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HOUSE BILL 337

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Rick Miera

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO CHILDREN; ENACTING THE PRE-KINDERGARTEN ACT;
PROVIDING FOR VOLUNTARY PARTICIPATION IN PRE-KINDERGARTEN
PROGRAMS; CREATING COMMUNITY COUNCILS; PROVIDING POWERS AND
DUTIES; PROVIDING FOR GRANTS; EXPANDING THE MEMBERSHIP AND
DUTIES OF THE CHILD DEVELOPMENT BOARD; CREATING A FUND; MAKING
APPROPRIATIONS.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 8 of this act may be cited as the "Pre-Kindergarten
Act".

Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--The
legislature finds that research provides evidence that
participation in a quality preschool program has a positive
effect on children's intellectual, emotional, social and

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1 physical development. The purpose of the Pre-Kindergarten Act
2 is to support pre-kindergarten programs in communities
3 throughout the state that will improve the development of
4 children so they are ready to learn when they enter the
5 educational system.

6 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
7 Pre-Kindergarten Act:

8 A. "community" means an area defined by school
9 district boundaries, tribal boundaries or joint boundaries of a
10 school district and tribe or any combination of school
11 districts and tribes;

12 B. "community council" means an early childhood
13 community council;

14 C. "departments" means the children, youth and
15 families department and the public education department acting
16 jointly;

17 D. "early childhood development specialist" means
18 the adult responsible for working directly with four-year-old
19 children in implementing the pre-kindergarten program;

20 E. "eligible provider" means a program licensed by
21 the children, youth and families department that provides early
22 childhood development services or preschool special education,
23 or is a public school or head start program;

24 F. "pre-kindergarten" means a program for children
25 who have attained their fourth birthday prior to September 1 of

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1 the school year; and

2 G. "tribe" means an Indian nation, tribe or pueblo
3 located in New Mexico.

4 Section 4. [NEW MATERIAL] VOLUNTARY PRE-KINDERGARTEN--
5 INTERAGENCY COOPERATION--GRANTS--GRANT MONITORING--RESEARCH.--

6 A. The children, youth and families department and
7 the public education department shall cooperate in the
8 development and implementation of a voluntary program for the
9 provision of pre-kindergarten services throughout the state.
10 The curriculum for each program shall address the total
11 developmental needs of the child, including physical,
12 cognitive, social and emotional needs, and shall include
13 aspects of health care, nutrition, safety, the needs of the
14 family and multicultural and linguistic sensitivity, in
15 coordination with other resources for families. The
16 departments shall adopt and promulgate joint rules on pre-
17 kindergarten services, including state policies and standards
18 and the review process for grant applications. The rules shall
19 include funding for a half-day per-child reimbursement rate and
20 additional funding based on the licensure level of the lead
21 early childhood development specialist in each pre-kindergarten
22 program. For the first two years of implementation, public
23 schools and private early childhood programs that are licensed
24 as of July 1, 2005 will be given first priority for funding in
25 communities that have the highest percentage of public

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1 elementary schools that are not meeting adequate yearly
2 progress.

3 B. The departments shall assign staff to work
4 jointly on the development and implementation of the program.
5 The early childhood training and technical assistance programs
6 of the children, youth and families department and assigned
7 staff from the public education department staff shall provide
8 technical assistance to the community councils.

9 C. The child development board shall assist the
10 departments in the development and implementation of the
11 program.

12 D. The departments shall monitor, assess and
13 evaluate the voluntary pre-kindergarten program, including how
14 well community plans and eligible provider proposals are being
15 carried out. The monitoring, assessment and evaluation program
16 shall include a scientific research component. The departments
17 shall contract with a third party to develop an evaluation
18 component to measure the efficacy of pre-kindergarten services,
19 including the effect of the services on the development of
20 children and whether such services are determinant of future
21 success in school.

22 E. The departments shall provide an annual report
23 to the governor and the three permanent committees of the
24 legislature on the progress of the state's voluntary pre-
25 kindergarten program.

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1 Section 5. [NEW MATERIAL] EARLY CHILDHOOD COMMUNITY
2 COUNCILS--COMMUNITY PLANS--ELIGIBLE PROVIDER PROPOSAL.--

3 A. If a school district or tribe wants to
4 participate in the state's voluntary pre-kindergarten program,
5 it shall convene an "early childhood community council" to
6 assist the community in preparing for and providing voluntary
7 pre-kindergarten services. A school district and tribe may
8 collaborate and jointly convene a council.

9 B. Members of a council shall have an interest in
10 early childhood development, and shall include:

- 11 (1) parents;
- 12 (2) early childhood development specialists
13 and providers;
- 14 (3) representatives of:
 - 15 (a) public and private schools;
 - 16 (b) the business community;
 - 17 (c) the faith community;
 - 18 (d) higher education;
 - 19 (e) tribes, if applicable;
 - 20 (f) head start programs;
 - 21 (g) training centers;
 - 22 (h) civic groups;
 - 23 (i) human services and health agencies;
 - 24 and
 - 25 (j) public safety organizations; and

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1 (4) other members as determined by the
2 convening authority.

3 C. Membership of a council shall be approved by the
4 departments.

5 D. In communities in which there may not be
6 representatives of all of the core categories of participation
7 specified in Subsection B of this section, at least fifty-one
8 percent of the community council membership shall be those who
9 are most affected by the actions of the community council,
10 including parents, early childhood development specialists and
11 early childhood development providers.

12 E. The members shall elect a chairperson and vice
13 chairperson and other officers as they deem necessary. Members
14 shall serve without compensation.

15 F. The community council shall:

16 (1) conduct an inventory of all early
17 childhood resources within the boundaries of the school
18 district or the boundaries of the tribe in New Mexico,
19 including all revenue sources and the availability of
20 facilities that meet occupancy standards as required by
21 applicable New Mexico construction codes;

22 (2) perform an early childhood needs
23 assessment for the area, including a market analysis, that
24 shows the need for expanded pre-kindergarten services;

25 (3) consider how the pre-kindergarten program

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1 will supplement available services and fit into a continuum of
2 services to children;

3 (4) develop a pre-kindergarten plan for the
4 community that includes proposals from each of the eligible
5 providers who want to participate in the pre-kindergarten
6 program; and

7 (5) adopt bylaws to be approved by the
8 departments.

9 G. The training and technical assistance programs
10 of the children, youth and families department shall assist
11 community councils to:

12 (1) establish priorities using existing
13 programs first and, if necessary, integrate new early childhood
14 development programs into the councils' respective communities;

15 (2) maximize financial and other resources;

16 (3) minimize duplication;

17 (4) improve the quality of pre-kindergarten
18 programs offered in their communities; and

19 (5) provide children with equitable access to
20 a continuum of quality early childhood services in their
21 communities.

22 H. Eligible providers shall submit their proposals
23 for pre-kindergarten services to the community council, which
24 shall include the proposals with the community plan without
25 changes. Eligible provider proposals shall include a

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1 description of the program that will be provided, including:

2 (1) how it meets children, youth and families
3 department standards;

4 (2) the number of four-year-old children the
5 eligible provider can serve;

6 (3) site and floor plans and a description of
7 the facilities;

8 (4) revenue sources other than state funding
9 available for the pre-kindergarten program;

10 (5) description of the qualifications and
11 experience of the early childhood development staff for each
12 site;

13 (6) the plan for communicating with and
14 involving parents in the pre-kindergarten programs;

15 (7) how it meets the continuum of services to
16 children; and

17 (8) other relevant information requested by
18 the departments or the community council.

19 Section 6. [NEW MATERIAL] GRANT APPLICATION PROCESS.--

20 A. A community council may apply for a grant for
21 pre-kindergarten services by submitting its plan, including its
22 eligible provider proposals, to the children, youth and
23 families department as provided by joint rule of the
24 departments. The departments shall evaluate the community
25 plans and how well the eligible provider proposals meet the

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1 community plan, and may fund all or part of a plan or proposal.

2 B. For funding purposes, grant applications shall
3 be evaluated on the percentage and number of public elementary
4 schools in the community that are not meeting adequate yearly
5 progress. Additional funding criteria include:

6 (1) the number of four-year-olds residing in
7 the community and the number of four-year-olds proposed to be
8 served;

9 (2) the adequacy and capacity of pre-
10 kindergarten facilities in the community;

11 (3) language and literacy services in the
12 community;

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

15 (5) parent education services available for
16 parents of four-year-olds in the community;

17 (6) the qualifications of eligible providers
18 in the community;

19 (7) staff professional development plans;

20 (8) the capacity of local organizations and
21 persons interested in and involved in programs and services for
22 four-year-olds and their commitment to work together;

23 (9) the extent of local support for pre-
24 kindergarten services in the community;

25 (10) assurance that money from the pre-

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1 kindergarten fund will not be used for sectarian or
2 denominational instruction or materials; and

3 (11) other relevant criteria specified by
4 joint rule of the departments.

5 Section 7. [NEW MATERIAL] PROGRAM FUNDING.--Once a grant
6 application has been approved in whole or in part by the
7 departments, they shall determine a per-student reimbursement
8 rate. The children, youth and families department shall
9 reimburse eligible providers that are not public school
10 programs. The public education department shall reimburse
11 public school early childhood programs.

12 Section 8. [NEW MATERIAL] FUND CREATED--ADMINISTRATION--
13 EXPENDITURES.--

14 A. The "pre-kindergarten fund" is created in the
15 state treasury. The fund shall consist of appropriations,
16 income from investment of the fund, gifts, grants and
17 donations. Money in the fund shall not revert to any other
18 fund at the end of a fiscal year.

19 B. The fund shall be administered by the
20 departments, and money in the fund is appropriated to the
21 departments based on budgets submitted to the state budget
22 division of the department of finance and administration to pay
23 eligible providers and other costs of the pre-kindergarten
24 program. Money in the fund budgeted to pay eligible providers
25 that are not public schools shall be expended by warrant signed

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1 by the secretary of finance and administration on vouchers
2 signed by the secretary of children, youth and families or the
3 secretary's authorized representative. Money in the fund
4 budgeted to pay eligible providers that are public schools
5 shall be expended by warrant signed by the secretary of finance
6 and administration on vouchers signed by the secretary of
7 public education or the secretary's authorized representative.

8 Section 9. Section 32A-16-3 NMSA 1978 (being Laws 1989,
9 Chapter 290, Section 3) is amended to read:

10 "32A-16-3. CHILD DEVELOPMENT BOARD CREATED--
11 COMPOSITION.--

12 A. [~~There is created~~] The "child development board"
13 is created. The board shall consist of [~~seven~~] nine members
14 appointed by the governor, no more than [~~four~~] five of [~~which~~]
15 whom shall be affiliated with the same political party.

16 Members shall have knowledge and experience in early childhood
17 development and education.

18 B. The terms of the members of the board shall be
19 for four years; provided, as determined by lot at the first
20 meeting of the board, two members shall serve an initial term
21 of two years; three members an initial term of three years and
22 two members an initial term of four years. Thereafter, all
23 members shall be appointed for terms of [~~five~~] four years.

24 C. Members of the board shall receive no
25 compensation other than per diem and mileage as provided in the

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1 Per Diem and Mileage Act.

2 D. Vacancies on the board shall be filled by the
3 [~~appointing authority~~] governor for the remainder of the
4 unexpired term."

5 Section 10. Section 32A-16-4 NMSA 1978 (being Laws 1989,
6 Chapter 290, Section 4, as amended) is amended to read:

7 "32A-16-4. POWERS AND DUTIES OF THE BOARD.--The child
8 development board shall:

9 A. recommend to the secretary of children, youth
10 and families the hiring of a director of child development;

11 B. consider and adopt licensure requirements,
12 policies and procedures for [~~individuals~~] persons working in
13 licensed or registered health facilities with children from
14 birth to age five; provided that such licensure requirements
15 shall not apply to [~~individuals~~] persons working in group homes
16 pursuant to Section 9-8-13 NMSA 1978;

17 C. consider and make recommendations to the [~~state~~
18 ~~board of~~] public education department regarding additional
19 licensure requirements for public school personnel working with
20 public school children up to age eight;

21 D. work with other state agencies to promote a
22 uniform and comprehensive method of licensing child care
23 personnel;

24 E. develop and adopt policies and procedures for
25 the office of child development;

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1 F. develop levels of licensure for nonpublic school
2 personnel depending upon the age of children served, the
3 training facility used and the program in which the
4 [~~individual~~] person is employed;

5 G. work with the department of health to develop
6 levels of licensure for nonpublic school personnel serving
7 children who are developmentally delayed or at risk for
8 developmental delay, birth through two years;

9 H. develop and adopt program criteria for state-
10 funded preschool programs serving children from birth to age
11 five; provided that criteria shall not apply to programs
12 serving children who are developmentally delayed or at risk for
13 developmental delay, birth through two years, and programs
14 serving children who are developmentally disabled, three
15 through five years; [~~and~~]

16 I. work with other state agencies to monitor the
17 implementation of state-funded preschool program criteria; and

18 J. assist the department and the public education
19 department in the development and implementation of the
20 voluntary pre-kindergarten program pursuant to the Pre-
21 Kindergarten Act; provided, however, that the board shall not
22 make recommendations on grant applications or funding."

23 Section 11. APPROPRIATIONS.--

24 A. Nine million dollars (\$9,000,000) is
25 appropriated from the general fund to the pre-kindergarten fund
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1 for expenditure in fiscal year 2006 and subsequent fiscal years
2 for the following purposes:

3 (1) seven million dollars (\$7,000,000) to pay
4 for voluntary pre-kindergarten services;

5 (2) two hundred thirty thousand dollars
6 (\$230,000) to monitor, assess and evaluate pre-kindergarten
7 programs that have received grants from the state;

8 (3) one million five hundred thousand dollars
9 (\$1,500,000) for professional development for staffs of
10 eligible providers and for training and support of early
11 childhood community councils, including costs for an instrument
12 to assess and provide credit for prior learning and experience
13 for licensure; and

14 (4) two hundred seventy thousand dollars
15 (\$270,000) to administer the state program and provide training
16 and technical assistance.

17 B. Any unexpended or unencumbered balance remaining
18 at the end of a fiscal year shall not revert to the general
19 fund.

20 Section 12. EFFECTIVE DATE.--The effective date of the
21 provision of this act is July 1, 2005.