

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE HEALTH AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 58

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

AN ACT

RELATING TO EARLY CHILDHOOD; EXEMPTING FROM THE PROCUREMENT
CODE PROCUREMENT BY THE EARLY CHILDHOOD EDUCATION AND CARE
DEPARTMENT OF CHILD CARE FOR FAMILIES ELIGIBLE FOR CHILD CARE
ASSISTANCE; AMENDING SECTIONS OF THE PRE-KINDERGARTEN ACT;
ADDING APPLICATION REQUIREMENTS AND PRIORITIES FOR EARLY PRE-
KINDERGARTEN AND PRE-KINDERGARTEN PROGRAM SERVICES SOLICITED BY
THE EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT; UPDATING
DEFINITIONS AND REFERENCES IN THE EARLY CHILDHOOD CARE
ACCOUNTABILITY ACT.

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

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

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underscored material = new
[bracketed material] = delete

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

3 A. procurement of items of tangible personal
4 property or services by a state agency or a local public body
5 from a state agency, a local public body or external
6 procurement unit except as otherwise provided in Sections
7 13-1-135 through 13-1-137 NMSA 1978;

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

10 C. printing and duplicating contracts involving
11 materials that are required to be filed in connection with
12 proceedings before administrative agencies or state or federal
13 courts;

14 D. purchases of publicly provided or publicly
15 regulated gas, electricity, water, sewer and refuse collection
16 services;

17 E. purchases of books, periodicals, instructional
18 materials and training materials in printed, digital or
19 electronic format from the publishers, designated public-
20 education-department-approved instructional material
21 depositories or copyright holders thereof and purchases of
22 print, digital or electronic format library materials by
23 public, school and state libraries for access by the public;

24 F. travel or shipping by common carrier or by
25 private conveyance or to meals and lodging;

.231177.4

1 G. purchase of livestock at auction rings or to the
2 procurement of animals to be used for research and
3 experimentation or exhibit;

4 H. contracts with businesses for public school
5 transportation services;

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

13 J. purchases not exceeding ten thousand dollars
14 (\$10,000) consisting of magazine subscriptions, web-based or
15 electronic subscriptions, conference registration fees and
16 other similar purchases where prepayments are required;

17 K. municipalities having adopted home rule charters
18 and having enacted their own purchasing ordinances;

19 L. the issuance, sale and delivery of public
20 securities pursuant to the applicable authorizing statute, with
21 the exception of bond attorneys and general financial
22 consultants;

23 M. contracts entered into by a local public body
24 with a private independent contractor for the operation, or
25 provision and operation, of a jail pursuant to Sections 33-3-26

.231177.4

1 and 33-3-27 NMSA 1978;

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

8 O. contracts and expenditures for services or items
9 of tangible personal property to be paid or compensated by
10 money or other property transferred to New Mexico law
11 enforcement agencies by the United States department of justice
12 drug enforcement administration;

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

15 Q. contracts with professional entertainers;

16 R. contracts and expenditures for legal
17 subscription and research services and litigation expenses in
18 connection with proceedings before administrative agencies or
19 state or federal courts, including experts, mediators, court
20 reporters, process servers and witness fees, but not including
21 attorney contracts;

22 S. contracts for service relating to the design,
23 engineering, financing, construction and acquisition of public
24 improvements undertaken in improvement districts pursuant to
25 Subsection L of Section 3-33-14.1 NMSA 1978 and in county

.231177.4

1 improvement districts pursuant to Subsection L of Section
2 4-55A-12.1 NMSA 1978;

3 T. works of art for museums or for display in
4 public buildings or places;

5 U. contracts entered into by a local public body
6 with a person, firm, organization, corporation or association
7 or a state educational institution named in Article 12, Section
8 11 of the constitution of New Mexico for the operation and
9 maintenance of a hospital pursuant to Chapter 3, Article 44
10 NMSA 1978, lease or operation of a county hospital pursuant to
11 the Hospital Funding Act or operation and maintenance of a
12 hospital pursuant to the Special Hospital District Act;

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

15 W. purchases of promotional goods intended for
16 resale by the tourism department;

17 X. procurement of printing, publishing and
18 distribution services for materials produced and intended for
19 resale by the cultural affairs department;

20 Y. procurement by or through the public education
21 department from the federal department of education relating to
22 parent training and information centers designed to increase
23 parent participation, projects and initiatives designed to
24 improve outcomes for students with disabilities and other
25 projects and initiatives relating to the administration of

.231177.4

1 improvement strategy programs pursuant to the federal
2 Individuals with Disabilities Education Act; provided that the
3 exemption applies only to procurement of services not to exceed
4 two hundred thousand dollars (\$200,000);

5 Z. procurement of services from community
6 rehabilitation programs or qualified individuals pursuant to
7 the State Use Act;

8 AA. purchases of products or services for eligible
9 persons with disabilities pursuant to the federal
10 Rehabilitation Act of 1973;

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

15 CC. contracts for investment advisory services,
16 investment management services or other investment-related
17 services entered into by the educational retirement board, the
18 state investment officer or the retirement board created
19 pursuant to the Public Employees Retirement Act;

20 DD. the purchase for resale by the state fair
21 commission of feed and other items necessary for the upkeep of
22 livestock;

23 EE. contracts entered into by the crime victims
24 reparation commission to distribute federal grants to assist
25 victims of crime, including grants from the federal Victims of

.231177.4

1 Crime Act of 1984 and the federal Violence Against Women Act of
2 1994;

3 FF. procurement by or through the early childhood
4 education and care department of early pre-kindergarten and
5 pre-kindergarten services purchased pursuant to the
6 Pre-Kindergarten Act and of child care for families that are
7 eligible for child care assistance;

8 GG. procurement of services of commissioned
9 advertising sales representatives for New Mexico magazine;

10 HH. contracts entered into by the forestry division
11 of the energy, minerals and natural resources department to
12 distribute federal grants to nongovernmental entities and
13 individuals selected through an application process conducted
14 by the United States department of agriculture, the United
15 States department of the interior or any division or bureau
16 thereof for programs for wildfire prevention or protection,
17 urban forestry, forest and watershed restoration and
18 protection, reforestation or economic development projects to
19 advance the use of trees and wood biomass for hazardous fuel
20 reduction; and

21 II. procurements exempt from the Procurement Code
22 as otherwise provided by law."

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

25 "32A-23-3. DEFINITIONS.--As used in the Pre-Kindergarten

.231177.4

Act:

A. "community" means an area defined by school district boundaries, tribal boundaries or joint boundaries of a school district and tribe; ~~[or any combination of school districts and tribes]~~

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

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

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

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

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

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

(b) enrolled in a head start preschool;
or

1 (c) eligible for special education and
 2 related services under Part B, Section 619 of the federal
 3 Individuals with Disabilities Education Act; and

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

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

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

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

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

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

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

.231177.4

1 ~~[F-]~~ J. "tribe" means an Indian nation, tribe or
2 pueblo located in New Mexico."

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

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

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

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

25 (1) enter kindergarten:

.231177.4

(a) developmentally prepared for it;
 (b) needing special services; and
 (c) proficient in reading and
 mathematics; and

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

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

D. The department shall promulgate rules on pre-
 kindergarten and early pre-kindergarten program services,
 including state policies and standards defining length of
 service for pre-kindergarten and early pre-kindergarten
 programs, and shall review the process for making contract
 awards and for the expenditure and use of contract funds. The
department shall promulgate these rules in consultation with an
advisory council in the department that shall be composed of a
diverse geographic representation of eligible providers,
including six parents and two representatives of each of the
following: for-profit and nonprofit community providers, head
start programs, tribal programs and public providers.

E. The department shall monitor activity under
 early pre-kindergarten and pre-kindergarten program ~~[contracts]~~

1 agreements to ensure adherence to child-centered,
 2 developmentally appropriate practices and outcomes. The
 3 department shall provide early childhood training and technical
 4 assistance to ~~[contract]~~ award recipients, including training
 5 on social-emotional learning, early literacy and early
 6 mathematics.

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

10 SECTION 4. Section 32A-23-6 NMSA 1978 (being Laws 2005,
 11 Chapter 170, Section 6, as amended) is amended to read:

12 "32A-23-6. REQUESTS FOR ~~[PROPOSALS--CONTRACTS FOR~~
 13 ~~SERVICES]~~ APPLICATIONS--AWARD OF FUNDS.--

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

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

24 (1) how the provider's services meet
 25 ~~[department]~~ and adhere to the pre-kindergarten standards

1 established by the department;

2 (2) the number of eligible children the
3 provider ~~[can]~~ intends to serve;

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

6 ~~(4)]~~ (3) the revenue sources and non-state
7 funding available for the provider's delivery of services;

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

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

22 ~~[(7)]~~ (6) how the provider's services meet the
23 continuum of services to children;

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

.231177.4

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

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

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

9 (11) a description of the provider's intended
10 nutrition plan; and

11 ~~[{8}]~~ (12) other relevant information.

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

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

24 (1) the number of eligible children residing
25 in the community and the number of eligible children proposed

.231177.4

1 to be served;

2 (2) the adequacy and capacity of all pre-
3 kindergarten and early pre-kindergarten facilities in the
4 community;

5 [~~(3)~~] ~~the availability of language and literacy~~
6 ~~services in the community;~~

7 ~~(4)]~~ (3) the cultural, historic and linguistic
8 responsiveness to the community;

9 [~~(5)~~] ~~the availability of parent education~~
10 ~~services for parents of eligible children in the community;~~

11 ~~(6)]~~ (4) staff professional development plans;

12 [~~(7)]~~ (5) the capacity of local organizations
13 and persons interested in and involved in programs and services
14 for eligible children and their commitment to work together;

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

18 [~~(9)]~~ (7) other relevant criteria specified by
19 department rule.

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

25 SECTION 5. Section 32A-23C-1 NMSA 1978 (being Laws 2018,
.231177.4

Chapter 44, Section 1) is amended to read:

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

SECTION 6. Section 32A-23C-2 NMSA 1978 (being Laws 2018, Chapter 44, Section 2) is amended to read:

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

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

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

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

~~[E.]~~ D. "early childhood care assistance" means assistance administered by the department that provides child care through the child care assistance program for children under five years of age as the primary service delivery strategy through a contract with the department and that offers

.231177.4

1 services based on income criteria and need for care to parents
2 with children who have not yet entered kindergarten;

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

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

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

11 (2) is licensed by the department;

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

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

21 **SECTION 7.** Section 32A-23C-3 NMSA 1978 (being Laws 2018,
22 Chapter 44, Section 3) is amended to read:

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

25 A. The department shall adopt and promulgate rules

.231177.4

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

14 (1) specify the purpose and outcomes of
15 services that constitute the program;

16 (2) define high-quality service delivery and
17 continuous quality improvement;

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

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

24 (5) allow for the collection, aggregation and
25 analysis of common data;

.231177.4

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

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

B. A licensed early childhood care program shall:

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

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

(3) provide positive discipline and guidance;

(4) continually evaluate program performance;

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

(6) be culturally and linguistically appropriate;

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

.231177.4

1 (8) ensure that enrolled children are ~~[up-to-~~
2 ~~date with immunizations, in accordance with state law]~~
3 immunized in accordance with rules of the department, unless
4 the child is properly exempted pursuant to Subsections C and D
5 of this section;

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

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

12 (11) follow a curriculum that is aligned with
13 child development functional areas, including the New Mexico
14 early learning guidelines, in accordance with the tier levels
15 that the department has established by rule.

16 C. Any minor child through the child's parent or
17 legal guardian may file with the health authority charged with
18 the duty of enforcing the Immunization Act:

19 (1) a certificate of a licensed physician, a
20 physician assistant or a certified nurse practitioner stating
21 that the physical condition of the child is such that
22 immunization would seriously endanger the life or health of the
23 child;

24 (2) an affidavit or written affirmation from
25 an officer of a recognized religious denomination that the

child's parent or legal guardian is a bona fide member of a
denomination whose religious teaching requires reliance upon
prayer or spiritual means alone for healing; or

(3) an affidavit or written affirmation from
the child's parent or legal guardian that the parent's or legal
guardian's religious beliefs, held either individually or
jointly with others, do not permit the administration of a
vaccine or other immunizing agent.

D. Upon filing and approval of a certificate,
affidavit or affirmation pursuant to Subsection C of this
section and in accordance with rules promulgated by the health
authority charged with the duty of enforcing the Immunization
Act, the child is exempt from the legal requirement of
immunization for a period not to exceed one year on the basis
of any one certificate, affidavit or affirmation."

SECTION 8. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2025.