

LFC Requester:	Kelly Klundt
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date 2/15/17
Original **Amendment** _____ **Bill No:** SB289
Correction _____ **Substitute** _____

Sponsor: Senator Michael Padilla **Agency Code:** 924
Short EARLY CHILDHOOD **Person Writing** Matt Pahl
Title: EDUCATION DEPT. ACT **Phone:** 470-9909 **Email** Matt.pahl@state.nm.u

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$700.0 \$300.0	\$300.0	\$300.0	\$1,600.0	\$700.0 Nonrecurring \$900.0 Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

This bill would create a new “Early Childhood Education Department” to:

- 1) Establishes a comprehensive and voluntary early childhood education system to provide early childhood education statewide that improves the developmental, physical, nutritional, cognitive, social and emotional needs of children; and
- 2) Administers certain laws and functions of the children, youth and families department and the public education department pertaining to early childhood education.

Synopsis:

This bill would put in statute a definition of “children” to mean persons from birth to age five, or older only if a specific program requires.

This bill defines "eligible provider" as a person certified by the department as qualified to provide early childhood education pursuant to a contract in accordance with the provisions of the Early Childhood Education Department Act and the Procurement Code. An eligible provider shall not provide early childhood education to children eligible for services from the New Mexico school for the blind and visually impaired or the New Mexico school for the deaf.

This bill defines "preschool" to mean a structured, research-based and developmentally appropriate educational program for children before they enter kindergarten and includes pre-kindergarten for four-year-olds delivered the year before children enter kindergarten.

This bill sets a mandate that the new Secretary of Early Childhood Education have at least ten years of experience studying, providing, supervising and administering the provision of early childhood education.

If this new secretary certifies to the secretary of finance that the department has insufficient state funds to operate any of the programs it administers and reductions in services or benefit levels are necessary, the secretary of early childhood education may engage in interim rulemaking in which:

- (1) the period of notice of public hearing is thirty days;
- (2) the department sends individual notices of the interim rulemaking and of public hearings to affected providers and beneficiaries;
- (3) rules cannot go into effect for at least 5 days;
- (4) rules cannot be in effect for more than 90 days;
- (5) if final rules are necessary to replace the interim rules, the department shall give

notice of intent to promulgate final rules at the time of notice herein.

The final rules shall be promulgated not more than forty-five days after a public hearing.

This new Department would be in tasked with many requirements, including (but not limited to):

- Developing and maintaining a statewide database, including tracking of early childhood education provided by or through the state;
- Conducting a biennial assessments of the provision of early childhood services to identify any gaps or unmet needs;
- specifying the minimum qualifications and experience level of an eligible provider, minimum criteria for selecting an eligible provider and minimum standards for awarding a contract to an eligible provider;
- specifying performance measures for the department to evaluate eligible providers and to assess the department's progress in achieving the goals and objectives;
- establishing the criteria and procedures for measuring and certifying the quality of early childhood provided by each eligible provider;
- requiring fingerprints and nationwide criminal history record searches for any person who provides early childhood education pursuant;
- annually audit providers
- assume and implement responsibility for children's mental health and substance abuse services in the state, coordinating with the human services department and the department of health;
- assume and implement the lead responsibility among all departments for domestic violence services;
- implement prevention and early intervention as a departmental focus;

This bill indicated that all early childhood education must be provided through a school district, a pueblo or tribal entity, the New Mexico school for the blind and visually impaired, the New Mexico school for the deaf or an eligible provider.

The Department must publish locations of early childhood education and information about how to apply for early childhood education on the department's website, in the maternity ward of hospitals, in pediatrician's offices, and in public schools.

Early Childhood Education Fund

This bill establishes an early childhood education fund in the state treasury that consists of consists of appropriations, income from investment of the fund, gifts, grants, donations and bequests and the money cannot revert to the general fund at the end of the year.

The fund is to be used for:

- (1) to provide early childhood education;
- (2) for curriculum development and materials for early childhood education; and
- (3) to improve the quality of the provision of early childhood education.

Children's Cabinet

The Children's Cabinet would meet at least six times each year, the cabinet would consist of:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the secretary of children, youth and families;
- (4) the secretary of corrections;

- (5) the secretary of human services;
- (6) the secretary of [labor] workforce solutions;
- (7) the secretary of health;
- (8) the secretary of finance and administration;
- (9) the secretary of economic development;
- (10) the secretary of public safety;
- (11) the secretary of aging and long-term services;
- (12) the secretary of Indian affairs; [and]
- (13) the secretary of public education; and
- (14) the secretary of early childhood education.

Pre-Kindergarten

The Department must create a voluntary program for pre-kindergarten services throughout the state to address developmental needs of four-year-old children, including physical, cognitive, social and emotional needs, and shall include health care, nutrition, safety and multicultural sensitivity.

- Pre-kindergarten services may be provided by public schools or other eligible providers on a per-child reimbursement rate in communities with public elementary schools that are designated as Title 1 schools.
- Priority would be given to school in Title I that have at least sixty-six percent of the children served living within the attendance zone of a Title 1 elementary school.
- 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.

Pre-kindergarten Fund

The pre-kindergarten fund is created as a nonreverting fund in the state treasury. The fund consists of appropriations, income from investment of the fund, gifts, grants and donations. The fund shall be administered by the new department, and money in the fund is subject to appropriation 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 the new early childhood education department or the secretary's authorized representative. The department may use up to ten percent of the money in the fund each year for administrative program support expenses. The remaining minimum ninety percent shall be distributed to eligible service providers.

- The funds will distributed between public and private providers, but only to the extent practicable.

In addition this bill makes updates to the State Early Learning Advisory Council to increase membership from fifteen to sixteen to include four public members.

Home Visiting

This new department shall provide statewide home visiting services and prioritize funding for standards-based programs with strong evidence of effectiveness and high-risk populations.

July 1, 2017, all programs, functions, personnel, appropriations, money, records, furniture, equipment, supplies and other property belonging to the following departments shall be transferred to the early childhood education department:

- (1) from the children, youth and families department, the early childhood services division; and

(2) from the public education department, the public pre-kindergarten program. In addition all contractual obligation will be taken over by the new Department.

FISCAL IMPLICATIONS

Creating a new Department will create a significant cost for the state. Costs include setting up a longitudinal data system. A longitudinal data system is currently being built through Race to the Top – Early Learning Challenge funds, and is housed at the Public Education Department. There would be significant costs in moving this to a new Department. Other costs include: identifying and leasing space for the department, salaries for staff, including executive salaries, and other transition costs. The total cost is unknown, but is estimated at \$700 thousand for transfer expenses and \$300 thousand in ongoing salary expenses.

Additional background checks cost approximately \$40 for each employee.

This bill includes the creation of two new funds, the Early Childhood Education Fund and the Pre-Kindergarten Fund.

SIGNIFICANT ISSUES

Transferring all programs, functions, personnel, appropriation, money, records, furniture, equipment, supplies and other property to a new, not yet existing Department by July 1, is a very tight timeline and children and families would likely see a major disruption in their service.

This bill does not speak about increasing quality of early childhood education providers, just that a minimum qualification shall be set. Several decades of research clearly demonstrate that high-quality; developmentally appropriate early childhood programs produce short- and long-term positive effects on children's cognitive and social development. This does not bear out when a child attends a mediocre or poor quality provider.

Giving a new early childhood education department the lead responsibility for domestic violence services seems incongruent with the Department's proposed role.

It would not be responsible in this fiscal environment to expand government, nor is there any evidence to support that doing so would improve outcomes for children. There would be significant costs associated with creating a new department.

New Mexico PreK is a voluntary preschool program created by the Pre-Kindergarten Act of 2005. The PreK program is jointly administered by the Public Education Department and the Children, Youth, and Families Department. Children who have reached their 4th birthday by September 1st are eligible to attend a PreK program. The purpose of PreK is to ensure each child in New Mexico has the opportunity to attend a high quality early childhood education program before kindergarten. This current approach to early childhood education is working.

Currently, PED and CYFD successfully coordinate on a number of projects and programs. This eliminates the necessity for a new department. Some examples include:

- Implementing the Race to the Top – Early Learning Challenge (RTT-ELC) grant. The Departments successfully received a competitive \$37.5 million grant designed to build out early learning infrastructure
- Implementing FOCUS, the new tiered quality rating information system (TQRIS)
- Building the Early Childhood Integrated Data System
- Developed and maintained the New Mexico PreK website: www.newmexicoprek.org
- Distributing early childhood resources in a way the most meaningfully serves New Mexicans:
http://ped.state.nm.us/ped/LiteracyDocs/PreK/2017/FY16_PREK_PED_CYFD_Annual_Report_12-13-2016.pdf. (Pgs. 12-15 details where financial investments are being made and which areas of the state are served).
- Establishing the Kindergarten Observation Tool (KOT)—led by PED but utilized to assess the efficacy of both agencies efforts. It helps teachers better meet student’s needs and to help ensure all children enter 1st grade on track.
- Making a variety of services and supports available, so all children have access to—and can participate in—opportunities that are both respectful of and responsive to their family experiences, culture, beliefs, abilities, and circumstances and help to drive proper nutrition, school readiness, child development.

The creation of a new department raises the important concerns about the availability of wrap around services for PreK students as well as infants and toddlers.

The requirement for the new agency to, “Develop and maintain a statewide database” is already a requirement under the RTT-ELC grant and the Early Childhood Integrated Data System (ECIDS) is already being developed as a requirement within RTT-ELC and will be housed within the Public Education Department. Further, developing this longitudinal data system would cost millions of dollars; such funds are not provided for in SB106.

Race to the Top – Early Learning Challenge grant investments in a longitudinal data system linking information between CYFD, DOH and PED would be rendered useless. Over \$10 million of federal awards were granted to create this system. A reorganization of the departments would mean all work to date would be useless.

PERFORMANCE IMPLICATIONS

There is no mention in this bill of early childhood special education. IDEA part B would be fractured between 2 agencies outside of the proposed consolidated agency for 3-5 year olds.

Currently districts are able to braid funding between PreK, Special Education, and Title I to provide inclusive settings, purchase specialized equipment and materials, provide longer hours and serve more children. This would create difficulties for districts because they would have to work with two agencies to accomplish this (PED and Early Childhood Services Department) instead of one (PED).

Districts are currently able to provide preschool for birth through age 5 with Title I funds, it is unclear how this would work with the creation of a new agency.