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FISCAL IMPACT REPORT

ORIGINAL DATE 2/28/15

SPONSOR Martinez LAST UPDATED _____ HB 451

SHORT TITLE Increase Number & Quality of Pre-K Programs SB _____

ANALYST Klundt

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	\$26,000.0	Recurring	General Fund
	\$4,000.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)
 State Treasury Office (STO)
 Public Education Department (PED)

SUMMARY

This bill amends the Pre-Kindergarten Act to create and define a professional development council, a qualifying professional development organization, and a new non-reverting “public pre-kindergarten (PreK) quality improvement” fund.

House Bill 451 appropriates \$26 million in general fund to the new PreK quality improvement fund which will be administered by PED for the purpose of providing grants to school districts to expand public PreK opportunities and to fund professional development and mentoring for providers and early childhood development specialists to improve the quality of statewide PreK services.

This bill also includes federal PreK funding in the existing public PreK fund administered by PED, and the children, youth and families PreK fund administered by CYFD, and then changes both of these existing funds from non-reverting to reverting.

The bill then requires CYFD and PED to jointly develop and implement a grant program in which school districts may either provide PreK programs or subcontract with eligible private providers for PreK services.

A \$4 million appropriation from the general fund is also created to CYFD in FY16 to fund teacher scholarships and assist early childhood employees to receive post-secondary degrees in early childhood education.

FISCAL IMPLICATIONS

House Bill 451 changes CYFD's PreK fund from non-reverting to reverting. The unspent balances in CYFD's PreK fund revert to the public PreK fund that is administered by PED. The bill appropriates \$26.0 million from the general fund in FY16 and subsequent years and shall not revert to the general fund. In addition, the bill appropriates \$4.0 million to CYFD from the general fund in FY16 for scholarships and education. Any unexpended or unencumbered balance at the end of FY16 shall revert to the general fund.

SIGNIFICANT ISSUES

Currently, the Pre-Kindergarten Act requires that any money appropriated for pre-kindergarten programs shall be divided equally between PED and CYFD. This bill appropriates \$26.0 million for pre-kindergarten programs; however the funding is controlled by a new fund which is administered by PED. CYFD notes that this creates conflicting language since the bill does not strike the language of 32A-23-9 NMSA 1978 which requires equal funding.

This bill grants funding to school districts to provide PreK programming or to contract with private providers to administer PreK services. However CYFD is concerned school districts may not have the capacity, infrastructure, or desire to contract with eligible community-based providers to offer these services. When this structure was proposed in 2005 during the development of the original Pre-Kindergarten Act, some school district administrations stated that they did not want the responsibility or the liability of managing sub-contracts to community providers for PreK services. Further, CYFD is the agency with authority to fund and license child care providers, and the PED legal counsel expressed concern that it may be unconstitutional to require school districts to fund private providers. In addition, PED is concerned that there is no clear explanation of what the role and jurisdiction of CYFD would be in the development, implementation and monitoring of PED-funded programs.

This bill also gives the Early Childhood Training and Technical Assistance Programs (TTAPs) the responsibility to provide technical assistance to school districts and eligible providers, however, the consultation model that is currently in place and CYFD believes is yielding positive outcomes is not currently provided through TTAPs.

Additionally, the bill requires PED and CYFD to provide an annual report, with extensive documentation, to the Governor and the Legislature on progress meeting goals to increase the number and improve the quality of pre-K programs.

Finally, there is a concern that this funding structure would violate federal regulations regarding funding since HB451 requires federal funding to be deposited into PED and CYFD's prekindergarten fund. Any unexpended or unencumbered dollars, including federal dollars at the end of the state fiscal year would be transferred to the public prekindergarten quality improvement fund. This may violate conditions and requirements for use of federal funds.

PERFORMANCE IMPLICATIONS

In this bill, for the new grant program, CYFD, jointly with PED, is required to assign staff to work on the development and implementation of the grant awards, use the CYFD TTAPs program for technical assistance for school districts and providers, accept and evaluate grant proposals, and monitor the new school district's and private pre-kindergarten programs. CYFD states each of these tasks will require significant resources. The appropriation provided to CYFD does not cover these activities. Therefore, CYFD would need to use its existing funds for these additional mandates.

ADMINISTRATIVE IMPLICATIONS

The bill requires CYFD to notify all proposers or applicants of its decision regarding which proposals or applications were accepted for funding within five days of its decision.

TECHNICAL ISSUES

Line 11 of page 3 strikes the word “fourth” and replaces it with the word “third”. This change would expand pre-kindergarten to children who are 3 years old. However those changes are not made throughout the remainder of the Act. This change would be in conflict with the remaining requirements of the act which apply pre-kindergarten services to 4 year olds.

CYFD believes lines 18 through 25 on page 3 continuing on to line 1 of page 4 creates an unclear definition of who would qualify as a “qualifying professional development organization”.

There is a concern that placing the federal funds which are not currently placed into the existing children youth and families pre-kindergarten fund into this fund or the new non-reverting fund, may violate federal requirements and rules for the expenditure of these federal funds.

OTHER SUBSTANTIVE ISSUES

PED reports that section 7 of the Bill (New Material related to school district grant application requirements), are unclear and may be a violation of procurement code, or will create a barrier for programs to apply for funding. The steps described in the proposed Bill conflict with the current procurement process in place within both PED and CYFD.

Additionally, there are new requirements placed upon private programs in order for them to contract with public schools. These requirements may be a significant barrier for some programs and the programs only have one year to come into compliance:

- 1) at least five paid sick days to all of its employees;
- 2) at least three days of paid family or medical leave to all of its employees;
and
- 3) affordable health insurance to all of its employees; provided that a health insurance plan is affordable if the employee's required contribution for coverage for the employee and the employee's dependents does not exceed five percent of the employee's household income.