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HOUSE BILL 319

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO EDUCATION; ENACTING THE EARLY CHILDHOOD EDUCATION INVESTMENT AND ACCOUNTABILITY ACT; CREATING THE EARLY CHILDHOOD EDUCATION INVESTMENT AND ACCOUNTABILITY FUND INTO WHICH DISTRIBUTIONS FROM THE PERMANENT SCHOOL FUND WILL BE DEPOSITED CONTINGENT UPON THE PASSAGE OF A CONSTITUTIONAL AMENDMENT; DEFINING "COMMON SCHOOLS" TO INCLUDE VOLUNTARY EARLY CHILDHOOD EDUCATION SERVICES AND PROGRAMS PROVIDED BY THE PUBLIC EDUCATION DEPARTMENT AND ELIGIBLE PROVIDERS; REQUIRING PUBLIC OUTREACH AND NOTICE; REQUIRING RULES, ACCOUNTABILITY AND REPORTING.

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

SECTION 1. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the

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1 "Early Childhood Education Investment and Accountability Act"."

2 SECTION 2. A new section of the Public School Code is  
3 enacted to read:

4 "[NEW MATERIAL] DEFINITIONS.--As used in the Early  
5 Childhood Education Investment and Accountability Act:

6 A. "common schools" means the provision of  
7 education by the department for children, from birth until the  
8 age of kindergarten eligibility through voluntary early  
9 childhood education services and programs and from the age of  
10 kindergarten eligibility through the age of completion of  
11 twelfth grade through compulsory public school programs;

12 B. "early childhood education services and  
13 programs" includes:

- 14 (1) the family, infant, toddler program;
- 15 (2) early childhood child care assistance;
- 16 (3) parent and family involvement services and  
17 home visiting; and
- 18 (4) pre-kindergarten; and

19 C. "eligible provider" means a school or  
20 organization qualified and prepared to provide early childhood  
21 education services and programs under a contract with the  
22 department."

23 SECTION 3. A new section of the Public School Code is  
24 enacted to read:

25 "[NEW MATERIAL] EARLY CHILDHOOD EDUCATION INVESTMENT AND  
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1 ACCOUNTABILITY FUND CREATION--PURPOSE.--

2 A. The "early childhood education investment and  
3 accountability fund" is created in the state treasury. The  
4 fund shall consist of appropriations from distributions for  
5 early childhood education services and programs from the  
6 permanent school fund pursuant to Article 12, Section 7 of the  
7 constitution of New Mexico, other appropriations, income from  
8 investment of the fund, gifts, grants, donations and bequests.  
9 The fund shall be administered by the department, and money in  
10 the fund is appropriated to the department to carry out the  
11 purposes of the Early Childhood Education Investment and  
12 Accountability Act. Any balance in the early childhood  
13 education investment and accountability fund at the end of a  
14 fiscal year shall remain in the fund for appropriation by the  
15 legislature as provided in the Early Childhood Education  
16 Investment and Accountability Act.

17 B. Money distributed from the fund as provided by  
18 this section shall be used to supplement, rather than supplant,  
19 existing revenue sources for early childhood education services  
20 or programs, including other state funding, appropriations to  
21 the early childhood care and education fund, the public pre-  
22 kindergarten fund, the family, infant, toddler program and  
23 federal and private funding.

24 C. The department shall administer the early  
25 childhood education investment and accountability fund. The

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1 department shall collaborate with the children, youth and  
2 families department and the department of health to meet the  
3 requirements of the Early Childhood Education Investment and  
4 Accountability Act.

5 D. The early childhood education investment and  
6 accountability fund shall be used for the following purposes:

7 (1) to provide early childhood education  
8 services and programs to a child pursuant to Section 2 of the  
9 Early Childhood Education Investment and Accountability Act:

10 (a) from birth until the age of  
11 kindergarten eligibility; and

12 (b) who meets the eligibility criteria  
13 established by rule of the department in collaboration with the  
14 children, youth and families department and the department of  
15 health;

16 (2) for curriculum development and materials  
17 for early childhood education services and programs;

18 (3) for training, professional development and  
19 technical assistance for eligible providers to improve an  
20 eligible provider's provision of early childhood education  
21 services and programs; and

22 (4) for a ten-year, longitudinal evaluation,  
23 beginning in 2014 and ending in 2023, of the effectiveness of  
24 the early childhood education services and programs provided  
25 for by the fund and evaluated upon performance measures

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1 established by rule of the department with the assistance of  
2 the children, youth and families department."

3 SECTION 4. A new section of the Public School Code is  
4 enacted to read:

5 "[NEW MATERIAL] ELIGIBLE PROVIDER REQUIREMENTS--REQUESTS  
6 FOR PROPOSALS--CONTRACTS.--

7 A. To provide for common schools for children from  
8 birth until the age of kindergarten eligibility, the department  
9 shall deliver early childhood education services and programs  
10 through a public school, a pueblo or tribal entity, the New  
11 Mexico school for the blind and visually impaired, the New  
12 Mexico school for the deaf or an eligible provider.

13 B. When the department elects to provide early  
14 childhood education services or programs through an eligible  
15 provider, the department shall, in collaboration with the  
16 children, youth and families department and the department of  
17 health, publish a request for proposals in compliance with the  
18 Procurement Code. The request for proposals shall state:

19 (1) the minimum qualifications and experience  
20 required;

21 (2) the goals and objectives to be met through  
22 the provision of the early childhood education service or  
23 program;

24 (3) the ages and approximate number of  
25 children to be served; and

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1 (4) any other criteria required by rule of the  
2 department, the children, youth and families department or the  
3 department of health.

4 C. An eligible provider shall:

5 (1) comply with the rules of the department  
6 and the children, youth and families department;

7 (2) certify in writing that the eligible  
8 provider shall not use any distribution or payment from the  
9 fund for any religious, sectarian or denominational purpose,  
10 instruction or materials; and

11 (3) in response to a request for proposals  
12 from the department, submit a proposal or application  
13 containing:

14 (a) a description of the early childhood  
15 education services and programs the eligible provider is  
16 qualified and prepared to deliver;

17 (b) a description of the methods for  
18 delivering early childhood education services and programs;

19 (c) an explanation of the qualifications  
20 and experience of the eligible provider and the employees of  
21 the eligible provider;

22 (d) the number and ages of the children  
23 the eligible provider is qualified and prepared to serve;

24 (e) site and floor plans and a  
25 description of the facilities;

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1 (f) an attached copy of the current  
2 declarations page of any applicable insurance policy for the  
3 eligible provider;

4 (g) the amount and names of revenue  
5 received in the past from state, federal or private funding  
6 sources; and

7 (h) any other relevant information  
8 requested by the department.

9 D. An eligible provider may deliver early childhood  
10 education services and programs to the child at any location  
11 permitted by the contract between the department and the  
12 eligible provider."

13 SECTION 5. A new section of the Public School Code is  
14 enacted to read:

15 "[NEW MATERIAL] PUBLIC OUTREACH AND NOTICE--APPLICATION  
16 AND ENROLLMENT.--

17 A. The department shall publish, in collaboration  
18 with the children, youth and families department and the  
19 department of health, notice of the availability and locations  
20 of early childhood education services and programs, the  
21 criteria for eligibility and information about how to apply for  
22 early childhood education services and programs on the  
23 department's web site and in notices made available to:

24 (1) enrollees in the medicaid for pregnant  
25 women program;

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- 1 (2) enrollees in the medicaid for newborn  
2 children program;
- 3 (3) enrollees in the medicaid for children  
4 program;
- 5 (4) enrollees in the women, infants and  
6 children program;
- 7 (5) enrollees in public schools;
- 8 (6) the maternity ward of each hospital in  
9 sufficient and replenished quantities; and
- 10 (7) the offices of pediatricians in sufficient  
11 and replenished quantities.

12 B. The department shall provide a standardized  
13 application form to be used by a person applying for a child's  
14 enrollment in an early childhood education service or program.

15 C. The department shall provide a standardized  
16 enrollment form to be used by an eligible provider delivering  
17 any early childhood education service or program."

18 SECTION 6. A new section of the Public School Code is  
19 enacted to read:

20 "[NEW MATERIAL] RULES.--By August 1, 2012, the department  
21 shall adopt rules in collaboration with the children, youth and  
22 families department and the department of health to:

23 A. administer the early childhood education  
24 investment and accountability fund;

25 B. implement the provisions of the Early Childhood

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1 Education Investment and Accountability Act;

2 C. establish the criteria for a child to be  
3 eligible for early childhood education services and programs;

4 D. establish the criteria and procedures for  
5 accepting and rejecting applications for enrollment in each  
6 early childhood education service or program;

7 E. specify the minimum qualifications and  
8 experience level of an eligible provider, minimum criteria for  
9 selecting an eligible provider and minimum standards for  
10 awarding a contract to an eligible provider;

11 F. establish the goals and objectives to be met by  
12 the department on an annual basis and by eligible providers on  
13 a biannual basis in providing early childhood education  
14 services and programs;

15 G. specify performance measures for the department  
16 to evaluate eligible providers and to assess the department's  
17 progress in achieving the goals and objectives;

18 H. establish the criteria and procedures for  
19 measuring and certifying the quality level of each early  
20 childhood service and program; and

21 I. explain the measures to be taken when an  
22 eligible provider fails to meet its biannual goals and  
23 objectives or when the department fails to meet its annual  
24 goals."

25 SECTION 7. A new section of the Public School Code is

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1 enacted to read:

2 "[NEW MATERIAL] AUDIT--ACCOUNTABILITY--REPORTING.--

3 A. Each early childhood education service and  
4 program shall be audited annually by the state auditor.

5 B. By July 15 of each year, the department, in  
6 collaboration with the children, youth and families department  
7 and the department of health, shall prepare and submit to the  
8 department of finance and administration, the legislative  
9 finance committee and the legislative education study committee  
10 the department's projected provision of early childhood  
11 education services and programs during the upcoming year,  
12 including a:

13 (1) description of the types of early  
14 childhood education services and programs to be offered and  
15 whether each service and program will be delivered by the  
16 department or an eligible provider;

17 (2) description of the qualifications and  
18 experience of each employee of an eligible provider expected to  
19 provide the early childhood education services and programs;

20 (3) description of the purpose of and  
21 educational benefit to be conferred through each early  
22 childhood education service and program;

23 (4) performance-based program budget that  
24 identifies a total allowed expenditure for each early childhood  
25 education service and program;

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1 (5) description of performance targets,  
2 including the:

3 (a) goals and objectives expected to be  
4 achieved by the department and each eligible provider;

5 (b) expected numbers of children and  
6 families to be served in each region and school district; and

7 (c) geographic, economic and relevant  
8 demographic information about the children expected to be  
9 served;

10 (6) description of the eligibility  
11 requirements for children to receive each type of early  
12 childhood education service and program;

13 (7) plan for reaching and enrolling children  
14 determined to be eligible in an early childhood education  
15 service or program; and

16 (8) list of the names and amounts of other  
17 expected funding sources for the early childhood education  
18 services and programs to be provided pursuant to the Early  
19 Childhood Education Investment and Accountability Act.

20 C. By August 31, 2013 and each year thereafter, the  
21 department, in collaboration with the children, youth and  
22 families department and the department of health, shall prepare  
23 a report to be submitted to the governor and to be presented to  
24 the legislative education study committee and legislative  
25 finance committee on the use of the early childhood education

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1 investment and accountability fund during the prior fiscal year  
2 by providing:

3 (1) a description of the types of early  
4 childhood education services and programs provided;

5 (2) a list of eligible providers that provided  
6 early childhood education services and programs, the  
7 qualifications and experience of each employee of each eligible  
8 provider and the amount of funding from the fund that each  
9 eligible provider received;

10 (3) the numbers of children served by early  
11 childhood education services and programs;

12 (4) the per child cost, averaged according to  
13 the school district or region in which the child resides, of  
14 providing each early childhood education service or program  
15 through:

16 (a) the department; or

17 (b) an eligible provider;

18 (5) geographic, economic and relevant  
19 demographic information about the populations of children  
20 served;

21 (6) descriptions of the developmental and  
22 educational gains made by children who received early childhood  
23 education services and programs;

24 (7) the expenditures from the fund for each  
25 early childhood education service and program;

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1 (8) whether performance targets were met for  
2 each early childhood education service and program; and

3 (9) other information requested by the  
4 legislature."

5 SECTION 8. CONTINGENT EFFECTIVE DATE.--The provisions of  
6 this act shall become effective upon certification by the  
7 secretary of state that the constitution of New Mexico has been  
8 amended as proposed by a joint resolution of the second session  
9 of the fiftieth legislature, entitled "A JOINT RESOLUTION  
10 PROPOSING AN AMENDMENT TO THE CONSTITUTION OF NEW MEXICO TO  
11 TEMPORARILY INCREASE THE DISTRIBUTION FROM THE LAND GRANT  
12 PERMANENT FUNDS, TO REQUIRE A PORTION OF THE INCREASED  
13 DISTRIBUTION FROM THE PERMANENT SCHOOL FUND TO BE USED FOR  
14 EARLY CHILDHOOD EDUCATION PROGRAMS OPERATED BY THE PUBLIC  
15 SCHOOLS OR PURSUANT TO CONTRACTS BETWEEN THE STATE AND PRIVATE  
16 ENTITIES FOR THE BENEFIT OF NON-SCHOOL-AGE CHILDREN, TO  
17 INDEFINITELY EXTEND ANOTHER DISTRIBUTION, WITH THE REQUIREMENT  
18 THAT THE PORTION OF THE DISTRIBUTION FROM THE PERMANENT SCHOOL  
19 FUND BE USED TO IMPLEMENT AND MAINTAIN EDUCATIONAL REFORMS, TO  
20 PROVIDE AN ADDITIONAL DISTRIBUTION FOR THE SOLE BENEFIT OF THE  
21 PUBLIC SCHOOLS AND TO SUSPEND THE DISTRIBUTIONS IF THE AVERAGE  
22 VALUE OF THE FUNDS IS LESS THAN EIGHT BILLION DOLLARS  
23 (\$8,000,000,000) OR IF THE LEGISLATURE, BY A VOTE OF THREE-  
24 FIFTHS OF THE MEMBERS ELECTED TO EACH HOUSE, VOTES TO SUSPEND  
25 THE DISTRIBUTION."

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