

1 SENATE BILL 22

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

3 INTRODUCED BY

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10 AN ACT

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

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

21 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
22 through 12 of this act may be cited as the "Early Childhood
23 Education and Care Department Act".

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

25 A. The legislature finds that intensive programs

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1 for children from birth to age five and early childhood
2 learning improve student achievement and reduce costs to
3 taxpayers, including by:

4 (1) substantially improving children's
5 outcomes, including the domains recognized in the New Mexico
6 Early Learning Guidelines:

7 (a) physical development, health and
8 well-being;

9 (b) literacy;

10 (c) numeracy;

11 (d) aesthetic creativity;

12 (e) scientific conceptual understanding;

13 (f) self, family and community; and

14 (g) approaches to learning;

15 (2) reducing academic intervention and
16 remediation;

17 (3) lowering truancy rates;

18 (4) increasing school proficiency and high
19 school graduation rates;

20 (5) increasing the attainment of post-
21 secondary education and technical training; and

22 (6) reducing social costs such as crime and
23 poverty.

24 B. The purpose of the Early Childhood Education and
25 Care Department Act is to:

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1 (1) ensure that every child in New Mexico is
2 given the best opportunity to succeed in school, work and life
3 by providing intensive programs for children from birth to age
4 five; and

5 (2) create the early childhood education and
6 care department and charge it with the responsibility for
7 administering laws and performing functions related to early
8 childhood, including those formerly administered or performed
9 by other state agencies.

10 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
11 Early Childhood Education And Care Department Act:

12 A. "child" means a person from birth to age five
13 or, where the context otherwise provides, to age eight or
14 thirteen;

15 B. "department" means the early childhood education
16 and care department; and

17 C. "secretary" means the secretary of early
18 childhood education and care.

19 SECTION 4. [NEW MATERIAL] DEPARTMENT CREATED--
20 ORGANIZATIONAL UNITS.--

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

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

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1 (3) child care licensing and services
2 division;

3 (4) early childhood education division; and

4 (5) early intervention services division,
5 which consists of the:

6 (a) early childhood mental health
7 bureau;

8 (b) home visitation bureau; and

9 (c) family, infant, toddler program.

10 B. The office of the secretary shall include a
11 Native American assistant secretary of early childhood
12 education and care who will be guided by a body that is
13 representative of tribal communities in New Mexico. The
14 formation of the representative body and its processes shall be
15 structured in the manner set forth in Section 22-23A-6 NMSA
16 1978 in consultation with the secretary and shall occur within
17 one year of the formation of the department.

18 SECTION 5. [NEW MATERIAL] SECRETARY--APPOINTMENT.--The
19 chief executive and administrative officer of the department is
20 the "secretary of early childhood education and care". The
21 governor, with the advice and consent of the senate, shall
22 appoint a person who has experience in early childhood
23 education or care programs to serve as secretary. The
24 secretary shall serve in and have the duties, responsibilities
25 and authority of that position during the period before final

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1 action by the senate confirming or rejecting the secretary's
2 appointment. The secretary shall serve in the executive
3 cabinet and shall serve in the role of secretary at the
4 pleasure of the governor.

5 SECTION 6. [NEW MATERIAL] DEPARTMENT REORGANIZATION AND
6 ORGANIZATIONAL UNIT CREATION.--

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

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

12 C. The secretary may establish within each of the
13 department's divisions additional bureaus as necessary to
14 implement the Early Childhood Education and Care Department
15 Act. The secretary shall appoint chiefs to serve as the
16 administrative heads of the department's bureaus.

17 SECTION 7. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL
18 POWERS.--

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

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

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C. The secretary shall:

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

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

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

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

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

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

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

(8) prepare an annual budget for the

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1 department.

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

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

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

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

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

18 (1) include child care, pre-kindergarten,
19 early pre-kindergarten, home visitation, early head start, head
20 start, early childhood special education and early intervention
21 and family support; and

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

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

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

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

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

9 G. conduct biennial assessments of child care or
10 early learning service gaps and needs and establish plans to
11 address those service gaps and needs;

12 H. conduct pre-employment fingerprint-based
13 national criminal background checks on all department
14 employees, including those whose employment by the department
15 arises as a result of the transfer provisions of Section 33 of
16 this 2019 act, and on staff members and volunteers of
17 department-contracted providers whose jobs involve direct
18 contact with children participating in programs delivered by
19 the department or those providers;

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

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

24 K. advance quality early childhood education and
25 care programs to support the development of children to prepare

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1 them for success in school;

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

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

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

9 O. promote culturally and linguistically
10 appropriate programming and provide equal education and care
11 opportunities to non-English speaking families.

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

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

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

21 A. As used in this section:

22 (1) "early intervention programs" means
23 programs, including physical development, communications
24 development, adaptive development, social and emotional
25 development and sensory development programs, designed to meet

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1 the developmental needs of eligible children;

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

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

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

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

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

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

25 (1) establishing related policies and

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1 promulgating program rules;

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

4 (3) administering and overseeing the program;

5 (4) resolving complaints related to the
6 program;

7 (5) maintaining and expanding interagency and
8 state and local coordination in implementing the program;

9 (6) identifying and coordinating resources for
10 delivering early intervention programs through the program; and

11 (7) establishing minimum requirements to
12 qualify personnel to deliver services through the program.

13 F. The department is the custodian of money
14 received by the state from the federal government for the
15 purpose of implementing the federal Individuals with
16 Disabilities Education Act, Part C.

17 SECTION 11. [NEW MATERIAL] CHILD CARE ASSISTANCE
18 PROGRAMS.--

19 A. The department shall convene a group consisting
20 primarily of child care providers from throughout the state and
21 of representatives of the legislative finance committee and the
22 department of finance and administration to:

23 (1) develop an outcomes measurement plan to
24 monitor outcomes for children and families receiving services
25 through child care assistance programs;

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

4 (3) submit the plan by December 31, 2019 to
5 the legislature and the governor.

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

10 (1) the number and type of child care
11 assistance programs funded by the department;

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

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

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

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

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

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

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1 immunizations;

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

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

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

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

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

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

18 (1) an identification of:

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

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

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

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

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

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

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

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

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

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

21 A. procurement of items of tangible personal
22 property or services by a state agency or a local public body
23 from a state agency, a local public body or external
24 procurement unit except as otherwise provided in Sections
25 13-1-135 through 13-1-137 NMSA 1978;

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

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

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

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

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

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

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

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

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1 adoption;

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

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

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

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

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

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

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1 drug enforcement administration;

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

4 Q. contracts with professional entertainers;

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

11 S. contracts for service relating to the design,
12 engineering, financing, construction and acquisition of public
13 improvements undertaken in improvement districts pursuant to
14 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
15 improvement districts pursuant to Subsection L of Section
16 4-55A-12.1 NMSA 1978;

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

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

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1 hospital pursuant to the Special Hospital District Act;

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

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

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

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

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

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

25 BB. procurement, by either the department of health

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1 or Grant county or both, of tangible personal property,
2 services or construction that are exempt from the Procurement
3 Code pursuant to Section 9-7-6.5 NMSA 1978;

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

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

12 EE. contracts entered into by the crime victims
13 reparation commission to distribute federal grants to assist
14 victims of crime, including grants from the federal Victims of
15 Crime Act of 1984 and the federal Violence Against Women Act of
16 1994;

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

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

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

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

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

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

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

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

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

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

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

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

8 SECTION 15. Section 32A-22-1 NMSA 1978 (being Laws 2005,
9 Chapter 64, Section 1) is amended to read:

10 "32A-22-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article
11 22 NMSA 1978 may be cited as the "Children's Cabinet Act"."

12 SECTION 16. Section 32A-22-2 NMSA 1978 (being Laws 2005,
13 Chapter 64, Section 2) is amended to read:

14 "32A-22-2. CHILDREN'S CABINET CREATED.--

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

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

20 (1) the governor;

21 (2) the lieutenant governor;

22 (3) the secretary of children, youth and
23 families;

24 (4) the secretary of early childhood education
25 and care;

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1 [~~(4)~~] (5) the secretary of corrections;
2 [~~(5)~~] (6) the secretary of human services;
3 [~~(6)~~] (7) the secretary of [~~labor~~] workforce
4 solutions;
5 [~~(7)~~] (8) the secretary of health;
6 [~~(8)~~] (9) the secretary of finance and
7 administration;
8 [~~(9)~~] (10) the secretary of economic
9 development;
10 [~~(10)~~] (11) the secretary of public safety;
11 [~~(11)~~] (12) the secretary of aging and long-
12 term services;
13 [~~(12)~~] (13) the secretary of Indian affairs;
14 and
15 [~~(13)~~] (14) the secretary of public education.

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

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

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

23 SECTION 18. Section 32A-23-2 NMSA 1978 (being Laws 2005,
24 Chapter 170, Section 2) is amended to read:

25 "32A-23-2. FINDINGS [~~AND PURPOSE~~].--The legislature finds
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1 that:

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

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

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

12 SECTION 19. Section 32A-23-3 NMSA 1978 (being Laws 2005,
13 Chapter 170, Section 3) is amended to read:

14 "32A-23-3. DEFINITIONS.--As used in the Pre-Kindergarten
15 Act:

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

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

24 C. [~~"early childhood development specialist"~~] means
25 ~~the adult responsible for working directly with four-year-old~~

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1 ~~children in implementing pre-kindergarten services;]~~

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

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

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

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

22 ~~[E.]~~ G. "pre-kindergarten program" means a
23 statewide, voluntary developmental readiness program for
24 children who have attained their fourth birthday prior to
25 September 1 that delivers to eligible children programs that

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

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

7 SECTION 20. Section 32A-23-4 NMSA 1978 (being Laws 2005,
8 Chapter 170, Section 4) is amended to read:

9 "32A-23-4. ~~[VOLUNTARY]~~ EARLY PRE-KINDERGARTEN AND PRE-
10 KINDERGARTEN PROGRAMS--INTERAGENCY COOPERATION--CONTRACTS--
11 CONTRACT MONITORING--RESEARCH.--

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

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

12 (1) enter kindergarten:

13 (a) developmentally prepared for it;

14 (b) needing special services; and

15 (c) proficient in reading and

16 mathematics; and

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

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

23 ~~[B.]~~ D. The [departments] department shall
24 ~~[collaborate on promulgating]~~ promulgate rules on pre-
25 kindergarten program services, including state policies and

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1 standards defining length of service for pre-kindergarten and
2 early pre-kindergarten programs, and shall review the process
3 for making contract awards and for the expenditure and use of
4 contract funds.

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

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

21 SECTION 21. Section 32A-23-6 NMSA 1978 (being Laws 2005,
22 Chapter 170, Section 6, as amended) is amended to read:

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

25 A. [Each] The department shall [~~publish~~] solicit

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1 the delivery of half-day and full-day early pre-kindergarten
2 and pre-kindergarten program services by publishing a request
3 ~~for proposals [or a request for applications that contains the~~
4 ~~same requested information for pre-kindergarten services.~~

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

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

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

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

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

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

24 (6) the provider's plan for communicating with
25 and involving parents of children in the early pre-kindergarten

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1 and pre-kindergarten [program] programs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 SECTION 22. Section 32A-23-9 NMSA 1978 (being Laws
2 2011, Chapter 126, Section 1) is amended to read:
3 "32A-23-9. EQUAL DIVISION OF APPROPRIATIONS.--Any money
4 appropriated for pre-kindergarten programs shall be divided
5 equally between [~~the public education department and the~~
6 ~~children, youth and families department~~] programs
7 administered by the public schools and other programs
8 licensed by the department."

9 SECTION 23. A new section of the Pre-Kindergarten Act
10 is enacted to read:

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

15 SECTION 24. Section 32A-23A-1 NMSA 1978 (being Laws
16 2011, Chapter 123, Section 1) is amended to read:

17 "32A-23A-1. SHORT TITLE.--~~[This act]~~ Chapter 32A,
18 Article 23A NMSA 1978 may be cited as the "Early Childhood
19 Care and Education Act".

20 SECTION 25. Section 32A-23A-2 NMSA 1978 (being Laws
21 2011, Chapter 123, Section 2) is amended to read:

22 "32A-23A-2. DEFINITIONS.--As used in the Early
23 Childhood Care and Education Act:

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

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

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

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

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

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

14 SECTION 26. Section 32A-23B-1 NMSA 1978 (being Laws
15 2013, Chapter 118, Section 1) is amended to read:

16 "32A-23B-1. SHORT TITLE.--~~[This act]~~ Chapter 32A,
17 Article 23B NMSA 1978 may be cited as the "Home Visiting
18 Accountability Act"."

19 SECTION 27. Section 32A-23B-2 NMSA 1978 (being Laws
20 2013, Chapter 118, Section 2) is amended to read:

21 "32A-23B-2. DEFINITIONS.--As used in the Home Visiting
22 Accountability Act:

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

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

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

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

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

9 D. "home visiting":

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

11 ~~(1) delivers]~~

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

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

23 ~~(3)]~~ (2) does not include:

24 (a) provision of case management or a
25 one-time home visit or infrequent home visits, such as a home

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1 visit for a newborn child or a child in preschool;

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

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

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

9 (1) uses home visiting as a primary service
10 delivery strategy; and

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

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

17 (1) provides universal, voluntary access;
18 (2) provides a common framework for service
19 delivery and accountability across all home visiting
20 programs;

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

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

25 G. "standards-based program" means a home

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1 visiting program that:

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

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

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

16 (c) has demonstrated significant,
17 sustained positive outcomes;

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

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

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1 and "promising approach";

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

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

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

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

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

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

16 SECTION 28. Section 32A-23B-3 NMSA 1978 (being Laws
17 2013, Chapter 118, Section 3) is amended to read:

18 "32A-23B-3. HOME VISITING PROGRAMS--ACCOUNTABILITY--
19 EXCLUSIONS--CONTRACTING--REPORTING.--

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

25 B. The department shall fund only standards-based

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

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

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

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

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1 in school; and

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

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

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

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

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

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

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

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

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

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

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

19 (2) data regarding:

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

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

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

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

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

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

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

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

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

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

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

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

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

25 SECTION 29. Section 59A-22-34.2 NMSA 1978 (being Laws

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1 1994, Chapter 64, Section 2, as amended) is amended to read:

2 "59A-22-34.2. COVERAGE OF CHILDREN.--

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

6 (1) was born out of wedlock;

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

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

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

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

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

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

24 C. When a parent is required by a court or
25 administrative order to provide health coverage for a child

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1 and the parent is eligible for family health coverage, the
2 insurer shall be required:

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

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

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

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

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

23 D. An insurer shall not impose requirements on a
24 state agency that has been assigned the rights of an
25 individual eligible for medical assistance under the medicaid

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

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

18 SECTION 30. Section 59A-23-7.2 NMSA 1978 (being Laws
19 1994, Chapter 64, Section 5, as amended) is amended to read:

20 "59A-23-7.2. COVERAGE OF CHILDREN.--

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

24 (1) was born out of wedlock;

25 (2) is not claimed as a dependent on the

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1 parent's federal tax return; or

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

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

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

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

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

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

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

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

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

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

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

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

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

22 E. An insurer shall provide coverage for
23 children, from birth through three years of age, for or under
24 the family, infant, toddler program administered by the early
25 childhood education and care department [~~of health~~], provided

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

11 SECTION 31. Section 59A-46-38.1 NMSA 1978 (being Laws
12 1994, Chapter 64, Section 9, as amended) is amended to read:

13 "59A-46-38.1. COVERAGE OF CHILDREN.--

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

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

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

- 24 (1) provide such information to the
25 custodial parent as may be necessary for the child to obtain

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1 benefits through that coverage;

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

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

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

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

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

25 (3) not to disenroll or eliminate coverage

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1 of the child unless the insurer is provided satisfactory
2 written evidence that:

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

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

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

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

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

4 SECTION 32. Section 59A-47-37 NMSA 1978 (being Laws
5 1994, Chapter 64, Section 12, as amended) is amended to read:

6 "59A-47-37. COVERAGE OF CHILDREN.--

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

10 (1) was born out of wedlock;

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 disenrollment.

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

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

22 SECTION 33. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
23 PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND
24 REFERENCES IN LAW.--

25 A. On July 1, 2019, all programs, functions,

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1 personnel, appropriations, money, statutory funds, records,
2 furniture, equipment, supplies and other property belonging
3 to the following are transferred to the early childhood
4 education and care department, and all contractual
5 obligations of the following are binding on the early
6 childhood education and care department:

7 (1) the children, youth and families
8 department's:

9 (a) early childhood services division;
10 and

11 (b) infant mental health services of
12 the behavioral health services division;

13 (2) the department of health's:

14 (a) family, infant, toddler program;
15 (b) family first home visiting; and
16 (c) powers and duties under the
17 federal Individuals with Disabilities Education Act; and

18 (3) the public education department's pre-
19 kindergarten program.

20 B. Beginning on July 1, 2019, all contractual
21 obligations pertaining to the programs, services and entities
22 in Subsection A of this section are binding on the early
23 childhood education and care department.

24 C. Beginning on July 1, 2019, all references in
25 law, rules, orders and other official acts to the programs,

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1 services and entities in Subsection A of this section shall
2 be deemed references to the early childhood education and
3 care department.

4 SECTION 34. APPROPRIATIONS.--The following amounts are
5 appropriated from the general fund to the early childhood
6 education and care department:

7 A. five hundred thousand dollars (\$500,000) for
8 expenditure in fiscal years 2020 and 2021 to develop the
9 early childhood education and care finance plan and an
10 integrated data visualization system. Any unexpended or
11 unencumbered balance remaining at the end of fiscal year 2021
12 shall revert to the general fund; and

13 B. two million dollars (\$2,000,000) for
14 expenditure in fiscal year 2020 to establish integrated field
15 offices and transfer programs from other departments to the
16 early childhood education and care department in accordance
17 with Section 33 of this act. Any unexpended or unencumbered
18 balance remaining at the end of fiscal year 2020 shall revert
19 to the general fund.

20 SECTION 35. REPEAL.--Sections 9-2A-13, 28-18-1,
21 28-18-2, 32A-23-5, 32A-23-7 and 32A-23-8 NMSA 1978 (being
22 Laws 1992, Chapter 57, Section 13, Laws 1990, Chapter 4,
23 Sections 1 and 2 and Laws 2005, Chapter 170, Sections 5, 7
24 and 8, as amended) are repealed.

25 SECTION 36. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2019.

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