

**State of New Mexico**  
**LEGISLATIVE EDUCATION STUDY COMMITTEE**

**REPRESENTATIVES**

Rick Miera, Vice Chair  
Joni Marie Gutierrez  
Dianne Miller Hamilton  
Mimi Stewart  
Thomas E. Swisstack  
W. C. "Dub" Williams

State Capitol North, 325 Don Gaspar, Suite 200  
Santa Fe, New Mexico 87501  
PH: (505) 986-4591 FAX: (505) 986-4338  
<http://legis.state.nm.us/lcs/lesc/lescdefault.asp>



**SENATORS**

Cynthia Nava, Chair  
Gay G. Kernan  
Mary Kay Papen  
William E. Sharer

**ADVISORY**

Ray Begaye  
William "Ed" Boykin  
Kandy Cordova  
Roberto J. Gonzales  
Jimmie C. Hall  
John A. Heaton  
Harriet I. Ruiz  
Sheryl M. Williams Stapleton  
Richard D. Vigil  
Teresa A. Zanetti

**ADVISORY**

Vernon D. Asbill  
Mark Boitano  
Carlos R. Cisneros  
Dianna J. Duran  
Mary Jane M. Garcia  
John Pinto  
Leonard Tsosie

D. Pauline Rindone, Ph.D., Director  
Frances R. Maestas, Deputy Director

October 17, 2006

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Kathleen Forrer

**RE: STAFF BRIEF: IMPLEMENTATION OF NEW MEXICO PREK IN SCHOOL  
YEAR 2006-2007/COST ESTIMATE FOR FY 08**

---

The 2006 Interim Workplan of the Legislative Education Study Committee (LESC) includes an update on the status of pre-kindergarten programs approved by the Public Education Department (PED) and the Children, Youth and Families Department (CYFD) for school year 2006-2007, as well as initial estimates of the cost required to maintain and/or expand New Mexico PreK in FY 08.

**Issues:**

- Endorsed by the LESC and enacted in 2005, the *Pre-Kindergarten Act* (see Attachment) establishes a voluntary program of pre-kindergarten services for four-year-old children offered by public schools, tribes or pueblos, Head Start centers, and licensed private providers. Known as New Mexico PreK, the program is to be administered jointly by CYFD and PED.
- Pre-kindergarten services provided through New Mexico PreK must include a curriculum that addresses the total developmental needs of the child – physical, cognitive, social, and emotional – and that includes aspects of health care, nutrition, safety, the needs of the family, and multicultural and linguistic sensitivity, in coordination with other resources for families

- The *Pre-Kindergarten Act* creates two non-reverting funds: the Public Pre-kindergarten Fund, administered by PED, and the Children, Youth and Families Pre-kindergarten Fund, administered by CYFD. Both funds consist of appropriations to the fund, income from fund investments, gifts, grants, and donations. Up to 10 percent of the money in each fund may be used for administrative expenses by the respective department.
- In all, the Legislature has appropriated \$14.4 million in General Fund revenue to implement New Mexico PreK in FY 06 and FY 07:
  - The 2005 Legislature appropriated a total of \$4.95 million: \$4.0 million, which was equally divided between CYFD and PED, for a pre-kindergarten pilot program; and \$950,000 to the Department of Finance and Administration (DFA) for pre-kindergarten services.
  - The 2006 Legislature appropriated a total of \$9.5 million: \$4.0 million each to CYFD and PED (\$3,995,800 after “sanding”) for the pre-kindergarten program and an additional \$1.5 million to PED for “one-time pre-kindergarten start-up costs for developmentally appropriate equipment and classroom safety improvements.”
- In addition to the \$9.5 million in General Fund revenue, the 2006 Legislature also appropriated \$4.0 million in severance tax bond receipts to PED “to plan, design, construct, equip and furnish pre-kindergarten classrooms statewide.” According to PED, the bonds have been sold, and the receipts will be divided evenly between PED and CYFD. PED has sent an application to every school district with an approved New Mexico PreK program; the deadline for submission is November 17, 2006.
- At the June 2006 meeting of the LESC, PED and CYFD provided the following information regarding the FY 07 New Mexico PreK budget:
  - For FY 07, pre-kindergarten service providers will be reimbursed at a per-child rate of \$2,479.93 per 540 hours of service plus an additional \$170 per child for instructional materials for a total of \$2,649.93. This rate will allow CYFD and PED to fund a combined total of approximately 2,195 children, an increase of 657 children over the FY 06 total of 1,538.
  - The \$1.5 million appropriation for start-up costs will be equally divided between CYFD and PED. Both current pre-kindergarten providers and those seeking program approval for FY 07 were eligible to apply for one-time start-up grants of up to \$15,000 per classroom. CYFD and PED received a total of \$1.3 million in requests.
  - Funding from the approximately \$4.0 million appropriated to each department for pre-kindergarten operating costs was earmarked by both CYFD and PED “to pay for transporting children to and from the PreK program that otherwise would not be able to access PreK services.” Both current pre-kindergarten providers and those seeking program approval for FY 07 were eligible to apply. CYFD and PED received a total of \$782,909 in requests.

- The *Pre-Kindergarten Act* requires CYFD and PED to “monitor pre-kindergarten contracts to ensure the effectiveness of child-centered, developmentally appropriate practices and outcomes” and to “provide an annual report to the governor and the legislature on the progress of the state’s voluntary pre-kindergarten program.”
- The *General Appropriation Act of 2006* contains the following language, which was vetoed by the Governor: “The public education department and the children, youth and families department shall report jointly and quarterly to the legislative education study committee and the legislative finance committee regarding the implementation of the prekindergarten program. The four quarterly reports will address student progress, infrastructure expenditures, teacher and provider qualifications and adequacy of instructional materials.”
- According to CYFD and PED, New Mexico PreK is subject to three levels of pre-kindergarten evaluation: a teacher-administered assessment that “looks at child growth and development in all major domains; monitoring by CYFD and PED staff to ensure that programs are meeting the goals specified in their proposals; and a statewide external evaluation conducted by a contractor to determine if the pre-kindergarten program results in improved student readiness, now defined as “educational” rather than “school” readiness.
- In testimony to the LESC at its June 2006 meeting, the Secretary Designee of CYFD and the Secretary of Public Education reported that, working together, the University of New Mexico Center for Family and Community Partnerships and New Mexico SPARK (Supporting Partnerships to Assure Ready Kids) have developed a statewide educational readiness framework. The framework, which is based on a literature review and on focus group discussions held throughout the state, includes a definition of readiness that places greater responsibility for a child’s readiness on the responsible adults and institutions that surround the child: “A decade of work by advisory panels has brought the research and policy community to consensus on a framework for nurturing, teaching, and promoting children’s readiness that incorporates families, schools, and communities as key elements. And a newly emerging element is conveyed by the concept of ‘ready states’, i.e., state systems and infrastructure necessary to support families, schools, and communities in their school readiness roles.”
- In both the PED and CYFD Request for Proposals (RFPs) for eligible pre-kindergarten providers for school year 2005-2006, responders were required to specify “procedures and a timeline for administering the required assessment *Get It Got It Go*.” However, a task force appointed in August 2005 by the Lieutenant Governor to review best practices concluded “that no single assessment would be sufficient to measure success at the level of the child, the program, and the State as a whole.” As a consequence, the task force recommended that the use of *Get It Got It Go* not be required of providers for the 2006-2007 school year but that “criterion-referenced portfolio documentation ... be used for every child in every New Mexico PreK program.”
- The RFPs for New Mexico PreK providers issued for school year 2006-2007 require responders to: (1) describe procedures and a timeline for administering the required assessment/curriculum planning process provided by PED and CYFD; (2) describe the process for measuring achievement of program goals at the end of the contract period; and (3) provide an assurance in the narrative of the proposal that they will participate with the external program evaluator selected to evaluate NM PreK programs.

- In fall 2005, the state selected the National Institute for Early Education Research (NIEER) at Rutgers University to conduct an external, statewide evaluation of New Mexico's PreK program. In testimony to the LESC, the Secretary of Public Education stated that, in conducting the evaluation, NIEER is using a package of norm-referenced assessments, supplemented by sampling techniques that take into account the diversity of New Mexico's population. The results, she said, will provide baseline data from which the success of the New Mexico PreK initiative can be measured. A presentation on the evaluation being conducted by NIEER is scheduled for the December 2006 meeting of the LESC.

**Background:**

- As it had during every interim since 1998, the LESC heard testimony during the 2004 interim about early childhood education (ECE). In one respect, the testimony during the 2004 interim was the result of a hearing during the 2003 interim. At that time, the LESC heard testimony from the Child Development Board and CYFD in response to two joint memorials that the LESC had endorsed during the 2003 session calling for better alignment of early care education programs in New Mexico. One of the outcomes of this testimony was the realization that no single entity had responsibility for or oversight of the various state and federal ECE services offered in New Mexico.
- Consequently, the LESC considered legislation that would have given such authority to the Child Development Board, but the committee decided instead to accept a written proposal from CYFD that the Child Development Board "provide the LESC with a comprehensive New Mexico State Early Learning Plan" to implement universal access to pre-kindergarten programs. At the first of two hearings during the 2004 interim, the Chair of the Child Development Board presented a draft of the Early Learning Plan. In addition to receiving the draft Early Learning Plan, the committee heard testimony from the Lieutenant Governor, the Secretary of Public Education, and the Secretary of CYFD about New Mexico PreK, an initiative of the executive branch to implement a voluntary preschool program for four-year-old children in New Mexico beginning with school year 2005-2006.
- In their subsequent testimony, the Secretary of Public Education and the Secretary of CYFD explained several refinements that they had made since the first hearing during the interim in an attempt to address some of the concerns that had been raised. Among other points, they indicated their plans for continued emphasis upon the voluntary nature of the program and the inclusion of private providers; a more concerted effort toward workforce development; some possibilities for leasing facilities; more clearly defined membership and responsibilities of the early childhood community councils, as well as some options for their geographic boundaries; a framework for state-level governance and oversight; and a clearer distinction between the roles and responsibilities of PED and CYFD.
- Passed by the 2005 Legislature, the *Pre-Kindergarten Act* is the result of the executive initiative, the LESC's previous work on early childhood education, the two hearings held by the LESC during the 2004 interim, and further refinement of the proposed legislation through the collaborative efforts of the Legislature, the Executive, and the staffs of the LESC, PED, CYFD, and the Office of the Governor.

- Prior to developing a cost estimate for FY 07, the Office of the Governor conducted a telephone survey of other states with existing pre-kindergarten programs to determine (1) whether or not the states funded transportation, facilities, startup costs, and instructional materials and (2) whether or not the implementation of a pre-kindergarten program has resulted in a cost savings with regard to child-care assistance. According to data provided by the Office of the Governor, 14 states<sup>1</sup> responded. Executive staff noted the following pattern of responses:
  - **Transportation:** Half of the states supply the school districts with a portion of the funds needed to transport the children in pre-K programs (e.g. \$100/child in Arkansas). In several states, school districts choose whether or not to provide transportation, and in two states funding is only provided for low income children/districts. In some states (e.g. Florida), no transportation is provided at all. Several states that do not help to provide transportation (e.g. New York) commented that this was a mistake.
  - **Facilities:** Approximately half the states provide funds for facility construction in general. Two states (Arkansas and New Jersey) only provide funds for construction in low income districts. Of the states that do not provide funds for facility construction, two states (Illinois and North Carolina) stated that they could change their policy in the [near] future.
  - **Startup Cost:** Most states (notable exceptions of Hawaii and New York) provide startup costs for new programs, ranging from \$5,000/new program in Arkansas to \$10,000 per new classroom (20 children) in Illinois (which might be doubled soon).
  - **Instructional Materials:** Half the states have separate funds to provide pre-K instructional materials and the other half do not (the funds for their instructional materials are included in their overall budget).
  - **Savings:** In most states, the pre-K program did not result in savings in child-care assistance. However, several of the states said that they still expected savings in the future.

### Presenters:

Dr. Veronica C. García, Secretary of Public Education, and Ms. Dorian Dodson, Secretary Designee, CYFD, will provide an update on the status of pre-kindergarten programs approved for school year 2006-2007, as well as initial estimates of the cost required to maintain and/or expand New Mexico PreK in FY 08. Ms. Rebecca Dow, President of the New Mexico Child Care and Education Association, will discuss the implementation of New Mexico PreK programs by private providers.

---

<sup>1</sup> Arkansas, California, Florida, Georgia, Hawaii, Illinois, Kansas, Massachusetts, New Jersey, New York, North Carolina, Ohio, Texas, and Wisconsin.

**Questions the committee may wish to consider:**

1. How have CYFD and PED monitored “pre-kindergarten contracts to ensure the effectiveness of child-centered, developmentally appropriate practices and outcomes”? What have both departments learned from the process?
2. What types of data are approved New Mexico PreK programs required to provide CYFD and PED? How will the data be validated? What use will be made of the data?
3. Of all of the four-year-old children in New Mexico, how many are not currently enrolled in some type of pre-kindergarten program?
4. In terms of funding and staffing, what problems do public schools and private providers encounter in establishing New Mexico PreK programs?
5. How should transportation costs for New Mexico PreK participants be funded? What statutory changes may be necessary to fund transportation for pre-kindergarten students?
6. Are the cost projections being presented to the committee subject to change prior to the 2007 legislative session? If so, when will the final recommendations be available?
7. What is the status of the \$4.0 million in severance tax bond receipts appropriated by the 2006 Legislature “to plan, design, construct, equip and furnish pre-kindergarten classrooms statewide?” How will the recipients be determined?
8. The 2006 Legislature appropriated \$4.0 million in severance tax bond receipts to PED “to plan, design, construct, equip and furnish pre-kindergarten classrooms statewide.” According to PED, the receipts will be divided evenly between PED and CYFD. How might the anti-donation clause (Article IX, Section 14) of the New Mexico Constitution affect the ability of CYFD to award these funds to private providers?

## ARTICLE 23 Pre-Kindergarten Act

Sec. 32A-23-1. Short title.	Sec. 32A-23-5. Pre-kindergarten; eligibility.
32A-23-2. Findings and purpose.	32A-23-6. Requests for proposals; contracts for services.
32A-23-3. Definitions.	32A-23-7. Program funding.
32A-23-4. Voluntary pre-kindergarten; interagency cooperation; contracts; contract monitoring; research.	32A-23-8. Funds created; administration.

### 32A-23-1. Short title.

This act may be cited as the “Pre-Kindergarten Act”.

**History:** Laws 2005, ch. 170, § 1.

**Effective dates.** — Laws 2005, ch. 170 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

### 32A-23-2. Findings and purpose.

The legislature finds that:

- A. special needs are present among the state's population of four-year-old children and those needs warrant the provision of pre-kindergarten programs;
- B. participation in quality pre-kindergarten has a positive effect on children's intellectual, emotional, social and physical development; and
- C. pre-kindergarten will advance governmental interests and childhood development and readiness.

**History:** Laws 2005, ch. 170, § 2.

**Effective dates.** — Laws 2005, ch. 170 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

### 32A-23-3. Definitions.

As used in the Pre-Kindergarten Act [32A-23-1 NMSA 1978]:

- 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. “departments” means the children, youth and families department and the public education department acting jointly;
- C. “early childhood development specialist” means the adult responsible for working directly with four-year-old children in implementing pre-kindergarten services;
- D. “eligible provider” means a person licensed by the children, youth and families department that provides early childhood developmental readiness services or preschool special education, or is a public school, tribal program or head start program;

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

F. “tribe” means an Indian nation, tribe or pueblo located in New Mexico.

**History:** Laws 2005, ch. 170, § 3.

IV, § 23, is effective June 17, 2005, 90 days after

**Effective dates.** — Laws 2005, ch. 170 contains no effective date provision, but, pursuant to N.M. Const., art.

adjournment of the legislature.

### **32A-23-4. Voluntary pre-kindergarten; interagency cooperation; contracts; contract monitoring; research.**

A. The children, youth and families department and the public education department shall cooperate in the development and implementation of a voluntary program for the provision of pre-kindergarten services throughout the state. The pre-kindergarten program shall address the total developmental needs of preschool children, including physical, cognitive, social and emotional needs, and shall include health care, nutrition, safety and multicultural sensitivity.

B. The departments shall collaborate on promulgating rules on pre-kindergarten services, including state policies and standards and shall review the process for contract awards and for the expenditure and use of contract funds.

C. The departments shall monitor pre-kindergarten contracts to ensure the effectiveness of child-centered, developmentally appropriate practices and outcomes. The departments shall assign staff to work on the development and implementation of the program and on the monitoring of contract awards. The early childhood training and technical assistance programs of the children, youth and families department and assigned staff from the public education department staff shall provide technical assistance to eligible providers.

D. The departments shall provide an annual report to the governor and the legislature on the progress of the state's voluntary pre-kindergarten program.

**History:** Laws 2005, ch. 170, § 4.

IV, § 23, is effective June 17, 2005, 90 days after

**Effective dates.** — Laws 2005, ch. 170 contains no effective date provision, but, pursuant to N.M. Const., art.

adjournment of the legislature.

### **32A-23-5. Pre-kindergarten; eligibility.**

Pre-kindergarten services may be provided by public schools or eligible providers on a per-child reimbursement rate in communities with the highest percentage of public elementary schools that are designated as Title 1 schools and that serve the highest percentage of public elementary students who are not meeting the proficiency component required for calculating adequate yearly progress.

**History:** Laws 2005, ch. 170, § 5.

**Cross reference.** — For Title 1 schools, see 20 U.S.C.

**Effective dates.** — Laws 2005, ch. 170 contains no effective date provision, but, pursuant to N.M. Const., art.

Sections 6301 *et seq.*

IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

### **32A-23-6. Requests for proposals; contracts for services.**

A. Each department shall publish a request for proposals for pre-kindergarten services.

B. Eligible providers shall submit proposals for pre-kindergarten services to each department. An eligible provider proposal shall include a description of the services that will be provided, including:

- (1) how those services meet children, youth and families department standards;
- (2) the number of four-year-old children the eligible provider can serve;
- (3) site and floor plans and a description of the facilities;
- (4) revenue sources and amounts other than state funding available for the pre-kindergarten program;
- (5) a description of the qualifications and experience of the early childhood development staff for each site;
- (6) the plan for communicating with and involving parents in the pre-kindergarten program;
- (7) how those services meet the continuum of services to children; and
- (8) other relevant information requested by the departments.

C. The public education department shall accept and evaluate proposals from school districts for funding for pre-kindergarten. The children, youth and families department shall accept and evaluate proposals from other eligible providers.

D. For funding purposes, proposals shall be evaluated on the percentage and number of public elementary schools in the community that are not meeting the proficiency component required for calculating adequate yearly progress and that are serving children, at least sixty-six percent of whom live within the attendance zone of a Title 1 elementary school. Additional funding criteria include:

- (1) the number of four-year-olds residing in the community and the number of four-year-olds proposed to be served;
  - (2) the adequacy and capacity of pre-kindergarten facilities in the community;
  - (3) language and literacy services in the community;
  - (4) the cultural, historic and linguistic responsiveness to the community;
  - (5) parent education services available for parents of four-year-olds in the community;
  - (6) the qualifications of eligible providers in the community;
  - (7) staff professional development plans;
  - (8) the capacity of local organizations and persons interested in and involved in programs and services for four-year-olds and their commitment to work together;
  - (9) the extent of local support for pre-kindergarten services in the community;
- and
- (10) other relevant criteria specified by joint rule of the departments.

E. A contract with an eligible provider shall specify and ensure that funds shall not be used for any religious, sectarian or denominational purposes, instruction or material.

**History:** Laws 2005, ch. 170, § 6.

**Effective dates.** — Laws 2005, ch. 170 contains no effective date provision, but, pursuant to N.M. Const., art.

IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

### **32A-23-7. Program funding.**

The children, youth and families department shall reimburse eligible providers that are not offered in a public school. The public education department shall reimburse eligible providers that are public school programs.

**History:** Laws 2005, ch. 170, § 7.

**Effective dates.** — Laws 2005, ch. 170 contains no effective date provision, but, pursuant to N.M. Const., art.

IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

### **32A-23-8. Funds created; administration.**

A. The “public pre-kindergarten fund” is created as a nonreverting fund in the state treasury. The fund shall consist of appropriations, income from investment of the fund, gifts, grants and donations. The fund shall be administered by the public education department, and money in the fund is appropriated to the department to carry out the provisions of the Pre-Kindergarten Act [32A-23-1 NMSA 1978]. Disbursements from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the secretary of public education or the secretary's authorized representative. The department may use up to ten percent of the money in the fund each year for administrative expenses.

B. The “children, youth and families pre-kindergarten fund” is created as a nonreverting fund in the state treasury. The fund shall consist of appropriations, income from investment of the fund, gifts, grants and donations. The fund shall be administered by the children, youth and families department, and money in the fund is appropriated to the department to carry out the provisions of the Pre-Kindergarten Act. Disbursements from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the secretary of children, youth and families or the secretary's authorized representative. The department may use up to ten percent of the money in the fund each year for administrative expenses.

**History:** Laws 2005, ch. 170, § 8.

**Effective dates.** — Laws 2005, ch. 170 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

**Temporary provision.** — Laws 2005, ch. 170, § 9, adds a temporary provision which provides that any money

appropriated for pre-kindergarten programs in fiscal years 2005 through 2007 shall be divided equally between the public education department and the children, youth and families department.