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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 2nd Session, 2020

Bill Number	<u>SB3/aSEC/aSFC</u>	Sponsor	<u>Smith/Gallegos, Do.</u>
Tracking Number	<u>.216643.1</u>	Committee Referrals	<u>SEC/SFC;HAFC</u>
Short Title	<u>Early Childhood Education & Care Fund</u>		
Analyst	<u>Andrews</u>	Original Date	<u>1/23/2020</u>
		Last Updated	<u>2/13/2020</u>

BILL SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 3 as amended by the Senate Education Committee (SB3/aSEC/aSFC) removes the \$320 million appropriation in FY21 to the early childhood trust fund. The House Appropriations and Finance Committee Substitute for House Bills 2 and 3 contains a \$300 million appropriation to the early childhood trust fund.

SB3/aSEC/aSFC also creates a new excess extraction taxes suspense fund for the Taxation and Revenue Department to transfer the oil and gas emergency school tax revenues in excess of the five-year average to be held in suspense until the end of the year. This is a technical amendment that provides consistency with the Tax Administration Act. This amendment allows for the Department of Finance and Administration (DFA) to calculate if oil and gas emergency tax revenues should be transferred to the tax stabilization reserves – if total state reserves are less than 25 percent – or to the early childhood trust fund.

The amendment also clarifies the expenditure of monies in the early childhood trust fund is contingent upon all state reserves – which include the state-support reserve fund along with the operating reserve, the appropriation contingency fund, the tobacco settlement permanent fund, and the tax stabilization reserve – being unable to meet appropriations for a given fiscal year.

Synopsis of SEC Amendment

The Senate Education Committee amendment to Senate Bill 3 (SB3/aSEC) changes the date of the distribution of payments pursuant to the federal Mineral Leasing Act to begin in FY23 instead of FY22. In addition, SB3/aSEC/aSFC adds the state-support reserve fund to the definition of state reserves.

Synopsis of Original Bill

Senate Bill 3 (SB3) creates the early childhood education and care fund, a funding source that would create a long-term, revenue producing asset for early childhood and care services and

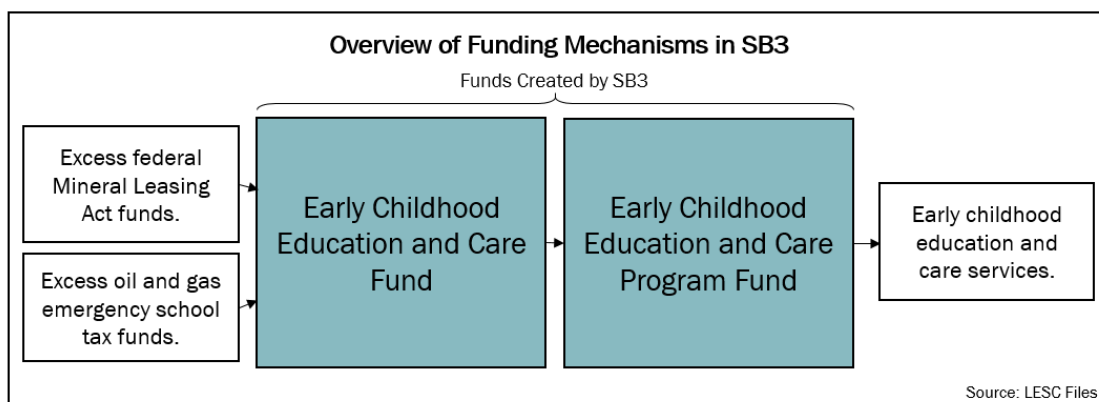
programs. SB3 would also create the early childhood education and care program fund, which would receive distributions from the early childhood education and care fund for the purpose of administering early childhood education and care services and programs; money in the early childhood education and care fund would be subject to appropriation by the Legislature and would be administered by the Early Childhood Education and Care Department (ECECD). The bill would become effective July 1, 2020.

FISCAL IMPACT

Money in the early childhood education and care fund may only be distributed to the early childhood education and care program fund, except to avoid an unconstitutional deficit in the event that general fund balances do not meet the level of appropriations authorized from the general fund for a fiscal year.

In FY21, SB3/aSEC/aSFC would distribute \$20 million from the early childhood education and care fund to the early childhood education and care program fund, and in FY22 and subsequent fiscal years a distribution would be made from the early childhood education and care fund to the early childhood education and care program fund in an amount equal to \$30 million or 5 percent of the average year-end market values of the fund for the immediately preceding three calendar years, whichever is greater.

The early childhood education and care fund would also receive excess distributions from the federal Mineral Leasing Act and the oil and gas emergency school tax. Beginning in FY23, DFA would determine if any federal Mineral Leasing Act revenue exceed the five-year average of money received by the state pursuant to the federal Mineral Leasing Act and distribute the excess into the early childhood education and care fund. In addition, DFA would determine when the tax stabilization reserve fund from the oil and gas emergency tax – also known as the rainy day fund – contains a balance equal to or greater than 25 percent of the aggregate recurring appropriations for the current fiscal year from the general fund, and distribute the excess to the early childhood education and care fund. If there is no excess amount, no distribution would be made.



SUBSTANTIVE ISSUES

SB3/aSEC/aSFC would create a dedicated funding source for early childhood education and care programs and services. The early childhood education and care fund would be a permanent fund in which the state investment officer, subject to the approval of the State Investment Council (SIC), would invest money in accordance with the Uniform Prudent Investor Act and in consultation with the state treasurer. The state investment officer would be required to report investments quarterly.

The fund would be similar in function to the land grant permanent fund, but would only make distributions to the early childhood education and care program fund.

Early Childhood Education and Care Department (ECECD). SB3/aSEC/aSFC creates a dedicated funding source for ECECD. The Early Childhood Education and Care Department Act, enacted in Laws 2019, Chapter 48 (Senate Bill 22), created a new cabinet agency to better coordinate early childhood programs. The act creating ECECD consolidates early childhood education and care programs that have historically been administered by the Children, Youth and Families Department (CYFD), the Department of Health (DOH), the Human Services Department (HSD), and the Public Education Department (PED) under ECECD to reduce duplication and fragmentation of services. Starting in FY21, ECECD will be responsible for coordinating and aligning childcare, early prekindergarten, prekindergarten, home visits for parental education and child health and support, Early Head Start, Head Start, early childhood special education, and early intervention and family support. It is important to note ECECD will receive federal funds for some of these programs.

To close the achievement gap, early childhood programs must be high-quality and based on the science of brain development. However, the Legislative Finance Committee (LFC) found a lack of coordination and competition for children among programs and rapid expansion of programming may be negatively impacting program quality. SB3/aSEC/aSFC funds could help ECECD improve early childhood program access, quality, collaboration and coordination.

Early Childhood Issues. High-quality early childhood education is a cornerstone to closing the achievement gap and ensuring all children are ready for kindergarten. The National Conference of State Legislatures international study of world-class educational systems, *No Time to Lose*, identified four common elements for educational success, the first of which is students come to school ready to learn, with extra support given to struggling students so all students have the opportunity to achieve high standards. The early childhood years provide the foundation for literacy skills and are critical for brain development. When children do not have adequate opportunities to create these connections – or experience adverse childhood experiences (ACEs) – their future educational achievement and life outcomes can be harmed. According to Child Trends, a nonpartisan research center, 18 percent of children in New Mexico experienced three or more ACEs, outpacing the national average of 11 percent. However, research indicates some educational supports, such as trauma-informed instruction and secure attachment relationships, can help ameliorate the negative effects of ACEs. A highly-qualified educator can mitigate negative experiences and provide resources to families. The Legislature has prioritized early childhood education funding even through two economic downturns because some early childhood interventions have proven successful at narrowing the achievement gap between low-income students and their more affluent peers.

Early childhood education, specifically prekindergarten, was a focus of the plaintiffs in the consolidated *Martinez* and *Yazzie* lawsuit, which noted that quality full-day prekindergarten addresses the issue of at-risk students – defined in the lawsuit as Native American, English learning, low-income, and special education students – starting school behind other children. The plaintiffs argued and the court found prekindergarten has “not been funded to the extent that all at-risk children can participate.” In FY19, the Legislature increased overall prekindergarten funding by 38 percent to serve more children in a variety of settings.

Investments in Early Childhood Education and Care. SB3/aSEC/aSFC would provide a new funding source for New Mexico’s continued expansion of early childhood education. Mexico has

already demonstrated a significant investment in early childhood education by growing funding from \$136.5 million in FY12 to \$441.9 million in FY20, an increase of 224 percent. See **Attachment 1, Early Childhood Program Appropriations**. However, as the court noted, even with these increases prekindergarten has not been funded to the extent that all at-risk students can participate.

The LFC has consistently found prekindergarten programs improve math and reading proficiencies for low-income 4-year-olds and lower special education need, lower retention rates, and lessen the negative effects of mobility. According to LFC, New Mexico’s 4-year-old service capacity, when taking into account both state and federal care and education services, is at nearly 80 percent, which is considered universal access. See **Attachment 2, Early Childhood Service Capacity**. However, in FY20, PED chose to continue serving some students in half-day prekindergarten programs instead of serving all students in full-day programs, which would have meant serving fewer students. SB3/aSEC/aSFC funds could be used to expand half-day prekindergarten programs to full-day prekindergarten programs. Service gaps in prekindergarten also exist. The percentage of 4-year-olds served varies by geographic area, with some areas experiencing oversaturation, leading to competition by providers, while other areas have few or no providers.

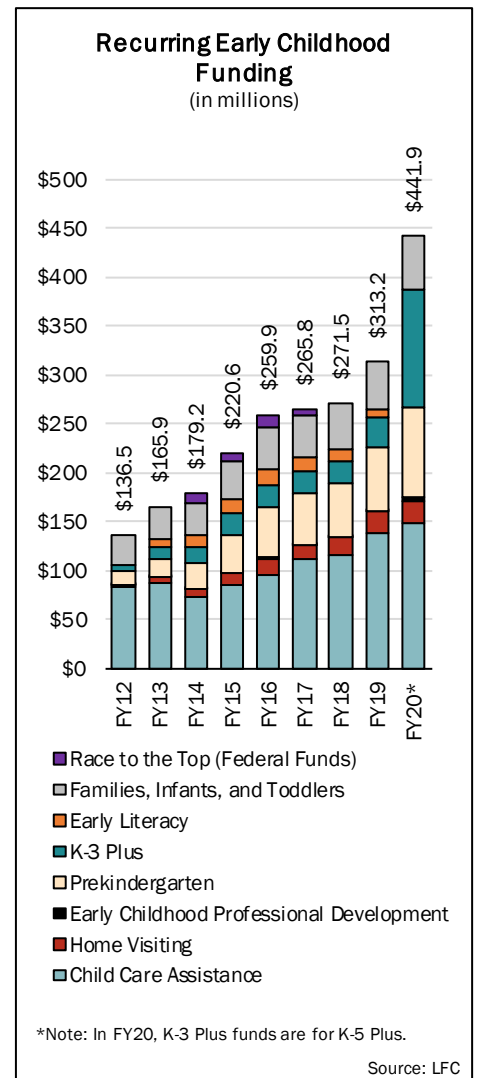
OTHER SIGNIFICANT ISSUES

Research shows teachers influence student outcomes more than anything else within a school. New Mexico has a limited educator workforce qualified in early childhood. Early childhood educational services encompass a range of programs with differing degree and licensure requirements for providers. Disparities in workforce qualifications, licensure requirements, and compensation can create an environment in which programs compete for highly-qualified early childhood educational service providers. New Mexico was awarded a \$5.4 million federal grant to study and plan for an integrated early childhood learning system that includes an assessment of current workforce capacity, increased training and workforce development. During the transition in FY20, ECECD is working with CYFD, PED, and HSD to develop uniform procedures for early childhood programs and their workforce. Expansion of early childhood educational services cannot outpace the development of a highly-qualified early childhood workforce.

Since the 1990s, many states including Kansas, Alabama, and Alaska have early childhood funds supported by appropriations, tobacco settlements and philanthropy. The funds serve a range of early childhood programs including home visiting, behavioral health, early education, child abuse prevention and parental engagement.

RELATED BILLS

Relates to HJR1, Permanent Funds for Early Childhood, CA, which would increase annual distributions from the land grant permanent fund by 1 percent for all beneficiaries, provided that the amount of the additional distribution from the permanent school fund for public schools would



be designated for early childhood services that are administered by the state for children until they are eligible for kindergarten.

Duplicates HB83, Early Childhood Education & Care Fund.

Relates to SB18, Renewable Energy Production Tax, which imposes an excise tax on electricity from renewable energy sources and distributes revenue to the early childhood program fund.

SOURCES OF INFORMATION

- LESC Files
- State Land Office (SLO)

MCA/tb/mc/rsg/sgs

Early Childhood Program Appropriations

(in millions of dollars)

ATTACHMENT 1

	FY12 Actual	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual	FY18 Actual	FY19 Actual	FY20 OPBUD	FY21 Request	FY21 LFC Rec.
Children, Youth and Families Department - Early Childhood Education and Care Department											
Childcare Assistance											
General Fund	\$ 26.8	\$ 29.8	\$ 33.3	\$ 30.3	\$ 30.0	\$ 30.6	\$ 30.6	\$ 52.6	\$ 52.6	\$ 74.1	\$ 53.6
Federal Funds	\$ 30.4	\$ 31.6	\$ 15.1	\$ 23.9	\$ 36.0	\$ 51.4	\$ 54.9	\$ 52.0	\$ 58.3	\$ 55.7	\$ 55.7
OSF	\$ 0.8	\$ 1.4	\$ 0.8	\$ -	\$ -	\$ -	\$ -	\$ 0.9	\$ 1.1	\$ 1.1	\$ 1.1
USDA E&T	\$ 0.6	\$ 0.6	\$ 0.6	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TANF	\$ 24.3	\$ 23.8	\$ 23.2	\$ 30.5	\$ 30.5	\$ 30.5	\$ 30.5	\$ 33.5	\$ 36.5	\$ 36.5	\$ 39.5
Total Childcare Assistance	\$ 82.9	\$ 87.2	\$ 73.0	\$ 84.7	\$ 96.5	\$ 112.5	\$ 116.0	\$ 139.0	\$ 148.5	\$ 167.4	\$ 149.9
Home Visiting											
General Fund	\$ 2.3	\$ 3.2	\$ 4.5	\$ 6.3	\$ 7.3	\$ 3.2	\$ 8.0	\$ 10.6	\$ 12.4	\$ 15.3	\$ 15.3
Federal Funds	\$ -	\$ 2.7	\$ 2.5	\$ 3.3	\$ 3.7	\$ 5.3	\$ 5.1	\$ 5.1	\$ 5.1	\$ 5.1	\$ 5.1
TANF	\$ -	\$ -	\$ -	\$ 2.0	\$ 4.5	\$ 5.0	\$ 5.0	\$ 5.0	\$ 5.0	\$ 5.0	\$ 5.0
Tobacco Settlement Fund	\$ -	\$ -	\$ 1.1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Medicaid Match	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.8	\$ 9.0	\$ 9.0
Total Home Visiting	\$ 2.3	\$ 5.9	\$ 8.1	\$ 11.6	\$ 15.5	\$ 13.5	\$ 18.1	\$ 20.7	\$ 23.2	\$ 34.4	\$ 34.4
Early Childhood Professional Development											
General Fund	\$ 0.5	\$ 0.5	\$ 0.5	\$ 1.0	\$ 1.3	\$ 0.9	\$ 1.3	\$ 1.4	\$ 4.2	\$ 23.3	\$ 5.7
Prekindergarten: Four Year Old Services											
General Fund	\$ 8.2	\$ 9.2	\$ 8.5	\$ 14.3	\$ 11.0	\$ 8.5	\$ 9.7	\$ 9.7	\$ 19.7	\$ 21.3	\$ 19.7
TANF	\$ -	\$ -	\$ -	\$ 6.1	\$ 11.6	\$ 11.6	\$ 12.1	\$ 12.1	\$ 12.1	\$ 12.1	\$ 12.1
Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.5	\$ 0.5	\$ 0.6	\$ 0.6	\$ 0.6	\$ 0.6
Tobacco Settlement Fund	\$ -	\$ -	\$ 3.1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 8.2	\$ 9.2	\$ 11.6	\$ 20.4	\$ 22.6	\$ 20.6	\$ 22.3	\$ 22.4	\$ 32.4	\$ 34.0	\$ 32.4
Prekindergarten: Three Year Old Services											
General Fund	\$ -	\$ -	\$ -	\$ -	\$ 2.0	\$ 4.7	\$ 3.5	\$ 5.4	\$ 9.4	\$ 13.5	\$ 11.9
TANF	\$ -	\$ -	\$ -	\$ -	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0
Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.4	\$ 1.2	\$ 1.1	\$ 1.1	\$ 1.1	\$ 1.1
Total	\$ -	\$ -	\$ -	\$ -	\$ 4.0	\$ 7.1	\$ 6.7	\$ 8.5	\$ 12.5	\$ 16.6	\$ 15.0
Prekindergarten: Mixed-Age Pilot Services											
General Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.6	\$ 1.1	\$ 5.5	\$ 3.6
TANF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.6	\$ 1.1	\$ 5.5	\$ 3.6
Subtotal CYFD/ECECD PreK											
	\$ 8.2	\$ 9.2	\$ 11.6	\$ 20.4	\$ 26.6	\$ 27.8	\$ 29.0	\$ 31.5	\$ 46.0	\$ 56.0	\$ 51.0
Planning Grant: High Quality Early Childhood Development Centers											
General Fund	\$ -	\$ -	\$ -	\$ 0.5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL CYFD/ECECD	\$ 93.9	\$ 102.8	\$ 93.1	\$ 118.2	\$ 139.8	\$ 154.8	\$ 164.4	\$ 192.6	\$ 221.9	\$ 281.1	\$ 241.0
Public Education Department - Special Appropriations *											
Prekindergarten: Four Year Old Basic Services											
General Fund	\$ 6.3	\$ 10.0	\$ 15.0	\$ 17.7	\$ 21.0	\$ 21.0	\$ 21.0	\$ 29.0	\$ 39.0	\$ 55.6	\$ 47.0
TANF	\$ -	\$ -	\$ -	\$ -	\$ 3.5	\$ 3.5	\$ 3.5	\$ 3.5	\$ 3.5	\$ 3.5	\$ 3.5
Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2.6	\$ -	\$ -
Total	\$ 6.3	\$ 10.0	\$ 15.0	\$ 17.7	\$ 24.5	\$ 24.5	\$ 24.5	\$ 32.5	\$ 45.1	\$ 59.1	\$ 50.5
Prekindergarten: Four Year Old Extended Day Services											
General Fund	\$ -	\$ -	\$ -	\$ 1.5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal PED PreK	\$ 6.3	\$ 10.0	\$ 15.0	\$ 19.2	\$ 24.5	\$ 24.5	\$ 24.5	\$ 32.5	\$ 45.1	\$ 59.1	\$ 50.5
K-5 Plus											
General Fund	\$ 5.3	\$ 11.0	\$ 16.0	\$ 21.2	\$ 23.7	\$ 22.6	\$ 23.7	\$ 30.2	\$ 119.9	\$ 119.9	\$ 119.9
Early Literacy											
General Fund	\$ -	\$ 8.5	\$ 11.5	\$ 14.5	\$ 15.0	\$ 14.1	\$ 12.5	\$ 8.8	\$ -	\$ -	\$ 14.0
TOTAL PED	\$ 11.6	\$ 29.5	\$ 42.5	\$ 54.9	\$ 63.2	\$ 61.2	\$ 60.7	\$ 71.5	\$ 165.0	\$ 179.0	\$ 184.4
Department of Health											
Family, Infant and Toddlers Program (Birth to 3)²											
General Fund	\$ 14.5	\$ 14.0	\$ 14.5	\$ 20.1	\$ 19.7	\$ 19.4	\$ 20.2	\$ 21.5	\$ 25.0	\$ 30.7	\$ 29.4
All other funds	\$ 16.5	\$ 19.6	\$ 19.6	\$ 19.6	\$ 23.0	\$ 24.3	\$ 26.3	\$ 26.7	\$ 30.0	\$ 32.2	\$ 31.0
TOTAL DOH	\$ 31.0	\$ 33.6	\$ 34.1	\$ 39.7	\$ 42.7	\$ 43.7	\$ 46.5	\$ 48.2	\$ 55.0	\$ 62.9	\$ 60.4
TOTAL RECURRING EARLY CHILDHOOD PROGRAMS											
	\$ 136.5	\$ 165.9	\$ 169.7	\$ 212.8	\$ 245.7	\$ 259.7	\$ 271.6	\$ 312.3	\$ 441.9	\$ 523.0	\$ 485.8
Race to the Top- Early Learning Challenge											
Federal Funds	\$ -	\$ -	\$ 9.4	\$ 7.8	\$ 14.0	\$ 6.2	\$ -	\$ -	\$ -	\$ -	\$ -
GRAND TOTAL EARLY CHILDHOOD PROGRAMS	\$ 136.5	\$ 165.9	\$ 179.1	\$ 220.6	\$ 259.6	\$ 265.9	\$ 271.6	\$ 312.3	\$ 441.9	\$ 523.0	\$ 485.8

Source: CYFD, PED, HSD, DOH, and LFC Files

Early Childhood Service Capacity

