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FISCAL IMPACT REPORT

SPONSOR Nava DATE TYPED 03/01/05 HB _____

SHORT TITLE Pre-Kindergarten Act SB 360/aSEC

ANALYST Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$9,000.0			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	\$9,000.0		Recurring	Pre Kindergarten Fund

(Parenthesis () Indicate Revenue Decreases)

Duplicates HB 337
Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)
Department of Finance and Administration (DFA)
Department of Indian Affairs (DIA)
Human Services Department (HSD)
Public Education Department (PED)

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee amendment to Senate Bill 360 makes the following changes:
Section 3. Definitions: adds “licensed” means licensed by an agency of the state, federal or tribal government with jurisdiction over early childhood development.

Section 4. Requires PED and CYFD to monitor pre-kindergarten to ensure effectiveness of developmental appropriate practices and to notify programs not meeting the goals set by the department they will lose funding. In addition, it changes priorities for programs in the first two years to those licensed as of July 1, 2005, serving communities with the highest percentage of public elementary schools not meeting proficiency requirements for adequate yearly progress (AYP), and are in attendance zones of schools with at least 66 percent of the students eligible for federal Title 1 funding.

Section 5. Adds municipalities to the list of members of the early childhood community councils. In addition, the requirement for facilities to meet applicable New Mexico construction codes is changed to meet CYFD or tribal or federal codes.

Section 6. Adds the requirements of AYP and Title 1 found in Section 4 to the grant application evaluation.

Significant Issues

CYFD states the new language on priority for funding is confusing. It states "it is unclear if...public schools are all prioritized but only public, tribal and private early childhood programs will be prioritized or if public school programs must also be licensed by July 1, 2005 in order to be prioritized." CYFD currently does not license any public school pre-school programs. The department requests a further clarifying amendment.

Synopsis of Original Bill

Senate Bill 360 appropriates \$9 million from the general fund to the pre-kindergarten fund (to be created by Section 8 of the bill) for the purpose of paying providers and other costs of the pre-kindergarten program established by the bill.

The bill requires PED and CYFD adopt and promulgate joint rules on pre-kindergarten services, including state policies and standards and the review process for grant applications. The rules shall include funding for a half-day per-child reimbursement rate and additional funding based on the licensure level of the lead early childhood development specialist in each pre-kindergarten program. The Child Development Board will assist the agencies in developing the program but will not make recommendations on grant application or funding.

For the first two years early childhood program licensed by CYFD as on July 1, 2005 will be given first priority for funding in communities having the highest percentage of elementary schools not making adequate yearly progress (AYP).

If a school district or tribe wants to participate in the program, it must convene an Early Childhood Community Council (ECCC) to assist in preparing for and providing voluntary pre-kindergarten service. Membership is to include parents, early childhood development specialists and providers, representatives of public and private schools, the business community, the faith community, higher education, tribes (if applicable), Head Start programs, training centers, civic groups, human services and health agencies, public safety organizations, and other members as deemed necessary. The council membership will be approved by PED and CYFD.

ECCCs will conduct an inventory of all early childhood resources within the boundary of the school district or tribe, perform a needs assessment to provide a continuum of services to children, develop a plan, and adopt bylaws to be approved by the departments. ECCCs will develop

grant applications based upon criteria established by the bill and rules developed by the departments. Grant applications shall be evaluated on the percentage and number of public elementary schools in the community that are not meeting adequate yearly progress plus 11 additional criteria included. Technical assistance shall be provided by CYFD's training and technical assistance programs.

Eligible providers shall submit proposals to the ECCC based upon seven criteria in the bill plus any additional required by the departments or individual ECCC.

Upon approval of a provider program, PED and CYFD will determine a per-student reimbursement rate. PED shall reimburse public school programs and CYFD eligible providers not in public schools.

Significant Issues

CYFD states this program will result in cost savings in the future. "The federal government estimates that every \$1 invested in early education and development programs results in \$7 million savings in special education, repeated academic years, and juvenile justice costs. Further, children receiving such early education support are more likely to make greater advances into higher education." However, no direct source data was cited. CYFD states it is prepared to absorb the administrative processes related to issuing as many as the 50 additional contracts expected.

DFA express the same value of the program as did CYFD but states "various studies have established a return of investment that range for \$3 to \$17 for every public dollar invested in high quality pre-school."

DFA states the Executive recommendation includes \$10 million for pre-kindergarten: \$7 million for services, \$2 million (non-recurring) for establishing the program and \$1 million (non-recurring) for professional development. DFA estimates 3,203 4-year olds in half-day programs would be served by \$7 million at a cost of \$2,185.3. This is based upon the public school unit value of \$3,035.15 times the index for kindergarten (1.44) times .5 for the half-day. However, since the bill specifies in Section 7 the per-student reimbursement rate will be determined by the departments in approving a grant application, the number of students funded by this bill may be higher or lower than the estimate.

In addition, PED has increased the unit value to \$3,068.70 effective January 6, 2005.

DIA assesses the bill raises significant jurisdictional issues:

1. The provision giving priority to public school and private early childhood programs licensed as of July 1, 2005 will "clearly put tribal programs at a disadvantage. Tribal programs either require federal licensing (e.g. Head Start) or tribal licensing. The state does not have civil jurisdiction to license a facility or program on tribal lands."
2. The Child Development Board does not have the authority to impose licensure requirements on tribal programs and facilities unless the tribe agrees to it.
3. Construction on tribal lands meet tribal construction codes which may not be the same as state standards.

The following issues have been raised at interim legislative committee hearings:

1. Governance: while school district boundaries are to be used to establish community councils, school boards are not included in the membership of the council. School boards are a logical governing body that should have a role in the process. In addition, public schools have advisory councils that may have a role. The question raised frequency is

- why create a new governance structure rather than build on existing ones?
2. If the program is done within a public school, teachers with early childhood licenses will be required and subject to three-tiered minimum salaries and the school district benefit package. If the program is through a private setting, early childhood development specialists can be used without the same academic qualifications of licensed teachers or compensation.
 3. No curriculum has been developed identifying minimum requirements.
 4. For the first two years, preference will be given to existing programs which will include children already in those programs. The original intent was for the program to bring in the 11,700 children not served by child care, Head Start, or public school programs.
 5. Transportation to and from pre-kindergarten locations should be a requirement because it is to be a voluntary half-day program, and it may be very inconvenient for parents to arrange transportation in the middle of the day.
 6. Child care providers may lose 4-year children resulting in loss of revenue and force them to close.
 7. PED needs to do a cost-benefit analysis and prove pre-kindergarten will lead to higher student outcomes than increasing the appropriation to the state equalization guarantee by the same amount.
 8. The effectiveness of full-day kindergarten was not assessed during the five year roll-out, and there needs to be assurances that the situation will not be repeated for a pre-kindergarten program. The evaluation program needs to be developed and coordinated with agencies and the permanent legislative committees before funding and initiating the program.
 9. Some Native American groups fear the program while initially voluntary will become mandatory removing children from homes at the time they should be learning native customs and language.
 10. There is concern public schools are not sufficiently funded and the additional funds for pre-kindergarten would be better spent by appropriating the funding for this initiative to public school support.

PERFORMANCE IMPLICATIONS

PED and CYFD are to monitor, assess and evaluate the program and a contract with a third party will be let to develop the evaluation component. The evaluation shall include a scientific research component. The departments shall submit an annual report to the governor and the three permanent legislative committees.

DFA asks “to what grade will the evaluation of the efficacy of pre-kindergarten reach?” It suggests “the evaluation should be continued through the fourth or fifth grade to establish if gains identified are continued into later grades. In addition, any rigorous evaluation of the pre-kindergarten program should also include groups of pre-schoolers who do not participate in the state funded pre-kindergarten initiative. This approach will help establish whether state funding of pre-kindergarten is producing measurable gains in student achievement.”

PED states “The Center for Education Research at the University of New Mexico, in its five-year study of pre-kindergarten programs in Albuquerque, cites as its most important finding the significant improvement in kindergarten reading readiness in participating children.” Further, SB 360 will enhance performance of CYFD and PED by “closing gaps in current initiatives including existing pre-kindergarten programs, the Early Literacy Learning Initiative, Full-Day Kindergarten and Reading First. Success in kindergarten is the first necessary step in closing the achievement gap between students who enter school with education advantages and those who

enter educational disadvantages.

If SB 360 is enacted, the LESC and LFC should review the evaluation criteria in interim hearings.

FISCAL IMPLICATIONS

The appropriation of \$9 million contained in this bill is a recurring expense to the general fund. Responding agencies did not include estimated out-year costs; however, in interim hearings before LESC and LFC the estimated figure was greater than \$50 million and some suggested as high as \$70 million to cover the estimated 26,000 to 28,000 children eligible to participate.

The bill creates the Pre-Kindergarten Fund to receive the appropriation. The fund is appropriated to PED and CYFD for the purpose administering the program. The initial appropriation is to be used as follows: \$7 million to pay for services; \$230 thousand to monitor, assess and evaluate the program; \$1.5 million for professional development of staffs of eligible providers and training ECCC members; and \$270 thousand to administer the program and provide training and technical assistance. The unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert.

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the Legislature to establish spending priorities.

The LFC FY06 appropriation recommendation is balanced between revenues and expenditures and any increase in recurring funding must be offset by reductions in other areas of the recommendation. The Legislature must consider all priorities and funding requirements to find revenue to support this legislation.

In addition, out-year revenue projections must be considered before initiating a program of this magnitude.

HSD states "state general fund expenditures for this purpose and for families either receiving TANF cash assistance and/or TANF eligible families at 100 percent of the federal poverty level could be certified toward the TANF maintenance of effort calculation.

ADMINISTRATIVE IMPLICATIONS

Working arrangements and responsibilities will have to be agreed to among PED, CYFD, and DFA probably through a Joint Powers Agreement.

TECHNICAL ISSUES

Page 4, add after the end of line 21, "The legislative education study committee and the legislative finance committee will review the evaluation criteria."

Page 4, line 25 strike "." After program and add "by September 30, 2006 and by September 30 for subsequent years."

Page 6, line 21, DIA recommends striking the ";" after codes and adding "or tribal or federal codes, as required;"

Page 10, strike lines 19-22 and replace with the following:

B. The fund shall be administered by the department of finance and administration and distributed to the departments as set out by appropriations of the legislature to pay

OTHER SUBSTANTIVE ISSUES

DIA raises the need to integrate “language and culture into ... curriculum and program goals.”

ALTERNATIVES

The LFC FY06 appropriation recommendation includes \$4 million non-recurring, multi-year appropriation to conduct a true pilot program of pre-kindergarten funded from the education lock box. The pilot should be targeted at districts and schools within districts that have chronically underperformed. Key factors for selection should be 4-year olds who will be attending schools in the improvement cycle, and those having high percentages of students receiving free or reduced lunch. Key performance indicators need to be developed to measure whether the program results in improved success in school. Only after an extensive evaluation documenting student performance improvement would the program be expanded.

POSSIBLE QUESTIONS

1. Based upon the advertised out-year savings, in what year could the Legislature expect to see reductions in agency budget requests if this program is enacted?
2. What is the role of school boards in ECCCs?
3. Why not expand the CYFD childcare “Aim Program” to include a pre-kindergarten component without creating an entirely new program?
4. Can the concerns of DIA be addressed through amendment to this bill?
5. What if the program is started but out-year revenues are not available to expand it to all areas of the state?
6. Will reimbursement rates differ by ECCC and how will they be determined?
7. What third-party entities are qualified to scientifically evaluate the voluntary pre-kindergarten program and how many years will be required before a statistically valid evaluation can be completed?
8. What changes to the bill can be made to accommodate the concerns of DIA?
9. Based upon research literature, which would be more effective and lead to better student outcomes, investing in a pre-kindergarten program or increasing revenue for public schools by the same amount?

GAC/njw:yr:lg