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FISCAL IMPACT REPORT

SPONSOR SRC ORIGINAL DATE 2/21/19
 LAST UPDATED 3/01/19 HB

SHORT TITLE Early Childhood Education and Care Department SB 22/SRCS/aSEC/aSFC

ANALYST Klundt

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
	\$250.0	Recurring	General
	\$1,000.0	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Impact	See Fiscal Impact		Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment for Senate Bill 22 (SB22) creates the Early Childhood Early Childhood Education and Care Department (ECECD), as a cabinet department and consisting of

- (1) Administrative Services Division;
- (2) Office of the Secretary;
- (3) Child Care Licensing and Services Division
- (4) Early Childhood Education Division
- (5) Early Intervention Services Division, which consists of

- a) Home Visitation Bureau
- b) Family, Infant, Toddler program

The bill specifies the Department of Early Childhood Education and Care must be led by an individual with experience in early childhood education or care programs and requires the office of the secretary include a Native American assistant secretary of early childhood education and care, representative of tribal communities in New Mexico, who will be advised by the Indian Education advisory council pursuant to Section 22-23A-6 NMSA. The bill specifies the process for appointment and duties of the assistant secretary for Native American early education and care.

SB22 requires the department to enter into agreements with the Children, Youth and Families Department and the Public Education Department to share and *maintain* confidential information in accordance with state and federal law and work in collaboration to provide services.

SB22 designates the department as the lead agency for early intervention programs, including physical development, communications development, adaptive development, social and emotional development and sensory development programs designed to meet the developmental needs of eligible children.

Section 11 requires the new department to convene a one-time advisory council consisting primarily of eligible providers, community organizations, employees who reflect the demographics of the current early childhood workforce throughout the state, employee representatives, and representatives of the Legislative Finance Committee and the Department of Finance. The bill states the department must submit an annual report by December 31 of each year on early childhood programs.

Section 12 requires the new department to prepare and update a four-year early childhood education and care finance plan to provide the Legislature and the governor with demographic information on at-risk children, data on the efficacy of early childhood education and care programs, and recommendations for financing the early childhood education and care system.

Section 15 creates the Indian Education Advisory Council and amends the council to include the secretaries of Early Childhood Education and Care and Public Education and the assistant secretaries for Native American early childhood education and care and Indian education. Members of the council may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act. No appropriation is contained in this bill for this expenditure.

SB22 amends the Children's Cabinet to include the new department amends the selection process for the person to serve as the chair of the cabinet to be selected by the governor.

Additional Revisions in the Prekindergarten Act

SB22 defines "eligible provider" as the Public Education Department, a tribal program, Head Start or a person licensed by the department to provide early childhood developmental readiness services or preschool special education.

Under the section titled "Early Pre-kindergarten and Pre-kindergarten Programs--Interagency

Cooperation--Contracts--Contract Monitoring”, SB22 states the department may approve a public provider or contract with any other eligible provider for the delivery of early prekindergarten and prekindergarten program services.

In Section 22 – “Request for Proposals—Contracts for Services”, the bill requires the department to solicit the delivery of full-day and half-day early prekindergarten and prekindergarten program services.

SB22 contains a revision in section 24 for the mixed delivery of prekindergarten programs, stating that “any money appropriated for pre-kindergarten programs shall be distributed for mixed delivery programming. The public education department shall access funds from the early childhood education and care department to support pre-kindergarten in the public education system. Pre-kindergarten funding transfers to public providers shall be processed through the public education department to those public providers that demonstrate adherence to standards developed by the department...”

Additional Revisions in the Home Visiting Accountability Act

The bill allows the agency to prioritize funding for program associated with strong evidence of effectiveness and programs that serve high-risk populations. The bill also requires the new department to enter into a joint powers agreement with the Human Services Department to use Medicaid to finance department-approved, evidence-based home-visiting programs. Providers approved for Medicaid home visiting are subject to the Home Visiting Accountability Act. Finally, the bill requires that beginning January 1, 2020, and annually thereafter, the department shall produce an annual outcomes report and submit it to the governor and the legislature

Transferring Early Childhood-Related Functions of Other State Agencies to the Early Childhood Education and Care Department (ECECD)

SB22 moves the implementation date to July 1, 2020, for all programs and functions to be transferred to ECECD as follows:

- (1) From the Children, Youth and Families Department:
 - Early Childhood Services Division – all programs and functions;
- (2) From the Department of Health:
 - Family, Infant, Toddler program;
 - Family First home visiting; and
 - Powers and duties under the federal Individuals with Disabilities Education Act
- (3) From the Public Education Department:
 - Prekindergarten program
 -

This includes contractual obligations and references to law to reflect the new department effective July 1, 2020.

The bill includes a new section, “Temporary Provision – Interim Powers and Duties – Accounting and Financial Control”. In this section, SB22 bill states that after July 1, 2019, the governor may appoint the secretary-designate of Early Childhood Education and Care and may

allow the secretary-designate to appoint division directors to assist with the transition. It states the governor must convene a working group comprised of secretaries for DFA, CYFD, ECECD, and DOH to plan for the transition of personnel and programs. Between July 1, 2019, and July 1, 2020, the current departments will continue supporting the administrative services for the programs transferring to ECECD; however, the tracking and reporting for financial transactions will be kept separately.

The bill includes an appropriation of \$250 thousand to be used FY20, directed to conduct the initial early childhood education and care finance plan, including a data visualization system. The bill also includes an appropriation of \$1 million for FY20 for the transition and the integration of field offices and programs across the state.

Synopsis of SEC Amendment

The Senate Education Committee Amendment to Senate Rules Committee Substitute (SRC) SB022 contains the following changes:

2. Amendment 1 on page 1 refers to the creation of the Early Education and Care Department, inserting reference that only **certain** early childhood functions of other state agencies will be transferred.
3. Amendment 2 removes the reference to Early Prekindergarten Program from the expansion of eligibility for the Prekindergarten Program.
4. Amendment 3 removes reference to early prekindergarten from the alignment and coordination of the early childhood education and care systems.
5. Amendment 4 removed early prekindergarten from the procurement exceptions
6. Amendment 5 amends all sections from section 19 through section 24
 - (1) Section 19 (A-C) removing reference to Early Prekindergarten Program
 - (2) Section 20 Under Definitions:
 - i. **B-** Added Departments to include “...the Public Education Department acting jointly...”
 - ii. **C-** Brings back the definition of early childhood development specialist as the adult working with (and adds language) three-and four year olds...
 - iii. Removes the Definition for “Early Pre-Kindergarten Program” and “Eligible Child”
 - iv. **New Section D** - “Eligible Provider” Removes reference to Public Provider and places back Public School
 - v. **Removed Definition for “Mixed Delivery Programming”**
 - vi. **New Section E** – Defines “Pre-Kindergarten” as a voluntary developmental readiness program for children who have attained their third or fourth birthday prior to September 1, removes any related definitions thereafter.
 - vii. **Removes Section H** - “Public Provider” definition
 - (3) Section 21 removes reference to Early Pre-Kindergarten Program and restores items A and B of the Prekindergarten Act (updating language to reflect the ECECD in lieu of CYFD) and keeps language related to the coordination with Head Start. Section D is restored from the Prekindergarten Act but eliminates reference to training and technical assistance program from the Department and leaves the responsibility to provide technical assistance to providers to the ECECD and PED staff. The annual reporting requirements are left in the amendment but providers the responsibility to both departments.

- (4) Section 22, the “Prekindergarten Eligibility,” has been inserted under this section to include that services may be provided by public schools or other eligible providers on a per child reimbursement rate, eliminating additional references to the communities with Title I schools.
- (5) Section 23 under the amendment refers to the section, Request for Proposals, Contracts for Services
 - i. **Section A** – removes statements related to the solicitation of full-day early Prep-Kindergarten or Pre-Kindergarten and adds that each department will publish the request for applications or proposals.
 - ii. **Section B** – restores the statement from the current Prekindergarten Act and adds (under item 2) the number of three and four year olds the program can serve
 - iii. **Section C** – was restored to reflect the current Prekindergarten Act
 - iv. **Section D** – restores statements from the current Prekindergarten Act and adds references to three-year olds in addition to four-year olds.
- (6) Section 24 refers now to “Program Funding” and restores Sections 32A-23-7 of the Prekindergarten Act, updating language previously referred as CYFD to reflect the new department.
- (7) Section 25 under this amendment restores Section 32A-23-8 of the Prekindergarten Act, separating the funding by departments.
- (8) Section 26, “Equal Division of Appropriations,” – restores Section 32A-23-9, updating language in reference to the new department.
- 7. Amendment 6 renumbering the section of the bill.
- 8. Amendment 7 removes reference to the Public Education Department from the temporary provisions related to the financial controls that will be transferred to the new department.
- 9. Amendments 8 through 12 align the repeal portion to the amendments listed above.
- 10. Amendment 13 aligns effective dates to the sections updated through this amendment

Synopsis of Senate Rules Substitute

The Senate Rules Committee substitute for Senate Bill 22 enacts new legislation as follows:

- 11. Creating the Early Childhood Early Childhood Education and Care Department (ECECD), as a cabinet department and consisting of:
 - (1) Administrative Services Division;
 - (2) Office of the Secretary;
 - (3) Child Care Licensing and Services Division
 - (4) Early Childhood Education Division
 - (5) Early Intervention Services Division, which consists of
 - c) Home Visitation Bureau
 - d) Family, Infant, Toddler program

The substitute specifies the Department of Early Childhood Education and Care must be led by an individual with experience in early childhood education or care programs to serve as secretary and requires that the office of the secretary include a Native American assistant secretary of early childhood education and care representative of tribal communities in New Mexico who will be advised by the Indian Education advisory council pursuant to Section 22-23A-6 NMSA. The substitute bill specifies the process for appointment and duties of the assistant secretary for Native American early education and

care.

The substitute requires the department to enter into agreements with the Children, Youth and Families Department and the Public Education Department to share and *maintain* confidential information in accordance with state and federal law

Section 11 requires the new department to convene an *advisory council* consisting primarily of eligible providers, community organizations, employees who reflect the demographics of the current early childhood workforce throughout the state, employee representatives, and representatives of the Legislative Finance Committee and the Department of Finance.

Under the substitute bill, the advisory council would be charged with developing an outcome measurement plan and goals and objectives, including a workforce development plan to include a career ladder, wage structure and professional development plan that applies to the full continuum of programs within the department, and submit the plan to the governor and the Legislature by December 2020. The bill states the department must submit an annual report by December 31 of each year, changing the language specific from child care to early childhood programs.

The department would be required to prepare and update a four-year early childhood education and care finance plan to provide the Legislature and the governor with demographic information on at-risk children, data on the efficacy of early childhood education and care programs, and recommendations for financing the early childhood education and care system.

Section 15 amends the Indian Education Advisory Council to include the secretaries of Early Childhood Education and Care and Public Education and the assistant secretaries for Native American early childhood education and care and Indian education.

2. Additional Revisions in the Prekindergarten Act

The substitute defines "eligible provider" as a person licensed by the department to provide early childhood developmental readiness services or preschool special education, or is the public education department or a tribal program or Head Start.

Under early pre-kindergarten and pre-kindergarten programs--interagency cooperation--contracts--contract monitoring—section, the substitute states the department may approve a public provider or contract with any other eligible provider for the delivery of early prekindergarten and prekindergarten program services at the per-child rate paid to public Title I school in the community.

In Section 22 - Request for Proposals—Contracts for Services, the substitute bill requires the department to solicit the delivery of full-day early prekindergarten and prekindergarten program services.

The substitute contains a revision in section 24 for the mixed delivery of pre-kindergarten programs.—stating that “any money appropriated for pre-kindergarten programs shall be distributed for mixed delivery programming. The public education department shall access funds from the early childhood education and care department to support pre-

kindergarten in the public education system. Pre-kindergarten funding transfers to public providers shall be processed through the public education department to those public providers that demonstrate adherence to standards developed by the department..."

3. Additional Revisions in the Home Visiting Accountability Act

The substitute requires that beginning January 1, 2020, and annually thereafter, the department shall produce an annual outcomes report and submit it to the governor and the legislature.

4. Transferring Early Childhood-Related Functions of Other State Agencies to the Early Childhood Education and Care Department (ECECD)

The substitute moves the implementation date to July 1, 2020, for all programs and functions to be transferred to ECECD as follows:

- (1) From the Children, Youth and Families Department:
 - Early Childhood Services Division – all programs and functions;
- (2) From the Department of Health:
 - Family, Infant, Toddler program;
 - Family First home visiting; and
 - Powers and duties under the federal Individuals with Disabilities Education Act
- (4) From the Public Education Department:
 - Prekindergarten program

This includes contractual obligations and references to law to reflect the new department effective July 1, 2020.

The substitute bill includes a new section for Temporary Provision – Interim Powers and Duties – Accounting and Financial Control - In this section, the substitute bill states that after July 1, 2019, the governor may appoint the secretary-designate of Early Childhood Education and Care and may allow the secretary-designate to appoint division directors to assist with the transition. Stating that the governor must convene a working group comprised of secretaries for DFA, CYFD, ECECD, and DOH to plan for the transition of personnel and programs. Between July 1, 2019, and July 1, 2020, the current departments will continue supporting the administrative services for the programs transferring to ECECD, however, the tracking and reporting for financial transactions will be kept separately.

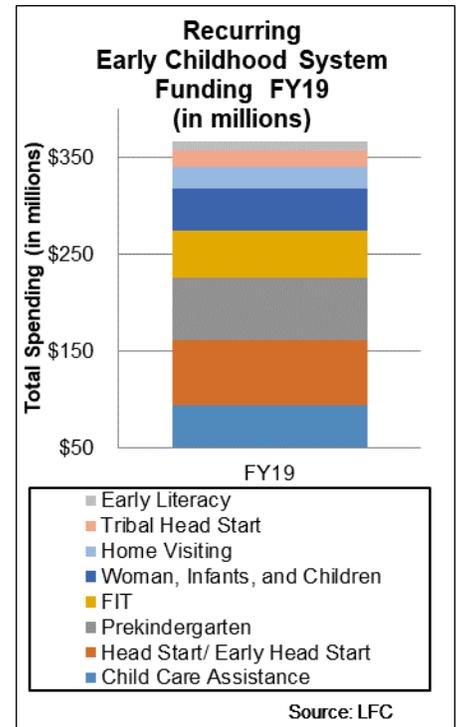
5. Making Appropriations

The substitute includes an appropriation of \$250 thousand to be used FY20, directed to conduct the initial early childhood education and care finance plan, including a data visualization system. The bill also includes an appropriation of \$1 million for FY20 for the transition and the integration of field offices and programs across the state.

FISCAL IMPLICATIONS

Fiscal Implications of Senate Finance Amendment

According to the LFC’s 2018 Early Childhood Accountability Report and session publications, total spending on early childhood programs in New Mexico for FY19 was over \$366 million, including both state and federal funding. The three largest programs in New Mexico for the early childhood population are Head Start, childcare assistance, and prekindergarten programs. Early Head Start, Head Start, and Tribal Head Start programs will spend \$86 million in FY19. Federal funding and participation in Head Start programs has been declining while state-funded programs, like childcare and prekindergarten, have been expanding rapidly. Childcare spending on the infant through 5-year-old population is approximately \$94 million for FY19, or 68 percent of childcare spending. Prekindergarten spending is \$64 million.



SB22 includes an appropriation of \$250 thousand from the general fund in FY20 to conduct the initial early childhood education and care finance plan, including a data visualization system. The Public Education Department (PED) and Department of Health (DOH) early childhood data systems would need to be reconfigured and the funds would be used for the reconfiguration and to accommodate work and expand the establishment of a unique identifier and the integrated data system - ECIDS.

Section 15 creates the Indian Education Advisory Council and amends the council to include the secretaries of Early Childhood Education and Care and Public Education and the assistant secretaries for Native American early childhood education and care and Indian education. Members of the council may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and mileage Act. No appropriation is contained in this bill for this expenditure. This may result in a significant expense for the agency that has not been funded, resulting in transfers of funds for other authorized purposes.

SB22 also includes an appropriation of \$1 million in FY20 for the transition and the integration of field offices and programs across the state. The transition process will require the transfer, hiring and training of personnel, some relocation, and purchase of equipment.

Fiscal Implications of Senate Education Amendment of Senate Bill 22

Under this amendment the prekindergarten funding appropriation is distributed between ECECD and PED

Under this amendment, services for 3-year olds are considered prekindergarten services:

- Without the distinction of Early Pre-Kindergarten for 3-year-olds, all funding previously earmarked for 3-year-olds will be consolidated into funding currently used for four-year-olds.
- 3-year-old prekindergarten is in its initial stages with limited funding and a very controlled scope with community providers. Due to its newness, a comprehensive evaluation of its effectiveness has not taken place. The implementation standards, environment, location, practices and workforce development are being assessed and revised based on feedback, observations and monitoring by program coordinators, consultants and CYFD prekindergarten monitors.

Fiscal Implications of Senate Rules Substitute

The substitute includes an appropriation of \$250 thousand from the general fund in FY20, to conduct the initial early childhood education and care finance plan, including a data visualization system. The Public Education Department (PED) and Department of Health (DOH) early childhood data systems would need to be reconfigured and the funds would be used for the re-configuration and to accommodate work and expand the establishment of a unique identifier and the integrated data system - ECIDS.

The substitute also includes an appropriation of \$1 million in FY20 for the transition and the integration of field offices and programs across the state. The transition process will require the transfer, hiring and training of personnel, some relocation, and purchase of equipment.

CYFD receives \$1.8 million in indirect costs from Early Childhood Services programs that would be transferred to the new department. These funds can support the creation of approximately 16 new positions necessary to administer the agency and provide agency supports.

Existing New Mexico Administrative Code needs to be revised to include new background checks unit.

Estimated Program Transfer Revenue*		
(in thousands)		
Agency	Program	FY19
CYFD	ECS	\$ 255,804.4
CYFD	Program Support Indirect	\$ 1,846.9
DOH	Families First	\$ 1,737.3
DOH	Family, Infant, Toddler	\$ 28,574.1
PED	Prekindergarten	\$ 64,000.0

*FY20 LFC and Executive proposed increased funding not included.
Sources: CYFD, DOH, PED, LFC Files

The substitute for SB22 opens CYFD prekindergarten funding services for 3-year-olds in Public Schools. Currently, public schools serve 3-year-olds in a limited capacity through 3-year-olds with a disability or delay. A significant increase in 3-year-olds being served through school districts could exacerbate existing statewide teacher shortages. In addition, significant expansion of 3-year-olds could increase public school facility spending to accommodate the additional cohort. However, this would be dependent on school districts applying for 3-year-olds services and approval by the new department.

In addition, 3-year-old prekindergarten is in its initial stages with limited funding and a very controlled scope with community providers. Due to its newness, a comprehensive evaluation of its effectiveness has not taken place. The implementation standards, environment, location, practices and workforce development are being assessed and revised based on feedback, observations and monitoring by program coordinators, consultants and CYFD prekindergarten monitors. The Department will need to ensure, through proclamation of rules and standards, these requirements for serving 3 year olds are in place before approving eligible public providers to deliver early prekindergarten services, similar to licensed programs.

Previously, DOH reported concerns that the cost of separating, merging, and establishing data systems would be high, but did not provide an estimate. According to the agencies, DOH, CYFD, and PED data systems will need to be reconfigured and agreements established between all affected departments to accommodate work currently being done regarding the establishment of a unique identifier and the establishment of an integrated data system across all affected departments. DOH also reported concerns that, while existing staff salaries, benefits and operating costs will transfer, there would need to be a number of new staff hired or transferred for ECECD program support, including a cabinet secretary, general counsel, and information technology services, administrative services, and program director staff.

SIGNIFICANT ISSUES

Currently, the state-funded early childhood care and education system is primarily administered by the Children, Youth and Families Department (CYFD) but also includes the Human Services Department, Department of Health, and Public Education Department. Primary programs include childcare assistance; home visiting; prekindergarten; the Family, Infant, Toddler (FIT) program; the Women, Infants and Children (WIC) program; and Head Start. These programs are funded by both the state and federal governments and delivered by both public and private entities. As research showing the efficacy of intervening early grows, there is more interest in growing services for young children and families, leading to growth in the early childhood system. Early childhood governance is fragmented because several state agencies hold pieces of the state's childhood system. While the current system defines services and goals programmatically, delivery and standards vary significantly. Delivering services through both public and private entities allows for an agile system so rural and metropolitan areas can grow services locally based on infrastructure availability. However, multi-agency governance means these providers must meet the sometimes misaligned standards of multiple agencies. Keeping mixed delivery but restructuring governance could be an opportunity to standardize services and better streamline a pipeline of care for young children and their families. SB22 is an attempt to unify governance for a majority of the early childhood system, and therefore improve system delivery and continuity.

SFC Amendment

In Section 11 the change from Child Care Assistance to Early Childhood Programs can be confusing as it may not be clear if this section is referring to the whole continuum of early childhood education and care. If so, then sections under the Home Visiting Accountability Act and Prekindergarten Act may need to be aligned to avoid duplication and undue burden in the department.

The bill contains a requirement for the department to convene an *advisory council* consisting primarily of eligible providers, community organizations, employees who reflect the demographics of the current early childhood workforce throughout the state, employee representatives and representatives of the legislative finance committee and the department of finance. This council will participate in the planning process and will end their tenure by December 31, 2020, when the plan is submitted to the department for consideration. In developing the plan, the department must ensure this council works in coordination with the New Mexico Early Learning Advisory Council to ensure consistency and alignment in the system.

In addition, New Mexico received \$5.4 million for the preschool development grant, birth to age 5, federal funds from Health and Human Services Department. The grant includes a

comprehensive statewide needs assessment to take place during the first part of 2019, followed by the development of a statewide birth-to-5 strategic plan. A crucial component of the needs assessment is assessing workforce development needs and capacity. This will include assessing the status of the current workforce: 1) the number of staff by programs and geographical area; 2) level of education 3) longevity, turnover, and movement of staff between programs, 4) pay and economic well-being; as well as the capacity of higher education and training and technical assistance system to scale up to meet the needs of an expanding workforce if early learning programs are expanded to scale. This assessment will also look at the current workforce development system, from higher education to in-service, to make recommendations regarding enhancement, efficiencies, and potential alignments among programs that would result in a more cohesive and accessible system for early learning staff and result in quality best practices being used with young children and their families. The recommendations from this council must take into account the findings and data obtained through the preschool development grant.

Under “Early Pre-kindergarten and Pre-kindergarten Programs--Interagency Cooperation--Contracts--Contract Monitoring”, SB22 provides that the department may approve a public provider or contract with any other eligible provider for the delivery of early prekindergarten and prekindergarten program services. This opens services for 3-year-olds in public schools. The Early Prekindergarten program is in its initial stages with limited funding and a very controlled scope with community providers. Due to its newness, a comprehensive evaluation of its effectiveness has not taken place. The implementation standards, environment, location, practices, and workforce development are being assessed and revised based on feedback, observations and monitoring by program coordinators, consultants and CYFD Prekindergarten monitors. The department will need to ensure through proclamation of rules and standards, these requirements for serving 3-year-olds are in place before approving eligible public providers to deliver early Prekindergarten services, similar to licensed programs.

Under “Home Visiting”, SB22 requires that, beginning January 1, 2020, and occurring annually thereafter, the department submit a report to the governor and the Legislature. On January 2020, CYFD still has the administrative responsibilities of the home visiting program. The request for the new department to submit a report may not be feasible. By January 1, 2021, the new department will be in a position to submit the report, however, the report will reflect services provided under CYFD – report reflects the prior fiscal year.

Previously HSD reported SB22 impacts the department. Currently, HSD collaborates with the Children, Youth and Families Department (CYFD) to implement the CHV (Centennial Home Visiting) Pilot Program that received an approval from the federal government via the Centennial Care 2.0 1115 Medicaid Waiver Demonstration Program to test the delivery of the nurse-family partnership (NFP) and parents as teachers (PAT) home-visiting models recognized by the U.S. Department of Health and Human Services, in up to four New Mexico counties. HSD amended the 8.308.9.23 NMSA 1978 CHV Pilot Program Services to show that only approximately 300 pregnant Medicaid managed-care enrolled members and their children who reside in one of the four HSD-designated counties would be eligible to participate in this program. According to the CYFD’s FY17 *Home Visiting Annual Outcomes Report*, CYFD funded various home visiting programs other than NFP and PAT and these programs served 4,587 families. Section 28.F of SB22 does not specify the number of families to be covered by Medicaid to finance the home-visiting programs.

Senate Education Amendment

Removing Public Education programs funded for prekindergarten services from the proposed Early Childhood Education and Care Department can lead to a fragmented system and lack of coordination. Research related to program governance specifies that the coordination of programs depends on the individuals involved rather than the system itself. Even with the current collaboration existing between departments (DOH, PED, CYFD), there are concerns about the lack of coordination and funding decisions both at the state and local level.

The inclusion of Public Programs as part of ECECD, provides cross-accountability between both departments and ensures collaboration not only at the state level, but more important, at the local level where collaboration and coordination is crucial for the effective implementation of high quality programs.

This amendment removes references to Early Pre- Kindergarten and expands the definition of Pre-Kindergarten to include 3-year olds.

- Without the distinction of Early Pre-Kindergarten for 3-year-olds, all funding, performance outcomes and reporting previously earmarked for four-year-olds is also included for 3-year olds.
- As the state moves to the implementation of a voluntary, universal, free Pre-Kindergarten program, the inclusion of 3-year olds in the definition can complicate the implementation process. The expectation for universal Pre-K services will be for four year olds **AND** three year olds as defined in this amendments.
- The Early Pre-Kindergarten program (services to three-year olds) is in its initial stages with limited funding and a very controlled scope with community providers. Due to its newness, a comprehensive evaluation of its effectiveness has not taken place. The implementation standards, environment, practices and workforce development are being assessed and revised based on feedback, observations and monitoring by program coordinators, consultants and CYFD Prekindergarten monitors. Opening this program as part of the Pre-Kindergarten definition is premature and counterproductive.

Senate Rules Substitute

CYFD provided:

Issues identified with the substitute:

1. In Section 11 the change from Child Care Assistance to Early Childhood Programs can be confusing as it may not be clear if this section is referring to the whole continuum of Early Childhood Education and Care. If so, then sections under the Home Visiting Accountability Act and Prekindergarten Act may need to be aligned to avoid duplication and undue burden in the department.

In this section, there is a requirement for the department to convene an *advisory council* consisting primarily of eligible providers, community organizations, employees who reflect the demographics of the current early childhood workforce throughout the state, employee representatives and representatives of the legislative finance committee and the department of finance. This council will participate in the planning process and will end

their tenure by December 31, 2020 when the plan is submitted to the department for consideration. In developing the plan, the Department must ensure this council works in coordination with the New Mexico Early Learning Advisory Council to ensure consistency and alignment in the system.

In addition, New Mexico received \$5.4m for the Preschool Development Grant, birth to age five, federal funds from Health and Human Services Department. The grant includes a comprehensive statewide Needs Assessment to take place during the first part of 2019, followed by the development of a statewide birth to five strategic plan. A crucial component of the Needs Assessment is Assessing Workforce Development needs and capacity. This will include assessing the status of the current workforce: i) the number of staff by programs and geographical area; ii) level of education iii) longevity, turnover and movement of staff between programs iv) pay and economic well-being; as well as the capacity of higher education and training and technical assistance system to scale up to meet the needs of an expanding workforce if early learning programs are expanded to scale. This assessment will also look at the current workforce development system, from higher education to in-service, to make recommendations regarding enhancement, efficiencies, and potential alignments between programs that would result in a more cohesive and accessible system for early learning staff and result in quality best practices being used with young children and their families. The recommendations from this council must take into account the findings and data obtained through the Preschool Development Grant.

2. The substitute under early pre-kindergarten and pre-kindergarten programs--interagency cooperation--contracts--contract monitoring the department may approve a public provider or contract with any other eligible provider for the delivery of early pre-kindergarten and pre-kindergarten program services. This opens services for 3 year olds in Public Schools. The Early Pre-Kindergarten program is in its initial stages with limited funding and a very controlled scope with community providers. Due to its newness, a comprehensive evaluation of its effectiveness has not taken place. The implementation standards, environment, location, practices and workforce development are being assessed and revised based on feedback, observations and monitoring by program coordinators, consultants and CYFD Prekindergarten monitors. The Department will need to ensure through proclamation of rules and standards, these requirements for serving 3 year olds are in place before approving eligible public providers to deliver early Pre-K services, similar to licensed programs.
3. This substitute bill requires the department to solicit the delivery of full-day early pre-kindergarten and pre-kindergarten program services. By the proposed implementation date, there will be contracts for early Prekindergarten or Prekindergarten that will still reflect part-day services that will need to be adjusted.
4. The substitute under Home Visiting requires that beginning January 1, 2020 and annually thereafter, the department submits to the governor and the legislature. On January 2020, CYFD still has the administrative responsibilities of the Home Visiting program. The request for the new department to submit a report may not be feasible. By January 1, 2021 the new department will be in a position to submit the report, however, the report will reflect services provided under CYFD – report reflects the prior fiscal year.

Previously HSD reported SB22 impacts the department. Currently, HSD collaborates with the Children, Youth and Families Department (CYFD) to implement the CHV (Centennial Home Visiting) Pilot Program that received an approval from the federal government via the Centennial Care 2.0 1115 Medicaid Waiver Demonstration Program to test the delivery of the NFP and PAT home-visiting programs recognized by the U.S. Department of Health and Human Services in up to four New Mexico counties. HSD amended the 8.308.9.23 NMSA 1978 CHV Pilot Program Services to show that only approximately 300 pregnant Medicaid managed-care enrolled members and their children who reside in one of the four HSD-designated counties would be eligible to participate in this program. According to the CYFD's FY17 *Home Visiting Annual Outcomes Report*, CYFD funded various home visiting programs other than NFP and PAT and these programs served 4,587 families. Section 28.F of SB22 does not specify the number of families to be covered by Medicaid to finance the home-visiting programs.

PED provided:

“SB22 states the Early Education and Care Department “may approve a public provider or contract with any other provider for the delivery of Early Prekindergarten or Prekindergarten services at the per child rate paid to public elementary schools designated as Title 1 in that locality where services are provided”, but does not reference the Student Equalization Grant (SEG) formula, which determines this rate. In addition, the rate paid to schools is set for children in kindergarten through 12 grade, or for a child three to five years of age with a disability requiring special education services. It is not clear how this “per child” rate would be determined for children who are not currently included in the SEG. The SEG has additional multipliers based on socio-economic and demographic factors. The children in early pre-kindergarten and pre-kindergarten require a smaller staff-to-student ratio than children in kindergarten through 12th grade. In addition, funding programs at a “local rate” that varies by community when the budget is set by appropriation, would be difficult.

PED will “access funds” from the new department to allocate to school districts and charter schools, called “public providers” in the bill. It will be important that the funds are transferred in a manner to be available to public providers on July 1 of each fiscal year.

There is no mention of a transfer of funds for the administrative or program support functions at PED.”

ADMINISTRATIVE IMPLICATIONS

SB22 states the department may approve a public provider or contract with any other eligible provider for the delivery of early prekindergarten and prekindergarten program services. This opens services for 3-year-olds in public schools. Early prekindergarten has not been evaluated for effectiveness, and standards, and environmental and workforce requirements are being assessed through the implementation in community-based programs licensed for infants, toddlers, and preschoolers. The department will need to ensure through proclamation of rules and standards, these requirements for serving 3-year-olds are in place before approving eligible public providers to deliver early prekindergarten services, similar to licensed programs. A process for ongoing monitoring will need to be in place to ensure continuous adherence to those standards.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HJR 1 Permanent Funds for Early Childhood Education
HB134 Prekindergarten in Community Schools Act
HB160 Requirements for Child Care Assistance
HB171 Raising Minimum Teacher Salaries
HB173 and SB202 Child and Family Databank Act (some duplication)
SB47 Increase School Personnel Salaries

TECHNICAL ISSUES

Under home visiting, SB22 requires that beginning January 1, 2020 and annually thereafter, the department submit reports to the governor and the Legislature. On January 2020, CYFD still has the administrative responsibilities of the home visiting program. The request for the new department to submit a report may not be feasible. By January 1, 2021, the new department will be in a position to submit the report, however, the report will reflect services provided under CYFD – report reflects the prior fiscal year.

OTHER SUBSTANTIVE ISSUES

The current Child Care Accountability Act of 2018 requires CYFD to provide an outcomes report with all the components listed in section 11 of this bill by December 2019. SB22, however, requires the new department to submit a new plan developed with stakeholders by December 2019 and a report starting December 2020 and yearly thereafter. There is no reference indicating if the Child Care Accountability Act is repealed or if CYFD will still be required to submit such report even if the Early Childhood Services Division is not operated by CYFD.

The state's birth rate is steadily declining, impacting need and capacity. New Mexico's 22,249 births in 2018 is a decrease of 20 percent (5,428) compared with the number of births in 2010. In 2018, every county in the state had fewer births compared with 2015 with some county's having 69 percent fewer births than three years prior. The declining population will impact overall need and should be considered when building additional capacity. Need and capacity considerations will be particularly important for the 4 and 5-year-old population as other age categories do not have the same current depth of service coverage.

KK/sb