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SENATE BILL 106

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Howie C. Morales

AN ACT

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

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

**SECTION 1.** [NEW MATERIAL] SHORT TITLE.--Sections 1 through 15 of this act may be cited as the "Early Childhood Services Department Act".

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

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

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

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

6 (2) less academic intervention and  
7 remediation;

8 (3) lower truancy rates;

9 (4) higher graduation rates; and

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

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

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

25 (2) the department of health, including:

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- 1 (a) the family, infant, toddler program;  
2 (b) the interagency coordinating  
3 council; and  
4 (c) family first home visiting; and  
5 (3) the public education department,  
6 including:  
7 (a) public pre-kindergarten; and  
8 (b) the even start family literacy  
9 program.

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

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

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

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

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

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

- 23 (1) the administrative services division;  
24 (2) the office of the secretary;  
25 (3) the child care licensing and services

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1 division;

2 (4) the early childhood education division;

3 and

4 (5) the early intervention services division,  
5 including the following bureaus:

6 (a) the early childhood mental health  
7 bureau;

8 (b) the family nutrition bureau;

9 (c) the home visitation bureau; and

10 (d) the family, infant, toddler program.

11 B. The secretary may reorganize the department, but  
12 the secretary shall report the reorganization to the  
13 legislature.

14 C. The governor, by executive order, may transfer  
15 any other early childhood services or programs from any other  
16 department under the governor's control to the early childhood  
17 services department; provided that this power of transfer shall  
18 end by January 1, 2019.

19 SECTION 5. [NEW MATERIAL] SECRETARY OF EARLY CHILDHOOD  
20 SERVICES--APPOINTMENT.--

21 A. The chief executive and administrative officer  
22 of the department is the "secretary of early childhood  
23 services". The secretary shall be appointed by the governor  
24 with the consent of the senate. The secretary shall hold  
25 office at the pleasure of the governor and shall serve in the

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1 executive cabinet.

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

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

8 A. The secretary is responsible to the governor for  
9 the operation of the department. It is the secretary's duty to  
10 manage all operations of the department and to administer and  
11 enforce the laws with which the secretary or the department is  
12 charged.

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

19 (1) except as otherwise provided in the Early  
20 Childhood Services Department Act, exercise general supervisory  
21 and appointing power over all department employees, subject to  
22 applicable personnel laws and rules;

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

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

5 (4) within the limitations of available  
6 appropriations and applicable laws, employ and fix the  
7 compensation of those persons necessary to discharge the  
8 secretary's duties;

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

15 (6) conduct research and studies that will  
16 improve the operation of the department and the provision of  
17 services to the residents of the state;

18 (7) provide courses of instruction and  
19 practical training for employees of the department and other  
20 persons involved in the administration of programs with the  
21 objectives of improving the operations and efficiency of  
22 administration and of promoting comprehensive, coordinated,  
23 culturally sensitive services that address the whole child and  
24 early learning;

25 (8) prepare an annual budget for the

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1 department; and

2 (9) provide cooperation, at the request of  
3 administratively attached agencies and adjunct agencies, in  
4 order to:

5 (a) minimize or eliminate duplication of  
6 services and jurisdictional conflicts;

7 (b) coordinate activities and resolve  
8 problems of mutual concern; and

9 (c) resolve by agreement the manner and  
10 extent to which the department shall provide budgeting, record  
11 keeping and related clerical assistance to administratively  
12 attached agencies.

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

18 D. The secretary may make and adopt such reasonable  
19 and procedural rules as may be necessary to carry out the  
20 duties of the department and its divisions. No rule  
21 promulgated by the director of any division in carrying out the  
22 functions and duties of the division shall be effective until  
23 approved by the secretary. Unless otherwise provided by  
24 statute, no rule affecting any person or agency outside the  
25 department shall be adopted, amended or repealed without a

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1 public hearing on the proposed action before the secretary or a  
2 hearing officer designated by the secretary. The public  
3 hearing shall be held in Santa Fe unless otherwise permitted by  
4 statute. Notice of the subject matter of the rule, the action  
5 proposed to be taken, the time and place of the hearing, the  
6 manner in which interested persons may present their views and  
7 the method by which copies of the proposed rule or proposed  
8 amendment or repeal of an existing rule may be obtained shall  
9 be published once at least thirty days prior to the hearing  
10 date in a newspaper of general circulation and mailed at least  
11 thirty days prior to the hearing date to all persons who have  
12 made a written request for advance notice of hearing. All  
13 rules shall be filed in accordance with the State Rules Act.

14 E. If the secretary certifies to the secretary of  
15 finance and administration and gives contemporaneous notice of  
16 such certification through the human services register that the  
17 department has insufficient state funds to operate any of the  
18 programs it administers and that reductions in services or  
19 benefit levels are necessary, the secretary may engage in  
20 interim rulemaking. Notwithstanding any provision to the  
21 contrary in the State Rules Act, interim rulemaking shall be  
22 conducted pursuant to Subsection D of this section, except:

23 (1) the period of notice of public hearing  
24 shall be fifteen days;

25 (2) the department shall send individual

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1 notices of the interim rulemaking and of the public hearing to  
2 affected providers and beneficiaries;

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

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

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

14 SECTION 7. [NEW MATERIAL] DEPARTMENT--ADDITIONAL  
15 DUTIES.--In addition to other duties provided by law or  
16 assigned to the department by the governor, the department  
17 shall:

18 A. develop priorities for department services and  
19 resources based on state policy, national best-practice  
20 standards, evidence-based interventions and practices and local  
21 considerations and priorities;

22 B. strengthen collaboration and coordination in  
23 state and local services for early childhood programs by  
24 integrating critical functions as appropriate, including  
25 service delivery, and contracting for services across divisions

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1 and related agencies;

2 C. coordinate implementation of state, federal and  
3 private early childhood programs and services to avoid  
4 duplication of effort and maximize available resources;

5 D. develop and maintain a statewide database,  
6 including client tracking of services for children;

7 E. develop standards of service within the  
8 department that focus on prevention, monitoring and outcomes;

9 F. analyze policies of other departments that  
10 affect children to encourage common contracting procedures,  
11 common service definitions and a uniform system of access;

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

14 H. conduct biennial assessments of child care or  
15 early learning service gaps and needs and establish outcome  
16 measurements to address those service gaps and needs; and

17 I. fingerprint and conduct national criminal  
18 background checks on all department employees and on staff  
19 members and volunteers of early childhood service providers  
20 whose jobs involve direct contact with department clients,  
21 including prospective employees and employees who are promoted,  
22 transferred or hired into new positions, the superiors of all  
23 department employees and all staff members and volunteers of  
24 early childhood service providers who have direct unsupervised  
25 contact with department clients.

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

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

13           SECTION 10. [ NEW MATERIAL ] ORGANIZATIONAL UNITS OF THE  
14 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO  
15 INFORMATION.--

16           A. Unless expressly exempted from the powers of the  
17 secretary by law, those organizational units of the department  
18 and the officers of those units specified by law shall have all  
19 of the powers and duties enumerated in the specific laws  
20 involved. However, the carrying out of those powers and duties  
21 shall be subject to the direction and supervision of the  
22 secretary, who shall retain the final decision-making authority  
23 and responsibility for the administration of any such laws as  
24 provided in Subsection B of Section 6 of the Early Childhood  
25 Services Department Act.

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1           B. The department shall have access to all records,  
2 data and information of other state departments that are not  
3 specifically held confidential by law. The department shall  
4 enter into agreements with the children, youth and families  
5 department and the public education department to share  
6 confidential information without violating federal or state  
7 confidentiality laws.

8           SECTION 11. [NEW MATERIAL] DEPARTMENT DESIGNATION--  
9 FAMILY, INFANT, TODDLER PROGRAM--AUTHORIZATION--PAYMENT  
10 SYSTEM.--

11           A. The department is designated as the lead state  
12 agency for the development and administration of a statewide  
13 system of comprehensive, coordinated, multidisciplinary,  
14 interagency early intervention services for eligible children  
15 with or at risk of developmental delay and their families,  
16 known as the "family, infant, toddler program".

17           B. The parent may choose whether the parent's  
18 eligible child shall participate in the family, infant, toddler  
19 program.

20           C. The public education department, the human  
21 services department, the children, youth and families  
22 department, the department of health and other publicly funded  
23 services shall collaborate with the early childhood services  
24 department and continue to provide all services within their  
25 respective statutory responsibilities to eligible children.

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1 State and local interagency agreements shall delineate  
2 responsibility for provisions of the family, infant, toddler  
3 program.

4 D. The department shall establish a payment system  
5 that shall maximize funds from appropriate federal, state,  
6 local and private sources to support the family, infant,  
7 toddler program.

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

11 (1) establishing policies and promulgating  
12 rules necessary to comply with that act;

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

15 (3) making arrangements for the provisions of  
16 the family, infant, toddler program;

17 (4) carrying out the general administration,  
18 supervision and monitoring of the family, infant, toddler  
19 program;

20 (5) resolving complaints concerning the  
21 family, infant, toddler program;

22 (6) maintaining and expanding state and local  
23 coordination and interagency agreements pertaining to the  
24 family, infant, toddler program;

25 (7) identifying and coordinating all available

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1 resources for early intervention services for the family,  
2 infant, toddler program; and

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

5 F. As used in this section:

6 (1) "early intervention services" means  
7 services that are designed to meet the developmental needs of  
8 eligible children, including physical development,  
9 communications development, adaptive development, social and  
10 emotional development or sensory development; and

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

15 SECTION 12. [NEW MATERIAL] CUSTODIAN OF FUNDS.--The  
16 department is designated as the custodian of all money that may  
17 be received by the state from any appropriation made by the  
18 congress of the United States for the purpose of implementing  
19 the federal Individuals with Disabilities Education Act, Part  
20 C.

21 SECTION 13. [NEW MATERIAL] CRIMINAL HISTORY RECORD  
22 INVESTIGATIONS--PROCEDURE--CONFIDENTIALITY--VIOLATION--  
23 PENALTY.--

24 A. The department shall submit fingerprints for  
25 each department employee required to be fingerprinted pursuant

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1 to Subsection I of Section 7 of the Early Childhood Services  
2 Department Act to the department of public safety and the  
3 federal bureau of investigation. Child care facilities, pre-  
4 kindergarten programs and other early childhood providers are  
5 responsible for the cost of obtaining criminal histories on  
6 their employees and volunteers; provided that the facilities,  
7 programs or other providers may require the employees or  
8 volunteers to pay the costs.

9 B. Criminal histories obtained are confidential and  
10 shall be used only for the purpose of determining the  
11 suitability of an employee or volunteer or prospective employee  
12 or volunteer for employment with or provision of services to  
13 the department, a child care facility, pre-kindergarten program  
14 or other early childhood providers or a contractor or an  
15 employee of a contractor or prospective contractor; except that  
16 criminal histories may be released or disclosed to another  
17 agency or person only upon court order or with the written  
18 consent of the person who is the subject of the criminal  
19 history record.

20 C. A person who releases or discloses criminal  
21 history records or information contained in those records in  
22 violation of the provisions of this section is guilty of a  
23 misdemeanor and if convicted shall be sentenced pursuant to the  
24 provisions of Section 31-19-1 NMSA 1978.

25 SECTION 14. [NEW MATERIAL] PROHIBITION ON EMPLOYMENT FOR

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1 PERSONS WITH SUBSTANTIATED ALLEGATIONS OF CHILD ABUSE OR  
2 NEGLECT--PROHIBITION ON CONVICTED FELONS--DISCIPLINARY ACTION--  
3 CONFIDENTIALITY OF ABUSE AND NEGLECT RECORDS.--

4 A. No employee, staff member or volunteer at the  
5 department or at a child care facility, a pre-kindergarten  
6 program or other early childhood provider, including  
7 prospective employees and volunteers, having direct  
8 unsupervised contact with department clients, nor the superiors  
9 of any such employee, staff member or volunteer, shall have  
10 been the subject of a substantiated allegation of child abuse  
11 or neglect.

12 B. No employee, staff member or volunteer at the  
13 department who has direct unsupervised contact with department  
14 clients, or the superiors of an employee, staff member or  
15 volunteer at the department who has direct unsupervised contact  
16 with department clients shall have been convicted of a felony  
17 offense that is directly related to the job duties of the  
18 employee by a court of this state, any other state or the  
19 United States.

20 C. An employee or staff member subject to the  
21 Personnel Act who has been the subject of a substantiated  
22 allegation of abuse or neglect as investigated and determined  
23 by the department may be subject to increased supervision or  
24 disciplinary action pursuant to the Personnel Act. Upon appeal  
25 of a disciplinary action to the personnel board pursuant to

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1 this section, the personnel board shall defer to the record of  
2 the administrative hearing affirming a substantiated allegation  
3 of abuse or neglect, if one exists, in determining whether the  
4 action taken by the agency was with just cause.

5 D. An employee or a staff member of the department  
6 subject to dismissal under this section shall have no right to  
7 progressive discipline as a condition precedent to discipline  
8 under this section.

9 E. In any appeal of an employee or staff member to  
10 the personnel board as provided by the Personnel Act, records  
11 that are otherwise confidential pursuant to the Abuse and  
12 Neglect Act shall be discoverable by the parties and admissible  
13 as to any relevant fact; provided that any identifying  
14 information related to the reporting party, any other party  
15 providing information and information the department finds  
16 would be likely to endanger the life or safety of any person  
17 providing information to the department may be redacted.

18 F. The children, youth and families department, the  
19 department of health and the public education department shall  
20 assist the early childhood services department in ensuring that  
21 the early childhood services department, a child care facility,  
22 a pre-kindergarten program or other early childhood provider  
23 shall not employ or have as a volunteer any person who has been  
24 the subject of a substantiated allegation of child abuse or  
25 neglect if that employee or volunteer will have direct

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1       unsupervised contact with a child.

2               SECTION 15.   [NEW MATERIAL] CHILD CARE ASSISTANCE  
3       PROGRAM--REPORTING.--

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

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

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

18              (3)   complete and submit the outcomes  
19      measurement plan by December 31, 2017 to the legislature, the  
20      governor and the state early learning advisory council.

21              B.   Beginning December 31, 2017 and annually  
22      thereafter, the department shall produce an annual outcomes  
23      report for the legislature, the governor and the state early  
24      learning advisory council that includes:

25              (1)   the goals and achieved outcomes of the

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1 child care assistance program implemented pursuant to the Child  
2 Care Assistance Accountability Act; and

3 (2) the following data:

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

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

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

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

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

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

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

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

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

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

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

6 SECTION 16. Section 9-7-6.4 NMSA 1978 (being Laws 2004,  
7 Chapter 46, Section 8, as amended) is amended to read:

8 "9-7-6.4. INTERAGENCY BEHAVIORAL HEALTH PURCHASING  
9 COLLABORATIVE.--

10 A. [~~There is created~~] The "interagency behavioral  
11 health purchasing collaborative" is created, consisting of:

- 12 (1) the secretaries of:
  - 13 (a) aging and long-term services;
  - 14 (b) Indian affairs;
  - 15 (c) human services;
  - 16 (d) health;
  - 17 (e) corrections;
  - 18 (f) children, youth and families;
  - 19 (g) early childhood services;
  - 20 (h) finance and administration;
  - 21 (i) workforce solutions;
  - 22 (j) public education; and
  - 23 (k) transportation;
- 24 (2) the directors of:
  - 25 (a) the administrative office of the

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1 courts;

2 (b) the New Mexico mortgage finance  
3 authority;

4 (c) the governor's commission on  
5 disability;

6 (d) the developmental disabilities  
7 planning council;

8 (e) the [~~instructional support and~~]  
9 vocational rehabilitation division of the public education  
10 department; and

11 (f) the New Mexico health policy  
12 commission; and

13 (3) the governor's health policy coordinator  
14 [~~or their designees~~].

15 B. The members may appoint designees. The  
16 collaborative shall be chaired by the secretary of human  
17 services with the respective secretaries of health and,  
18 children, youth and families alternating annually as co-chairs.  
19 If the secretaries appoint designees, those designees shall  
20 serve as co-chairs.

21 [~~B-~~] C. The collaborative shall meet regularly and  
22 at the call of either co-chair and shall:

23 (1) identify behavioral health needs  
24 statewide, with an emphasis on that hiatus between needs and  
25 services set forth in the department of health's gap analysis

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1 and in ongoing needs assessments, and develop a master plan for  
2 statewide delivery of services;

3 (2) give special attention to regional  
4 differences, including cultural, rural, frontier, urban and  
5 border issues;

6 (3) inventory all expenditures for behavioral  
7 health, including mental health and substance abuse;

8 (4) plan, design and direct a statewide  
9 behavioral health system, ensuring both availability of  
10 services and efficient use of all behavioral health funding,  
11 taking into consideration funding appropriated to specific  
12 affected departments; and

13 (5) contract for operation of one or more  
14 behavioral health entities to ensure availability of services  
15 throughout the state.

16 [~~G-~~] D. The plan for delivery of behavioral health  
17 services shall include specific service plans to address the  
18 needs of infants, children, adolescents, adults and seniors, as  
19 well as to address workforce development and retention and  
20 quality improvement issues. The plan shall be revised every  
21 two years and shall be adopted by the department of health as  
22 part of the statewide health plan.

23 [~~D-~~] E. The plan shall take the following  
24 principles into consideration, to the extent practicable and  
25 within available resources:

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1 (1) services should be individually centered  
2 and family-focused based on principles of individual capacity  
3 for recovery and resiliency;

4 (2) services should be delivered in a  
5 culturally responsive manner in a home- or community-based  
6 setting, where possible;

7 (3) services should be delivered in the least  
8 restrictive and most appropriate manner;

9 (4) individualized service planning and case  
10 management should take into consideration individual and family  
11 circumstances, abilities and strengths and be accomplished in  
12 consultation with appropriate family members, caregivers and  
13 other persons critical to the individual's life and well-being;

14 (5) services should be coordinated,  
15 accessible, accountable and of high quality;

16 (6) services should be directed by the  
17 individual or family served to the extent possible;

18 (7) services may be consumer- or family-  
19 provided, as defined by the collaborative;

20 (8) services should include behavioral health  
21 promotion, prevention, early intervention, treatment and  
22 community support; and

23 (9) services should consider regional  
24 differences, including cultural, rural, frontier, urban and  
25 border issues.

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1           ~~[E-]~~ F. The collaborative shall seek and consider  
2 suggestions of Native American representatives from Indian  
3 nations, tribes and pueblos and the urban Indian population,  
4 located wholly or partially within New Mexico, in the  
5 development of the plan for delivery of behavioral health  
6 services.

7           ~~[F-]~~ G. Pursuant to the State Rules Act, the  
8 collaborative shall adopt rules through the human services  
9 department for:

10                   (1) standards of delivery for behavioral  
11 health services provided through contracted behavioral health  
12 entities, including:

- 13                               (a) quality management and improvement;
- 14                               (b) performance measures;
- 15                               (c) accessibility and availability of  
16 services;
- 17                               (d) utilization management;
- 18                               (e) credentialing of providers;
- 19                               (f) rights and responsibilities of  
20 consumers and providers;
- 21                               (g) clinical evaluation and treatment  
22 and supporting documentation; and
- 23                               (h) confidentiality of consumer records;

24 and

25                   (2) approval of contracts and contract



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1 amendments by the collaborative, including public notice of the  
2 proposed final contract.

3 ~~[G.]~~ H. The collaborative shall, through the human  
4 services department, submit a separately identifiable  
5 consolidated behavioral health budget request. The  
6 consolidated behavioral health budget request shall account for  
7 requested funding for the behavioral health services program at  
8 the human services department and any other requested funding  
9 for behavioral health services from agencies identified in  
10 Subsection A of this section that will be used pursuant to  
11 Paragraph (5) of Subsection ~~[B]~~ C of this section. Any  
12 contract proposed, negotiated or entered into by the  
13 collaborative is subject to the provisions of the Procurement  
14 Code.

15 ~~[H.]~~ I. The collaborative shall, with the consent  
16 of the governor, appoint a "director of the collaborative".  
17 The director is responsible for the coordination of day-to-day  
18 activities of the collaborative, including the coordination of  
19 staff from the collaborative member agencies.

20 ~~[I.]~~ J. The collaborative shall provide a quarterly  
21 report to the legislative finance committee on performance  
22 outcome measures. The collaborative shall submit an annual  
23 report to the legislative finance committee and the interim  
24 legislative health and human services committee that provides  
25 information on:

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1 (1) the collaborative's progress toward  
2 achieving its strategic plans and goals;

3 (2) the collaborative's performance  
4 information, including contractors and providers; and

5 (3) the number of people receiving services,  
6 the most frequently treated diagnoses, expenditures by type of  
7 service and other aggregate claims data relating to services  
8 rendered and program operations."

9 SECTION 17. Section 13-7-7 NMSA 1978 (being Laws 2001,  
10 Chapter 351, Section 3, as amended) is amended to read:

11 "13-7-7. CONSOLIDATED ADMINISTRATIVE FUNCTIONS--  
12 BENEFIT.--

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

20 B. By December 31, 2003, the publicly funded health  
21 care agencies, political subdivisions and other persons  
22 participating in the consolidated purchasing single process  
23 pursuant to the Health Care Purchasing Act shall consolidate,  
24 standardize and administer the administrative functions that  
25 those entities can effectively and efficiently administer as

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1 reflected in the study.

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

18 D. Each agency will retain its responsibility to  
19 determine policy direction of the benefit plans, plan  
20 development, training and coordination with respect to  
21 participants and its benefits staff, as well as to respond to  
22 benefits eligibility inquiries and establish and enforce  
23 eligibility rules.

24 E. Notwithstanding Subsection D of this section,  
25 publicly funded health care agencies, political subdivisions

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

16 SECTION 18. Section 32A-22-1 NMSA 1978 (being Laws 2005,  
17 Chapter 64, Section 1) is amended to read:

18 "32A-22-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article  
19 22 NMSA 1978 may be cited as the "Children's Cabinet Act"."

20 SECTION 19. Section 32A-22-2 NMSA 1978 (being Laws 2005,  
21 Chapter 64, Section 2) is amended to read:

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

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

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

22                   C. Each year the children's cabinet shall select  
23 the governor or lieutenant governor to be the chairperson."

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

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1           "32A-23-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article  
2 23 NMSA 1978 may be cited as the "Pre-Kindergarten Act"."

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

5           "32A-23-2. FINDINGS AND PURPOSE.--The legislature finds  
6 that:

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

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

13                   C. pre-kindergarten will advance governmental  
14 interests and childhood development and readiness."

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

17           "32A-23-3. DEFINITIONS.--As used in the Pre-Kindergarten  
18 Act:

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

23                   B. [~~"departments"~~] "department" means the  
24 [~~children, youth and families~~] early childhood services  
25 department [~~and the public education department acting~~

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1 jointly];

2 C. "early childhood development specialist" means  
3 the adult responsible for working directly with three- and  
4 four-year-old children in implementing pre-kindergarten  
5 services;

6 D. "eligible provider" means a person licensed by  
7 the [~~children, youth and families~~] department that provides  
8 early childhood developmental readiness services or preschool  
9 special education, or is a public school, tribal program or  
10 head start program;

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

14 F. "tribe" means an Indian nation, tribe or pueblo  
15 located in New Mexico."

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

18 "32A-23-4. VOLUNTARY PRE-KINDERGARTEN--INTERAGENCY  
19 COOPERATION--CONTRACTS--CONTRACT MONITORING--RESEARCH.--

20 A. The [~~children, youth and families department and~~  
21 ~~the public education department shall cooperate in the~~  
22 ~~development and implementation of~~] department shall develop and  
23 implement a voluntary program for the provision of pre-  
24 kindergarten services throughout the state. The pre-  
25 kindergarten program shall address the total developmental

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1 needs of [~~preschool~~] three- and four-year-old children,  
2 including physical, cognitive, social and emotional needs, and  
3 shall include health care, nutrition, safety and multicultural  
4 sensitivity.

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

22 C. The department shall coordinate the pre-  
23 kindergarten program with federal head start agencies to avoid  
24 duplication of effort and to maximize the use of all available  
25 resources.

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1           ~~[B.]~~ D. The ~~[departments shall collaborate on~~  
2 ~~promulgating]~~ department shall promulgate rules on pre-  
3 kindergarten services, including state policies and standards,  
4 and shall review the process for contract awards and for the  
5 expenditure and use of contract funds.

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

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

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

21           "32A-23-5. PRE-KINDERGARTEN--ELIGIBILITY.--Pre-  
22 kindergarten services may be provided by public schools or  
23 other eligible providers on a per-child reimbursement rate in  
24 communities with public elementary schools that are designated  
25 as Title 1 schools."

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1           SECTION 25. Section 32A-23-6 NMSA 1978 (being Laws 2005,  
2 Chapter 170, Section 6, as amended) is amended to read:

3           "32A-23-6. REQUESTS FOR PROPOSALS--CONTRACTS FOR  
4 SERVICES.--

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

9           B. Eligible providers shall submit proposals ~~[or~~  
10 ~~applications]~~ for pre-kindergarten services to the  
11 ~~[appropriate]~~ department. An eligible provider's proposal ~~[or~~  
12 ~~application]~~ shall include a description of the services that  
13 will be provided, including:

14                       (1) how those services meet ~~[children, youth~~  
15 ~~and families department or public education]~~ department  
16 standards;

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

20                       (3) site and floor plans and a description of  
21 the facilities;

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

24                       (5) a description of the qualifications and  
25 experience of the early childhood development staff for each

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1 site;

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

4 (7) how those services meet the continuum of  
5 services to children; and

6 (8) other relevant information requested by  
7 the ~~[departments]~~ department.

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

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

17 (1) the number of three- and four-year-olds  
18 residing in the community and the number of three- and four-  
19 year-olds proposed to be served;

20 (2) the adequacy and capacity of pre-  
21 kindergarten facilities in the community;

22 (3) language and literacy services in the  
23 community;

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

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

3 (6) the qualifications of eligible providers  
4 in the community;

5 (7) staff professional development plans;

6 (8) the capacity of local organizations and  
7 persons interested in and involved in programs and services for  
8 three- and four-year-olds and their commitment to work  
9 together;

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

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

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

18 **SECTION 26.** Section 32A-23-8 NMSA 1978 (being Laws  
19 2005, Chapter 170, Section 8) is amended to read:

20 "32A-23-8. [~~FUNDS~~] FUND CREATED--ADMINISTRATION.--

21 A. The "[~~public~~] pre-kindergarten fund" is  
22 created as a nonreverting fund in the state treasury. The  
23 fund shall consist of appropriations, income from investment  
24 of the fund, gifts, grants and donations. The fund shall be  
25 administered by the [~~public education~~] department, and money

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1 in the fund is [~~appropriated~~] subject to appropriation to the  
2 department to carry out the provisions of the Pre-  
3 Kindergarten Act. Disbursements from the fund shall be by  
4 warrant of the secretary of finance and administration upon  
5 vouchers signed by the secretary of [~~public education~~] early  
6 childhood services or the secretary's authorized  
7 representative. The department may use up to ten percent of  
8 the money in the fund each year for administrative program  
9 support expenses. The remaining minimum ninety percent shall  
10 be distributed to eligible service providers.

11 [B. ~~The "children, youth and families pre-~~  
12 ~~kindergarten fund" is created as a nonreverting fund in the~~  
13 ~~state treasury. The fund shall consist of appropriations,~~  
14 ~~income from investment of the fund, gifts, grants and~~  
15 ~~donations. The fund shall be administered by the children,~~  
16 ~~youth and families department, and money in the fund is~~  
17 ~~appropriated to the department to carry out the provisions of~~  
18 ~~the Pre-Kindergarten Act. Disbursements from the fund shall~~  
19 ~~be by warrant of the secretary of finance and administration~~  
20 ~~upon vouchers signed by the secretary of children, youth and~~  
21 ~~families or the secretary's authorized representative. The~~  
22 ~~department may use up to ten percent of the money in the fund~~  
23 ~~each year for administrative expenses.]~~

24 B. On July 1, 2017, money in the children, youth  
25 and families pre-kindergarten fund shall be transferred to

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1 the pre-kindergarten fund."

2 SECTION 27. Section 32A-23-9 NMSA 1978 (being Laws  
3 2011, Chapter 126, Section 1) is amended to read:

4 "32A-23-9. EQUAL DIVISION OF APPROPRIATIONS.--Any money  
5 appropriated for pre-kindergarten programs shall be divided  
6 equally between [~~the public education department and the~~  
7 ~~children, youth and families department~~] public school  
8 programs and private programs to the extent practicable."

9 SECTION 28. Section 32A-23A-1 NMSA 1978 (being Laws  
10 2011, Chapter 123, Section 1) is amended to read:

11 "32A-23A-1. SHORT TITLE.--[~~This act~~] Chapter 32A,  
12 Article 23A NMSA 1978 may be cited as the "Early Childhood  
13 Care and Education Act".

14 SECTION 29. Section 32A-23A-2 NMSA 1978 (being Laws  
15 2011, Chapter 123, Section 2) is amended to read:

16 "32A-23A-2. DEFINITIONS.--As used in the Early  
17 Childhood Care and Education Act:

18 A. "council" means the state early learning  
19 advisory council;

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

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

24 D. "fund" means the early childhood care and  
25 education fund;

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1           E. "pre-kindergarten" means a voluntary  
2 developmental readiness program for children who have  
3 attained their fourth birthday prior to September 1; and

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

6           **SECTION 30.** Section 32A-23A-3 NMSA 1978 (being Laws  
7 2011, Chapter 123, Section 3) is amended to read:

8           "32A-23A-3. FINDINGS AND PURPOSE.--

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

18           B. The legislature further finds that, to be  
19 successful, an early childhood care and education system  
20 should be:

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

25                   (2) data-driven, including the

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1 identification and prioritization of communities most at  
2 risk, while striving to make the system universally available  
3 to all those who wish to participate;

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

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

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

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

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

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1 (8) a partnership between the state and  
2 private individuals or institutions with an interest or  
3 expertise in early childhood care and education.

4 C. The purpose of the Early Childhood Care and  
5 Education Act is to establish a comprehensive early childhood  
6 care and education system through an aligned continuum of  
7 state and private programs, including home visitation, early  
8 intervention, child care, early head start, head start, early  
9 childhood special education, family support and pre-  
10 kindergarten, and to maintain or establish the infrastructure  
11 necessary to support quality in the system's programs."

12 SECTION 31. Section 32A-23A-4 NMSA 1978 (being Laws  
13 2011, Chapter 123, Section 4) is amended to read:

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

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

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

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1 members shall be qualified electors and, if appointment is  
2 not otherwise provided for in this subsection, shall be  
3 appointed by the governor [~~for four-year terms expiring on~~  
4 ~~January 1 of the appropriate year~~]. Except as otherwise  
5 provided in Section 40 of this 2017 act, terms of council  
6 members appointed by the governor before January 1, 2018  
7 shall be for four years and terms of council members  
8 appointed by the governor on or after January 1, 2018 shall  
9 be for two years. Terms shall expire on December 31 of the  
10 appropriate year. Council members appointed by the governor  
11 shall serve staggered terms as determined by the governor at  
12 the time of their initial appointment, and no more than five  
13 of the governor's appointees shall be from the same political  
14 party. Council members shall not be appointed to serve for  
15 more than three terms. Along with the ex-officio members,  
16 the council shall consist of the following members:

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

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

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

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

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1 (5) one representative of a state agency  
2 responsible for programs under Section 619 or Part C of the  
3 federal Individuals with Disabilities Education Act;

4 (6) one representative of the state agency  
5 responsible for children's health or mental health care  
6 issues;

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

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

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

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

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

25 F. Members of the council shall not be removed

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

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

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

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

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

25              B. The council and department may apply for and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (3) make recommendations to the early  
17 childhood services department and the legislature on:

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

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

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

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

6           SECTION 33. Section 32A-23A-7 NMSA 1978 (being Laws  
7 2011, Chapter 123, Section 7) is amended to read:

8           "32A-23A-7. TERMINATION OF AGENCY LIFE--DELAYED  
9 REPEAL.--The council is terminated on July 1, [~~2017~~] 2023  
10 pursuant to the provisions of the Sunset Act. The council  
11 shall continue to operate pursuant to the provisions of  
12 Sections [~~4 and 5 of the Early Childhood Care and Education~~  
13 ~~Act~~] 32A-23A-4 and 32A-23A-5 NMSA 1978 until July 1, [~~2018~~]  
14 2024. Effective July 1, [~~2018~~] 2024, Section [~~4 of the Early~~  
15 ~~Childhood Care and Education Act~~] 32A-23A-4 NMSA 1978 is  
16 repealed."

17           SECTION 34. Section 32A-23B-1 NMSA 1978 (being Laws  
18 2013, Chapter 118, Section 1) is amended to read:

19           "32A-23B-1. SHORT TITLE.--[~~This act~~] Chapter 32A,  
20 Article 23B NMSA 1978 may be cited as the "Home Visiting  
21 Accountability Act"."

22           SECTION 35. Section 32A-23B-2 NMSA 1978 (being Laws  
23 2013, Chapter 118, Section 2) is amended to read:

24           "32A-23B-2. DEFINITIONS.--As used in the Home Visiting  
25 Accountability Act:

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

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

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

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

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

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

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

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

24                   (3) does not include:

25                           (a) provision of case management or a

1 one-time home visit or infrequent home visits, such as a home  
2 visit for a newborn child or a child in preschool or  
3 kindergarten;

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

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

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

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

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

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

19 (1) provides universal, voluntary access;

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

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

25 (4) allows for the collection, aggregation

1 and analysis of common data; and

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

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

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

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

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

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

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

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1 pursuant to department rules defining "evidence-based model"  
2 and "promising approach";

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

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

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

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

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

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

17 SECTION 36. Section 32A-23B-3 NMSA 1978 (being Laws  
18 2013, Chapter 118, Section 3) is amended to read:

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

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

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1 programs with strong evidence of effectiveness and high-risk  
2 populations.

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

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

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

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

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

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

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

13 F. When the department authorizes funds through  
14 payments, contracts or grants that are used for home visiting  
15 programs, it shall include language regarding home visiting  
16 in its funding agreement contract or grant that is consistent  
17 with the provisions of the Home Visiting Accountability Act.

18 G. The department and the providers of home  
19 visiting services, in consultation with one or more experts  
20 in home visiting program evaluation, shall:

21 (1) jointly develop an outcomes measurement  
22 plan to monitor outcomes for children and families receiving  
23 services through home visiting programs;

24 (2) develop indicators that measure each  
25 objective established pursuant to Subsection D of this

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1 section; and

2 (3) complete and submit the outcomes  
3 measurement plan by November 1, 2013 to the legislature, the  
4 governor and the early learning advisory council.

5 H. Beginning January 1, 2014 and annually  
6 thereafter, the department shall produce an annual outcomes  
7 report to the governor, the legislature and the early  
8 learning advisory council.

9 I. The annual outcomes report shall include:

10 (1) the goals and achieved outcomes of the  
11 home visiting system implemented pursuant to the Home  
12 Visiting Accountability Act; and

13 (2) data regarding:

14 (a) the cost per eligible family  
15 served;

16 (b) the number of eligible families  
17 served;

18 (c) demographic data on eligible  
19 families served;

20 (d) the duration of participation by  
21 eligible families in the program;

22 (e) the number and type of programs  
23 that the department has funded;

24 (f) any increases in school readiness,  
25 child development and literacy;

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1 (g) decreases in child maltreatment or  
2 child abuse;

3 (h) any reductions in risky parental  
4 behavior;

5 (i) the percentage of children  
6 receiving regular well-child exams, as recommended by the  
7 American academy of pediatrics;

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

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

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

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

19 SECTION 37. Section 59A-22-34.2 NMSA 1978 (being Laws  
20 1994, Chapter 64, Section 2, as amended) is amended to read:

21 "59A-22-34.2. COVERAGE OF CHILDREN.--

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

25 (1) was born out of wedlock;



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 SECTION 38. Section 59A-23-7.2 NMSA 1978 (being Laws  
13 1994, Chapter 64, Section 5, as amended) is amended to read:

14 "59A-23-7.2. COVERAGE OF CHILDREN.--

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

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

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

- 25 (1) provide such information to the

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

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

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

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

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

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

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

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

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

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

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

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

5 SECTION 39. Section 59A-47-37 NMSA 1978 (being Laws  
6 1994, Chapter 64, Section 12, as amended) is amended to read:

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

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

11 (1) was born out of wedlock;

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

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

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

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

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

25 (3) make payments on claims submitted in

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

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

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

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

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

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

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

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

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

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

23 SECTION 40. TEMPORARY PROVISION--TRANSITION OF  
24 MEMBERSHIP OF THE STATE EARLY LEARNING ADVISORY COUNCIL.--

25 A. On January 1, 2018, the following members of

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

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

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

12 B. Within thirty days of the effective date of  
13 this act, the governor shall appoint two new public members  
14 to the state early learning advisory council pursuant to  
15 Paragraph (8) of Subsection B of Section 31 of this 2017 act.  
16 The governor shall determine the initial length of the terms  
17 of each of those members, not exceeding three years, to allow  
18 for staggered terms. Thereafter, the terms shall be for two  
19 years.

20 **SECTION 41. TEMPORARY PROVISION--TRANSFERS OF**  
21 **FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY,**  
22 **CONTRACTUAL OBLIGATIONS AND REFERENCES.--**

23 A. On July 1, 2017, all programs, functions,  
24 personnel, appropriations, money, records, furniture,  
25 equipment, supplies and other property belonging to the

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

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

5 (a) early childhood services division;

6 and

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

9 (2) the department of health's:

10 (a) family, infant, toddler program;

11 (b) family first home visiting; and

12 (c) federal Individuals with  
13 Disabilities Education Act; and

14 (3) the public education department's public  
15 pre-kindergarten.

16 B. On July 1, 2017, all contractual obligations  
17 of the children, youth and families department, the  
18 department of health or the public education department  
19 pertaining to any of the functions delineated in Subsection A  
20 of this section shall be transferred to the early childhood  
21 services department. All contractual obligations of the  
22 public education department pertaining to the Pre-  
23 Kindergarten Act shall be transferred to the early childhood  
24 services department.

25 C. On July 1, 2017, all references in law to the  
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1 children, youth and families department, the department of  
2 health or the public education department pertaining to any  
3 of the functions delineated in Subsection A of this section  
4 shall be deemed to be references to the early childhood  
5 services department.

6 SECTION 42. REPEAL.--Sections 9-2A-13, 28-18-1,  
7 28-18-2, 32A-23-7 and 32A-23-9 NMSA 1978 (being Laws 1992,  
8 Chapter 57, Section 13, Laws 1990, Chapter 4, Sections 1 and  
9 2, Laws 2005, Chapter 170, Section 7 and Laws 2011, Chapter  
10 126, Section 1, as amended) are repealed.

11 SECTION 43. EFFECTIVE DATE.--The effective date of the  
12 provisions of this act is July 1, 2017.