

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number	<u>SB22/SRCS/aSEC/aSFC</u>	Sponsor	<u>SRC</u>
Tracking Number	<u>.213094.9</u>	Committee Referrals	<u>SRC/SEC/SFC; HSEIC</u>
Short Title	<u>Early Childhood Education & Care Dept.</u>		
Analyst	<u>Rogne</u>	Original Date	<u>1/31/2019</u>
		Last Updated	<u>3/4/2019</u>

BILL SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee Amendment to the Senate Education Committee Amendment to the Senate Rules Committee Substitute for SB22 (SB22/SRCS/aSEC/aSFC) would include early prekindergarten in the proposed Early Childhood Education and Care Department (ECECD) and define early prekindergarten as a voluntary developmental readiness program for 3-year-olds and prekindergarten as a voluntary developmental readiness program for 4-year-olds. This amendment would also require ECECD to solicit the delivery of both full-day and half-day early prekindergarten and prekindergarten delivery services. SB22/SRCS/aSEC/aSFC would also allow ECECD to transfer funds to the Public Education Department (PED) for an approved public provider or contract with any other eligible provider for the delivery of early-prekindergarten and prekindergarten program services.

Synopsis of SEC Amendment

The Senate Education Committee Amendment to the Senate Rules Committee Substitute for SB22 (SB22/SRCS/aSEC) would eliminate early prekindergarten from the proposed Early Childhood Education and Care Department (ECECD) and redefine prekindergarten as a voluntary developmental readiness program for 3- and 4-year-olds that would be jointly administered by ECECD and the Public Education Department (PED). ECECD and PED would cooperate in the development and implementation of prekindergarten services statewide, coordinate with federal head start agencies to avoid duplication, and provide an annual report on the progress of the prekindergarten program. SB22/SRCS/aSEC allows prekindergarten services to be provided by public schools or other eligible providers on a per-child reimbursement rate; ECECD would reimburse eligible providers for programs that are not in public schools and PED would reimburse for public school programs. SB22/SRCS/aSEC would also amend the Pre-Kindergarten Act to create the "ECECD pre-kindergarten fund" to be administered by ECECD to carry out the provisions of the act; SB22/SRCS/aSEC retains language in existing law so PED would continue to administer the "public pre-kindergarten fund." The bill would also require any money appropriated for prekindergarten to be divided equally between ECECD and PED.

SB22/SRCS/aSEC would eliminate the transfer of the Department of Health’s (DOH) powers and duties under the federal Individuals with Disabilities Education Act (IDEA) to ECECD.

SB22/SRCS/aSEC would also add language which defines “early childhood development specialist” as the adult responsible for working with 3- and 4-year-olds in implementing prekindergarten services, and “eligible provider” as a person licensed by ECECD that provides early childhood developmental readiness services or preschool special education, or is a public school, tribal program, or head start program. SB22/SRCS/aSEC also includes technical cleanup.

Synopsis of Original Bill

The Senate Rules Committee Substitute for SB22 (SB22/SRCS) proposes to create the Early ECECD to administer early childhood programs for children from birth to age five or, depending on context, to age eight or 13. The new department would be responsible for coordinating and aligning an early childhood education and care system to include childcare, prekindergarten, early prekindergarten, home visitation, Early Head Start, Head Start, early childhood special education, early intervention, and family support. SB22/SRCS defines the administrative structure, duties, and reporting requirements of the new cabinet-level department and makes changes to a number of existing statutes as well as ensuring appropriate references to and alignment with ECECD. SB22/SRCS would also add the secretary of ECECD to the Children’s Cabinet.

FISCAL IMPACT

The bill would appropriate \$500 thousand from the general fund to ECECD for expenditure in FY20 to develop an early childhood education and care finance plan and an integrated data visualization system. Any unexpended or unencumbered balance remaining at the end of FY21 shall revert to the general fund.

The bill would also appropriate \$1 million from the general fund to ECECD for expenditure in FY20 to establish integrated field offices and transfer programs from other departments to ECECD. Any unexpended or unencumbered balance remaining at the end of FY20 shall revert to the general fund.

According to the Children, Youth and Families Department (CYFD) in FY19, CYFD program support received \$1.8 million in indirect costs from the early childhood services program that would be transferred to ECECD for the new department’s program support costs. CYFD indicates these funds would be sufficient to support the creation of new positions at ECECD necessary to administer the agency. However, CYFD also reported a need for additional time to assess and re-determine current cost-allocation formulas to reflect the adjusted indirect budget and workload resulting from early childhood services and programs transferring to a new department.

SUBSTANTIVE ISSUES

SB22/SRCS/aSEC/aSFC would establish ECECD by transferring early childhood services currently administered by CYFD, DOH, and PED to the new department. ECECD would be responsible for coordinating and aligning an early childhood education and care system to include childcare, early prekindergarten, prekindergarten, home visitation, Early Head Start, Head Start, early childhood special education and early intervention and family support. SB22/SRCS/aSEC/aSFC stipulates that ECECD would work with these state agencies to develop uniform procedures for early childhood programs to provide a system of seamless transition from

prenatal to early childhood programs to kindergarten. SB22/SRCS/aSEC/aSFC would require ECECD and the PED to jointly administer prekindergarten programs.

ECECD would be established through SB22/SRCS/aSEC/aSFC creation of the Early Childhood Education and Care Department Act. ECECD would be responsible for providing New Mexico families with consistent access to appropriate care and administration services, developing program standards and reimbursement criteria, conducting biennial assessments of childcare or early learning service gaps and addressing those gaps, developing and maintaining effective data systems, developing an aligned system of workforce development for early childhood professionals, and conducting pre-employment fingerprint-based national criminal background checks for all department employees as well as staff and volunteers of department-contracted providers whose jobs involve direct contact with children.

The secretary of ECECD would manage all operations of the department and administer and enforce laws with which the secretary or department is charged. The governor, with the advice and consent of the Senate, would appoint a secretary with experience in early childhood education or care programs. The office of the secretary would include a Native American assistant secretary of ECECD who would be guided by the Indian education advisory council created pursuant to the Indian Education Act. The assistant secretary would be responsible for the administration and oversight of Indian early childhood education and care programs, including ensuring that Native American language and cultural considerations are included in programs administered through the department. ECECD would be required to promote culturally and linguistically appropriate programming and to provide equal education and care opportunities to non-English speaking families.

SB22/SRCS/aSEC/aSFC would require CYFD, PED, DOH, the Human Services Department (HSD), and other state agencies that affect children to develop common contracting procedures, service definitions, and a uniform system of access to early childhood programs. ECECD would collaborate with CYFD, PED, DOH, HSD and other publically funded providers to provide program services, and comply with the federal IDEA.

ECECD would be required by SB22/SRCS/aSEC/aSFC to convene an advisory council consisting primarily of eligible providers, community organizations, and employees who reflect the demographics of the current early childhood workforce throughout the state, and representatives from the Legislative Finance Committee (LFC) and the Department of Finance and Administration (DFA). The advisory council would develop a plan to monitor outcomes for children and families receiving childcare services, as well as a workforce development plan that applies to the full continuum of programs within the department and submit the plan by December 31, 2019, to the Legislature and the governor; the department would submit an annual report by the 31st day of December thereafter. In addition, ECECD would be required to prepare and update a four-year finance plan to provide the Legislature and governor with demographic information on at-risk children, data on the efficacy of programs, and financing recommendations.

SB22/SRCS/aSEC/aSFC would add the secretary of ECECD to the Children's Cabinet, and require the governor to select a person to serve as chair of the Children's Cabinet, instead of requiring the governor or lieutenant governor to serve as chairperson.

SB22/SRCS/aSEC/aSFC would amend some parts of the Pre-Kindergarten Act, Section 32A-23 NMSA 1978, to expand prekindergarten to include early prekindergarten for 3-year-olds in addition to prekindergarten for 4-year-olds. SB22/SRCS/aSEC/aSFC would require ECECD and

PED to cooperate in the development and implementation of half-day and full-day prekindergarten. SB22/SRCS/aSEC/aSFC would allow ECECD to transfer funds to PED for an approved public provider or allow contracts with any other eligible provider for the delivery of early prekindergarten and prekindergarten services. These programs would address the total developmental needs of 3- and 4-year-olds, including their physical, cognitive, social and emotional needs, and support development in the areas of health care, nutrition, safety awareness, and multicultural sensitivity. ECECD would coordinate with PED to ensure alignment of program standards for prekindergarten, and kindergarten programs, and coordinate with federal Head Start agencies to avoid duplication of services.

SB22/SRCS/aSEC/aSFC would allow ECECD and PED to approve a public provider or contract with any other eligible provider to deliver prekindergarten services at the per-child reimbursement rate. When evaluating requests for proposals, priority would be given programs in communities with public elementary schools in which at least 66 percent of children served reside in the attendance zone of a Title I school, along with other factors such as the adequacy and availability of prekindergarten services in the community and local support.

The Pre-Kindergarten Act would be further amended by SB22/SRCS/aSEC/aSFC to require that money appropriated for prekindergarten programs be divided equally between PED and ECECD. SB22/SRCS/aSEC/aSFC would also require that any money appropriated for prekindergarten be distributed for mixed delivery programming. SB22/SRCS/aSEC/aSFC would also amend the Pre-Kindergarten Act to create the “ECECD pre-kindergarten fund” to be administered by ECECD to carry out prekindergarten; SB22/SRCS/aSEC/aSFC retains language in existing law so PED would continue to administer the “public pre-kindergarten fund.”

SB22/SRCS/aSEC/aSFC would amend Exemptions from the Procurement Code, the Health Care Purchasing Act, the Children’s Cabinet Act, the Pre-Kindergarten Act, the Early Childhood Education and Care Act, the Home Visiting Accountability Act, and the Insurance Code to ensure appropriate references and alignment with ECECD and to make technical changes.

SB22/SRCS/aSEC/aSFC would transfer all programs and associated functions for CYFD’s early childhood services division, DOH’s FIT and family first home visiting, and PED’s prekindergarten program to the ECECD on July 1, 2020. After July 1, 2019, SB22/SRCS/aSEC/aSFC would allow the governor to appoint the secretary-designate of ECECD and may allow the secretary-designate to appoint division directors to assist with the transition. SB22/SRCS/aSEC/aSFC would require the governor to convene a working group made up of the secretaries of DFA, ECECD, and CYFD to plan for the orderly transition of programs and personnel to ECECD; the General Services Department, DFA, and the Department of Information Technology would also provide transition services.

Early Childhood Issues. Substantial evidence demonstrates experiences in early childhood are critical for brain development, and children who participate in high-quality early learning programs have better health, social-emotional, and cognitive outcomes than students who do not participate. Recent advances in neuroscience have shown early childhood years also provide the foundation for literacy skills. The U.S. Department of Education suggests effective early learning programs, including high-quality prekindergarten, provide a return on investment of \$8.60 for every \$1 spent. New Mexico has focused on expanding early childhood education programs over the last 10 years, despite two economic downturns; however, improving access to high-quality early childhood education programs remains a critical policy issue.

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. High-performing countries also feature coordinated early childhood education systems that emphasize program quality.

The first three years of a child’s life are critical for brain development; during this time the brain creates 1 million connections every second that will establish pathways for future development, according to the Center on the Developing Child at Harvard University. When children have adverse childhood experiences (ACEs) or do not have adequate opportunities to create these connections, their future educational achievement and life outcomes are negatively impacted. 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, early childhood education can reduce the impact of ACEs by providing children with rich social experiences needed to succeed in school and families with supports and resources.

Currently, New Mexico’s early childhood education and care system spans several state agencies: CYFD, DOH, HSD, and PED. The table below shows the early childhood services provided by each agency and the age range of children served.

Early Childhood Education and Care System

State Agency	Program	Age Range
CYFD	Head Start and Early Head Start	prenatal-4
CYFD	Childcare Assistance	3 weeks-13
CYFD	Home Visiting	prenatal-4
CYFD	Prekindergarten	3-4
DOH	Family, Infants, and Toddlers	birth-3
DOH	Women, Infants, and Children	birth-5
HSD	Home Visiting	prenatal-4
PED	Prekindergarten	4
PED	K-3 Plus	5-8
PED	Services for Developmentally Delayed Students	3-4

Source: LFC and LESC Analysis

Although several bills proposing to expand early childhood education in New Mexico have been introduced in the 2019 Legislative session, New Mexico has already demonstrated a significant investment in early childhood education programs by growing funding from \$136 million in FY12 to \$309.1 million in FY19, an increase of 125 percent. According to the LFC, New Mexico’s 4-year-old service capacity, when taking into account both care and education services, is at nearly 90 percent. See **Attachment, Early Childhood Service Capacity**. Oversaturation of early childhood services can have several negative effects, including the return of federal Head Start dollars as a result of student migration from Head Start to other state-funded programs, such as prekindergarten.

Other barriers to early childhood service expansion remain. New Mexico has a limited workforce qualified in early childhood education, and expansion may also be hampered by available classroom space that is appropriate for 3- and 4-year-olds, particularly in public school programs.

ADMINISTRATIVE IMPLICATIONS

SB22/SRCS/aSEC/aSFC does not stipulate how federal grants could be transferred to ECECD; transferring and consolidating federal grants from the original grantee to the new ECECD may be problematic.

DOH notes SB22/SRCS/aSEC/aSFC could affect the families first program's current goals, mission, and its ability to obtain reimbursement for targeted case management services currently provided by New Mexico's Medicaid program, which could impact delivery of services by the DOH.

TECHNICAL ISSUES

Section 3 defines an eligible child as a person from birth to age five, or depending on context, to age eight or 13. However, in Section 8 ECECD is charged with providing "a system of seamless transition from prenatal to early childhood programs to kindergarten." Additionally, the term prenatal is used inconsistently.

Section 9 stipulates that ECECD enter into agreements with CYFD and PED to share confidentiality information in accordance with federal and state confidentiality laws; DOH and HSD should be added.

Section 10, part C allows parents of children eligible for the FIT program to determine whether to enroll their children in the program, however, all referred children should be required to participate as parents may be reported to CYFD if they have children with disabilities that are not receiving services.

OTHER SIGNIFICANT ISSUES

New Mexico needs to better coordinate early childhood programs to prevent duplication and fragmentation of services, and to build capacity by braiding federal and state dollars to strategically expand services for children birth through kindergarten. An effective model of governance for early childhood programs should create coherence among policies and services. A well-built and well-publicized structure of early childhood programs is a crucial step in reducing fragmentation, uneven quality, and inequity in early childhood programs and services.

There are a broad range of structures used for early childhood governance. The Build Initiative, a national organization that helps state leaders develop a comprehensive system of early childhood programs, outlines three governance models for early childhood education: a coordinated governance model, a consolidated governance model, and creation of a new agency model. The creation of a new agency model "creates a new executive branch agency or entity within an agency that has the authority and accountability for the early childhood system." Four states have created separate state agencies tasked with the authority over the state's early childhood services and programs: Massachusetts, Washington, Georgia, and Hawaii. SB22/SRCS/aSEC/aSFC proposes to do this.

RELATED BILLS

Conflicts with HB197, Early Childhood Shared Service Integration, which would require CYFD to establish a shared service integration model that improves the effectiveness of and minimizes duplication of early childhood education programs statewide.

Related to HB173, Child & Family Databank Act, which would create a child and family statewide integrated data system.

Related to HJR1, Permanent Funds for Early Childhood, CA, which would amend the Constitution of the State of New Mexico to increase annual distributions from the Land Grant Permanent Fund by 1 percent for early childhood services.

Related to SB202, Child & Family Databank Act, a duplicate of HB173.

SOURCES OF INFORMATION

- LESC Files
- Children, Youth and Families Department (CYFD)
- Human Services Department (HSD)
- Department of Health (DOH)
- Public Education Department (PED)

MCR/mc/mhg

Early Childhood Service Capacity

