

SENATE RULES COMMITTEE SUBSTITUTE FOR  
SENATE BILL 22

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

AN ACT

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

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:

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1           A. "child" means a person from birth to age five  
2 or, where the context otherwise provides, to age eight or  
3 thirteen;

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

6           C. "secretary" means the secretary of early  
7 childhood education and care.

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

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

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

19 which consists of the:

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

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

1 1978.

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

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

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

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

21           C. The secretary may establish within each of the  
22 department's divisions additional bureaus as necessary to  
23 implement the Early Childhood Education and Care Department  
24 Act. The secretary shall appoint chiefs to serve as the  
25 administrative heads of the department's bureaus.

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

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

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

10          C.   The secretary shall:

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

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

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

21               (4)  issue administrative orders and  
22 instructions to ensure implementation of and compliance with  
23 laws the secretary is charged with administering and enforce  
24 those orders and instructions through the courts;

25               (5)  conduct research and studies to improve

1 the department's operations and its delivery of programs;

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

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

9 (8) prepare an annual budget for the  
 10 department.

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

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

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

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

24 B. The assistant secretary shall:

25 (1) be responsible to the secretary for the

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1 administration, coordination and oversight of Indian early  
2 childhood education and care programs;

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

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

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

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

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

23 (7) help ensure that Native American language  
24 and cultural considerations are included in programs  
25 administered through the department.

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1           SECTION 8.   [NEW MATERIAL] DEPARTMENT--DUTIES.--The

2 department shall:

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

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

9                   (1) include child care, pre-kindergarten,  
10 early pre-kindergarten, home visitation, early head start, head  
11 start, early childhood special education and early intervention  
12 and family support; and

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

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

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

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

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

25           G.   conduct biennial assessments of child care or

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1 early learning service gaps and needs and establish plans to  
2 address those service gaps and needs;

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

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

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

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

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

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

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

25 O. promote culturally and linguistically



1 appropriate programming and provide equal education and care  
 2 opportunities to non-English speaking families.

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

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

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

11 PROGRAM.--

12 A. As used in this section:

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

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

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

24 B. The department is the lead state agency for the  
 25 program. Through the program, the department shall develop and

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1 administer a statewide system of comprehensive, coordinated,  
2 multidisciplinary and interagency early intervention programs  
3 to eligible children.

4 C. The parent of an eligible child may choose  
5 whether to enroll the child in the program.

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

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

16 (1) establishing related policies and  
17 promulgating program rules;

18 (2) implementing procedures to ensure that  
19 program services are timely delivered;

20 (3) administering and overseeing the program;

21 (4) resolving complaints related to the  
22 program;

23 (5) maintaining and expanding interagency and  
24 state and local coordination in implementing the program;

25 (6) identifying and coordinating resources for

1 delivering early intervention programs through the program; and

2 (7) establishing minimum requirements to  
 3 qualify personnel to deliver services through the program.

4 F. The department is the custodian of money  
 5 received by the state from the federal government for the  
 6 purpose of implementing the federal Individuals with  
 7 Disabilities Education Act, Part C.

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

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

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

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

22 (3) as part of the work of the council, a  
 23 workforce development plan shall be developed to include a  
 24 career ladder, wage structure and professional development plan  
 25 that applies to the full continuum of programs within the

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1 department, as well as other items deemed appropriate by the  
2 secretary; and

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

5 B. By December 31 of each year, the department  
6 shall develop and submit to the legislature and the governor an  
7 annual report on outcomes for children and families receiving  
8 services through early childhood programs that includes:

9 (1) the number and type of early childhood  
10 programs funded by the department;

11 (2) the income levels of families served  
12 through those programs;

13 (3) the reasons stated by families for  
14 applying for participation in those programs;

15 (4) the number of children served through  
16 those programs, including by county and the monthly average;

17 (5) evidence of improved school readiness,  
18 child development and literacy among children served through  
19 those programs;

20 (6) the number of kindergarten-age children  
21 served through those programs who enter kindergarten ready to  
22 learn;

23 (7) the number and percentage of children  
24 served through those programs who receive regular  
25 immunizations;

1 (8) evidence that children served through  
 2 those programs are served meals regularly;

3 (9) retention rates, wages and certification  
 4 and education levels of those programs' staff members; and

5 (10) evidence that families of children served  
 6 through those programs are engaged in the programs.

7 SECTION 12. [NEW MATERIAL] EARLY CHILDHOOD EDUCATION AND  
 8 CARE FINANCE PLAN.--

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

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

17 (1) an identification of:

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

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

25 (c) the gaps between those needs and the

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1 programs that address those needs and the reasons for those  
2 gaps; and

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

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

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

10 (4) recommendations for legislation, funding  
11 and other changes necessary to improve that system and to close  
12 the gaps in those programs.

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

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

18 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
19 provisions of the Procurement Code shall not apply to:

20 A. procurement of items of tangible personal  
21 property or services by a state agency or a local public body  
22 from a state agency, a local public body or external  
23 procurement unit except as otherwise provided in Sections  
24 13-1-135 through 13-1-137 NMSA 1978;

25 B. procurement of tangible personal property or

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1 services for the governor's mansion and grounds;

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

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

9 E. purchases of books, periodicals and training  
10 materials in printed or electronic format from the publishers  
11 or copyright holders thereof;

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

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

17 H. contracts with businesses for public school  
18 transportation services;

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

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1 J. purchases not exceeding ten thousand dollars  
2 (\$10,000) consisting of magazine subscriptions, web-based or  
3 electronic subscriptions, conference registration fees and  
4 other similar purchases where prepayments are required;

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

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

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

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

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

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

3 Q. contracts with professional entertainers;

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

10 S. contracts for service relating to the design,  
11 engineering, financing, construction and acquisition of public  
12 improvements undertaken in improvement districts pursuant to  
13 Subsection L of Section 3-33-14.1 NMSA 1978 and in county  
14 improvement districts pursuant to Subsection L of Section  
15 4-55A-12.1 NMSA 1978;

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

18 U. contracts entered into by a local public body  
19 with a person, firm, organization, corporation or association  
20 or a state educational institution named in Article 12, Section  
21 11 of the constitution of New Mexico for the operation and  
22 maintenance of a hospital pursuant to Chapter 3, Article 44  
23 NMSA 1978, lease or operation of a county hospital pursuant to  
24 the Hospital Funding Act or operation and maintenance of a  
25 hospital pursuant to the Special Hospital District Act;

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

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

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

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

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

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

24           BB. procurement, by either the department of health  
25 or Grant county or both, of tangible personal property,

1 services or construction that are exempt from the Procurement  
2 Code pursuant to Section 9-7-6.5 NMSA 1978;

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

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

11 EE. contracts entered into by the crime victims  
12 reparation commission to distribute federal grants to assist  
13 victims of crime, including grants from the federal Victims of  
14 Crime Act of 1984 and the federal Violence Against Women Act of  
15 1994;

16 FF. procurement by or through the [~~children, youth~~  
17 ~~and families~~] early childhood education and care department of  
18 early pre-kindergarten and pre-kindergarten services purchased  
19 pursuant to the Pre-Kindergarten Act;

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

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

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

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1           "13-7-7. CONSOLIDATED ADMINISTRATIVE FUNCTIONS--  
2 BENEFIT.--

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

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

17           ~~G.]~~ A. The publicly funded health care agencies,  
18 political subdivisions and other persons participating in the  
19 consolidated purchasing single process pursuant to the Health  
20 Care Purchasing Act may enter into a joint powers agreement  
21 pursuant to the Joint Powers Agreements Act with the publicly  
22 funded health care agencies and political subdivisions to  
23 determine assessments or provisions of resources to  
24 consolidate, standardize and administer the consolidated  
25 purchasing single process and subsequent activities pursuant to

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1 the Health Care Purchasing Act. The publicly funded health  
2 care agencies, political subdivisions and other persons  
3 participating in the consolidated purchasing single process  
4 pursuant to the Health Care Purchasing Act may enter into  
5 contracts with nonpublic persons to provide the service of  
6 determining assessments or provision of resources for  
7 consolidation, standardization and administrative activities.

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

14 ~~[E-]~~ C. Notwithstanding Subsection ~~[D]~~ B of this  
15 section, publicly funded health care agencies, political  
16 subdivisions and other persons participating in the  
17 consolidated purchasing single process pursuant to the Health  
18 Care Purchasing Act shall provide coverage for children, from  
19 birth through three years of age, for or under the family,  
20 infant, toddler program administered by the early childhood  
21 education and care department ~~[of health]~~, provided eligibility  
22 criteria are met, for a maximum benefit of three thousand five  
23 hundred dollars (\$3,500) annually for medically necessary early  
24 intervention services provided as part of an individualized  
25 family service plan and delivered by certified and licensed

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1 personnel [~~as defined in 7.30.8 NMAC~~] who are working in early  
2 intervention programs approved by the early childhood education  
3 and care department [~~of health~~]. No payment under this  
4 subsection shall be applied against any maximum lifetime or  
5 annual limits specified in the policy, health benefits plan or  
6 contract."

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

11 "22-23A-6. ADVISORY COUNCIL.--

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

19 (1) four representatives from the Navajo  
20 Nation;

21 (2) two representatives, one from the  
22 Mescalero Apache Tribe and one from the Jicarilla Apache  
23 Nation;

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

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

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

8 B. Members shall be appointed by the secretary with  
9 input from New Mexico tribes and organizations involved in the  
10 education of tribal students for staggered terms so that the  
11 terms of the at-large members and of one-half of each of the  
12 tribal representatives end on December 31, 2009 and the terms  
13 of the remaining members end on December 31, 2011. Thereafter,  
14 appointments shall be for terms of four years. The terms of  
15 existing members shall expire on [~~the effective date of this~~  
16 ~~2007 act~~] June 15, 2007.

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

20 D. On a semiannual basis, representatives from all  
21 New Mexico tribes, members of the commission, the office of the  
22 governor, the Indian affairs department, the legislature, the  
23 secretary, the assistant secretary and the Indian education  
24 advisory council shall meet to assist in evaluating,  
25 consolidating and coordinating all activities relating to the

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1 education of tribal students.

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

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

7 "32A-22-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article  
8 22 NMSA 1978 may be cited as the "Children's Cabinet Act"."

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

11 "32A-22-2. CHILDREN'S CABINET CREATED.--

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

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

17 (1) the governor;

18 (2) the lieutenant governor;

19 (3) the secretary of children, youth and  
20 families;

21 (4) the secretary of early childhood education  
22 and care;

23 ~~[(4)]~~ (5) the secretary of corrections;

24 ~~[(5)]~~ (6) the secretary of human services;

25 ~~[(6)]~~ (7) the secretary of ~~[labor]~~ workforce



1 solutions;

2 [~~(7)~~] (8) the secretary of health;

3 [~~(8)~~] (9) the secretary of finance and  
4 administration;

5 [~~(9)~~] (10) the secretary of economic  
6 development;

7 [~~(10)~~] (11) the secretary of public safety;

8 [~~(11)~~] (12) the secretary of aging and long-  
9 term services;

10 [~~(12)~~] (13) the secretary of Indian affairs;  
11 and

12 [~~(13)~~] (14) the secretary of public education.

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

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

18 "32A-23-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article  
19 23 NMSA 1978 may be cited as the "Pre-Kindergarten Act"."

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

22 "32A-23-2. FINDINGS [~~AND PURPOSE~~].--The legislature finds  
23 that:

24 A. special needs are present among the state's  
25 population of three- and four-year-old children and those needs

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1 warrant the provision of early pre-kindergarten and pre-  
2 kindergarten programs;

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

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

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

11 "32A-23-3. DEFINITIONS.--As used in the Pre-Kindergarten  
12 Act:

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

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

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

24 C. "early pre-kindergarten program" means a  
25 statewide, voluntary developmental readiness program for

1 children who have attained their third birthday prior to  
 2 September 1 that delivers to eligible children programs that  
 3 address their total developmental needs, including their  
 4 physical, cognitive, social and emotional needs, and that  
 5 supports their development in the areas of health care,  
 6 nutrition, safety awareness and multicultural sensitivity;

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

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

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

20 ~~[E.]~~ G. "pre-kindergarten program" means a  
 21 statewide, voluntary developmental readiness program for  
 22 children who have attained their fourth birthday prior to  
 23 September 1 that delivers to eligible children programs that  
 24 address their total developmental needs, including their  
 25 physical, cognitive, social and emotional needs, and that

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1 supports their development in the areas of health care,  
2 nutrition, safety awareness and multicultural sensitivity;  
3 [~~and~~]

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

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

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

10 "32A-23-4. [~~VOLUNTARY~~] EARLY PRE-KINDERGARTEN AND PRE-  
11 KINDERGARTEN PROGRAMS--INTERAGENCY COOPERATION--CONTRACTS--  
12 CONTRACT MONITORING--RESEARCH.--

13 A. The [~~children, youth and families department and~~  
14 ~~the public education~~] department shall [~~cooperate in the~~  
15 ~~development and implementation of a voluntary~~] develop and  
16 implement an early pre-kindergarten program and a pre-  
17 kindergarten program [~~for the provision of pre-kindergarten~~  
18 ~~services throughout the state. The pre-kindergarten program~~  
19 ~~shall address the total developmental needs of preschool~~  
20 ~~children, including physical, cognitive, social and emotional~~  
21 ~~needs, and shall include health care, nutrition, safety and~~  
22 ~~multicultural sensitivity~~]. The department may approve a  
23 public provider or contract with any other eligible provider  
24 for the delivery of early pre-kindergarten and pre-kindergarten  
25 program services at the per-child rate paid to public

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1 elementary schools designated as Title I schools in that  
 2 locality where the services are provided.

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

14 (1) enter kindergarten:

15 (a) developmentally prepared for it;

16 (b) needing special services; and

17 (c) proficient in reading and

18 mathematics; and

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

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

25 ~~[B.]~~ D. The ~~[departments]~~ department shall

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1 ~~[collaborate on promulgating]~~ promulgate rules on pre-  
2 kindergarten program services, including state policies and  
3 standards defining length of service for pre-kindergarten and  
4 early pre-kindergarten programs, and shall review the process  
5 for making contract awards and for the expenditure and use of  
6 contract funds.

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

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

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

25 "32A-23-6. REQUESTS FOR PROPOSALS--CONTRACTS FOR

1 SERVICES.--

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

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

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

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

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

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

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

25 (6) the provider's plan for communicating with

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1 and involving parents of children in the early pre-kindergarten  
2 and pre-kindergarten [program] programs;

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

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

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

12 D. In selecting among proposals and applications  
13 for the delivery of early pre-kindergarten and pre-kindergarten  
14 program services, the department shall give priority to  
15 programs in communities with public elementary schools [that  
16 are] designated as Title [+] I schools [and that have] in which

17 at least sixty-six percent of the children served [living]  
18 reside within the attendance zone of a Title [+] I elementary  
19 school. [Additional funding criteria include] It shall further  
20 consider:

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

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



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

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

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

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

10 ~~(7)~~ (6) staff professional development plans;

11 ~~(8)~~ (7) the capacity of local organizations  
 12 and persons interested in and involved in programs and services  
 13 for [~~four-year-olds~~] eligible children and their commitment to  
 14 work together;

15 ~~(9)~~ (8) the [~~extent~~] degree of local support  
 16 for early pre-kindergarten and pre-kindergarten program  
 17 services in the community; and

18 ~~(10)~~ (9) other relevant criteria specified  
 19 by [~~joint~~] department rule [~~of the departments~~].

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

25 SECTION 23. Section 32A-23-9 NMSA 1978 (being Laws 2011,

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1 Chapter 126, Section 1) is amended to read:

2 "32A-23-9. EQUAL DIVISION OF APPROPRIATIONS.--Any money  
3 appropriated for pre-kindergarten programs shall be divided  
4 equally between [~~the public education department and the~~  
5 ~~children, youth and families department~~] programs administered  
6 by the public schools and other programs licensed by the  
7 department."

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

10 "[NEW MATERIAL] MIXED DELIVERY OF PRE-KINDERGARTEN  
11 PROGRAMS.--Any money appropriated for pre-kindergarten programs  
12 shall be distributed for mixed delivery programming. The  
13 public education department shall access funds from the early  
14 childhood education and care department to support  
15 pre-kindergarten in the public education system. Pre-  
16 kindergarten funding transfers to public providers shall be  
17 processed through the public education department to those  
18 public providers that demonstrate adherence to standards  
19 developed by the department."

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

22 "32A-23A-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article  
23 23A NMSA 1978 may be cited as the "Early Childhood Care and  
24 Education Act"."

25 SECTION 26. Section 32A-23A-2 NMSA 1978 (being Laws 2011,

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1 Chapter 123, Section 2) is amended to read:

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

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

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

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

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

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

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

19 **SECTION 27.** Section 32A-23B-1 NMSA 1978 (being Laws 2013,  
20 Chapter 118, Section 1) is amended to read:

21 "32A-23B-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article  
22 23B NMSA 1978 may be cited as the "Home Visiting Accountability  
23 Act"."

24 **SECTION 28.** Section 32A-23B-2 NMSA 1978 (being Laws 2013,  
25 Chapter 118, Section 2) is amended to read:

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1 "32A-23B-2. DEFINITIONS.--As used in the Home Visiting  
2 Accountability Act:

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

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

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

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

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

14 D. "home visiting":

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

16 ~~(1) delivers]~~

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

23 (b) providing a comprehensive array of  
24 services that promote parental competence and successful early  
25 childhood health and development by building long-term

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1 relationships with families and optimizing the relationships  
 2 between parents and children in their home environments; and

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

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

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

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

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

14 (1) uses home visiting as a primary service  
 15 delivery strategy; and

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

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

22 (1) provides universal, voluntary access;

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

25 (3) establishes a consistent statewide system

1 of home visiting; and

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

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

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

8 (a) is linked to and measures the  
9 following outcomes: 1) babies [~~that~~] are born healthy; 2)  
10 children [~~that~~] are nurtured by their parents and caregivers;  
11 3) children [~~that~~] are physically and mentally healthy; 4)  
12 children [~~that~~] are ready for school; 5) children and families  
13 [~~that~~] are safe; and 6) families [~~that~~] are connected to formal  
14 and informal supports in their communities;

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

18 (c) has demonstrated significant,  
19 sustained positive outcomes;

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

23 (3) follows a research-based curriculum or  
24 combinations of research-based curricula, or follows the  
25 curriculum of an evidence-based home visiting model or

1 promising approach that the home visiting program has adopted  
 2 pursuant to department rules defining "evidence-based model"  
 3 and "promising approach";

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

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

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

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

13 (8) collects data on program activities and  
 14 program outcomes; and

15 (9) is culturally and linguistically  
 16 appropriate."

17 **SECTION 29.** Section 32A-23B-3 NMSA 1978 (being Laws 2013,  
 18 Chapter 118, Section 3) is amended to read:

19 "32A-23B-3. HOME VISITING PROGRAMS--ACCOUNTABILITY--  
 20 EXCLUSIONS--CONTRACTING--REPORTING.--

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

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

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

11           D. A home visiting program shall do two or more of  
12 the following:

- 13                   (1) improve prenatal, maternal, infant or  
14 child health outcomes, including reducing preterm births;
- 15                   (2) promote positive parenting practices;
- 16                   (3) build healthy parent and child  
17 relationships;
- 18                   (4) enhance children's social-emotional and  
19 language development;
- 20                   (5) support children's cognitive and physical  
21 development;
- 22                   (6) improve the health of eligible families;
- 23                   (7) provide resources and supports that may  
24 help to reduce child maltreatment and injury;
- 25                   (8) increase children's readiness to succeed



1 in school; and

2 (9) improve coordination of referrals for, and  
 3 the provision of, other community resources and supports for  
 4 eligible families.

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

12 F. The department shall enter into a joint powers  
 13 agreement with the human services department to use medicaid to  
 14 finance department-approved, evidence-based home visiting  
 15 programs. Providers approved for medicaid home visiting are  
 16 subject to the Home Visiting Accountability Act.

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

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

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

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

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

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

14                   ~~I. The]~~ an annual outcomes report ~~[shall include]~~  
15 that includes:

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

19                   (2) data regarding:  
20                   (a) the cost per eligible family served;  
21                   (b) the number of eligible families  
22 served;

23                   (c) demographic data on eligible  
24 families served;

25                   (d) the duration of participation by

1 eligible families in the program;

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

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

6 (g) decreases in child maltreatment or  
7 child abuse;

8 (h) any reductions in risky parental  
9 behavior;

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

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

15 (k) the number of children [~~that~~] who  
16 received an ages and stages questionnaire and what percent  
17 scored age appropriately in all developmental domains;

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

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

24 **SECTION 30.** Section 59A-22-34.2 NMSA 1978 (being Laws  
25 1994, Chapter 64, Section 2, as amended) is amended to read:

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1 "59A-22-34.2. COVERAGE OF CHILDREN.--

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

5 (1) was born out of wedlock;

6 (2) is not claimed as a dependent on the  
7 parent's federal tax return; or

8 (3) does not reside with the parent or in the  
9 insurer's service area.

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

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

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

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

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

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1 shall be required:

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

5 (2) if the parent is enrolled but fails to  
 6 make application to obtain coverage for the child, to enroll  
 7 the child under family coverage upon application of the child's  
 8 other parent, the state agency administering the medicaid  
 9 program or the state agency administering 42 U.S.C. Sections  
 10 651 through 669, the child support enforcement program; and

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

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

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

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

25 E. An insurer shall provide coverage for children,

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

14 SECTION 31. Section 59A-23-7.2 NMSA 1978 (being Laws  
15 1994, Chapter 64, Section 5, as amended) is amended to read:

16 "59A-23-7.2. COVERAGE OF CHILDREN.--

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

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

25 B. When a child has health coverage through an

1 insurer of a noncustodial parent, the insurer shall:

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

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

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

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

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

20 (2) if the parent is enrolled but fails to  
 21 make application to obtain coverage for the child, to enroll  
 22 the child under family coverage upon application of the child's  
 23 other parent, the state agency administering the medicaid  
 24 program or the state agency administering 42 U.S.C. Sections  
 25 651 through 669, the child support enforcement program; and

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underscored material = new  
 [bracketed material] = delete

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

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

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

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

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

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1 subsection shall be applied against any maximum lifetime or  
 2 annual limits specified in the policy, health benefits plan or  
 3 contract."

4 **SECTION 32.** Section 59A-46-38.1 NMSA 1978 (being Laws  
 5 1994, Chapter 64, Section 9, as amended) is amended to read:

6 "59A-46-38.1. COVERAGE OF CHILDREN.--

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

10 (1) was born out of wedlock;

11 (2) is not claimed as a dependent on the  
 12 parent's federal tax return; or

13 (3) does not reside with the parent or in the  
 14 insurer's service area.

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

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

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

24 (3) make payments on claims submitted in  
 25 accordance with Paragraph (2) of this subsection directly to

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underscored material = new  
 [bracketed material] = delete

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

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

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

10 (2) if the parent is enrolled but fails to  
11 make application to obtain coverage for the child, to enroll  
12 the child under family coverage upon application of the child's  
13 other parent, the state agency administering the medicaid  
14 program or the state agency administering 42 U.S.C. Sections  
15 651 through 669, the child support enforcement program; and

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

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

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

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

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

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

19 SECTION 33. Section 59A-47-37 NMSA 1978 (being Laws 1994,  
 20 Chapter 64, Section 12, as amended) is amended to read:

21 "59A-47-37. COVERAGE OF CHILDREN.--

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

25 (1) was born out of wedlock;

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1 (2) is not claimed as a dependent on the  
2 parent's federal tax return; or

3 (3) does not reside with the parent or in the  
4 insurer's service area.

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

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

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

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

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

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

25 (2) if the parent is enrolled but fails to

1 make application to obtain coverage for the child, to enroll  
2 the child under family coverage upon application of the child's  
3 other parent, the state agency administering the medicaid  
4 program or the state agency administering 42 U.S.C. Sections  
5 651 through 669, the child support enforcement program; and

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

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

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

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

20 E. An insurer shall provide coverage for children,  
21 from birth through three years of age, for or under the family,  
22 infant, toddler program administered by the early childhood  
23 education and care department [~~of health~~], provided eligibility  
24 criteria are met, for a maximum benefit of three thousand five  
25 hundred dollars (\$3,500) annually for medically necessary early

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1 intervention services provided as part of an individualized  
2 family service plan and delivered by certified and licensed  
3 personnel [~~as defined in 7.30.8 NMAC~~] who are working in early  
4 intervention programs approved by the early childhood education  
5 and care department [~~of health~~]. No payment under this  
6 subsection shall be applied against any maximum lifetime or  
7 annual limits specified in the policy, health benefits plan or  
8 contract."

9 SECTION 34. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,  
10 PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND  
11 REFERENCES IN LAW.--

12 A. On July 1, 2020, all programs, functions,  
13 personnel, appropriations, money, statutory funds, records,  
14 furniture, equipment, supplies and other property belonging to  
15 the following are transferred to the early childhood education  
16 and care department, and all contractual obligations of the  
17 following are binding on the early childhood education and care  
18 department:

- 19 (1) the children, youth and families  
20 department's early childhood services division; and  
21 (2) the department of health's:  
22 (a) family, infant, toddler program;  
23 (b) family first home visiting; and  
24 (c) powers and duties under the federal  
25 Individuals with Disabilities Education Act.

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

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

10           **SECTION 35. TEMPORARY PROVISION--INTERIM POWERS AND**  
11 **DUTIES--ACCOUNTING AND FINANCIAL CONTROL.--**

12           A. After July 1, 2019, the governor may appoint the  
13 secretary-designate of early childhood education and care and  
14 may allow the secretary-designate to appoint division directors  
15 to assist with the transition. The governor shall convene a  
16 working group made up of the secretaries of finance and  
17 administration, early childhood education and care, children,  
18 youth and families and health to plan for the orderly  
19 transition of programs and personnel to the early childhood  
20 education and care department. The secretaries shall assign  
21 staff as necessary to assist the transition. All state  
22 agencies shall assist the working group as requested. The  
23 following state agencies shall provide the following services:

24                   (1) the general services department shall  
25 assist in locating the early childhood education and care

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1 department in a state building or an appropriate leased  
2 facility;

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

10 (3) the department of information technology  
11 shall set up administrative, programmatic, data and other  
12 required systems and ensure the orderly transfer of pertinent  
13 data from the children, youth and families department and the  
14 department of health to the early childhood education and care  
15 department and shall ensure the compatibility of the three  
16 systems.

17 B. Between July 1, 2019 and July 1, 2020, the  
18 accounts and financial control functions that will belong to  
19 the early childhood education and care department shall  
20 continue being performed by the administrative services  
21 divisions of the children, youth and families department, the  
22 public education department, the human services department and  
23 the department of health, as appropriate; provided, however,  
24 that the administrative services divisions of the children,  
25 youth and families department and the department of health



1 shall provide for separate reporting of accounts and finances  
2 between the early childhood education and care department and  
3 the children, youth and families department and the department  
4 of health and shall provide necessary administrative services  
5 related to the early childhood education and care department at  
6 the direction of the secretary of early childhood education and  
7 care.

8           **SECTION 36. APPROPRIATIONS.**--The following amounts are  
9 appropriated from the general fund to the early childhood  
10 education and care department:

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

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

23           **SECTION 37. REPEAL.**--Sections 9-2A-13, 28-18-1, 28-18-2,  
24 32A-23-5, 32A-23-7 and 32A-23-8 NMSA 1978 (being Laws 1992,  
25 Chapter 57, Section 13, Laws 1990, Chapter 4, Sections 1 and 2

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1 and Laws 2005, Chapter 170, Sections 5, 7 and 8, as amended)  
2 are repealed.

3 SECTION 38. EFFECTIVE DATE.--

4 A. The effective date of the provisions of Sections  
5 1 through 7 and 34 through 36 of this act is July 1, 2019.

6 B. The effective date of the provisions of Sections  
7 8 through 33 and 37 of this act is July 1, 2020.