

1 SENATE BILL 298

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 William P. Soules

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10 AN ACT

11 RELATING TO PRE-KINDERGARTEN; ENACTING THE PUBLIC PRE-
12 KINDERGARTEN ACT; CHANGING THE DEFINITION OF SCHOOL-AGE PERSON;
13 EXPANDING THE OFFERING OF PRE-KINDERGARTEN; EXPANDING PRE-
14 KINDERGARTEN ELIGIBILITY; DIVIDING THE ADMINISTRATION OF PRE-
15 KINDERGARTEN BETWEEN THE CHILDREN, YOUTH AND FAMILIES
16 DEPARTMENT AND THE PUBLIC EDUCATION DEPARTMENT; PROVIDING FOR
17 THE FUNDING OF PUBLIC PRE-KINDERGARTEN THROUGH THE PUBLIC
18 SCHOOL FUNDING FORMULA; MAKING APPROPRIATIONS.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003,
22 Chapter 153, Section 3, as amended by Laws 2015, Chapter 58,
23 Section 2 and by Laws 2015, Chapter 108, Section 1) is amended
24 to read:

25 "22-1-2. DEFINITIONS.--As used in the Public School Code:

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1 A. "academic proficiency" means mastery of the
2 subject-matter knowledge and skills specified in state academic
3 content and performance standards for a student's grade level;

4 B. "charter school" means a school authorized by a
5 chartering authority to operate as a public school;

6 C. "commission" means the public education
7 commission;

8 D. "department" means the public education
9 department;

10 E. "home school" means the operation by the parent
11 of a school-age person of a home study program of instruction
12 that provides a basic academic educational program, including
13 reading, language arts, mathematics, social studies and
14 science;

15 F. "instructional support provider" means a person
16 who is employed to support the instructional program of a
17 school district, including educational assistant, school
18 counselor, social worker, school nurse, speech-language
19 pathologist, psychologist, physical therapist, occupational
20 therapist, recreational therapist, marriage and family
21 therapist, interpreter for the deaf and diagnostician;

22 G. "licensed school employee" means teachers,
23 school administrators and instructional support providers;

24 H. "local school board" means the policy-setting
25 body of a school district;

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1 I. "local superintendent" means the chief executive
2 officer of a school district;

3 J. "parent" includes a guardian or other person
4 having custody and control of a school-age person;

5 K. "private school" means a school, other than a
6 home school, that offers on-site programs of instruction and
7 that is not under the control, supervision or management of a
8 local school board;

9 L. "public school" means that part of a school
10 district that is a single attendance center in which
11 instruction is offered by one or more teachers and is
12 discernible as a building or group of buildings generally
13 recognized as either an elementary, middle, junior high or high
14 school or any combination of those and includes a charter
15 school;

16 M. "school" means a supervised program of
17 instruction designed to educate a student in a particular
18 place, manner and subject area;

19 N. "school administrator" means a person licensed
20 to administer in a school district and includes school
21 principals, central district administrators and charter school
22 head administrators;

23 O. "school-age person" means a person who is at
24 least five years of age prior to 12:01 a.m. on September 1 of
25 the school year and who has not received a high school diploma

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1 or its equivalent or a person who is at least four years of age
2 prior to 12:01 a.m. on September 1 of the school year if that
3 person is enrolled in a department-approved public pre-
4 kindergarten. A maximum age of twenty-one shall be used for a
5 person who is classified as special education membership as
6 defined in Section 22-8-21 NMSA 1978 or as a resident of a
7 state institution;

8 P. "school building" means a public school, an
9 administration building and related school structures or
10 facilities, including teacher housing, that is owned, acquired
11 or constructed by the school district as necessary to carry out
12 the functions of the school district;

13 Q. "school bus private owner" means a person, other
14 than a school district, the department, the state or any other
15 political subdivision of the state, that owns a school bus;

16 R. "school district" means an area of land
17 established as a political subdivision of the state for the
18 administration of public schools and segregated geographically
19 for taxation and bonding purposes;

20 S. "school employee" includes licensed and
21 nonlicensed employees of a school district;

22 T. "school principal" means the chief instructional
23 leader and administrative head of a public school;

24 U. "school year" means the total number of contract
25 days offered by public schools in a school district during a

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1 period of twelve consecutive months;

2 V. "secretary" means the secretary of public
3 education;

4 W. "state agency" or "state institution" means the
5 New Mexico military institute, New Mexico school for the blind
6 and visually impaired, New Mexico school for the deaf, New
7 Mexico boys' school, girls' welfare home, New Mexico youth
8 diagnostic and development center, Sequoyah adolescent
9 treatment center, Carrie Tingley crippled children's hospital,
10 New Mexico behavioral health institute at Las Vegas and any
11 other state agency responsible for educating resident children;

12 X. "state educational institution" means an
13 institution enumerated in Article 12, Section 11 of the
14 constitution of New Mexico;

15 Y. "substitute teacher" means a person who holds a
16 certificate to substitute for a teacher in the classroom;

17 Z. "teacher" means a person who holds a level one,
18 two or three-A license and whose primary duty is classroom
19 instruction or the supervision, below the school principal
20 level, of an instructional program or whose duties include
21 curriculum development, peer intervention, peer coaching or
22 mentoring or serving as a resource teacher for other teachers;

23 AA. "certified school instructor" means a teacher
24 or instructional support provider; and

25 BB. "certified school employee" or "certified

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1 school personnel" means a licensed school employee."

2 SECTION 2. A new section of the Public School Code is
3 enacted to read:

4 "[NEW MATERIAL] SHORT TITLE.--Sections 2 through 5 of this
5 act may be cited as the "Public Pre-Kindergarten Act"."

6 SECTION 3. A new section of the Public School Code is
7 enacted to read:

8 "[NEW MATERIAL] FINDINGS.--The legislature finds that:

9 A. special needs are present among the state's
10 population of four-year-old children and those needs warrant
11 the delivery of pre-kindergarten;

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

15 C. pre-kindergarten will advance governmental
16 interests and equitable childhood development and readiness."

17 SECTION 4. A new section of the Public School Code is
18 enacted to read:

19 "[NEW MATERIAL] DEFINITIONS.--As used in the Public Pre-
20 Kindergarten Act:

21 A. "eligible child" means a person age four on
22 September 1 of the pre-kindergarten program year; and

23 B. "pre-kindergarten" means a statewide, voluntary
24 developmental readiness program that delivers to eligible
25 children services that address their total developmental needs,

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1 including their physical, cognitive, social and emotional
2 needs, and that supports their development in the areas of
3 health care, nutrition, safety awareness and multicultural
4 sensitivity."

5 SECTION 5. A new section of the Public School Code is
6 enacted to read:

7 "[NEW MATERIAL] PRE-KINDERGARTEN--DUTIES.--The department
8 shall ensure that school districts provide seamless transition
9 of children from early childhood settings to pre-kindergarten
10 and other educational programming for students aged four
11 through eight. The department shall develop and implement a
12 pre-kindergarten program in which it oversees public schools'
13 delivery of pre-kindergarten. In doing so, the department
14 shall:

15 A. coordinate with the children, youth and families
16 department in the implementation of pre-kindergarten, including
17 alignment of curriculum and employment standards, that the
18 departments administer;

19 B. coordinate with federal head start agencies to
20 avoid duplication of efforts and to maximize the use of
21 available resources in the implementation of pre-kindergarten
22 in public schools;

23 C. promulgate rules on public pre-kindergarten,
24 including state policies and standards, that include:

25 (1) prioritization of funding for program

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1 expansion in areas of highest need;

2 (2) the requirement that pre-kindergarten be
3 offered as a full-day program;

4 (3) prioritization of programs that provide
5 educational opportunities for student populations that have
6 been historically underserved;

7 (4) professional competency standards and
8 developmentally appropriate curricular standards alignment
9 between public school pre-kindergarten and pre-kindergarten
10 provided through the children, youth and families department;

11 (5) addressing the total developmental needs
12 of preschool children, including physical, cognitive, social
13 and emotional needs and including health care, nutrition,
14 safety and culturally and linguistically relevant programming;

15 (6) alignment of the full-day pre-kindergarten
16 with the school district's elementary school calendar; and

17 (7) requiring evidence that school districts
18 will collaborate with licensed child care providers and
19 providers of developmental readiness programs;

20 D. create applications for funding that include:

21 (1) how the public school meets department
22 standards;

23 (2) the number of four-year-old students that
24 the public school will serve;

25 (3) a description of how the public school's

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1 pre-kindergarten will be culturally, historically and
2 linguistically responsive to the community;

3 (4) evidence that the school district has used
4 federal funding opportunities, when appropriate, to maximize
5 the use of available resources to meet public pre-kindergarten
6 needs;

7 (5) a description of the public school's pre-
8 kindergarten facilities and plans, if necessary, to improve
9 those facilities;

10 (6) assurance that all teachers and
11 educational assistants are appropriately licensed and that
12 there is a professional development plan for teachers and
13 educational assistants working in pre-kindergarten;

14 (7) the public school's plan for communicating
15 with and involving parents of children in pre-kindergarten;

16 (8) coordination of parent education and
17 social services for parents of four-year-olds participating in
18 pre-kindergarten;

19 (9) how the public school plans to meet the
20 continuum of services to students, including extended day
21 services for families in need of extended daycare;

22 (10) evidence of local support for pre-
23 kindergarten services in the community, including collaboration
24 efforts with licensed child care providers; and

25 (11) other relevant information as determined

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1 by the department;

2 E. assist local school boards in developing and
3 evaluating pre-kindergarten;

4 F. monitor public schools' delivery of pre-
5 kindergarten program services to ensure adherence to child-
6 centered, developmentally appropriate practices and outcomes
7 and provide technical assistance to those schools; and

8 G. each year, provide an annual report to the
9 governor and the legislature on pre-kindergarten."

10 SECTION 6. A new section of the Public School Finance Act
11 is enacted to read:

12 "[NEW MATERIAL] PRE-KINDERGARTEN UNITS.--The number of
13 pre-kindergarten units is determined by multiplying the full-
14 time-equivalent MEM in programs implemented in accordance with
15 the Public Pre-Kindergarten Act by the cost differential factor
16 1.25."

17 SECTION 7. Section 22-8-18 NMSA 1978 (being Laws 1974,
18 Chapter 8, Section 8, as amended) is amended to read:

19 "22-8-18. PROGRAM COST CALCULATION--LOCAL
20 RESPONSIBILITY.--

21 A. ~~[For fiscal year 2019, the total program units~~
22 ~~for the purpose of computing the program cost shall be~~
23 ~~calculated by multiplying the sum of the program units itemized~~
24 ~~as Paragraphs (1) through (6) in this subsection by the~~
25 ~~staffing cost multiplier and adding the program units itemized~~

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1 ~~as Paragraphs (7) through (14) in this subsection.]~~ For fiscal
2 year 2020 and subsequent fiscal years, the total program units
3 for the purpose of computing the program cost shall be
4 calculated by multiplying the sum of the program units itemized
5 as Paragraphs (1) and (2) in this subsection by the staffing
6 cost multiplier and adding the program units itemized as
7 Paragraphs (3) through [~~(14)~~] (15) in this subsection. The
8 itemized program units are [~~as follows~~]:

- 9 (1) early childhood education;
- 10 (2) basic education;
- 11 (3) special education, adjusted by subtracting
12 the units derived from membership in class D special education
13 programs in private, nonsectarian, nonprofit training centers;
- 14 (4) bilingual multicultural education;
- 15 (5) fine arts education;
- 16 (6) elementary physical education;
- 17 (7) size adjustment;
- 18 (8) at-risk program;
- 19 (9) enrollment growth or new district
20 adjustment;
- 21 (10) special education units derived from
22 membership in class D special education programs in private,
23 nonsectarian, nonprofit training centers;
- 24 (11) national board for professional teaching
25 standards certification;

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- 1 (12) home school student program unit;
- 2 (13) home school student activities; [~~and~~]
- 3 (14) charter school student activities; and
- 4 (15) pre-kindergarten.

5 B. The total program cost calculated as prescribed
6 in Subsection A of this section includes the cost of early
7 childhood, special, bilingual multicultural, fine arts and
8 vocational education and other remedial or enrichment programs.
9 It is the responsibility of the local school board or, for a
10 charter school, the governing body of the charter school to
11 determine its priorities in terms of the needs of the community
12 served by that board. Except as otherwise provided in this
13 section, funds generated under the Public School Finance Act
14 are discretionary to local school boards and governing bodies
15 of charter schools; provided that the special program needs as
16 enumerated in this section are met; and provided further that
17 if a public school has been rated D or F for two consecutive
18 years, the department shall ensure that the local school board
19 or, for a charter school, the governing body of the charter
20 school is prioritizing resources for the public school toward
21 proven programs and methods linked to improved student
22 achievement until the public school earns a C or better for two
23 consecutive years."

24 SECTION 8. Section 22-8-26 NMSA 1978 (being Laws 1967,
25 Chapter 16, Section 76, as amended) is amended to read:

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1 "22-8-26. TRANSPORTATION DISTRIBUTION.--

2 A. Money in the transportation distribution of the
3 public school fund shall be used only for the purpose of making
4 payments to each school district or state-chartered charter
5 school for the to-and-from school transportation costs of
6 students in [~~grades kindergarten~~] pre-kindergarten through
7 [~~twelve~~] twelfth grade attending public school within the
8 school district or state-chartered charter school and of three-
9 and four-year-old children who meet the department-approved
10 criteria and definition of developmentally disabled and for
11 transportation of students to and from their regular attendance
12 centers and the place where vocational education programs are
13 being offered.

14 B. In the event a school district's or state-
15 chartered charter school's transportation allocation exceeds
16 the amount required to meet obligations to provide
17 to-and-from transportation, three- and four-year-old
18 developmentally disabled transportation and vocational
19 education transportation, fifty percent of the remaining
20 balance shall be deposited in the transportation emergency
21 fund.

22 C. Of the excess amount retained by the school
23 district or state-chartered charter school, at least
24 twenty-five percent shall be used for to-and-from
25 transportation-related services, excluding salaries and

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1 benefits, and up to twenty-five percent may be used for other
2 transportation-related services, excluding salaries and
3 benefits as defined by rule of the department.

4 D. In the event the sum of the proposed
5 transportation allocations to each school district or state-
6 chartered charter school exceeds the amounts in the
7 transportation distribution, the allocation to each school
8 district or state-chartered charter school shall be reduced in
9 the proportion that the school district or state-chartered
10 charter school allocation bears to the total statewide
11 transportation distribution.

12 E. A local school board or governing body of a
13 state-chartered charter school, with the approval of the state
14 transportation director, may provide additional transportation
15 services pursuant to Section 22-16-4 NMSA 1978 to meet
16 established program needs.

17 F. Nothing in this section prohibits the use of
18 school buses to transport the general public pursuant to the
19 Emergency Transportation Act."

20 SECTION 9. A new section of the Instructional Material
21 Law is enacted to read:

22 "[NEW MATERIAL] PUBLIC PRE-KINDERGARTEN INSTRUCTIONAL
23 MATERIALS FUND--CREATED--PURPOSE--APPLICATIONS.--

24 A. The "public pre-kindergarten instructional
25 materials fund" is created in the state treasury. The fund

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1 consists of appropriations, gifts, grants and donations. Money
2 in the fund shall not revert to the general fund at the end of
3 a fiscal year. The fund shall be administered by the
4 department, and money in the fund is subject to appropriation
5 by the legislature to the department to assist public schools
6 that implement pre-kindergarten pursuant to the Public Pre-
7 Kindergarten Act. Money in the fund shall be disbursed on
8 warrant of the secretary of finance and administration pursuant
9 to vouchers signed by the secretary of public education or the
10 secretary's authorized representative.

11 B. A school district or charter school that
12 implements public pre-kindergarten may apply to the department
13 for money from the public pre-kindergarten instructional
14 materials fund to purchase the necessary instructional
15 materials for students enrolled in the program. Funding shall
16 be disbursed on a per-classroom basis. A school district may
17 apply for funding for its pre-kindergarten program if:

18 (1) core and supplemental instructional
19 materials are evidence- and researched-based in developmentally
20 appropriate curriculum and learning techniques for pre-
21 kindergarten students;

22 (2) its programs are culturally and
23 linguistically responsive to student heritage; and

24 (3) the school district has established a
25 professional development plan describing how it will provide

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1 teachers with professional development and ongoing support in
2 the effective use of the selected instructional materials."

3 SECTION 10. A new section of the Indian Education Act is
4 enacted to read:

5 "[NEW MATERIAL] PRE-KINDERGARTEN ON TRIBAL LANDS.--

6 A. The department shall collaborate and coordinate
7 efforts with tribes and the children, youth and families
8 department to facilitate public and private pre-kindergarten
9 physically located on tribal lands. These programs shall
10 comply with provisions of the Indian Education Act.

11 B. The department, in consultation with tribal
12 leaders, shall promulgate rules, including state policies and
13 standards, for implementation and funding of pre-kindergarten
14 for three- and four-year-olds on tribal lands that include:

- 15 (1) prioritization of funding for pre-
16 kindergarten expansion in areas of highest need;
- 17 (2) for public Indian pre-kindergarten,
18 funding through the state equalization guarantee distribution
19 and for private pre-kindergarten, funding through the children,
20 youth and families department;
- 21 (3) standards alignment between public pre-
22 kindergarten on tribal lands and other public school pre-
23 kindergartens; and
- 24 (4) assurances that public or private pre-
25 kindergarten addresses the total developmental needs of public

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1 pre-kindergarten students and private preschool children,
2 including physical, cognitive, social and emotional needs, and
3 shall include health care, nutrition, safety and cultural and
4 linguistic relevancy.

5 C. The department, in collaboration with
6 appropriate tribal officials, shall develop an application for
7 public pre-kindergarten funding that includes:

8 (1) how pre-kindergarten on tribal lands meets
9 department standards;

10 (2) the number of four-year-old students that
11 public pre-kindergarten will serve;

12 (3) a description of how public pre-
13 kindergarten complies with the Indian Education Act;

14 (4) a description of the public pre-
15 kindergarten facilities;

16 (5) the plan for communicating with and
17 involving parents of students in public pre-kindergarten;

18 (6) coordination of social services for
19 families that may be provided by the tribe or the state; and

20 (7) other relevant information as determined
21 by the department."

22 SECTION 11. Section 22-23A-8 NMSA 1978 (being Laws 2003,
23 Chapter 151, Section 8, as amended by Laws 2007, Chapter 295,
24 Section 7 and by Laws 2007, Chapter 296, Section 7) is amended
25 to read:

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1 "22-23A-8. [~~FUND~~] FUNDS CREATED.--

2 A. The "Indian education fund" is created in the
3 state treasury. The fund consists of appropriations, gifts,
4 grants and donations and income from investment of the fund.
5 Money in the fund shall not revert. The fund shall be
6 administered by the department, and money in the fund is
7 appropriated to the department to distribute awards to support
8 the Indian Education Act.

9 B. The department shall ensure that funds
10 appropriated from the Indian education fund shall be used for
11 the purposes stated in the Indian Education Act and shall not
12 be used to correct for previous reductions of program services.

13 C. The department shall develop procedures and
14 rules for the award of money from the fund. Disbursement of
15 the fund shall be made by warrant of the department of finance
16 and administration pursuant to vouchers signed by the secretary
17 of public education.

18 D. The "Indian pre-kindergarten fund" is created in
19 the state treasury. The fund consists of appropriations,
20 gifts, grants and donations. Money in the fund shall not
21 revert to the general fund at the end of a fiscal year. The
22 fund shall be administered by the department, and money in the
23 fund is appropriated to the department to distribute awards to
24 support Indian pre-kindergarten as provided in the Indian
25 Education Act."

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1 SECTION 12. Section 32A-23-1 NMSA 1978 (being Laws 2005,
2 Chapter 170, Section 1) is amended to read:

3 "32A-23-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article
4 23 NMSA 1978 may be cited as the "Children, Youth and Families
5 Pre-Kindergarten Act."

6 SECTION 13. Section 32A-23-3 NMSA 1978 (being Laws 2005,
7 Chapter 170, Section 3) is amended to read:

8 "32A-23-3. DEFINITIONS.--As used in the Children, Youth
9 and Families Pre-Kindergarten Act:

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

14 B. [~~"departments"~~] "department" means the children,
15 youth and families department [~~and the public education~~
16 ~~department acting jointly~~];

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

20 C. "eligible child" means a child who is three
21 years old on September 1 of the pre-kindergarten school year;

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

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1 program or head start program;

2 E. "high-risk school" means a public school in New
3 Mexico designated by the public education department as a
4 public school with a high percentage of students who do not
5 meet acceptable academic proficiency levels and that is located
6 in a geographic area with a large at-risk student population;

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

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

17 **SECTION 14.** A new section of the Children, Youth and
18 Families Pre-Kindergarten Act is enacted to read:

19 "[NEW MATERIAL] **PRE-KINDERGARTEN CURRICULUM AND WORKFORCE**
20 **DEVELOPMENT COUNCIL.--**

21 A. The secretary of children, youth and families
22 shall appoint a "pre-kindergarten curriculum and workforce
23 development council". The council shall be responsible for
24 assisting the department in the development and support for
25 high-quality curricular, employment and professional standards

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1 that are aligned between pre-kindergarten provided by the
2 public schools and those administered by the department for
3 program delivery and qualifications for pre-kindergarten
4 employees to ensure parents have equitable access to high-
5 quality pre-kindergarten.

6 B. The council shall be composed of the following
7 members:

8 (1) the secretary of children, youth and
9 families or the secretary's designee, who shall serve as the
10 chair of the council;

11 (2) the secretary of public education or the
12 secretary's designee;

13 (3) an early childhood education specialist
14 from the public education department;

15 (4) a representative from the head start
16 collaboration office;

17 (5) two representatives from school districts
18 that provide public pre-kindergarten;

19 (6) two representatives from department-
20 licensed early childhood providers currently providing
21 pre-kindergarten;

22 (7) two parents of pre-kindergarten-aged
23 children enrolled in private pre-kindergarten;

24 (8) two representatives from community
25 organizations that advocate on behalf of early childhood

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1 services;

2 (9) two representatives from a public post-
3 secondary educational institution offering an early childhood
4 teacher education program that leads to licensure or
5 certification of pre-kindergarten providers and employees; and

6 (10) two pre-kindergarten employees.

7 C. To ensure alignment of curriculum, employment
8 and professional standards between public and private pre-
9 kindergarten, the council shall provide recommendations to the
10 secretary of children, youth and families:

11 (1) by identifying a diverse set of
12 culturally, linguistically and developmentally appropriate
13 curricula for pre-kindergarten;

14 (2) by identifying a diverse set of
15 professional development opportunities, including the delivery
16 system for that professional development, that provides
17 professional growth opportunities;

18 (3) for a career and wage ladder for pre-
19 kindergarten employees that considers employees' education,
20 experience, certification or licensure and other credentials
21 and position to create wage parity for employees working in
22 private pre-kindergarten and public school pre-kindergarten
23 employees no later than fiscal year 2023 and recommend
24 appropriate per-child reimbursement rates that ensure that pre-
25 kindergarten providers receive sufficient funds to pay those

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1 wages;

2 (4) programmatic initiatives necessary to
3 recruit and retain a high-quality private pre-kindergarten
4 workforce; and

5 (5) any other recommendations or assistance
6 requested by the secretary of children, youth and families.

7 D. The department may issue requests for proposals
8 and contract with experienced, qualified professional
9 development organizations to assist the department in
10 developing and supporting a high-quality pre-kindergarten
11 workforce. Prior to issuing a request for proposals for
12 professional development organizations, the department, with
13 council assistance, shall survey pre-kindergarten providers and
14 employees regarding professional development needs, as well as
15 other needs, including financial assistance, to enable pre-
16 kindergarten employees to advance professionally.

17 E. In considering a professional development
18 organization contract, the department shall determine the
19 organization's ability to provide:

20 (1) enhanced training required pursuant to
21 changing department standards;

22 (2) basic and advanced training and
23 professional development;

24 (3) orientation for persons interested in
25 employment with a pre-kindergarten provider;

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1 (4) mentoring for new kindergarten employees
2 and employees who are seeking certification or licensure by
3 furthering their education;

4 (5) apprenticeships as a registered
5 apprenticeship program;

6 (6) customizable professional development
7 plans for pre-kindergarten employees;

8 (7) verification processes to ensure that
9 pre-kindergarten providers and employees have completed
10 required training and professional development; and

11 (8) any other information or data the
12 department determines."

13 SECTION 15. Section 32A-23-4 NMSA 1978 (being Laws 2005,
14 Chapter 170, Section 4) is amended to read:

15 "32A-23-4. VOLUNTARY PRE-KINDERGARTEN--INTERAGENCY
16 COOPERATION--CONTRACTS FOR SERVICES--[~~CONTRACT MONITORING--~~
17 ~~RESEARCH~~] REPORTS.--

18 A. The [~~children, youth and families department and~~
19 ~~the public education~~] department shall [~~cooperate in the~~
20 ~~development and implementation of a voluntary program for the~~
21 ~~provision of pre-kindergarten services throughout the state.~~
22 ~~The pre-kindergarten program shall address the total~~
23 ~~developmental needs of preschool children, including physical,~~
24 ~~cognitive, social and emotional needs, and shall include health~~
25 ~~care, nutrition, safety and multicultural sensitivity~~] develop

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1 and implement pre-kindergarten, in which it contracts with
2 eligible providers for the provision of pre-kindergarten at a
3 per-child reimbursement rate. The department shall coordinate
4 with the public education department in the implementation of
5 pre-kindergarten. The department shall coordinate with federal
6 head start agencies to avoid duplication of effort and maximize
7 the use of available resources in the implementation of pre-
8 kindergarten.

9 B. The [~~departments~~] department shall [~~collaborate~~
10 ~~on promulgating~~] promulgate rules on pre-kindergarten
11 [~~services~~], including state policies and standards, [~~and~~] that
12 include:

13 (1) the requirement that pre-kindergarten be
14 offered as a full-instructional-day program that must, at a
15 minimum, align with the instructional hours required for public
16 school pre-kindergarten;

17 (2) prioritization of funding for pre-
18 kindergarten expansion in areas of highest need;

19 (3) prioritization of pre-kindergarten that
20 provides educational opportunities for eligible children who
21 have been historically underserved;

22 (4) professional competence and
23 developmentally appropriate curricular standards alignment
24 between public school pre-kindergarten and pre-kindergarten
25 provided through the department;

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1 (5) requirements that each pre-kindergarten
2 address the total developmental needs of preschool children,
3 including physical, cognitive, social and emotional needs, and
4 shall include health care, nutrition, safety and cultural
5 relevancy;

6 (6) the basic training needed by persons who
7 substitute during the absence of pre-kindergarten employees,
8 including training for long-term substitutes; and

9 (7) tiered reimbursement rates based on a
10 career and wage ladder that creates minimum pay requirements
11 for employees based on the education level and experience of
12 pre-kindergarten workers.

13 C. The department shall review the process for
14 making contract awards and for the expenditure and use of
15 contract funds.

16 [~~G.~~] D. The [departments] department shall monitor
17 activity under pre-kindergarten contracts to ensure [the
18 effectiveness of] adherence to child-centered, developmentally
19 appropriate practices and outcomes [The departments shall
20 assign staff to work on the development and implementation of
21 the program and on the monitoring of contract awards. The
22 early childhood training and technical assistance programs of
23 the children, youth and families department and assigned staff
24 from the public education department staff] and shall provide
25 technical assistance to eligible providers.

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

5 SECTION 16. Section 32A-23-6 NMSA 1978 (being Laws 2005,
6 Chapter 170, Section 6, as amended) is amended to read:

7 "32A-23-6. REQUESTS FOR PROPOSALS--CONTRACTS FOR
8 SERVICES.--

9 A. ~~[Each]~~ The department shall ~~[publish]~~ solicit
10 the delivery of pre-kindergarten by publishing a request for
11 proposals ~~[or a request for applications that contains the same~~
12 ~~requested information for pre-kindergarten services.~~

13 ~~B. Eligible providers shall submit proposals or~~
14 ~~applications for pre-kindergarten services to the appropriate~~
15 ~~department. An eligible provider's proposal or application~~
16 ~~shall include a description of the services that will be~~
17 ~~provided, including] that asks of eligible providers responding~~
18 to the request:

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

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

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

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

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

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

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

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

14 ~~G. Each~~ B. The department shall accept and
15 evaluate proposals [~~or applications~~] for [~~funding for~~] the
16 delivery of pre-kindergarten by eligible providers.

17 [~~D. For funding purposes, applications and~~
18 ~~proposals shall be evaluated and priority given~~] C. In
19 selecting among proposals for the delivery of pre-kindergarten,
20 the department shall give priority to [programs] pre-
21 kindergarten in communities with public elementary schools that
22 are designated as [~~Title 1~~] high-risk schools [~~and that have at~~
23 ~~least sixty-six percent of the children served living within~~
24 ~~the attendance zone of a Title 1 elementary school. Additional~~
25 ~~funding criteria include~~]. It shall further consider:

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

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

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

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

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

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

15 ~~(7)]~~ (6) staff professional development plans;

16 [~~(8)]~~ (7) the capacity of local organizations
17 and persons interested [~~in~~] and involved in [~~programs and~~
18 ~~services~~] pre-kindergarten for [~~four-year-olds~~] eligible
19 children and their commitment to work together;

20 [~~(9)]~~ (8) the [~~extent~~] degree of local support
21 for pre-kindergarten [~~services~~] in the community; and

22 [~~(10)]~~ (9) other relevant criteria specified
23 by [~~joint~~] department rule. [~~of the departments.~~

24 E.] D. A contract [~~or agreement~~] with an eligible
25 provider for pre-kindergarten shall [~~specify and ensure~~]

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1 provide that funds [~~shall~~] not be used for any religious,
2 sectarian or denominational purposes, instruction or material."

3 SECTION 17. Section 32A-23-8 NMSA 1978 (being Laws 2005,
4 Chapter 170, Section 8) is amended to read:

5 "32A-23-8. [~~FUNDS~~] FUND CREATED--ADMINISTRATION.--

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

18 B.] The "children, youth and families pre-
19 kindergarten fund" is created as a nonreverting fund in the
20 state treasury. The fund [~~shall consist~~] consists of
21 appropriations, gifts, grants and donations to the fund and
22 income from investment of the fund [~~gifts, grants and~~
23 ~~donations~~]. The [~~fund shall be administered by the children,~~
24 ~~youth and families~~] department shall administer the fund, and
25 money in the fund is appropriated to the department to carry

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1 out [~~the provisions of~~] the Children, Youth and Families Pre-
2 Kindergarten Act. Disbursements from the fund shall be by
3 warrant of the secretary of finance and administration upon
4 vouchers signed by the secretary of children, youth and
5 families or the secretary's authorized representative. The
6 department may use up to ten percent of the money in the fund
7 each year for administrative expenses."

8 SECTION 18. A new section of the Children, Youth and
9 Families Pre-Kindergarten Act is enacted to read:

10 "[NEW MATERIAL] HOLD HARMLESS--PHASE-OUT OF FOUR-YEAR-OLD
11 CHILDREN.--The department shall maintain four-year-old children
12 in its pre-kindergarten in fiscal year 2020 and shall use the
13 application process outlined in the Children, Youth and
14 Families Pre-Kindergarten Act for approval of funding for those
15 four-year-old children. The department shall decrease four-
16 year-old pre-kindergarten by six hundred fifty full-time-
17 equivalent slots each year in fiscal years 2021 through 2024.
18 No four-year-old children shall be included in the department's
19 pre-kindergarten program in fiscal year 2025 and subsequent
20 fiscal years."

21 SECTION 19. TEMPORARY PROVISION--PHASING IN AND PHASING
22 OUT OF FOUR-YEAR-OLD CHILDREN.--The legislature shall make
23 appropriations sufficient to allow for an increase of at least
24 one thousand four hundred twenty-five full-time three-year-old
25 pre-kindergarten slots in the children, youth and families

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1 department pre-kindergarten and at least one thousand five
2 hundred fifteen full-time four-year-old public school pre-
3 kindergarten slots each year from fiscal years 2020 through
4 2024 until the following proportions are minimumly met. The
5 legislature shall make appropriations sufficient to allow the
6 following proportions of children eligible for pre-kindergarten
7 established by the Children, Youth and Families Pre-
8 Kindergarten Act and students eligible for public pre-
9 kindergarten to receive those programs' services:

10 A. for fiscal year 2020, there shall be:

11 (1) private pre-kindergarten slots for at
12 least twenty-three percent of all three-year-old children and
13 no more than forty-nine percent of all four-year-old children;
14 and

15 (2) public pre-kindergarten slots for at least
16 fifty-one percent of all four-year-old children;

17 B. for fiscal year 2021, there shall be:

18 (1) private pre-kindergarten slots for at
19 least thirty percent of all three-year-old children and no more
20 than forty-three percent of all four-year-old children; and

21 (2) public pre-kindergarten slots for at least
22 fifty-seven percent of all four-year-old children;

23 C. for fiscal year 2022, there shall be:

24 (1) private pre-kindergarten slots for at
25 least thirty-seven percent of all three-year-old children and

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1 no more than thirty-five percent of all four-year-old children;
2 and

3 (2) public pre-kindergarten slots for at least
4 sixty-five percent of all four-year-old children;

5 D. for fiscal year 2023, there shall be:

6 (1) private pre-kindergarten slots for at
7 least forty-three percent of all three-year-old children and no
8 more than twenty-eight percent of all four-year-old children;
9 and

10 (2) public pre-kindergarten slots for at least
11 seventy-two percent of all four-year-old children; and

12 E. for fiscal year 2023 and subsequent fiscal
13 years, there shall be:

14 (1) private pre-kindergarten slots for at
15 least fifty percent of all three-year-old children and no slots
16 for four-year-old children; and

17 (2) public pre-kindergarten slots for at least
18 eighty percent of all four-year-old children; provided that in
19 subsequent fiscal years, the children, youth and families
20 department and public education department shall strive for
21 funding sufficient to ensure that every three- or four-year-old
22 child who wants to attend pre-kindergarten has an available
23 slot.

24 **SECTION 20. APPROPRIATIONS.--**

25 A. Thirty-four million dollars (\$34,000,000) is

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1 appropriated from the general fund to the state equalization
2 guarantee distribution of the public school fund for
3 expenditure in fiscal year 2020 to implement the Public Pre-
4 Kindergarten Act. Any unexpended or unencumbered balance
5 remaining at the end of fiscal year 2020 shall revert to the
6 general fund.

7 B. Two million dollars (\$2,000,000) is appropriated
8 from the general fund to the Indian pre-kindergarten fund for
9 expenditure in fiscal year 2020 and subsequent fiscal years.
10 Any unexpended or unencumbered balance remaining at the end of
11 a fiscal year shall not revert to the general fund.

12 C. Five million dollars (\$5,000,000) is
13 appropriated from the general fund to the transportation
14 distribution of the public school fund for expenditure in
15 fiscal year 2020 to transport eligible four-year-old students
16 in approved public pre-kindergarten. Any unexpended or
17 unencumbered balance remaining at the end of fiscal year 2020
18 shall revert to the general fund.

19 D. One million five hundred thousand dollars
20 (\$1,500,000) is appropriated from the general fund to the
21 public pre-kindergarten instructional materials fund for
22 expenditure in fiscal years 2020 and 2021. Any unexpended or
23 unencumbered balance remaining at the end of fiscal year 2021
24 shall revert to the general fund.

25 E. Nineteen million dollars (\$19,000,000) is

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1 appropriated from the general fund to the children, youth and
2 families pre-kindergarten fund for expenditure in fiscal year
3 2020 and subsequent fiscal years to implement the Children,
4 Youth and Families Pre-Kindergarten Act. Any unexpended or
5 unencumbered balance remaining at the end of a fiscal year
6 shall not revert to the general fund.

7 F. Three million dollars (\$3,000,000) is
8 appropriated from the general fund to a separate account of the
9 children, youth and families department for expenditure in
10 fiscal year 2020 and subsequent fiscal years to provide early
11 childhood teacher education scholarships. Any unexpended or
12 unencumbered balance remaining at the end of a fiscal year
13 shall not revert to the general fund.

14 G. Twenty million dollars (\$20,000,000) is
15 appropriated from the general fund to the children, youth and
16 families department for expenditure in fiscal year 2020 to
17 maintain the fiscal year 2019 appropriation for four-year-old
18 children in private pre-kindergarten. Any unexpended or
19 unencumbered balance remaining at the end of fiscal year 2020
20 shall revert to the general fund.

21 SECTION 21. REPEAL.--Sections 32A-23-5, 32A-23-7 and
22 32A-23-9 NMSA 1978 (being Laws 2005, Chapter 170, Sections 5
23 and 7 and Laws 2011, Chapter 126, Section 1, as amended) are
24 repealed.

25 SECTION 22. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2019.

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