

- (1) to permit the parent to enroll, under

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the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

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E. An insurer shall provide coverage for children, from birth through three years of age, for or under the family, infant, toddler program administered by the early childhood education and care department [~~of health~~], provided eligibility criteria are met, for a maximum benefit of three thousand five hundred dollars (\$3,500) annually for medically necessary early intervention services provided as part of an individualized family service plan and delivered by certified and licensed personnel [~~as defined in 7.30.8 NMAC~~] who are working in early intervention programs approved by the early childhood education and care department [~~of health~~]. No payment under this subsection shall be applied against any maximum lifetime or annual limits specified in the policy, health benefits plan or contract."

SECTION SFC ~~SEC 32. 34.~~ ~~SEC 32.~~ SFC Section 59A-46-38.1 NMSA 1978 (being Laws 1994, Chapter 64, Section 9, as amended) is amended to read:

"59A-46-38.1. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

- (1) was born out of wedlock;
- (2) is not claimed as a dependent on the parent's federal tax return; or
- (3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

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(1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;

(2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage, the insurer shall be required:

(1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement

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program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

E. An insurer shall provide coverage for children, from birth through three years of age, for or under the family, infant, toddler program administered by the early childhood education and care department [~~of health~~], provided eligibility criteria are met, for a maximum benefit of three thousand five hundred dollars (\$3,500) annually for medically necessary early intervention services provided as part of an individualized family service plan and delivered by certified and licensed personnel [~~as defined in 7.30.8 NMAC~~] who are working in early intervention programs approved by the early childhood education and care department [~~of health~~]. No payment under this subsection shall be applied against any

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maximum lifetime or annual limits specified in the policy, health benefits plan or contract."

SECTION SFC → ~~SEC 33. 35.~~ ← SEC 33. ← SFC Section 59A-47-37 NMSA 1978 (being Laws 1994, Chapter 64, Section 12, as amended) is amended to read:

"59A-47-37. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

- (1) was born out of wedlock;
- (2) is not claimed as a dependent on the parent's federal tax return; or
- (3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

- (1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;
- (2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and
- (3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to

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the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall be required:

(1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an

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individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

E. An insurer shall provide coverage for children, from birth through three years of age, for or under the family, infant, toddler program administered by the early childhood education and care department [~~of health~~], provided eligibility criteria are met, for a maximum benefit of three thousand five hundred dollars (\$3,500) annually for medically necessary early intervention services provided as part of an individualized family service plan and delivered by certified and licensed personnel [~~as defined in 7.30.8 NMAC~~] who are working in early intervention programs approved by the early childhood education and care department [~~of health~~]. No payment under this subsection shall be applied against any maximum lifetime or annual limits specified in the policy, health benefits plan or contract."

SECTION SFC → ~~SEC 34. 36.~~ ← SEC 34. ← SFC TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND REFERENCES IN LAW.--

A. On July 1, 2020, all programs, functions, personnel, appropriations, money, statutory funds, records, furniture, equipment, supplies and other property belonging to the following are transferred to the early childhood

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education and care department, and all contractual obligations of the following are binding on the early childhood education and care department:

(1) the children, youth and families department's early childhood services division; and

(2) the department of health's:

(a) family, infant, toddler program;

SEC → and ← SEC

(b) family first home visiting SEC → ;

and . ← SEC

SEC → ~~(c) powers and duties under the federal Individuals with Disabilities Education Act.~~ ← SEC

B. Beginning on July 1, 2020, all contractual obligations pertaining to the programs, services and entities in Subsection A of this section are binding on the early childhood education and care department.

C. Beginning on July 1, 2020, all references in law, rules, orders and other official acts to the programs, services and entities in Subsection A of this section shall be deemed references to the early childhood education and care department.

SECTION SFC → ~~SEC 35. 37.~~ ← SEC 35. ← SFC TEMPORARY PROVISION--INTERIM POWERS AND DUTIES--ACCOUNTING AND FINANCIAL CONTROL.--

A. After July 1, 2019, the governor may appoint the secretary-designate of early childhood education and care and may allow the secretary-designate to appoint division directors to assist with the transition. The governor shall

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convene a working group made up of the secretaries of finance and administration, early childhood education and care, children, youth and families and health to plan for the orderly transition of programs and personnel to the early childhood education and care department. The secretaries shall assign staff as necessary to assist the transition. All state agencies shall assist the working group as requested. The following state agencies shall provide the following services:

(1) the general services department shall assist in locating the early childhood education and care department in a state building or an appropriate leased facility;

(2) the department of finance and administration shall set up the administrative services division of the early childhood education and care department and ensure the orderly transition of administrative systems from the children, youth and families department and the department of health to the early childhood education and care department; and

(3) the department of information technology shall set up administrative, programmatic, data and other required systems and ensure the orderly transfer of pertinent data from the children, youth and families department and the department of health to the early childhood education and

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care department and shall ensure the compatibility of the three systems.

B. Between July 1, 2019 and July 1, 2020, the accounts and financial control functions that will belong to the early childhood education and care department shall continue being performed by the administrative services divisions of the children, youth and families department, SFC→~~SEG→the public education department,~~←SEG←SFC SFC→the public education department,←SFC the human services department and the department of health, as appropriate; provided, however, that the administrative services divisions of the children, youth and families department and the department of health shall provide for separate reporting of accounts and finances between the early childhood education and care department and the children, youth and families department and the department of health and shall provide necessary administrative services related to the early childhood education and care department at the direction of the secretary of early childhood education and care.

SECTION SFC→~~SEG→36. 38.~~←SEG 36.←SFC APPROPRIATIONS.--

The following amounts are appropriated from the general fund to the early childhood education and care department:

A. two hundred fifty thousand dollars (\$250,000) for expenditure in fiscal year 2020 to develop the early childhood education and care finance plan and an integrated data visualization system. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund; and

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B. one million dollars (\$1,000,000) for expenditure in fiscal year 2020 to establish integrated field offices and transfer programs from other departments to the early childhood education and care department in accordance with Section 34 of this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

SECTION SFC→~~SEC→37. 39.~~←SEC 37.←SFC REPEAL.--Sections 9-2A-13, 28-18-1 SFC→~~SEC→, and←SEC~~ ,←SFC 28-18-2 SFC→~~SEC→, 32A-23-5, 32A-23-7 and 32A-23-8~~←SEC←SFC SFC→, 32A-23-5, 32A-23-7 and 32A-23-8←SFC NMSA 1978 (being Laws 1992, Chapter 57, Section 13 SFC→~~SEC→, and←SEC~~ ,←SFC Laws 1990, Chapter 4, Sections 1 and 2 SFC→~~SEC→and Laws 2005, Chapter 170, Sections 5, 7 and 8~~←SEC and Laws 2005, Chapter 170, Sections 5, 7 and 8←SFC, as amended) are repealed.

SECTION SFC→~~SEC→38. 40.~~←SEC 38.←SFC EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 7 SFC→~~SEC→, 18 through 27~~←SEC←SFC and SFC→~~SEC→34 36~~←SEC 34←SFC through SFC→~~SEC→36 38~~←SEC←SFC SFC→36←SFC of this act is July 1, 2019.

B. The effective date of the provisions of Sections 8 SFC→~~SEC→through 17, 28~~←SEC←SFC through SFC→~~SEC→33 35~~←SEC 33←SFC and SFC→~~SEC→37 39~~←SEC 37←SFC of this act is July 1, 2020.

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←