

2026 Legislative and Budget Priorities

SB96: Child Care Zoning Requirements at a Glance for New Mexico Legislators

Sponsors: Sen. Linda Trujillo and Sen. Heather Berghmans



Overview

Expanding New Mexico's supply of child care is essential for ensuring families in every community can access care that meets their needs and for fulfilling the promise of Universal Child Care. In SB96, New Mexico follows best practices set by example states—including California, Colorado, Montana, Oregon, and Washington—who have used similar statewide legislation to clear the way for child care supply at the local level. However, counties and municipalities currently have broad discretion to regulate where and how child care facilities can operate within their jurisdictions, creating a confusing patchwork of zoning rules and regulations across the state that can block child care providers from opening and expanding.

SB96 provides statewide consistency in land use rules for child care homes and centers by making child care facilities permissible by right in certain zones and ensuring that local authorities treat child care facilities the same as other homes or businesses in those zones. By making it simple to open child care where families live, work, and go to school, this Act builds a care supply that is responsive and meaningful to communities. Ultimately, SB96 is a critical tool to encourage the expansion of child care supply across New Mexico.

Problem

Zoning and development codes across the state limit where child care facilities can be located and their ability to operate:

- Most New Mexico counties and municipalities either exclude licensed child care centers and homes from operating in residential zones or require a conditional use permit (CUP). CUPs slow the permitting process and often rely on vague or subjective standards, increasing time and costs for providers.
- Local authorities may impose additional regulations on child care facilities that are not required of other buildings in the same zones, such as extra off street parking.
- Home based providers face fire protection requirements that are more stringent than those applied to other homes, limiting their ability to grow and become licensed. For example, providers caring for more than five children may be required to install an automatic fire sprinkler system, with costs of up to \$40,000.
- Local authorities may also require business licenses and collect additional fees or taxes from child care providers, which can total hundreds or thousands of dollars in some areas.
- Even when child care homes are allowed in residential zones, homeowners associations may prohibit or restrict licensed home providers or impose barriers that make operation infeasible.

Support Child Care Zoning Requirements

Bill Details

SB96 cuts red tape by prohibiting counties and municipalities from assessing business licenses, fees, or taxes on licensed child care centers, licensed child care homes, or registered child care homes, making it easier to open child care programs in neighborhoods and high density areas.

Licensed and Registered Child Care Homes

- Licensed and registered child care homes would be permitted by right in residential use zones
- Clarifies that child care homes must be treated as residential use in fire and life safety and sanitation and building codes
- Prohibits additional regulation on child care homes that do not also apply to all other private residences, including additional off-street parking requirements
- Prohibits the requirement of a conditional use permit, special use permit, or other additional discretionary review for the operation of child care homes
- Prohibits the application of local building, safety, or nuisance ordinances to licensed or registered child care homes that are different or more restrictive than those applied to others within the same zone

Licensed Child Care Centers

- Licensed child care centers would be permitted by right in commercial, mixed-use, or multi-family residential zones
- Prohibits the application of local building, safety, or nuisance ordinances to licensed child care centers that are different or more restrictive than those applied to others within the same zone
- Prohibits off-street parking requirements for child care centers, but allows local authorities to require a certain amount of on-site stacking spaces or a lane for the safe loading and unloading of children

Bottom Line

This bill is essential to ensure the child care supply can grow at a time when increasing capacity is an urgent statewide priority. **To fulfill the promise of Universal Child Care, New Mexico must add 15,700 child care slots statewide.** While many providers are interested in expanding, prohibitive costs and local government bureaucracy often stand in the way. Permitting and rezoning processes, special use requirements, local fees and licenses, and repeated infrastructure changes driven by complex zoning rules create delays and expenses that discourage growth, particularly for small, home based providers. These providers are critical for offering flexible hours of care and meeting the cultural and linguistic needs of local families.

