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SENATE BILL 74

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Howie C. Morales

AN ACT

RELATING TO STATE GOVERNMENT; CREATING THE EARLY CHILDHOOD SERVICES DEPARTMENT; PROVIDING POWERS AND DUTIES; ASSIGNING LEAD DEPARTMENT STATUS FOR CERTAIN FEDERAL PROGRAMS AND GRANTS; TRANSFERRING PROGRAMS, FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, RECORDS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; REPEALING NONCONFORMING SECTIONS OF LAW; MAKING APPROPRIATIONS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 14 of this act may be cited as the "Early Childhood Services Department Act".

SECTION 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds that research shows an intense focus on young children from birth to age five and

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1 early childhood learning reaps significant rewards in later
2 student achievement and taxpayer cost, including:

3 (1) substantial reading and mathematics gains
4 when children enter elementary school, with students performing
5 at or above grade level;

6 (2) less academic intervention and
7 remediation;

8 (3) lower truancy rates;

9 (4) higher graduation rates; and

10 (5) higher attendance rates at colleges and
11 universities or technical vocational institutes.

12 B. The purpose of the Early Childhood Services
13 Department Act is to provide the needed intense, single focus
14 on children from birth to age five to ensure that every child
15 in New Mexico is given the best opportunity at the earliest
16 time to succeed in school, career and life. The early
17 childhood services department is responsible for administering
18 all laws and exercising all functions formerly administered by
19 other departments or agencies, including programs and functions
20 of various departments of the executive branch pertaining to
21 early childhood from the:

22 (1) children, youth and families department's
23 early childhood services division and infant and early
24 childhood mental health services;

25 (2) department of health, including the:

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- 1 (a) family, infant, toddler program;
2 (b) federally mandated interagency
3 coordinating council for the federal Individuals with
4 Disabilities Education Act;
5 (c) family first home visiting program;
6 and
7 (d) women, infants and children program;
8 and
9 (3) public education department, including
10 public pre-kindergarten programs.

11 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
12 Early Childhood Services Department Act:

13 A. "child" means a child from birth to age five,
14 except for a child to age eight or thirteen in specific
15 programs;

16 B. "department" means the early childhood services
17 department; and

18 C. "secretary" means the secretary of early
19 childhood services.

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

21 A. The "early childhood services department" is
22 created as a cabinet department pursuant to the Executive
23 Reorganization Act and consists of the following divisions:

- 24 (1) the administrative services division;
25 (2) the office of the secretary;

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- 1 (3) the child care licensing and services
2 division;
3 (4) the early childhood education division;
4 and
5 (5) the early intervention services division,
6 including the following bureaus and programs:
7 (a) the early childhood mental health
8 bureau;
9 (b) the family nutrition bureau;
10 (c) the home visitation bureau;
11 (d) the family, infant, toddler program;
12 and
13 (e) the women, infants and children
14 program.

15 B. The secretary may reorganize the department, but
16 the secretary shall report the reorganization to the
17 legislature.

18 C. The governor, by executive order, may transfer
19 any other early childhood services or programs from any other
20 department under the governor's control to the early childhood
21 services department; provided that this power of transfer shall
22 end by January 1, 2020.

23 SECTION 5. [NEW MATERIAL] SECRETARY OF EARLY CHILDHOOD
24 SERVICES--APPOINTMENT.--

25 A. The chief executive and administrative officer

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1 of the department is the "secretary of early childhood
2 services". The secretary shall be appointed by the governor
3 with the consent of the senate. The secretary shall hold
4 office at the pleasure of the governor and shall serve in the
5 executive cabinet.

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

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

12 A. The secretary is responsible to the governor for
13 the operation of the department. It is the secretary's duty to
14 manage all operations of the department and to administer and
15 enforce the laws with which the secretary or the department is
16 charged.

17 B. To perform the secretary's duties, the secretary
18 has every power expressly enumerated in the law, whether
19 granted to the secretary, the department or any division of the
20 department, except when any division is explicitly exempted
21 from the secretary's power by statute. In accordance with
22 these provisions, the secretary shall:

23 (1) except as otherwise provided in the Early
24 Childhood Services Department Act, exercise general supervisory
25 and appointing power over all department employees, subject to

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1 applicable personnel laws and rules;

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

5 (3) organize the department into
6 organizational units as necessary to enable it to function most
7 efficiently, subject to any provisions of law requiring or
8 establishing specific organizational units;

9 (4) within the limitations of available
10 appropriations and applicable laws, employ and fix the
11 compensation of those persons necessary to discharge the
12 secretary's duties;

13 (5) take administrative action by issuing
14 orders and instructions, not inconsistent with law, to assure
15 implementation of and compliance with the provisions of law for
16 which administration or execution the secretary is responsible
17 and to enforce those orders and instructions by appropriate
18 administrative action in the courts;

19 (6) conduct research and studies that will
20 improve the operation of the department and the provision of
21 services to the residents of the state;

22 (7) provide courses of instruction and
23 practical training for employees of the department and other
24 persons involved in the administration of programs with the
25 objectives of improving the operations and efficiency of

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1 administration and of promoting comprehensive, coordinated,
2 culturally sensitive services that address the whole child and
3 early learning;

4 (8) prepare an annual budget for the
5 department; and

6 (9) provide cooperation, at the request of
7 administratively attached agencies and adjunct agencies, in
8 order to:

9 (a) minimize or eliminate duplication of
10 services and jurisdictional conflicts;

11 (b) coordinate activities and resolve
12 problems of mutual concern; and

13 (c) resolve by agreement the manner and
14 extent to which the department shall provide budgeting, record
15 keeping and related clerical assistance to administratively
16 attached agencies.

17 C. The secretary may apply for and receive, with
18 the governor's approval, in the name of the department, any
19 public or private funds, including United States government
20 funds, available to the department to carry out its programs,
21 duties or services.

22 D. The secretary may make and adopt such reasonable
23 and procedural rules as may be necessary to carry out the
24 duties of the department and its divisions. No rule
25 promulgated by the director of any division in carrying out the

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1 functions and duties of the division shall be effective until
2 approved by the secretary. Unless otherwise provided by
3 statute, no rule affecting any person or agency outside the
4 department shall be adopted, amended or repealed without a
5 public hearing on the proposed action before the secretary or a
6 hearing officer designated by the secretary. The public
7 hearing shall be held in Santa Fe unless otherwise permitted by
8 statute. Notice of the subject matter of the rule, the action
9 proposed to be taken, the time and place of the hearing, the
10 manner in which interested persons may present their views and
11 the method by which copies of the proposed rule or proposed
12 amendment or repeal of an existing rule may be obtained shall
13 be published once at least thirty days prior to the hearing
14 date in a newspaper of general circulation and mailed at least
15 thirty days prior to the hearing date to all persons who have
16 made a written request for advance notice of hearing. All
17 rules shall be filed in accordance with the State Rules Act.

18 E. If the secretary certifies to the secretary of
19 finance and administration and gives contemporaneous notice of
20 such certification through the human services register that the
21 department has insufficient state funds to operate any of the
22 programs it administers and that reductions in services or
23 benefit levels are necessary, the secretary may engage in
24 interim rulemaking. Notwithstanding any provision to the
25 contrary in the State Rules Act, interim rulemaking shall be

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1 conducted pursuant to Subsection D of this section, except:

2 (1) the period of notice of public hearing
3 shall be fifteen days;

4 (2) the department shall send individual
5 notices of the interim rulemaking and of the public hearing to
6 affected providers and beneficiaries;

7 (3) rules promulgated under this subsection
8 shall be in effect not less than five days after the public
9 hearing;

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

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

18 SECTION 7. [NEW MATERIAL] DEPARTMENT--ADDITIONAL

19 DUTIES.--In addition to other duties provided by law or
20 assigned to the department by the governor, the department
21 shall:

22 A. develop priorities for department services and
23 resources based on state policy, national best-practice
24 standards, evidence-based interventions and practices and local
25 considerations and priorities;

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1 B. strengthen collaboration and coordination in
2 state and local services for early childhood programs by
3 integrating critical functions as appropriate, including
4 service delivery, and contracting for services across divisions
5 and related agencies;

6 C. coordinate implementation of state, federal and
7 private early childhood programs and services to avoid
8 duplication of effort and maximize available resources;

9 D. administer the child care assistance program and
10 child care licensing and registered child care home programs;

11 E. develop and maintain a statewide database,
12 including client tracking of services for children;

13 F. develop standards of service within the
14 department that focus on prevention, monitoring and outcomes;

15 G. analyze policies of other departments that
16 affect children to encourage common contracting procedures,
17 common service definitions and a uniform system of access;

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

20 I. conduct biennial assessments of child care or
21 early learning service gaps and needs and establish outcome
22 measurements to address those service gaps and needs; and

23 J. fingerprint and conduct national criminal
24 background checks on all department employees and on staff
25 members and volunteers of early childhood service providers

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1 whose jobs involve direct contact with department clients,
2 including prospective employees and employees who are promoted,
3 transferred or hired into new positions, the superiors of all
4 department employees and all staff members and volunteers of
5 early childhood service providers who have direct unsupervised
6 contact with department clients.

7 SECTION 8. [NEW MATERIAL] DIVISION DIRECTORS.--The
8 secretary may appoint, with the approval of the governor,
9 "directors" of such divisions as are established within the
10 department. Directors are exempt from the Personnel Act.

11 SECTION 9. [NEW MATERIAL] BUREAUS--CHIEFS.--The secretary
12 may establish within each division such "bureaus" as the
13 secretary deems necessary to carry out the provisions of the
14 Early Childhood Services Department Act. The secretary shall
15 appoint a "chief" to be the administrative head of any such
16 bureau. The chief and all subsidiary employees of the
17 department shall be covered by the provisions of the Personnel
18 Act.

19 SECTION 10. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
20 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO
21 INFORMATION.--

22 A. Unless expressly exempted from the powers of the
23 secretary by law, those organizational units of the department
24 and the officers of those units specified by law shall have all
25 of the powers and duties enumerated in the specific laws

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1 involved, but the carrying out of those powers and duties shall
2 be subject to the direction and supervision of the secretary.
3 The secretary shall retain the final decision-making authority
4 and responsibility for the administration of any such laws as
5 provided in Subsection B of Section 6 of the Early Childhood
6 Services Department Act.

7 B. The department shall have access to all records,
8 data and information of other state departments that are not
9 specifically held confidential by law. The department shall
10 enter into agreements with the children, youth and families
11 department and the public education department to share
12 confidential information without violating federal or state
13 confidentiality laws.

14 SECTION 11. [NEW MATERIAL] DEPARTMENT DESIGNATION--
15 FAMILY, INFANT, TODDLER PROGRAM--AUTHORIZATION--PAYMENT
16 SYSTEM.--

17 A. The department is designated as the lead state
18 agency for the development and administration of a statewide
19 system of comprehensive, coordinated, multidisciplinary,
20 interagency early intervention services for eligible children
21 with or at risk of developmental delay and their families,
22 known as the "family, infant, toddler program".

23 B. The parent may choose whether the parent's
24 eligible child shall participate in the family, infant, toddler
25 program.

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1 C. The public education department, the human
2 services department, the children, youth and families
3 department, the department of health and other publicly funded
4 services shall collaborate with the early childhood services
5 department and continue to provide all services within their
6 respective statutory responsibilities to eligible children.
7 State and local interagency agreements shall delineate
8 responsibility for provisions of the family, infant, toddler
9 program.

10 D. The department shall establish a payment system
11 that shall maximize funds from appropriate federal, state,
12 local and private sources to support the family, infant,
13 toddler program.

14 E. The secretary shall meet the requirements of the
15 federal Individuals with Disabilities Education Act, Part C,
16 contingent on voluntary participation by the state, including:

17 (1) establishing policies and promulgating
18 rules necessary to comply with that act;

19 (2) implementing procedures to ensure that
20 services are provided to eligible children in a timely manner;

21 (3) making arrangements for the provisions of
22 the family, infant, toddler program;

23 (4) carrying out the general administration,
24 supervision and monitoring of the family, infant, toddler
25 program;

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1 (5) resolving complaints concerning the
2 family, infant, toddler program;

3 (6) maintaining and expanding state and local
4 coordination and interagency agreements pertaining to the
5 family, infant, toddler program;

6 (7) identifying and coordinating all available
7 resources for early intervention services for the family,
8 infant, toddler program; and

9 (8) establishing requirements for qualified
10 personnel involved in the family, infant, toddler program.

11 F. As used in this section:

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

17 (2) "eligible child" means an infant or
18 toddler between the ages of birth and thirty-six months with
19 developmental delay or who is at risk of delay according to
20 specific criteria established by the department of health.

21 SECTION 12. [NEW MATERIAL] CUSTODIAN OF FUNDS.--The
22 department is designated as the custodian of all money that may
23 be received by the state from any appropriation made by the
24 congress of the United States for the purpose of implementing
25 the federal Individuals with Disabilities Education Act, Part

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1 C.

2 SECTION 13. [NEW MATERIAL] CHILD CARE ASSISTANCE
3 PROGRAM--REPORTING.--

4 A. The department shall convene a group consisting
5 of representatives of the legislative finance committee and the
6 department of finance and administration and child care
7 providers representing various geographical regions of the
8 state, who shall be a majority of the group, to meet and, in
9 accordance with the provisions of the Accountability in
10 Government Act, to:

11 (1) develop an outcomes measurement plan to
12 monitor outcomes for children and families receiving services
13 through child care assistance programs, taking into
14 consideration child care categories;

15 (2) develop goals and objectives with
16 corresponding indicators that measure each objective
17 established in the outcomes measurement plan; and

18 (3) complete and submit the outcomes
19 measurement plan by December 31, 2018 to the legislature, the
20 governor and the state early learning advisory council.

21 B. Beginning December 31, 2018 and annually
22 thereafter, the department shall produce an annual outcomes
23 report for the legislature, the governor and the state early
24 learning advisory council that includes:

25 (1) the goals and achieved outcomes of the

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1 child care assistance program; and

2 (2) the following data:

3 (a) the number and type of child care
4 assistance programs that the department has funded;

5 (b) the income levels of families
6 served;

7 (c) the stated reasons that families
8 have applied for child care assistance;

9 (d) the number of children served,
10 including the monthly average and the total served by county;

11 (e) the number and percentage of
12 children receiving child care assistance by quality level and
13 provider type;

14 (f) the average monthly participation by
15 children in the child care assistance program;

16 (g) any evidence of an increase in
17 school readiness, child development and literacy;

18 (h) the number and percentage of
19 children who enter kindergarten ready to learn, as measured by
20 a kindergarten entry assessment;

21 (i) the number and percentage of
22 children receiving regular immunizations;

23 (j) evidence that children receive
24 regular meals;

25 (k) staff retention rates;

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- 1 (l) staff wages;
2 (m) staff certification and education
3 levels; and
4 (n) evidence that families are engaged.

5 SECTION 14. [NEW MATERIAL] EARLY CHILDHOOD SERVICES
6 FINANCE PLAN.--

7 A. The department shall prepare and update a four-
8 year "early childhood services finance plan" to provide the
9 governor and the legislature with demographic information on
10 at-risk children, data on distribution and efficacy of early
11 childhood programs and recommendations on ways to finance the
12 early childhood services system.

13 B. The plan shall include:

14 (1) identification of social, emotional,
15 cognitive, health, education, safety and other needs and at-
16 risk factors of children by age and geographic location;

17 (2) availability, cost and funding for early
18 childhood services by type of service that targets children's
19 needs and reduces risk factors and by child age and geographic
20 location;

21 (3) identification of any gaps between child
22 needs and service availability and causes for such gaps,
23 including funding and provider availability;

24 (4) identification of funding levels by
25 service type, child age and geographic location for the

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1 preceding four years;

2 (5) a report on the performance of the early
3 childhood services system by service type and whether desired
4 outcomes have been achieved for the preceding four years; and

5 (6) recommendations for legislation, funding
6 and other necessary changes to improve system performance and
7 close gaps in services to improve social, emotional, cognitive,
8 health, education, safety and other outcomes for children and
9 their families.

10 C. The plan and its underlying needs and gap
11 analyses shall be prominently featured on the department's
12 website in a user-friendly, searchable database.

13 SECTION 15. Section 13-7-7 NMSA 1978 (being Laws 2001,
14 Chapter 351, Section 3, as amended) is amended to read:

15 "13-7-7. CONSOLIDATED ADMINISTRATIVE FUNCTIONS--
16 BENEFIT.--

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

24 B. By December 31, 2003, the publicly funded health
25 care agencies, political subdivisions and other persons

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1 participating in the consolidated purchasing single process
2 pursuant to the Health Care Purchasing Act shall consolidate,
3 standardize and administer the administrative functions that
4 those entities can effectively and efficiently administer as
5 reflected in the study.

6 C. The publicly funded health care agencies,
7 political subdivisions and other persons participating in the
8 consolidated purchasing single process pursuant to the Health
9 Care Purchasing Act may enter into a joint powers agreement
10 pursuant to the Joint Powers Agreements Act with the publicly
11 funded health care agencies and political subdivisions to
12 determine assessments or provisions of resources to
13 consolidate, standardize and administer the consolidated
14 purchasing single process and subsequent activities pursuant to
15 the Health Care Purchasing Act. The publicly funded health
16 care agencies, political subdivisions and other persons
17 participating in the consolidated purchasing single process
18 pursuant to the Health Care Purchasing Act may enter into
19 contracts with nonpublic persons to provide the service of
20 determining assessments or provision of resources for
21 consolidation, standardization and administrative activities.

22 D. Each agency will retain its responsibility to
23 determine policy direction of the benefit plans, plan
24 development, training and coordination with respect to
25 participants and its benefits staff, as well as to respond to

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1 benefits eligibility inquiries and establish and enforce
2 eligibility rules.

3 E. Notwithstanding Subsection D of this section,
4 publicly funded health care agencies, political subdivisions
5 and other persons participating in the consolidated purchasing
6 single process pursuant to the Health Care Purchasing Act shall
7 provide coverage for children, from birth through three years
8 of age, for or under the family, infant, toddler program
9 administered by the early childhood services department [~~of~~
10 ~~health~~], provided eligibility criteria are met, for a maximum
11 benefit of three thousand five hundred dollars (\$3,500)
12 annually for medically necessary early intervention services
13 provided as part of an individualized family service plan and
14 delivered by certified and licensed personnel [~~as defined in~~
15 ~~7.30.8 NMAC~~] who are working in early intervention programs
16 approved by the early childhood services department [~~of~~
17 ~~health~~]. No payment under this subsection shall be applied
18 against any maximum lifetime or annual limits specified in the
19 policy, health benefits plan or contract."

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

22 "32A-22-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article
23 22 NMSA 1978 may be cited as the "Children's Cabinet Act"."

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

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1 "32A-22-2. CHILDREN'S CABINET CREATED.--

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

5 B. The children's cabinet shall consist of the
6 following members:

- 7 (1) the governor;
- 8 (2) the lieutenant governor;
- 9 (3) the secretary of children, youth and
10 families;
- 11 (4) the secretary of corrections;
- 12 (5) the secretary of human services;
- 13 (6) the secretary of [~~labor~~] workforce
14 solutions;
- 15 (7) the secretary of health;
- 16 (8) the secretary of finance and
17 administration;
- 18 (9) the secretary of economic development;
- 19 (10) the secretary of public safety;
- 20 (11) the secretary of aging and long-term
21 services;
- 22 (12) the secretary of Indian affairs; [~~and~~]
- 23 (13) the secretary of public education; and
- 24 (14) the secretary of early childhood
25 services.

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1 C. Each year the children's cabinet shall select
2 the governor or lieutenant governor to be the [~~chairperson~~
3 chair]."

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

6 "32A-23-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article
7 23 NMSA 1978 may be cited as the "Pre-Kindergarten Act"."

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

10 "32A-23-2. FINDINGS AND PURPOSE.--The legislature finds
11 that:

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

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

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

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

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

24 A. "community" means an area defined by school
25 district boundaries, tribal boundaries or joint boundaries of a

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1 school district and tribe or any combination of school
2 districts and tribes;

3 B. [~~"departments"~~] "department" means the
4 [~~children, youth and families~~] early childhood services
5 department [~~and the public education department acting~~
6 ~~jointly~~];

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

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

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

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

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

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

25 A. The [~~children, youth and families department and~~

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1 ~~the public education department shall cooperate in the~~
2 ~~development and implementation of] department shall develop and~~
3 implement a voluntary program for the provision of pre-
4 kindergarten services throughout the state. The pre-
5 kindergarten program shall address the total developmental
6 needs of [~~preschool~~] three- and four-year-old children,
7 including physical, cognitive, social and emotional needs, and
8 shall include health care, nutrition, safety and multicultural
9 sensitivity.

10 B. To address the total development of three- and
11 four-year-old children participating in the pre-kindergarten
12 program, the department shall implement program standards and
13 performance measures to ensure the provision of high-quality
14 and effective services so that children are prepared to enter
15 kindergarten. The department and the public education
16 department shall coordinate efforts to ensure alignment of
17 program standards for pre-kindergarten and kindergarten, and
18 each department shall certify the pre-kindergarten program and
19 standards prior to implementation. The department and the
20 public education department shall enter into an agreement to
21 share data necessary to report on the performance of the
22 program, including the percentage of pre-kindergarten
23 participants entering kindergarten that meet total child
24 development expectations, need special services, are proficient
25 in reading and mathematics and are retained in any grade

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1 through the third grade.

2 C. The department shall coordinate the pre-
3 kindergarten program with federal head start agencies to avoid
4 duplication of effort and to maximize the use of all available
5 resources.

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

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

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

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

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1 "32A-23-5. PRE-KINDERGARTEN--ELIGIBILITY.--Pre-
2 kindergarten services may be provided by public schools or
3 other eligible providers on a per-child reimbursement rate in
4 communities with public elementary schools that are designated
5 as Title 1 schools."

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

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

10 A. ~~[Each]~~ The department shall publish a request
11 for proposals ~~[or a request for applications]~~ that contains
12 ~~[the same]~~ requested information for pre-kindergarten services,
13 including for half-day and full-day programs.

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

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

22 (2) the number of three- and four-year-old
23 children the eligible provider can serve in either half-day or
24 full-day programs;

25 (3) site and floor plans and a description of

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1 the facilities;

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

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

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

9 (7) how those services meet the continuum of
10 services to children; and

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

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

15 D. For funding purposes, ~~[applications and]~~
16 proposals shall be evaluated and priority given to programs in
17 communities with public elementary schools that are designated
18 as Title 1 schools and that have at least sixty-six percent of
19 the children served living within the attendance zone of a
20 Title 1 elementary school. Additional funding criteria
21 include:

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

25 (2) the adequacy and capacity of pre-

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1 kindergarten facilities in the community;

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

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

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

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

10 (7) staff professional development plans;

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

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

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

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

23 **SECTION 24.** Section 32A-23-9 NMSA 1978 (being Laws
24 2011, Chapter 126, Section 1) is amended to read:

25 "32A-23-9. EQUAL DIVISION OF APPROPRIATIONS.--Any money

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1 appropriated for pre-kindergarten programs shall be divided
2 equally between [~~the public education department and the~~
3 ~~children, youth and families department~~] public school
4 programs and private programs to the extent practicable."

5 SECTION 25. Section 32A-23A-1 NMSA 1978 (being Laws
6 2011, Chapter 123, Section 1) is amended to read:

7 "32A-23A-1. SHORT TITLE.--[~~This act~~] Chapter 32A,
8 Article 23A NMSA 1978 may be cited as the "Early Childhood
9 Care and Education Act".

10 SECTION 26. Section 32A-23A-2 NMSA 1978 (being Laws
11 2011, Chapter 123, Section 2) is amended to read:

12 "32A-23A-2. DEFINITIONS.--As used in the Early
13 Childhood Care and Education Act:

14 A. "council" means the state early learning
15 advisory council;

16 B. "department" means the [~~children, youth and~~
17 ~~families~~] early childhood services department;

18 C. "early childhood" means from [~~prenatal~~] birth
19 to the age of five years;

20 D. "fund" means the early childhood care and
21 education fund;

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

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1 F. "secretary" means the secretary of [~~children,~~
2 ~~youth and families~~] early childhood services."

3 SECTION 27. Section 32A-23A-3 NMSA 1978 (being Laws
4 2011, Chapter 123, Section 3) is amended to read:

5 "32A-23A-3. FINDINGS AND PURPOSE.--

6 A. The legislature finds that an early childhood
7 care and education system is vital [~~in~~] to ensuring that
8 every New Mexico child is eager to learn and ready to succeed
9 by the time that child enters kindergarten, that high-quality
10 early learning experiences have been proven to prepare
11 children for success in school and later in life and that
12 cost-benefit research demonstrates a high return on
13 investment for money spent on early childhood care and
14 education for at-risk children.

15 B. The legislature further finds that, to be
16 successful, an early childhood care and education system
17 should be:

18 (1) developmentally, culturally and
19 linguistically appropriate and should include the
20 implementation of program models, standards and curriculum
21 based on research and best practices;

22 (2) data-driven, including the
23 identification and prioritization of communities most at
24 risk, while striving to make the system universally available
25 to all those who wish to participate;

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1 (3) accountable through developmentally
2 appropriate methods of measuring, reporting and tracking a
3 child's growth and development and the improvement of the
4 system's programs;

5 (4) accessible, especially to those children
6 most at risk for school failure;

7 (5) of the highest possible quality through
8 the ~~[utilization]~~ use of qualified practitioners who have
9 completed specialized training in early childhood growth,
10 development and learning that is specific to the
11 practitioner's role in the system and the maintenance of
12 quality rating methods for the programs in the system;

13 (6) fully aligned within each community to
14 ensure the most efficient and effective use of resources by
15 combining funding sources and supporting seamless transitions
16 for children within the system and for children transitioning
17 into kindergarten;

18 (7) family-centered by recognizing that
19 parents are the first and most important teachers of their
20 children and by providing the support and referrals necessary
21 for parents to assume this critical role in their child's
22 development; and

23 (8) a partnership between the state and
24 private ~~[individuals or institutions]~~ persons with an
25 interest or expertise in early childhood care and education.

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1 C. The purpose of the Early Childhood Care and
2 Education Act is to:

3 (1) establish a comprehensive early
4 childhood care and education system through an aligned
5 continuum of state and private programs, including home
6 visitation, early intervention, child care, early head start,
7 head start, early childhood special education, family support
8 and pre-kindergarten; and [~~to~~]

9 (2) maintain or establish the infrastructure
10 necessary to support quality in the system's programs."

11 SECTION 28. Section 32A-23A-4 NMSA 1978 (being Laws
12 2011, Chapter 123, Section 4) is amended to read:

13 "32A-23A-4. STATE EARLY LEARNING ADVISORY COUNCIL
14 CREATED--MEMBERSHIP.--

15 A. The "state early learning advisory council" is
16 created. The council is attached to the department.

17 B. The council consists of [~~fifteen~~] seventeen
18 members. The secretary of public education or the
19 secretary's designee, the secretary of [~~children, youth and~~
20 ~~families~~] early childhood services or the secretary's
21 designee, [~~and~~] the director of the head start state
22 collaboration office of the department and the directors of
23 the legislative education study committee and the legislative
24 finance committee shall serve ex officio. The remaining
25 members shall be qualified electors and, if appointment is

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1 not otherwise provided for in this subsection, shall be
2 appointed by the governor [~~for four-year terms expiring on~~
3 ~~January 1 of the appropriate year~~]. Except as otherwise
4 provided in Section 38 of this 2018 act, terms of council
5 members appointed by the governor before January 1, 2019
6 shall be for four years and terms of council members
7 appointed by the governor on or after January 1, 2019 shall
8 be for two years. Terms shall expire on December 31 of the
9 appropriate year. Council members appointed by the governor
10 shall serve staggered terms as determined by the governor at
11 the time of their initial appointment, and no more than five
12 of the governor's appointees shall be from the same political
13 party. Council members shall not be appointed to serve for
14 more than three terms. Along with the ex-officio members,
15 the council shall consist of the following members:

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

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

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

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

25 (5) one representative of [~~a state agency~~]

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1 the department responsible for programs under Section 619 or
2 Part C of the federal Individuals with Disabilities Education
3 Act appointed by the secretary;

4 (6) one representative of the [~~state agency~~]
5 department responsible for children's health or mental health
6 care issues appointed by the secretary;

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

11 (8) [~~two~~] four public members, including two
12 public members with knowledge and experience in early
13 childhood care and education.

14 C. Annually, the members shall designate a chair
15 and vice chair from the members of the council.

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

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

25 F. Members of the council shall not be removed

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1 except for incompetence, neglect of duty or malfeasance in
2 office. A vacancy in the membership of the council occurring
3 other than by expiration of term shall be filled in the same
4 manner as the original appointment, but for the unexpired
5 term only.

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

9 **SECTION 29.** Section 32A-23A-5 NMSA 1978 (being Laws
10 2011, Chapter 123, Section 5) is amended to read:

11 "32A-23A-5. COUNCIL AND DEPARTMENT DUTIES.--

12 A. The council is designated as the council
13 required pursuant to the federal Improving Head Start for
14 School Readiness Act of 2007. The council shall fulfill all
15 of the duties required under the federal act for early
16 childhood care and education. The council shall also lead
17 the development or enhancement of a high-quality,
18 comprehensive system of early childhood development and care
19 that ensures statewide coordination and collaboration among
20 the wide range of early childhood programs and services
21 within the state, including child care, early head start,
22 head start, federal Individuals with Disabilities Education
23 Act programs for preschool, infants and families and pre-
24 kindergarten programs and services.

25 B. The council and department may apply for and

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1 accept gifts, grants, donations or bequests for the fund from
2 any source, public or private, and the department may enter
3 into contracts or other transactions with any federal or
4 state agency, any private organization or any other source in
5 furtherance of the purpose of the Early Childhood Care and
6 Education Act.

7 C. In addition to the duties assigned to the
8 council under federal law, the council shall:

9 (1) make recommendations to the department
10 and the legislature on the most efficient and effective way
11 to leverage state and federal funding for early childhood
12 care and education, including on grant applications made by
13 the council or the department to benefit the fund; ~~[and]~~

14 (2) make recommendations to the department
15 and the legislature on how to coordinate and align an early
16 childhood care and education system to include child care,
17 pre-kindergarten, home visitation, early head start, head
18 start, early childhood special education, early intervention
19 and family support and to provide New Mexico families with
20 consistent access to appropriate care and education services.

21 In developing recommendations, the council shall:

22 (a) consider how to consolidate and
23 coordinate resources and public funding streams for early
24 childhood care and education and ensure the accountability
25 and coordinated development of all early childhood care and

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1 education services;

2 (b) consider how to provide a system
3 of seamless transition from prenatal services provided to
4 pregnant women to early childhood programs to kindergarten;

5 (c) take into account [~~a parent's~~] the
6 decisive role of parents in the planning, operation and
7 evaluation of programs that aid families in the care and
8 education of children;

9 (d) examine ways to provide consumer
10 education and accessibility to early childhood care and
11 education resources;

12 (e) consider the advancement of
13 quality early childhood care and education programs [~~in~~
14 ~~order~~] to support the healthy development of children and
15 [~~preparation~~] to prepare them for [~~their~~] success in school;

16 (f) consider the development of a
17 seamless service delivery system with local points of entry
18 for early childhood care and education programs administered
19 by local, state and federal agencies;

20 (g) ensure effective collaboration
21 with state and local child welfare programs and early
22 childhood health and behavioral health programs;

23 (h) consider how to develop and manage
24 effective data collection systems to support the necessary
25 functions of a coordinated system of early childhood care and

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1 education and to track children through the education system
2 from [~~prenatal to~~] early childhood to kindergarten to higher
3 education, in order to enable accurate evaluation of the
4 impact of early childhood care and education;

5 (i) focus on the diversity, cultural
6 heritage and strengths of the families and communities of the
7 state;

8 (j) consider the development of an
9 aligned system of professional development for professionals
10 providing early childhood care and education; and

11 (k) consider the establishment of an
12 administrative framework to promote the development of high-
13 quality early childhood care and education services that are
14 staffed by well-qualified professionals and are available in
15 every community for all families that express a need for
16 them; and

17 (3) make recommendations to the department
18 and the legislature on:

19 (a) statewide coordination of early
20 childhood care and education;

21 (b) delineating and addressing the
22 current gaps in child care programs and the early childhood
23 care and education system, including child care home
24 visitation, pre-kindergarten, head start, early head start
25 and family, infant, toddler program early intervention

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1 services;

2 (c) methods for improving the quality
3 of and increasing the capacity for growth in the early
4 childhood education and care system; and

5 (d) describing pre-kindergarten
6 services and parenting components."

7 SECTION 30. Section 32A-23A-7 NMSA 1978 (being Laws
8 2011, Chapter 123, Section 7) is amended to read:

9 "32A-23A-7. TERMINATION OF AGENCY LIFE--DELAYED
10 REPEAL.--The council is terminated on July 1, [~~2017~~] 2025
11 pursuant to the provisions of the Sunset Act. The council
12 shall continue to operate pursuant to the provisions of
13 Sections [~~4 and 5 of the Early Childhood Care and Education~~
14 ~~Act~~] 32A-23A-4 and 32A-23A-5 NMSA 1978 until July 1, [~~2018~~]
15 2026. Effective July 1, [~~2018~~] 2026, Section [~~4 of the Early~~
16 ~~Childhood Care and Education Act~~] 32A-23A-4 NMSA 1978 is
17 repealed."

18 SECTION 31. Section 32A-23B-1 NMSA 1978 (being Laws
19 2013, Chapter 118, Section 1) is amended to read:

20 "32A-23B-1. SHORT TITLE.--[~~This act~~] Chapter 32A,
21 Article 23B NMSA 1978 may be cited as the "Home Visiting
22 Accountability Act"."

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

25 "32A-23B-2. DEFINITIONS.--As used in the Home Visiting

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1 Accountability Act:

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

5 B. "department" means the [~~children, youth and~~
6 ~~families~~] early childhood services department;

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

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

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

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

14 (1) delivers a variety of informational,
15 educational, developmental, referral and other support
16 services for eligible families who are expecting or who have
17 children who have not yet entered kindergarten and that is
18 designed to promote child well-being and prevent adverse
19 childhood experiences;

20 (2) provides a comprehensive array of
21 services that promote parental competence and successful
22 early childhood health and development by building long-term
23 relationships with families and optimizing the relationships
24 between parents and children in their home environments; and

25 (3) does not include:

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

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

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

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

12 (1) uses home visiting as a primary service
13 delivery strategy; and

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

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

20 (1) provides universal, voluntary access;

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

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

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

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

5 (1) is research-based and grounded in
6 relevant, empirically based best practices and knowledge
7 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
21 the purpose, outcomes, duration and frequency of services
22 that 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

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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
6 development relevant to the specific program or model being
7 delivered;

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

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

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

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

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

18 SECTION 33. Section 32A-23B-3 NMSA 1978 (being Laws
19 2013, Chapter 118, Section 3) is amended to read:

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

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

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1 department may prioritize funding for standards-based
2 programs with strong evidence of effectiveness and high-risk
3 populations.

4 B. The department shall fund only standards-based
5 home visiting programs that include periodic home visits to
6 improve the health, well-being and self-sufficiency of
7 eligible families.

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

13 D. A home visiting program shall do two or more
14 of the following:

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

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1 help to reduce child maltreatment and injury;

2 (8) increase children's readiness to succeed
3 in school; and

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

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

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

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

25 [~~G.~~] H. The department and the providers of home

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1 visiting services, in consultation with one or more experts
2 in home visiting program evaluation, shall:

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

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

9 (3) complete and submit the outcomes
10 measurement plan by November 1, 2013 to the legislature, the
11 governor and the state early learning advisory council.

12 [~~H.~~] I. Beginning January 1, 2014 and annually
13 thereafter, the department shall produce an annual outcomes
14 report to the governor, the legislature and the state early
15 learning advisory council.

16 [~~F.~~] J. The annual outcomes report shall include:

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

20 (2) data regarding:

21 (a) the cost per eligible family
22 served;

23 (b) the number of eligible families
24 served;

25 (c) demographic data on eligible

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1 families served;

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

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

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

8 (g) decreases in child maltreatment or
9 child abuse;

10 (h) any reductions in risky parental
11 behavior;

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

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

17 (k) the number of children that
18 received an ages and stages questionnaire and what percent
19 scored age appropriately in all developmental domains;

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

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

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1 **SECTION 34.** Section 59A-22-34.2 NMSA 1978 (being Laws
2 1994, Chapter 64, Section 2, as amended) is amended to read:

3 "59A-22-34.2. COVERAGE OF CHILDREN.--

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

7 (1) was born out of wedlock;

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

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

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

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

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

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

25 C. When a parent is required by a court or

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1 administrative order to provide health coverage for a child
2 and the parent is eligible for family health coverage, the
3 insurer shall be required:

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

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

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

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

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

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

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

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

19 SECTION 35. Section 59A-23-7.2 NMSA 1978 (being Laws
20 1994, Chapter 64, Section 5, as amended) is amended to read:

21 "59A-23-7.2. COVERAGE OF CHILDREN.--

22 A. An insurer shall not deny enrollment of a
23 child under the health plan of the child's parent on the
24 grounds that 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
4 the 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
8 custodial parent as may be necessary for the child to obtain
9 benefits 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
23 the family coverage, a child who is otherwise eligible for
24 the coverage without regard to any enrollment season
25 restrictions;

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

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

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

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

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

23 E. An insurer shall provide coverage for
24 children, from birth through three years of age, for or under
25 the family, infant, toddler program administered by the early

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

12 SECTION 36. Section 59A-46-38.1 NMSA 1978 (being Laws
13 1994, Chapter 64, Section 9, as amended) is amended to read:

14 "59A-46-38.1. COVERAGE OF CHILDREN.--

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

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

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

- 25 (1) provide such information to the

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1 custodial parent as may be necessary for the child to obtain
2 benefits through that coverage;

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

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

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

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

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

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

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

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

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

16 E. An insurer shall provide coverage for
17 children, from birth through three years of age, for or under
18 the family, infant, toddler program administered by the early
19 childhood services department [~~of health~~], provided
20 eligibility criteria are met, for a maximum benefit of three
21 thousand five hundred dollars (\$3,500) annually for medically
22 necessary early intervention services provided as part of an
23 individualized family service plan and delivered by certified
24 and licensed personnel [~~as defined in 7.30.8 NMAC~~] who are
25 working in early intervention programs approved by the early

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1 childhood services department [~~of health~~]. No payment under
2 this subsection shall be applied against any maximum lifetime
3 or annual limits specified in the policy, health benefits
4 plan or contract."

5 SECTION 37. Section 59A-47-37 NMSA 1978 (being Laws
6 1994, Chapter 64, Section 12, as amended) is amended to read:

7 "59A-47-37. COVERAGE OF CHILDREN.--

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

11 (1) was born out of wedlock;

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

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

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

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

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

25 (3) make payments on claims submitted in

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1 accordance with Paragraph (2) of this subsection directly to
2 the custodial parent, the provider or the state medicaid
3 agency.

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

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

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

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

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

24 (b) the child is or will be enrolled
25 in comparable health coverage through another insurer that

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1 will take effect not later than the effective date of
2 disenrollment.

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

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

23 SECTION 38. TEMPORARY PROVISION--TRANSITION OF
24 MEMBERSHIP OF THE STATE EARLY LEARNING ADVISORY COUNCIL.--

25 A. On January 1, 2019, the following members of

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1 the state early learning advisory council are no longer
2 members of the council:

3 (1) of the two providers of early care and
4 education services, appointed pursuant to Paragraph (4) of
5 Subsection B of Section 4 of Chapter 123 of Laws 2011, the
6 provider with the term that expires first; and

7 (2) of the three members of the New Mexico
8 business roundtable for educational excellence, appointed
9 pursuant to Paragraph (7) of Subsection B of Section 4 of
10 Chapter 123 of Laws 2011, the member with the term that
11 expires first.

12 B. Within thirty days of the effective date of
13 this act, the governor shall appoint two new public members
14 to the state early learning advisory council pursuant to
15 Paragraph (8) of Subsection B of Section 32A-23A-4 NMSA 1978.
16 The governor shall determine the initial length of the terms
17 of each of those members, not exceeding three years, to allow
18 for staggered terms. Thereafter, the terms shall be for two
19 years.

20 **SECTION 39. TEMPORARY PROVISION--TRANSFERS OF PROGRAMS,**
21 **FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY,**
22 **CONTRACTUAL OBLIGATIONS AND REFERENCES.--**

23 A. On July 1, 2018, all programs, functions,
24 personnel, appropriations, money, statutory funds, records,
25 furniture, equipment, supplies and other property belonging

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1 to the following departments shall be transferred to the
2 early childhood services department:

3 (1) the children, youth and families
4 department's:

5 (a) early childhood services division;
6 and

7 (b) infant mental health services from
8 the behavioral health services division;

9 (2) the department of health's:

10 (a) family, infant, toddler program;

11 (b) women, infants and children
12 program;

13 (c) family first home visiting; and

14 (d) powers and duties pursuant to the
15 federal Individuals with Disabilities Education Act; and

16 (3) the public education department's public
17 pre-kindergarten.

18 B. On July 1, 2018, all contractual obligations
19 of the children, youth and families department, the
20 department of health or the public education department
21 pertaining to any of the functions delineated in Subsection A
22 of this section shall be transferred to the early childhood
23 services department.

24 C. On July 1, 2018, all references in law to the
25 children, youth and families department, the department of

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1 health or the public education department pertaining to any
2 of the functions delineated in Subsection A of this section
3 shall be deemed to be references to the early childhood
4 services department.

5 **SECTION 40. APPROPRIATIONS.**--The following amounts are
6 appropriated from the general fund to the early childhood
7 services department for expenditure in the specified fiscal
8 years for the following purposes:

9 A. five hundred thousand dollars (\$500,000) for
10 expenditure in fiscal years 2019 and 2020 to develop the
11 early childhood services finance plan and an integrated data
12 visualization system. Any unexpended or unencumbered balance
13 remaining at the end of fiscal year 2020 shall revert to the
14 general fund; and

15 B. one million dollars (\$1,000,000) for
16 expenditure in fiscal year 2019 to establish integrated field
17 offices and transfer programs from other departments to the
18 early childhood services department. Any unexpended or
19 unencumbered balance remaining at the end of fiscal year 2019
20 shall revert to the general fund.

21 **SECTION 41. REPEAL.**--Sections 9-2A-13, 28-18-1,
22 28-18-2, 32A-23-7 and 32A-23-8 NMSA 1978 (being Laws 1992,
23 Chapter 57, Section 13, Laws 1990, Chapter 4, Sections 1 and
24 2 and Laws 2005, Chapter 170, Sections 7 and 8, as amended)
25 are repealed.

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SECTION 42. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.