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AN ACT

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

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

SECTION 1. SHORT TITLE.--Sections 1 through 12 of this  
act may be cited as the "Early Childhood Education and Care  
Department Act".

SECTION 2. DEFINITIONS.--As used in the Early Childhood  
Education and Care Department Act:

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

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

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

SECTION 3. DEPARTMENT CREATED--ORGANIZATIONAL UNITS.--

A. The "early childhood education and care

1 department" is created as a cabinet department and consists  
2 of the:

- 3 (1) administrative services division;
- 4 (2) office of the secretary;
- 5 (3) child care licensing and services  
6 division;
- 7 (4) early childhood education division; and
- 8 (5) early intervention services division,

9 which consists of the:

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

12 B. The office of the secretary shall include an  
13 assistant secretary for Native American early childhood  
14 education and care who will be advised by the Indian  
15 education advisory council created pursuant to  
16 Section 22-23A-6 NMSA 1978.

17 SECTION 4. SECRETARY--APPOINTMENT.--The chief executive  
18 and administrative officer of the department is the  
19 "secretary of early childhood education and care". The  
20 governor, with the advice and consent of the senate, shall  
21 appoint a person who has experience in early childhood  
22 education or care programs to serve as secretary. The  
23 secretary shall serve in and have the duties,  
24 responsibilities and authority of that position during the  
25 period before final action by the senate confirming or

1 rejecting the secretary's appointment. The secretary shall  
2 serve in the executive cabinet and shall serve in the role of  
3 secretary at the pleasure of the governor.

4 SECTION 5. DEPARTMENT REORGANIZATION AND ORGANIZATIONAL  
5 UNIT CREATION.--

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

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

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

16 SECTION 6. SECRETARY--DUTIES AND GENERAL POWERS.--

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

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

24 C. The secretary shall:

25 (1) except as otherwise provided by the

1 Early Childhood Education And Care Department Act, exercise  
2 general supervisory and appointing power over all department  
3 employees in accordance with personnel laws;

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

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

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

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

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

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

23 (8) prepare an annual budget for the  
24 department.

25 D. The secretary, in the name of the department

1 and with the governor's approval, may apply for and receive  
2 public or private funding to carry out department programs,  
3 duties and services.

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

8 SECTION 7. ASSISTANT SECRETARY--APPOINTMENT--DUTIES.--

9 A. The secretary shall, with the consent of the  
10 governor, appoint an assistant secretary for Native American  
11 early education and care.

12 B. The assistant secretary shall:

13 (1) be responsible to the secretary for the  
14 administration, coordination and oversight of Indian early  
15 childhood education and care programs;

16 (2) the assistant secretary shall, in  
17 cooperation with the secretary, collaborate with state and  
18 federal departments and agencies, tribal governments,  
19 eligible providers and community partners to identify ways  
20 such entities can assist the department in the implementation  
21 of the Early Childhood Education and Care Department Act;

22 (3) consult with the New Mexico Indian  
23 nations, tribes and pueblos for delivery of learning  
24 guidelines in Native American language, culture and history  
25 designed for tribal and nontribal students;

1 (4) provide assistance to school districts  
2 and educational agencies to expand appropriate Indian  
3 education programs for Native American infants, toddlers,  
4 children, youth and families pursuant to the federal Indian  
5 Child Welfare Act of 1978;

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

8 (6) seek funding to establish and strengthen  
9 programs related to Native American infants, toddlers,  
10 children, youth and families; and

11 (7) help ensure that Native American  
12 language and cultural considerations are included in programs  
13 administered through the department.

14 SECTION 8. DEPARTMENT--DUTIES.--The department shall:

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

20 B. coordinate and align an early childhood  
21 education and care system to:

22 (1) include child care, pre-kindergarten,  
23 early pre-kindergarten, home visitation, early head start,  
24 head start, early childhood special education and early  
25 intervention and family support; and

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

3 C. administer the child care assistance, child  
4 care licensing and registered child care home programs;

5 D. develop standards for the department-sponsored  
6 delivery of early childhood programs;

7 E. cooperate with other state agencies that affect  
8 children to develop common contracting procedures and service  
9 definitions and a uniform system of access to early childhood  
10 programs;

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

13 G. conduct biennial assessments of child care or  
14 early learning service gaps and needs and establish plans to  
15 address those service gaps and needs;

16 H. conduct pre-employment fingerprint-based  
17 national criminal background checks on all department  
18 employees, including those whose employment by the department  
19 arises as a result of the transfer provisions of Section 34  
20 of this 2019 act, and on staff members and volunteers of  
21 department-contracted providers whose jobs involve direct  
22 contact with children participating in programs delivered by  
23 the department or those providers;

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

1 J. provide consumer education and accessibility to  
2 early childhood care and education programs;

3 K. advance quality early childhood education and  
4 care programs to support the development of children to  
5 prepare them for success in school;

6 L. ensure effective collaboration with state and  
7 local child welfare programs and early childhood health and  
8 behavioral health programs;

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

11 N. develop an aligned system of workforce  
12 development for early childhood professionals; and

13 O. promote culturally and linguistically  
14 appropriate programming and provide equal education and care  
15 opportunities to non-English speaking families.

16 SECTION 9. RECORDS AND CONFIDENTIALITY.--The department  
17 may access records and data of other state agencies that are  
18 not made expressly confidential by law. The department shall  
19 enter into agreements with the children, youth and families  
20 department and the public education department to share and  
21 maintain confidential information in accordance with federal  
22 and state confidentiality laws.

23 SECTION 10. FAMILY, INFANT, TODDLER PROGRAM.--

24 A. As used in this section:

25 (1) "early intervention programs" means

1 programs, including physical development, communications  
2 development, adaptive development, social and emotional  
3 development and sensory development programs, designed to  
4 meet the developmental needs of eligible children;

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

9 (3) "program" means the family, infant,  
10 toddler program.

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

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

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

25 E. The secretary shall comply with the federal

1 Individuals with Disabilities Education Act, Part C,  
2 contingent on participation by the state, including by:

3 (1) establishing related policies and  
4 promulgating program rules;

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

7 (3) administering and overseeing the  
8 program;

9 (4) resolving complaints related to the  
10 program;

11 (5) maintaining and expanding interagency  
12 and state and local coordination in implementing the program;

13 (6) identifying and coordinating resources  
14 for delivering early intervention programs through the  
15 program; and

16 (7) establishing minimum requirements to  
17 qualify personnel to deliver services through the program.

18 F. The department is the custodian of money  
19 received by the state from the federal government for the  
20 purpose of implementing the federal Individuals with  
21 Disabilities Education Act, Part C.

22 SECTION 11. EARLY CHILDHOOD PROGRAMS.--

23 A. The department shall convene an advisory  
24 council consisting primarily of eligible providers, community  
25 organizations, employees who reflect the demographics of the

1 current early childhood workforce throughout the state,  
2 employee representatives and representatives of the  
3 legislative finance committee and the department of finance  
4 and administration to:

5 (1) develop an outcomes measurement plan to  
6 monitor outcomes for children and families receiving services  
7 through early childhood programs;

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

11 (3) as part of the work of the council, a  
12 workforce development plan shall be developed to include a  
13 career ladder, wage structure and professional development  
14 plan that applies to the full continuum of programs within  
15 the department, as well as other items deemed appropriate by  
16 the secretary; and

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

19 B. By December 31 of each year, the department  
20 shall develop and submit to the legislature and the governor  
21 an annual report on outcomes for children and families  
22 receiving services through early childhood programs that  
23 includes:

24 (1) the number and type of early childhood  
25 programs funded by the department;

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

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

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

7 (5) evidence of improved school readiness,  
8 child development and literacy among children served through  
9 those programs;

10 (6) the number of kindergarten-age children  
11 served through those programs who enter kindergarten ready to  
12 learn;

13 (7) the number and percentage of children  
14 served through those programs who receive regular  
15 immunizations;

16 (8) evidence that children served through  
17 those programs are served meals regularly;

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

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

22 SECTION 12. EARLY CHILDHOOD EDUCATION AND CARE FINANCE  
23 PLAN.--

24 A. The department shall prepare and update a  
25 four-year early childhood education and care finance plan to

1 provide the legislature and the governor with demographic  
2 information on at-risk children, data on the efficacy of  
3 early childhood education and care programs and  
4 recommendations for financing the early childhood education  
5 and care system.

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

8 (1) an identification of:

9 (a) the social, emotional, cognitive,  
10 health, educational, safety and other needs and risk factors  
11 of children by age and location;

12 (b) the availability of, cost of and  
13 funding for programs that address those needs and reduce  
14 those risks by: 1) type of program; 2) age of program  
15 participant; and 3) geographic location;

16 (c) the gaps between those needs and  
17 the programs that address those needs and the reasons for  
18 those gaps; and

19 (d) the funding for each of the  
20 previous four years for programs that address those needs and  
21 reduce those risks;

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

24 (3) an assessment of whether desired  
25 outcomes have been reached for each of the previous four

1 years; and

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

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

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

10 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
11 provisions of the Procurement Code shall not apply to:

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

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

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

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

1 E. purchases of books, periodicals and training  
2 materials in printed or electronic format from the publishers  
3 or copyright holders thereof;

4 F. travel or shipping by common carrier or by  
5 private conveyance or to meals and lodging;

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

9 H. contracts with businesses for public school  
10 transportation services;

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

18 J. purchases not exceeding ten thousand dollars  
19 (\$10,000) consisting of magazine subscriptions, web-based or  
20 electronic subscriptions, conference registration fees and  
21 other similar purchases where prepayments are required;

22 K. municipalities having adopted home rule  
23 charters and having enacted their own purchasing ordinances;

24 L. the issuance, sale and delivery of public  
25 securities pursuant to the applicable authorizing statute,

1 with the exception of bond attorneys and general financial  
2 consultants;

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

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

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

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

20 Q. contracts with professional entertainers;

21 R. contracts and expenditures for legal  
22 subscription and research services and litigation expenses in  
23 connection with proceedings before administrative agencies or  
24 state or federal courts, including experts, mediators, court  
25 reporters, process servers and witness fees, but not

1 including attorney contracts;

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

8 T. works of art for museums or for display in  
9 public buildings or places;

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

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

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

23 X. procurement of printing services for materials  
24 produced and intended for resale by the cultural affairs  
25 department;

1           Y. procurement by or through the public education  
2 department from the federal department of education relating  
3 to parent training and information centers designed to  
4 increase parent participation, projects and initiatives  
5 designed to improve outcomes for students with disabilities  
6 and other projects and initiatives relating to the  
7 administration of improvement strategy programs pursuant to  
8 the federal Individuals with Disabilities Education Act;  
9 provided that the exemption applies only to procurement of  
10 services not to exceed two hundred thousand dollars  
11 (\$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  
19 health or Grant county or both, of tangible personal  
20 property, services or construction that are exempt from the  
21 Procurement 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,  
25 the state investment officer or the retirement board created

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  
4 of 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  
8 of Crime Act of 1984 and the federal Violence Against Women  
9 Act of 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;

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

17 HH. procurements exempt from the Procurement Code  
18 as otherwise provided by law."

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

21 "13-7-7. CONSOLIDATED ADMINISTRATIVE FUNCTIONS--  
22 BENEFIT.--

23 A. The publicly funded health care agencies,  
24 political subdivisions and other persons participating in the  
25 consolidated purchasing single process pursuant to the Health

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

14 B. Each agency shall retain its responsibility to  
15 determine policy direction of the benefit plans, plan  
16 development, training and coordination with respect to  
17 participants and its benefits staff, as well as to respond to  
18 benefits eligibility inquiries and establish and enforce  
19 eligibility rules.

20 C. Notwithstanding Subsection B of this section,  
21 publicly funded health care agencies, political subdivisions  
22 and other persons participating in the consolidated  
23 purchasing single process pursuant to the Health Care  
24 Purchasing Act shall provide coverage for children, from  
25 birth through three years of age, for or under the family,

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

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

16 "22-23A-6. ADVISORY COUNCIL.--

17 A. The "Indian education advisory council" is  
18 created and shall advise the secretaries of early childhood  
19 education and care and public education and the assistant  
20 secretaries for Native American early childhood education and  
21 care and for Indian education on implementation of the  
22 provisions of the Indian Education Act. The council consists  
23 of sixteen members as follows:

24 (1) four representatives from the Navajo  
25 Nation;

1                   (2) two representatives, one from the  
2 Mescalero Apache Tribe and one from the Jicarilla Apache  
3 Nation;

4                   (3) four representatives, two from the  
5 southern pueblos and two from the northern pueblos;

6                   (4) three urban Indians representing urban  
7 areas, including Albuquerque, Gallup and Farmington; and

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

13                   B. Members shall be appointed by the secretary  
14 with input from New Mexico tribes and organizations involved  
15 in the education of tribal students for staggered terms so  
16 that the terms of the at-large members and of one-half of  
17 each of the tribal representatives end on December 31, 2009  
18 and the terms of the remaining members end on  
19 December 31, 2011. Thereafter, appointments shall be for  
20 terms of four years. The terms of existing members shall  
21 expire on June 15, 2007.

22                   C. A majority of the members of the Indian  
23 education advisory council constitutes a quorum. The  
24 advisory council shall elect a chair from its membership.

25                   D. On a semiannual basis, representatives from all

1 New Mexico tribes, members of the commission, the office of  
2 the governor, the Indian affairs department, the legislature,  
3 the secretary, the assistant secretary and the Indian  
4 education advisory council shall meet to assist in  
5 evaluating, consolidating and coordinating all activities  
6 relating to the education of tribal students.

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

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

12 "32A-22-1. SHORT TITLE.--Chapter 32A, Article 22  
13 NMSA 1978 may be cited as the "Children's Cabinet Act"."

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

16 "32A-22-2. CHILDREN'S CABINET CREATED.--

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

20 B. The children's cabinet consists of:

- 21 (1) the governor;  
22 (2) the lieutenant governor;  
23 (3) the secretary of children, youth and  
24 families;  
25 (4) the secretary of early childhood

1 education and care;

2 (5) the secretary of corrections;

3 (6) the secretary of human services;

4 (7) the secretary of workforce solutions;

5 (8) the secretary of health;

6 (9) the secretary of finance and

7 administration;

8 (10) the secretary of economic development;

9 (11) the secretary of public safety;

10 (12) the secretary of aging and long-term  
11 services;

12 (13) the secretary of Indian affairs; and

13 (14) the secretary of public education.

14 C. Each year, the governor shall select a person  
15 to serve as chair of the cabinet."

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

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

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

22 "32A-23-2. FINDINGS.--The legislature finds that:

23 A. special needs are present among the state's  
24 population of three- and four-year-old children and those  
25 needs warrant the provision of early pre-kindergarten and

1 pre-kindergarten programs;

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

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

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

10 "32A-23-3. DEFINITIONS.--As used in the  
11 Pre-Kindergarten Act:

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

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

18 C. "early pre-kindergarten program" means a  
19 statewide, voluntary developmental readiness program for  
20 children who have attained their third birthday prior to  
21 September 1 that delivers to eligible children programs that  
22 address their total developmental needs, including their  
23 physical, cognitive, social and emotional needs, and that  
24 supports their development in the areas of health care,  
25 nutrition and safety and multicultural awareness;

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

4           E. "eligible provider" means a person licensed by  
5 the department to provide early childhood developmental  
6 readiness services or preschool special education, or is a  
7 public provider or a tribal program or head start program;

8           F. "mixed delivery programming" means the  
9 provision of pre-kindergarten programs through an equal  
10 distribution of funds to programs administered by the public  
11 schools and other programs licensed by the department;

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

20           H. "public provider" means a school district or  
21 charter school; and

22           I. "tribe" means an Indian nation, tribe or pueblo  
23 located in New Mexico."

24           SECTION 21. Section 32A-23-4 NMSA 1978 (being Laws  
25 2005, Chapter 170, Section 4) is amended to read:

1 "32A-23-4. EARLY PRE-KINDERGARTEN AND PRE-KINDERGARTEN  
2 PROGRAMS--INTERAGENCY COOPERATION--CONTRACTS--CONTRACT  
3 MONITORING--RESEARCH.--

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

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

21 (1) enter kindergarten:

- 22 (a) developmentally prepared for it;  
23 (b) needing special services; and  
24 (c) proficient in reading and

25 mathematics; and

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

3 C. The department shall coordinate with federal  
4 head start agencies to avoid duplication of effort and  
5 maximize the use of available resources in the implementation  
6 of the early pre-kindergarten and pre-kindergarten programs.

7 D. The department shall promulgate rules on  
8 pre-kindergarten program services, including state policies  
9 and standards defining length of service for pre-kindergarten  
10 and early pre-kindergarten programs, and shall review the  
11 process for making contract awards and for the expenditure  
12 and use of contract funds.

13 E. The department shall monitor activity under  
14 early pre-kindergarten and pre-kindergarten program contracts  
15 to ensure adherence to child-centered, developmentally  
16 appropriate practices and outcomes. The department shall  
17 provide early childhood training and technical assistance to  
18 contract award recipients.

19 F. Each year, the department shall provide an  
20 annual report to the governor and the legislature on the  
21 early pre-kindergarten and pre-kindergarten programs."

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

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

1 SERVICES.--

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

7 B. Eligible providers shall submit proposals to  
8 the department that shall include a description of the  
9 services that will be provided, including:

10 (1) how the provider's services meet  
11 department standards;

12 (2) the number of eligible children the  
13 provider can serve;

14 (3) the provider's site and floor plans and  
15 a description of its facilities;

16 (4) the revenue sources and non-state  
17 funding available for the provider's delivery of services;

18 (5) a description of the qualifications and  
19 experience of the provider's service-delivery staff for each  
20 site;

21 (6) the provider's plan for communicating  
22 with and involving parents of children in the early  
23 pre-kindergarten and pre-kindergarten programs;

24 (7) how the provider's services meet the  
25 continuum of services to children; and

1 (8) other relevant information.

2 C. The department shall accept and evaluate  
3 proposals or applications for the delivery of early  
4 pre-kindergarten and pre-kindergarten program services by  
5 eligible providers.

6 D. In selecting among proposals and applications  
7 for the delivery of early pre-kindergarten and  
8 pre-kindergarten program services, the department shall give  
9 priority to programs in communities with public elementary  
10 schools designated as Title I schools in which at least  
11 sixty-six percent of the children served reside within the  
12 attendance zone of a Title I elementary school. It shall  
13 further consider:

14 (1) the number of eligible children residing  
15 in the community and the number of eligible children proposed  
16 to be served;

17 (2) the adequacy and capacity of  
18 pre-kindergarten facilities in the community;

19 (3) the availability of language and  
20 literacy services in the community;

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

23 (5) the availability of parent education  
24 services for parents of eligible children in the community;

25 (6) staff professional development plans;

1                   (7) the capacity of local organizations and  
2 persons interested in and involved in programs and services  
3 for eligible children and their commitment to work together;

4                   (8) the degree of local support for early  
5 pre-kindergarten and pre-kindergarten program services in the  
6 community; and

7                   (9) other relevant criteria specified by  
8 department rule.

9                   E. A contract with an eligible provider for early  
10 pre-kindergarten and pre-kindergarten program services shall  
11 provide that funds not be used for any religious, sectarian  
12 or denominational purposes, instruction or material."

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

15                   "32A-23-9. EQUAL DIVISION OF APPROPRIATIONS.--Any money  
16 appropriated for pre-kindergarten programs shall be divided  
17 equally between programs administered by the public schools  
18 and other programs licensed by the department."

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

21                   "MIXED DELIVERY OF PRE-KINDERGARTEN PROGRAMS.--Any money  
22 appropriated for pre-kindergarten programs shall be  
23 distributed for mixed delivery programming. The public  
24 education department shall access funds from the early  
25 childhood education and care department to support

1 pre-kindergarten in the public education system.

2 Pre-kindergarten funding transfers to public providers shall  
3 be processed through the public education department to those  
4 public providers that demonstrate adherence to standards  
5 developed by the department."

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

8 "32A-23A-1. SHORT TITLE.--Chapter 32A, Article 23A NMSA  
9 1978 may be cited as the "Early Childhood Care and Education  
10 Act"."

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

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

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

17 B. "early childhood" means the period of a  
18 person's life from birth to age five;

19 C. "fund" means the early childhood care and  
20 education fund; and

21 D. "secretary" means the secretary of early  
22 childhood education and care."

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

25 "32A-23B-1. SHORT TITLE.--Chapter 32A, Article 23B NMSA

1 1978 may be cited as the "Home Visiting Accountability Act".

2 SECTION 28. Section 32A-23B-2 NMSA 1978 (being Laws  
3 2013, Chapter 118, Section 2) is amended to read:

4 "32A-23B-2. DEFINITIONS.--As used in the Home Visiting  
5 Accountability Act:

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

9 B. "department" means the early childhood  
10 education and care department;

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

13 (1) a child, from birth until kindergarten  
14 entry; or

15 (2) a pregnant woman, an expectant father, a  
16 parent or a primary caregiver;

17 D. "home visiting":

18 (1) means:

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

25 (b) providing a comprehensive array of

1 services that promote parental competence and successful  
2 early childhood health and development by building long-term  
3 relationships with families and optimizing the relationships  
4 between parents and children in their home environments; and

5 (2) does not include:

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

9 (b) home visiting provided as a  
10 supplement to other services; or

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

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

16 (1) uses home visiting as a primary service  
17 delivery strategy; and

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

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

24 (1) provides universal, voluntary access;

25 (2) provides a common framework for service

1 delivery and accountability across all home visiting  
2 programs;

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

5 (4) allows for the collection, aggregation  
6 and analysis of common data; and

7 G. "standards-based program" means a home visiting  
8 program that:

9 (1) is research-based and grounded in  
10 relevant, empirically based best practices and knowledge  
11 that:

12 (a) is linked to and measures the  
13 following outcomes: 1) babies are born healthy; 2) children  
14 are nurtured by their parents and caregivers; 3) children are  
15 physically and mentally healthy; 4) children are ready for  
16 school; 5) children and families are safe; and 6) families  
17 are connected to formal and informal supports in their  
18 communities;

19 (b) has comprehensive home visiting  
20 standards that ensure high-quality service delivery and  
21 continuous quality improvement; and

22 (c) has demonstrated significant,  
23 sustained positive outcomes;

24 (2) follows program standards that specify  
25 the purpose, outcomes, duration and frequency of services

1 that constitute the program;

2 (3) follows a research-based curriculum or  
3 combinations of research-based curricula, or follows the  
4 curriculum of an evidence-based home visiting model or  
5 promising approach that the home visiting program has adopted  
6 pursuant to department rules defining "evidence-based model"  
7 and "promising approach";

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

12 (5) demonstrates strong links to other  
13 community-based services;

14 (6) operates within an organization that  
15 ensures compliance with home visiting standards;

16 (7) continually evaluates performance to  
17 ensure fidelity to the program standards;

18 (8) collects data on program activities and  
19 program outcomes; and

20 (9) is culturally and linguistically  
21 appropriate."

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

24 "32A-23B-3. HOME VISITING PROGRAMS--ACCOUNTABILITY--  
25 EXCLUSIONS--CONTRACTING--REPORTING.--

1           A. The department shall provide statewide home  
2 visiting services using a standards-based program and  
3 promulgate rules governing the program.

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

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

15           D. A home visiting program shall do two or more of  
16 the following:

17                   (1) improve prenatal, maternal, infant or  
18 child health outcomes, including reducing preterm births;

19                   (2) promote positive parenting practices;

20                   (3) build healthy parent and child  
21 relationships;

22                   (4) enhance children's social-emotional and  
23 language development;

24                   (5) support children's cognitive and  
25 physical development;

- 1 (6) improve the health of eligible families;  
2 (7) provide resources and supports that may  
3 help to reduce child maltreatment and injury;  
4 (8) increase children's readiness to succeed  
5 in school; and  
6 (9) improve coordination of referrals for,  
7 and the provision of, other community resources and supports  
8 for eligible families.

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

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

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

25 H. Beginning January 1, 2020 and annually

1 thereafter, the department shall submit to the governor and  
2 the legislature an annual outcomes report that includes:

3 (1) the goals and achieved outcomes of the  
4 home visiting system implemented pursuant to the Home  
5 Visiting Accountability Act; and

6 (2) data regarding:

7 (a) the cost per eligible family  
8 served;

9 (b) the number of eligible families  
10 served;

11 (c) demographic data on eligible  
12 families served;

13 (d) the duration of participation by  
14 eligible families in the program;

15 (e) the number and type of programs  
16 that the department has funded;

17 (f) any increases in school readiness,  
18 child development and literacy;

19 (g) decreases in child maltreatment or  
20 child abuse;

21 (h) any reductions in risky parental  
22 behavior;

23 (i) the percentage of children  
24 receiving regular well-child exams, as recommended by the  
25 American academy of pediatrics;

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

3 (k) the number of children who received  
4 an ages and stages questionnaire and what percent scored age  
5 appropriately in all developmental domains;

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

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

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

15 "59A-22-34.2. COVERAGE OF CHILDREN.--

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

19 (1) was born out of wedlock;

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

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

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

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

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

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

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

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

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

1 program; and

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

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

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

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

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

1 programs approved by the early childhood education and care  
2 department. No payment under this subsection shall be  
3 applied against any maximum lifetime or annual limits  
4 specified in the policy, health benefits plan or contract."

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

8 "59A-23-7.2. COVERAGE OF CHILDREN.--

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

12 (1) was born out of wedlock;

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

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

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

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

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

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

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

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

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

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

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

25 (b) the child is or will be enrolled in

1 comparable health coverage through another insurer that will  
2 take effect not later than the effective date of  
3 disenrollment.

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

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

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

1 "59A-46-38.1. COVERAGE OF CHILDREN.--

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

5 (1) was born out of wedlock;

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

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

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

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

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

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

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

1 insurer shall be required:

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

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

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

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

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

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

1 are different from requirements applicable to an agent or  
2 assignee of any other individual so covered.

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

16 SECTION 33. Section 59A-47-37 NMSA 1978 (being Laws  
17 1994, Chapter 64, Section 12, as amended) is amended to read:

18 "59A-47-37. COVERAGE OF CHILDREN.--

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

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

1 the insurer's service area.

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

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

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

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

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

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

23 (2) if the parent is enrolled but fails to  
24 make application to obtain coverage for the child, to enroll  
25 the child under family coverage upon application of the

1 child's other parent, the state agency administering the  
2 medicaid program or the state agency administering 42 U.S.C.  
3 Sections 651 through 669, the child support enforcement  
4 program; and

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

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

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

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

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

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

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

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

18 (1) the children, youth and families  
19 department's early childhood services division; and

20 (2) the department of health's:

21 (a) family, infant, toddler program;

22 and

23 (b) family first home visiting.

24 B. Beginning on July 1, 2020, all contractual  
25 obligations pertaining to the programs, services and entities

1 in Subsection A of this section are binding on the early  
2 childhood education and care department.

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

8 SECTION 35. TEMPORARY PROVISION--INTERIM POWERS AND  
9 DUTIES--ACCOUNTING AND FINANCIAL CONTROL.--

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

23 (1) the general services department shall  
24 assist in locating the early childhood education and care  
25 department in a state building or an appropriate leased

1 facility;

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

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

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

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

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

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

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

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

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

3 SECTION 38. EFFECTIVE DATE.--

4 A. The effective date of the provisions of  
5 Sections 1 through 7 and 34 through 36 of this act is July 1,  
6 2019.

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

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