

1 HOUSE BILL 451

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 W. Ken Martinez

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10 AN ACT

11 RELATING TO EDUCATION; PROVIDING THE MEANS TO INCREASE THE
12 NUMBER AND QUALITY OF PRE-KINDERGARTEN PROGRAMS; PROVIDING
13 POWERS AND DUTIES; PROVIDING FOR APPLICATIONS AND GRANTS;
14 CREATING A FUND; PROVIDING FOR FUND TRANSFERS; MAKING AN
15 APPROPRIATION.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "32A-23-1. SHORT TITLE.--~~[This act]~~ Chapter 32A, Article
21 23 NMSA 1978 may be cited as the "Pre-Kindergarten Act"."

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

24 "32A-23-2. FINDINGS AND PURPOSE.--

25 A. The legislature finds that:

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1 ~~[A-]~~ (1) special needs are present among the
2 state's population of four-year-old children and those needs
3 warrant the provision of pre-kindergarten programs;

4 ~~[B-]~~ (2) participation in quality pre-
5 kindergarten has a positive effect on children's intellectual,
6 emotional, social and physical development; and

7 ~~[G-]~~ (3) pre-kindergarten will advance
8 governmental interests and childhood development and readiness.

9 B. The purpose of the Pre-Kindergarten Act is to
10 provide the means for quality pre-kindergarten programming so
11 that children who attend pre-kindergarten will be prepared to
12 begin kindergarten."

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

15 "32A-23-3. DEFINITIONS.--As used in the Pre-Kindergarten
16 Act:

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

21 B. "departments" means the children, youth and
22 families department and the public education department acting
23 jointly;

24 C. "early childhood development specialist" means
25 the adult responsible for working directly with four-year-old

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1 children in implementing pre-kindergarten services;

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

7 E. "grant" means a pre-kindergarten quality
8 improvement grant;

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

12 G. "professional development council" means a
13 council established by a school district and a qualifying
14 professional development organization consisting of one-half
15 school district-appointed members and one-half nonmanagerial
16 early childhood development specialists appointed by the
17 qualifying professional development organization;

18 H. "qualifying professional development
19 organization" means a nonprofit entity that has existed for
20 more than five years, has experience in providing quality,
21 research-based professional development to pre-kindergarten or
22 kindergarten teachers and early childhood specialists, is
23 democratically controlled by members, has successfully
24 negotiated an agreement that includes compensation requirements
25 for early childhood specialists and is not dominated by

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1 advocates for employers or government interest;

2 I. "quality improvement fund" means the public pre-
3 kindergarten quality improvement fund; and

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

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

8 "32A-23-6. REQUESTS FOR PROPOSALS--CONTRACTS FOR
9 SERVICES.--

10 A. Each department shall publish a request for
11 proposals or a request for applications that contains the same
12 requested information for pre-kindergarten services. The
13 request for proposals or request for applications shall include
14 the selection criteria and the methodology for ranking and
15 prioritizing proposals or applications.

16 B. Eligible providers shall submit proposals or
17 applications for pre-kindergarten services to the appropriate
18 department. An eligible provider's proposal or application
19 shall include a description of the services that will be
20 provided, including:

21 (1) how those services meet children, youth
22 and families department or public education department
23 standards;

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

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1 (3) site and floor plans and a description of
2 the facilities;

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

5 (5) a description of the qualifications and
6 experience of the early childhood development specialist staff
7 for each site;

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

10 (7) how those services meet the continuum of
11 services to children; and

12 (8) other relevant information requested by
13 the departments.

14 C. Each department shall accept and evaluate
15 proposals or applications for funding for pre-kindergarten
16 submitted to it. Each department shall notify all proposers or
17 applicants of its decision regarding which proposals or
18 applications were accepted for funding within five days of its
19 decision.

20 D. For funding purposes, applications and proposals
21 shall be evaluated and priority given to programs in
22 communities with public elementary schools that are designated
23 as Title 1 schools and that have at least sixty-six percent of
24 the children served living within the attendance zone of a
25 Title 1 elementary school. Additional funding criteria

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1 include:

2 (1) the number of four-year-olds residing in
3 the community and the number of four-year-olds proposed to be
4 served;

5 (2) the adequacy and capacity of pre-
6 kindergarten facilities in the community;

7 (3) language and literacy services in the
8 community;

9 (4) the cultural, historic and linguistic
10 responsiveness to the community;

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

13 (6) the qualifications of eligible providers
14 in the community;

15 (7) staff professional development plans;

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

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

21 (10) other relevant criteria specified by
22 joint rule of the departments.

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

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1 instruction or material."

2 SECTION 5. Section 32A-23-8 NMSA 1978 (being Laws 2005,
3 Chapter 170, Section 8) is amended to read:

4 "32A-23-8. FUNDS CREATED--ADMINISTRATION.--

5 A. The "public pre-kindergarten fund" is created
6 [~~as a nonreverting fund~~] in the state treasury. The fund
7 [~~shall consist~~] consists of appropriations, federal funds for
8 public pre-kindergarten programming, income from investment of
9 the fund, gifts, grants and donations. The fund shall be
10 administered by the public education department, and money in
11 the fund is appropriated to the department to carry out the
12 provisions of the Pre-Kindergarten Act. Any unexpended or
13 unencumbered balance remaining in the fund at the end of a
14 fiscal year shall be transferred to the public pre-kindergarten
15 quality improvement fund. Disbursements from the fund shall be
16 by warrant of the secretary of finance and administration upon
17 vouchers signed by the secretary of public education or the
18 secretary's authorized representative. The department may use
19 up to ten percent of the money in the fund each year for
20 administrative expenses.

21 B. The "children, youth and families pre-
22 kindergarten fund" is created [~~as a nonreverting fund~~] in the
23 state treasury. The fund [~~shall consist~~] consists of
24 appropriations, federal funds for private pre-kindergarten
25 programming, income from investment of the fund, gifts, grants

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1 and donations. The fund shall be administered by the children,
2 youth and families department, and money in the fund is
3 appropriated to the department to carry out the provisions of
4 the Pre-Kindergarten Act. Any unexpended or unencumbered
5 balance remaining in the fund at the end of a fiscal year shall
6 be transferred to the public pre-kindergarten quality
7 improvement fund. Disbursements from the fund shall be by
8 warrant of the secretary of finance and administration upon
9 vouchers signed by the secretary of children, youth and
10 families or the secretary's authorized representative. The
11 department may use up to ten percent of the money in the fund
12 each year for administrative expenses.

13 C. The "public pre-kindergarten quality improvement
14 fund" is created as a nonreverting fund in the state treasury.
15 The fund consists of appropriations, federal funds for
16 improving pre-kindergarten programming, transfers from the
17 public pre-kindergarten fund and the children, youth and
18 families pre-kindergarten fund, income from investment of the
19 fund, gifts, grants and donations. The fund shall be
20 administered by the public education department, and money in
21 the fund is appropriated to the department to provide grants to
22 school districts to expand public pre-kindergarten
23 opportunities for four-year-old children, giving priority to
24 those children living in communities with public elementary
25 schools that are designated as Title 1 schools and that have at

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1 least sixty-six percent of children served living within the
2 attendance zone of a Title 1 elementary school and to fund
3 professional development and mentoring for eligible providers
4 and early childhood development specialists to improve the
5 quality of pre-kindergarten programming in the state.
6 Disbursements from the fund shall be on warrant of the
7 secretary of finance and administration pursuant to vouchers
8 signed by the secretary of public education or the secretary's
9 designated representative."

10 SECTION 6. A new section of the Pre-Kindergarten Act is
11 enacted to read:

12 "[NEW MATERIAL] PRE-KINDERGARTEN QUALITY IMPROVEMENT
13 GRANTS.--

14 A. The departments shall cooperate in the
15 development and implementation of a program to increase the
16 number and improve the quality of pre-kindergarten program
17 offerings statewide by awarding grants to school districts
18 throughout the state to contract with eligible providers to
19 offer pre-kindergarten programs.

20 B. The public education department shall promulgate
21 rules to award grants from the pre-kindergarten quality
22 improvement grant fund, including the process for awards and
23 the use of money from awards.

24 C. School districts that are unable to meet pre-
25 kindergarten benchmarks as provided in Subsection D of Section

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1 32A-23-6 NMSA 1978 may apply for a grant from the pre-
2 kindergarten quality improvement fund to allow it to contract
3 with private eligible providers for pre-kindergarten services
4 in the school district.

5 D. The departments shall monitor school districts
6 and pre-kindergarten programs that receive funding from quality
7 improvement grants to ensure the effectiveness of the pre-
8 kindergarten programs, including implementation of all the
9 requirements in this section and Section 7 of this 2015 act.
10 The departments shall assign staff to work on the development
11 and implementation of the program and on the monitoring of
12 grant awards. The early childhood training and technical
13 assistance programs of the children, youth and families
14 department and assigned staff from the public education
15 department shall provide technical assistance to school
16 districts and eligible providers."

17 SECTION 7. A new section of the Pre-Kindergarten Act is
18 enacted to read:

19 "[NEW MATERIAL] GRANT AWARDS.--

20 A. The departments shall jointly accept and
21 evaluate grant proposals from school districts for quality
22 improvement grants.

23 B. A school district grant application shall:

24 (1) demonstrate the number of children that
25 will be served through a universal admissions policy; provided

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1 that the application may include provisions for a staggered
2 expansion, and where it does, the application shall outline the
3 admissions criteria the school district will use before
4 achieving universal access;

5 (2) establish that the eligible providers with
6 which a school district partners shall meet the following
7 qualifications no later than one year after having entered into
8 an agreement with the school district to provide pre-
9 kindergarten services under a quality improvement grant:

10 (a) offer care services to children from
11 birth to four years old and pre-kindergarten services to four-
12 year-old children;

13 (b) offer at least forty-five hours of
14 professional development per year and have a mentor program for
15 its early childhood development specialists;

16 (c) participate in training programs
17 that have a focus on transitions to kindergarten that are
18 coordinated by a qualifying professional development
19 organization and taught by teachers with a New Mexico teaching
20 license in early childhood education; and

21 (d) provide at least two of the
22 following by the first day of school: 1) at least five paid
23 sick days to all of its employees; 2) at least three days of
24 paid family or medical leave to all of its employees; 3)
25 affordable health insurance to all of its employees; provided

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1 that a health insurance plan is affordable if the employee's
2 required contribution for coverage for the employee and the
3 employee's dependents does not exceed five percent of the
4 employee's household income; and 4) participates in or runs a
5 substitute teacher program;

6 (3) demonstrate that it has established a
7 professional development council or has a plan to establish a
8 council no later than January of the succeeding year;

9 (4) demonstrate how the school district and
10 eligible providers will meet quality benchmarks on the
11 following criteria, as administered through department rules
12 that reflect research-based standards for early childhood
13 education regarding:

- 14 (a) class size;
- 15 (b) staff-to-child ratios;
- 16 (c) meals;
- 17 (d) screening, referral and support
18 services, including dental and vision services;
- 19 (e) implementation and staff training on
20 a curriculum consistent with New Mexico early learning
21 guidelines and approved by the departments;
- 22 (f) services for dual language learners
23 and children with disabilities;
- 24 (g) family engagement and student
25 recruitment, including parent education on child care subsidy

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1 eligibility; and

2 (h) pre-kindergarten staff
3 qualifications and pay parity;

4 (5) include a schedule for reporting to the
5 departments on how and how many of the quality benchmarks each
6 of its contract pre-kindergarten programs meets annually;

7 (6) include a budget detailing projected grant
8 expenditures;

9 (7) include a plan for professional
10 development delivery;

11 (8) include a description of the
12 qualifications and experience of the pre-kindergarten staff;

13 (9) include a plan for communicating in an
14 appropriate language with and involving parents in the
15 pre-kindergarten program;

16 (10) include a list of school district staff
17 responsible for coordinating with the eligible providers with
18 whom the school district partners;

19 (11) include a description of the curriculum
20 the school district's contractors will use;

21 (12) include a description of revenue sources
22 and amounts other than grant funding available for the
23 pre-kindergarten program;

24 (13) include a plan to transfer a
25 pre-kindergarten's work portfolio, or some such similar

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1 example of a student's work, to the kindergarten program of the
2 public school;

3 (14) include any school district selection
4 criteria for eligible providers used in addition to the
5 qualifications provided in this section; and

6 (15) assure that funds will not be used for
7 any religious, sectarian or denominational purposes,
8 instruction or material."

9 SECTION 8. A new section of the Pre-Kindergarten Act is
10 enacted to read:

11 "[NEW MATERIAL] PROFESSIONAL DEVELOPMENT COUNCIL--
12 DUTIES.--The school district and the eligible providers with
13 which the school district contracts shall form a "professional
14 development council" to oversee and make formal recommendations
15 to the school district and eligible providers regarding:

16 A. the in-service professional development
17 available to early childhood development specialists employed
18 by either the school district or a qualifying eligible
19 provider;

20 B. the curricula used throughout pre-kindergarten
21 services; and

22 C. other matters that positively affect and could
23 improve pre-kindergarten professions, service coordination and
24 enhanced kindergarten student preparation."

25 SECTION 9. A new section of the Pre-Kindergarten Act is

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1 enacted to read:

2 "[NEW MATERIAL] QUALITY IMPROVEMENTS REPORT.--The
3 departments shall provide an annual report to the governor and
4 the legislature on the progress of the departments' goals to
5 increase the number and improve the quality of pre-kindergarten
6 programs. The report shall include documentation on:

7 A. which school districts received grant awards,
8 how much they received, how many contracts with eligible
9 providers they had and how many four-year-olds they served in
10 pre-kindergarten;

11 B. quantitative and qualitative measures used to
12 determine identified improvements in each pre-kindergarten
13 program;

14 C. the types and amount of professional development
15 and mentoring provided to early childhood development
16 specialists from all sources, and in particular the amount of
17 time teachers, instructional staff or administrators of the
18 school district assisted the eligible providers;

19 D. the type and amount of technical assistance the
20 departments provided to school districts and eligible
21 providers;

22 E. the number of early childhood development
23 specialists from which eligible providers were enrolled in
24 associate, bachelor or graduate degree programs in early
25 childhood education; and

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1 F. any other information the departments determine
2 to be relevant and helpful to education policymakers."

3 SECTION 10. APPROPRIATIONS.--

4 A. Twenty-six million dollars (\$26,000,000) is
5 appropriated from the general fund to the public pre-
6 kindergarten quality improvement fund in fiscal year 2016 and
7 subsequent fiscal years to increase the number and quality of
8 pre-kindergarten programs. Any unexpended or unencumbered
9 balance remaining at the end of a fiscal year shall not revert
10 to the general fund.

11 B. Four million dollars (\$4,000,000) is
12 appropriated from the general fund to the children, youth and
13 families department for expenditure in fiscal year 2016 to fund
14 additional teacher scholarships to allow early childhood
15 employees to pursue post-secondary educational degrees in early
16 childhood education. Any unexpended or unencumbered balance
17 remaining at the end of fiscal year 2016 shall revert to the
18 general fund.