

1 SENATE HEALTH AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 58

3 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

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10 AN ACT

11 RELATING TO EARLY CHILDHOOD; ENACTING THE CHILD CARE FACILITY
12 LICENSING ACT; PROVIDING DUTIES AND POWERS TO THE EARLY
13 CHILDHOOD EDUCATION AND CARE DEPARTMENT; PROHIBITING A CHILD
14 CARE FACILITY FROM OPERATING WITHOUT A DEPARTMENT-ISSUED
15 LICENSE; ALLOWING LICENSE-EXEMPT CHILD CARE FACILITIES TO
16 REGISTER WITH THE DEPARTMENT; PROVIDING FOR REVOCATION OR
17 SUSPENSION OF LICENSES, SANCTIONS AND PENALTIES FOR FACILITIES
18 THAT ARE NOT IN COMPLIANCE; EXEMPTING PROCUREMENT BY THE EARLY
19 CHILDHOOD EDUCATION AND CARE DEPARTMENT OF CHILD CARE FOR
20 FAMILIES ELIGIBLE FOR CHILD CARE ASSISTANCE; AMENDING SECTIONS
21 OF THE PRE-KINDERGARTEN ACT; ADDING APPLICATION REQUIREMENTS
22 AND PRIORITIES FOR EARLY PRE-KINDERGARTEN AND PRE-KINDERGARTEN
23 PROGRAM SERVICES SOLICITED BY THE EARLY CHILDHOOD EDUCATION AND
24 CARE DEPARTMENT; UPDATING DEFINITIONS AND REFERENCES IN THE
25 EARLY CHILDHOOD CARE ACCOUNTABILITY ACT.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Child Care Facility Licensing Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Child Care Facility Licensing Act:

A. "child" means a person who is less than fourteen years of age;

B. "child care" means the provision of care and supervision for less than twenty-four hours a day to nonresident children;

C. "child care facility" means a person or entity that provides child care in the state;

D. "department" means the early childhood education and care department;

E. "license-exempt child care facility" means a person who provides child care in the person's residence to four or fewer nonresident children and who is exempt from child care licensing requirements pursuant to the Children's Code; and

F. "licensee" means a child care facility that is licensed by the department or a license-exempt child care facility that is registered with the department.

SECTION 3. [NEW MATERIAL] DEPARTMENT POWERS AND

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1 DUTIES.--The department may make inspections and investigations
 2 of child care facilities and license-exempt child care
 3 facilities that register with the department pursuant to the
 4 Child Care Facility Licensing Act. The department shall
 5 promulgate rules necessary to administer the provisions of the
 6 Child Care Facility Licensing Act and to promote the health,
 7 safety, welfare, education and development of children in child
 8 care facilities, including rules that specify:

- 9 A. criteria for a license, license renewal and
- 10 registration;
- 11 B. requirements for a facility to pass an
- 12 inspection;
- 13 C. criteria for granting a waiver or variance to
- 14 facilities that are not in compliance;
- 15 D. adjudicatory hearing rules and procedures; and
- 16 E. criteria for imposition of any intermediate
- 17 sanction, civil monetary penalty or order pursuant to the Child
- 18 Care Facility Licensing Act. The criteria shall provide for
- 19 more severe sanctions for a violation that results in any abuse
- 20 or neglect of a child or violations that place children at
- 21 substantial risk of serious physical or mental harm.

22 SECTION 4. [NEW MATERIAL] LICENSURE--CHILD CARE
 23 FACILITY--RENEWAL--COMPLAINTS.--

24 A. A child care facility shall not be operated
 25 without a license issued by the department. If a child care

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1 facility is found to be operating without a license, in order
2 to protect human health or safety, the department may issue a
3 cease-and-desist order. A child care facility that receives a
4 cease-and-desist order may request from the department a
5 hearing that shall be held in the manner provided in Section 5
6 of the Child Care Facility Licensing Act.

7 B. A license-exempt child care facility may elect
8 to register with the department. Upon department approval and
9 for the purposes of the Child Care Facility Licensing Act,
10 registration shall be treated as a license. A license-exempt
11 child care facility that registers pursuant to this subsection
12 may enroll to participate in the United States department of
13 agriculture child and adult care food program administered by
14 the department and receive child care assistance.

15 C. Upon written application for a license to
16 operate a child care facility or for registration by a license-
17 exempt child care facility, the department shall promptly
18 inspect the facility to determine if it is in compliance with
19 the law and all rules of the department.

20 D. Upon inspection of a child care facility or
21 registered license-exempt child care facility, if the
22 department finds a violation of its rules or the Child Care
23 Facility Licensing Act, the department may deny the application
24 for licensure or registration, whether initial or renewal, or,
25 for a child care facility, it may issue a temporary license. A

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1 temporary license shall not be issued for a period exceeding
2 one hundred twenty days, nor shall more than two consecutive
3 temporary licenses be issued to the same child care facility.

4 E. A three-year nontransferable license shall be
5 issued to a child care facility complying with all rules of the
6 department, and a three-year registration shall be issued to a
7 license-exempt child care facility complying with all rules of
8 the department. Licenses shall be posted in a conspicuous
9 place on the licensed premises.

10 F. Upon filing of a renewal application, the
11 license or registration shall be renewable for a successive
12 three-year period if the department is satisfied that the child
13 care facility or license-exempt child care facility is in
14 compliance with all rules of the department or, if not in
15 compliance with a rule, has been granted a waiver or variance
16 of that rule by the department pursuant to procedures,
17 conditions and guidelines adopted by rule of the department.

18 G. The department may charge a child care facility
19 or license-exempt child care facility a reasonable fee not to
20 exceed one thousand dollars (\$1,000) for each license
21 application or registration, whether initial or renewal, of a
22 license or the second consecutive issuance of a temporary
23 license. The fee charged shall be assessed pursuant to a
24 tiered fee structure adopted by the department based on the
25 size and type of facility. All fees collected pursuant to this

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1 section shall be deposited with the state treasurer for credit
2 in a designated department recurring account for use
3 administering the Child Care Facility Licensing Act.

4 H. The department shall allow for a person to
5 submit a complaint about a child care facility or license-
6 exempt child care facility. The department shall promptly
7 investigate a submitted complaint and take appropriate action
8 if the complaint is substantiated. The department shall
9 cross-reference among appropriate agencies, including the
10 children, youth and families department, allegations of abuse,
11 neglect or exploitation.

12 I. The name of and information regarding a person
13 making a complaint shall not be disclosed publicly absent the
14 consent of the person or a court order.

15 J. A complaint received by the department pursuant
16 to this section shall not be disclosed publicly in a manner as
17 to identify a person or facility if upon investigation the
18 complaint is unsubstantiated.

19 SECTION 5. [NEW MATERIAL] REVOCATION OR SUSPENSION OF
20 CHILD CARE FACILITY LICENSE--HEARINGS--APPEALS--SANCTIONS--
21 CIVIL PENALTY.--

22 A. Upon determination that a child care facility or
23 registered license-exempt child care facility is not in
24 compliance with a licensing requirement, department rule or
25 provision of the Child Care Facility Licensing Act, the

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1 department, after notice and opportunity for a hearing before a
 2 fair and impartial hearing officer designated by the department
 3 to hear the matter, may:

4 (1) revoke or suspend a licensee's license or
 5 registration;

6 (2) impose on a child care facility or
 7 registered license-exempt child care facility an intermediate
 8 sanction established by rule, including:

- 9 (a) conditions of operation;
- 10 (b) denial of payment of child care
 11 assistance;
- 12 (c) restricted admissions;
- 13 (d) reduction of capacity; and
- 14 (e) cease-and-desist order of action;

15 and

16 (3) assess a civil penalty, with interest, not
 17 to exceed ten thousand dollars (\$10,000) per day for each day
 18 the facility is or was out of compliance. Penalties and
 19 interest amounts assessed under this paragraph and recovered on
 20 behalf of the state shall be remitted to the department in a
 21 recurring account in the state treasury for the sole purpose of
 22 funding the nonreimbursed cost of child care facility
 23 compliance investigations.

24 B. If immediate action is required to protect human
 25 health and safety, the department may suspend a licensee's

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1 license or registration or impose an intermediate sanction
2 pursuant to Subsection A of this section pending a hearing;
3 provided that the hearing is held within five working days of
4 the suspension or imposition of the sanction, unless waived by
5 the licensee.

6 C. The department shall schedule a hearing if the
7 department receives a request for a hearing from a child care
8 facility or registered license-exempt child care facility:

9 (1) within ten working days after receipt by
10 the facility of the notice of suspension, revocation,
11 imposition of an intermediate sanction or civil monetary
12 penalty or denial of an initial or renewal application;

13 (2) within five working days after receipt by
14 the facility of an emergency suspension order or emergency
15 intermediate sanction imposition and notice of hearing unless
16 the facility wishes to waive the early hearing scheduled and
17 request a hearing at a later date; or

18 (3) within five working days after receipt by
19 the facility of a cease-and-desist order.

20 D. The department shall provide timely notice of
21 the date, time and place of a hearing, identity of the hearing
22 officer, subject matter of the hearing and alleged violations.

23 E. A hearing held pursuant to this section shall be
24 conducted by a fair and impartial hearing officer designated by
25 the department and in accordance with adjudicatory hearing

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1 rules and procedures adopted by rule of the department. A
 2 child care facility or registered license-exempt child care
 3 facility has the right to be represented by counsel, present
 4 all relevant evidence by means of witnesses and books, papers,
 5 documents, records, files and other evidence and examine all
 6 opposing witnesses who appear on any matter relevant to the
 7 issues. The hearing officer has the power to administer oaths
 8 on request of any party and issue subpoenas and subpoenas duces
 9 tecum prior to or after the commencement of the hearing to
 10 compel discovery and the attendance of witnesses and the
 11 production of relevant books, papers, documents, records, files
 12 and other evidence.

13 F. A party to the hearing may appeal the final
 14 decision of the department pursuant to the provisions of
 15 Section 39-3-1.1 NMSA 1978.

16 SECTION 6. [NEW MATERIAL] VIOLATION OF ACT, ORDER OR
 17 RULE--PETTY MISDEMEANOR--PENALTIES.--A person who operates a
 18 child care facility without a license in violation of the Child
 19 Care Facility Licensing Act is guilty of a petty misdemeanor
 20 and shall be punished by a fine not to exceed five hundred
 21 dollars (\$500) or imprisonment in the county jail for a
 22 definite term not to exceed six months or both such fine and
 23 imprisonment in the discretion of the court. Each day of a
 24 continuing violation of Subsection A of Section 4 of the Child
 25 Care Facility Licensing Act after conviction shall be

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1 considered a separate offense. The department may also enforce
2 its rules and orders by any appropriate civil action. The
3 attorney general shall represent the department.

4 SECTION 7. Section 13-1-98 NMSA 1978 (being Laws 1984,
5 Chapter 65, Section 71, as amended by Laws 2023, Chapter 149,
6 Section 2 and by Laws 2023, Chapter 174, Section 1) is amended
7 to read:

8 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
9 provisions of the Procurement Code shall not apply to:

10 A. procurement of items of tangible personal
11 property or services by a state agency or a local public body
12 from a state agency, a local public body or external
13 procurement unit except as otherwise provided in Sections
14 13-1-135 through 13-1-137 NMSA 1978;

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

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

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

24 E. purchases of books, periodicals, instructional
25 materials and training materials in printed, digital or

1 electronic format from the publishers, designated public-
2 education-department-approved instructional material
3 depositories or copyright holders thereof and purchases of
4 print, digital or electronic format library materials by
5 public, school and state libraries for access by the public;

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

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

11 H. contracts with businesses for public school
12 transportation services;

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

20 J. purchases not exceeding ten thousand dollars
21 (\$10,000) consisting of magazine subscriptions, web-based or
22 electronic subscriptions, conference registration fees and
23 other similar purchases where prepayments are required;

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

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

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

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

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

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

22 Q. contracts with professional entertainers;

23 R. contracts and expenditures for legal
24 subscription and research services and litigation expenses in
25 connection with proceedings before administrative agencies or

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1 state or federal courts, including experts, mediators, court
 2 reporters, process servers and witness fees, but not including
 3 attorney contracts;

4 S. contracts for service relating to the design,
 5 engineering, financing, construction and acquisition of public
 6 improvements undertaken in improvement districts pursuant to
 7 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
 8 improvement districts pursuant to Subsection L of Section
 9 4-55A-12.1 NMSA 1978;

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

12 U. contracts entered into by a local public body
 13 with a person, firm, organization, corporation or association
 14 or a state educational institution named in Article 12, Section
 15 11 of the constitution of New Mexico for the operation and
 16 maintenance of a hospital pursuant to Chapter 3, Article 44
 17 NMSA 1978, lease or operation of a county hospital pursuant to
 18 the Hospital Funding Act or operation and maintenance of a
 19 hospital pursuant to the Special Hospital District Act;

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

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

24 X. procurement of printing, publishing and
 25 distribution services for materials produced and intended for

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1 resale by the cultural affairs department;

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

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

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

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

22 CC. contracts for investment advisory services,
23 investment management services or other investment-related
24 services entered into by the educational retirement board, the
25 state investment officer or the retirement board created

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1 pursuant to the Public Employees Retirement Act;

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

5 EE. contracts entered into by the crime victims
 6 reparation commission to distribute federal grants to assist
 7 victims of crime, including grants from the federal Victims of
 8 Crime Act of 1984 and the federal Violence Against Women Act of
 9 1994;

10 FF. procurement by or through the early childhood
 11 education and care department of early pre-kindergarten and
 12 pre-kindergarten services purchased pursuant to the
 13 Pre-Kindergarten Act and of child care for families that are
 14 eligible for child care assistance;

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

17 HH. contracts entered into by the forestry division
 18 of the energy, minerals and natural resources department to
 19 distribute federal grants to nongovernmental entities and
 20 individuals selected through an application process conducted
 21 by the United States department of agriculture, the United
 22 States department of the interior or any division or bureau
 23 thereof for programs for wildfire prevention or protection,
 24 urban forestry, forest and watershed restoration and
 25 protection, reforestation or economic development projects to

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1 advance the use of trees and wood biomass for hazardous fuel
2 reduction; and

3 II. procurements exempt from the Procurement Code
4 as otherwise provided by law."

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

7 "32A-23-2. FINDINGS.--The legislature finds that:

8 A. ~~[special needs are]~~ all young children,
9 including those with disabilities, must have access to high-
10 quality early childhood programs. The need to maintain early
11 education opportunities for all young children is present among
12 the state's population of three- and four-year-old children and
13 those needs warrant the provision of universal and free early
14 pre-kindergarten and pre-kindergarten programs;

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

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

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

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

25 A. "community" means an area defined by school

1 district boundaries, tribal boundaries or joint boundaries of a
 2 school district and tribe; ~~[or any combination of school~~
 3 ~~districts and tribes]~~

4 B. "community provider" means a licensed private
 5 provider that is a pre-kindergarten award recipient and serves
 6 eligible children in the community;

7 ~~[B.]~~ C. "department" means the early childhood
 8 education and care department;

9 ~~[C.]~~ D. "early pre-kindergarten program" means a
 10 statewide, voluntary developmental readiness program for
 11 eligible children ~~[who have attained their third birthday prior~~
 12 ~~to September 1 that delivers to eligible children programs]~~
 13 that ~~[address]~~ addresses their total developmental needs,
 14 including their physical, cognitive, social and emotional
 15 needs, and that supports their development in the areas of
 16 health care, nutrition and safety and multicultural awareness;

17 ~~[D.]~~ E. "eligible child" means:

18 (1) for early pre-kindergarten, a person ~~[age~~
 19 ~~three or four]~~ who is:

20 (a) three years old on September 1 of
 21 the early pre-kindergarten ~~[or]~~ program year;

22 (b) enrolled in a head start preschool;

23 or

24 (c) eligible for special education and
 25 related services under Part B, Section 619 of the federal

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1 Individuals with Disabilities Education Act; and

2 (2) for pre-kindergarten, a person who is four
3 years old on September 1 of the pre-kindergarten program year;

4 ~~[E.]~~ F. "eligible provider" means a person:

5 (1) licensed by the department to provide
6 early childhood developmental readiness services or preschool
7 special education; or

8 (2) who is a public provider, a community
9 provider or a tribal program or head start program;

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

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

22 ~~[H.]~~ I. "public provider" means a school district
23 or charter school; and

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

1 SECTION 10. Section 32A-23-4 NMSA 1978 (being Laws 2005,
2 Chapter 170, Section 4, as amended) is amended to read:

3 "32A-23-4. EARLY PRE-KINDERGARTEN AND PRE-KINDERGARTEN
4 PROGRAMS--INTERAGENCY COOPERATION--CONTRACTS--CONTRACT
5 MONITORING--RESEARCH.--

6 A. The department shall develop and implement an
7 early pre-kindergarten program and a pre-kindergarten program.
8 The department may transfer funds to the public education
9 department for an approved public provider or may contract with
10 any other eligible provider for the delivery of early pre-
11 kindergarten and pre-kindergarten program services.

12 B. The department shall establish standards and
13 performance measures for the early pre-kindergarten and pre-
14 kindergarten programs to ensure the delivery of high-quality,
15 effective services that prepare participating children for
16 kindergarten. The department and the public education
17 department shall cooperate to align standards for early pre-
18 kindergarten, pre-kindergarten and kindergarten programs.
19 Those departments shall enter into an agreement to share data
20 necessary to report on the early pre-kindergarten and pre-
21 kindergarten programs' performance, including the percentage of
22 program participants who:

- 23 (1) enter kindergarten:
 - 24 (a) developmentally prepared for it;
 - 25 (b) needing special services; and

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1 (c) proficient in reading and
2 mathematics; and

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

5 C. The department shall coordinate with federal
6 head start [~~agencies~~] recipients to avoid duplication of effort
7 and maximize the use of available resources in the
8 implementation of the early pre-kindergarten and pre-
9 kindergarten programs.

10 D. The department shall promulgate rules on pre-
11 kindergarten and early pre-kindergarten program services,
12 including state policies and standards defining length of
13 service for pre-kindergarten and early pre-kindergarten
14 programs, and shall review the process for making contract
15 awards and for the expenditure and use of contract funds. The
16 department shall promulgate these rules in consultation with an
17 advisory council in the department that shall be composed of a
18 diverse geographic representation of eligible providers,
19 including representatives of for-profit and nonprofit community
20 providers, head start programs, tribal programs and public
21 providers and parents.

22 E. The department shall monitor activity under
23 early pre-kindergarten and pre-kindergarten program [~~contracts~~]
24 agreements to ensure adherence to child-centered,
25 developmentally appropriate practices and outcomes. The

1 department shall provide early childhood training and technical
 2 assistance to ~~[contract]~~ award recipients, including training
 3 on social-emotional learning, early literacy and early
 4 mathematics.

5 F. Each year, the department shall provide an
 6 annual report to the governor and the legislature on the early
 7 pre-kindergarten and pre-kindergarten programs."

8 SECTION 11. Section 32A-23-6 NMSA 1978 (being Laws 2005,
 9 Chapter 170, Section 6, as amended) is amended to read:

10 "32A-23-6. REQUESTS FOR ~~[PROPOSALS--CONTRACTS FOR~~
 11 ~~SERVICES]~~ APPLICATIONS--AWARD OF FUNDS.--

12 A. The department shall solicit the delivery of
 13 ~~[both]~~ half-day and full-day early pre-kindergarten and pre-
 14 kindergarten program services based on community need to
 15 support a system of mixed delivery programming by publishing ~~[a~~
 16 ~~request for proposals or]~~ a request for applications that
 17 contains the same requested information for pre-kindergarten
 18 services.

19 B. Eligible providers shall submit ~~[proposals]~~
 20 applications to the department that shall include a description
 21 of the services that will be provided, including:

22 (1) how the provider's services meet
 23 ~~[department]~~ and adhere to the pre-kindergarten standards
 24 established by the department;

25 (2) the number of eligible children the

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1 provider ~~[can]~~ intends to serve;

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

4 ~~(4)]~~ (3) the revenue sources and non-state
5 funding available for the provider's delivery of services;

6 ~~[(5)]~~ (4) a description of the qualifications
7 and experience of the provider's service-delivery staff for
8 each site, including evidence that the provider's lead teachers
9 have at minimum a bachelor's degree in early childhood and the
10 provider's educational assistants have at minimum an
11 associate's degree in early childhood, or evidence that lead
12 teachers or educational assistants are actively engaged in
13 education towards these requirements or that the lead teachers
14 or educational assistants have received an exemption, which may
15 be provided by the department in limited circumstances as
16 provided by rule;

17 ~~[(6)]~~ (5) the provider's plan for
18 communicating with and involving parents of children in the
19 early pre-kindergarten and pre-kindergarten programs;

20 ~~[(7)]~~ (6) how the provider's services meet the
21 continuum of services to children;

22 (7) a description of the provider's approach
23 to the curriculum that will be implemented;

24 (8) a description of the provider's plan to
25 support children with special needs;

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1 (9) a description of the provider's plan to
 2 provide each child with age-appropriate health and development
 3 screenings;

4 (10) how the sizes of the provider's classes
 5 and the teacher-to-child ratios will follow the highest level
 6 of the department's tiered quality rating system;

7 (11) a description of the provider's intended
 8 nutrition plan; and

9 ~~[(8)]~~ (12) other relevant information.

10 C. The department shall accept and evaluate
 11 ~~[proposals or]~~ applications for the delivery of early pre-
 12 kindergarten and pre-kindergarten program services by eligible
 13 providers.

14 D. In selecting among ~~[proposals and]~~ applications
 15 for the delivery of early pre-kindergarten and pre-kindergarten
 16 program services, the department shall give priority to
 17 programs in communities with public elementary schools
 18 designated as Title I schools in which at least sixty-six
 19 percent of the children served reside within the attendance
 20 zone of a Title I elementary school. It shall further
 21 consider:

22 (1) the number of eligible children residing
 23 in the community and the number of eligible children proposed
 24 to be served;

25 (2) the adequacy and capacity of all pre-

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1 kindergarten and early pre-kindergarten facilities in the
2 community;

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

5 ~~(4)]~~ (3) the cultural, historic and linguistic
6 responsiveness to the community;

7 ~~[(5) the availability of parent education~~
8 ~~services for parents of eligible children in the community;~~

9 ~~(6)]~~ (4) staff professional development plans;
10 ~~[(7)]~~ (5) the capacity of local organizations
11 and persons interested in and involved in programs and services
12 for eligible children and their commitment to work together;

13 ~~[(8)]~~ (6) the degree of local support for
14 early pre-kindergarten and pre-kindergarten program services in
15 the community; and

16 ~~[(9)]~~ (7) other relevant criteria specified by
17 department rule.

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

23 SECTION 12. Section 32A-23C-1 NMSA 1978 (being Laws 2018,
24 Chapter 44, Section 1) is amended to read:

25 "32A-23C-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article
.230043.3

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1 23C NMSA 1978 may be cited as the "Early Childhood Care
2 Accountability Act".

3 SECTION 13. Section 32A-23C-2 NMSA 1978 (being Laws 2018,
4 Chapter 44, Section 2) is amended to read:

5 "32A-23C-2. DEFINITIONS.--As used in the Early Childhood
6 Care Accountability Act:

7 A. "child care assistance" means the assistance
8 administered by the department that provides child care through
9 the child care assistance program for school-aged children as
10 the primary service delivery strategy through a contract with
11 the department that offers services based on income and need
12 for care to parents with children who are school-aged, as
13 department rules define "school-aged";

14 B. "culturally and linguistically appropriate"
15 means taking into consideration the culture, customs and
16 language of an eligible family;

17 C. "department" means the early childhood education
18 and care department;

19 [~~G.~~] D. "early childhood care assistance" means
20 assistance administered by the department that provides child
21 care through the child care assistance program for children
22 under five years of age as the primary service delivery
23 strategy through a contract with the department and that offers
24 services based on income criteria and need for care to parents
25 with children who have not yet entered kindergarten;

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1 ~~[D.]~~ E. "eligible family" means a family that
2 receives early childhood care assistance or child care
3 assistance through the department;

4 ~~[E.]~~ F. "licensed child care program" means a
5 publicly or privately funded program that:

6 (1) provides child care in the state in
7 accordance with department standards to school-aged children,
8 as department rules define "school-aged"; and

9 (2) is licensed by the department;

10 ~~[F.]~~ G. "licensed early childhood care program"
11 means a publicly or privately funded program that provides
12 child care in accordance with department standards to children
13 under five years of age in the state and that is licensed by
14 the department; and

15 ~~[G.]~~ H. "licensed exempt child care program" means
16 a child care home or facility that is exempt from child care
17 licensing requirements pursuant to the ~~[Public Health Act]~~
18 Children's Code."

19 **SECTION 14.** Section 32A-23C-3 NMSA 1978 (being Laws 2018,
20 Chapter 44, Section 3) is amended to read:

21 "32A-23C-3. LICENSED EARLY CHILDHOOD CARE PROGRAMS--
22 REQUIREMENTS.--

23 A. The department shall adopt and promulgate rules
24 to establish specific standards for licensure and registration
25 of licensed early childhood care programs that provide care for

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1 children from birth to five years of age. As part of these
2 standards, the department shall establish and implement a
3 voluntary rating scale and determine levels that accord with
4 levels of service quality. The standards shall ensure that the
5 health, safety, social-emotional support, school readiness and
6 staff qualifications components are consistent in accordance
7 with the tier levels that the department has established by
8 rule. The department shall use the tiered ratings it has
9 established to pay higher rates for higher-rated individual
10 licensed early childhood care program providers. Standards for
11 licensed early childhood care programs shall:

12 (1) specify the purpose and outcomes of
13 services that constitute the program;

14 (2) define high-quality service delivery and
15 continuous quality improvement;

16 (3) provide a common framework for early
17 childhood care service delivery and accountability across all
18 early childhood care programs;

19 (4) be designed to promote child well-being,
20 early education, social-emotional support and an emphasis on
21 school readiness;

22 (5) allow for the collection, aggregation and
23 analysis of common data;

24 (6) be grounded in best practices geared
25 toward optimal health and developmental outcomes; and

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1 (7) establish foundational and continuing
2 education requirements for staff.

3 B. A licensed early childhood care program shall:

4 (1) ensure the health and safety of children
5 while they are in care;

6 (2) comply with the department's background
7 check requirements for all staff members, educators and
8 volunteers in licensed early childhood care programs;

9 (3) provide positive discipline and guidance;

10 (4) continually evaluate program performance;

11 (5) collect data on program activities and
12 outcomes for reporting in accordance with the tier levels that
13 the department has established in rule, pursuant to Section [~~4~~
14 ~~of the Early Childhood Care Accountability Act~~] 32A-23C-4 NMSA
15 1978;

16 (6) be culturally and linguistically
17 appropriate;

18 (7) measure the promotion of positive
19 development and appropriate early childhood educational
20 practices, in accordance with the tier levels that the
21 department has established in rule, pursuant to Section [~~4~~
22 ~~of the Early Childhood Care Accountability Act~~] 32A-23C-4 NMSA
23 1978;

24 (8) ensure that enrolled children are up-to-
25 date with immunizations, in accordance with state law;

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1 (9) train staff on reporting any suspected
2 child abuse and neglect to the department's protective services
3 division and to local authorities;

4 (10) ensure that the program has established
5 and shared with parents a curriculum statement that supports
6 school readiness; and

7 (11) follow a curriculum that is aligned with
8 child development functional areas, including the New Mexico
9 early learning guidelines, in accordance with the tier levels
10 that the department has established by rule."

11 SECTION 15. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2025.

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