

1 SENATE BILL 118

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

3 INTRODUCED BY

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7  
8 FOR THE LEGISLATIVE FINANCE COMMITTEE

9  
10 AN ACT

11 RELATING TO PUBLIC FINANCE; EXPANDING THE USES FOR WHICH THE  
12 LEGISLATURE MAY APPROPRIATE MONEY FROM THE EARLY CHILDHOOD  
13 EDUCATION AND CARE PROGRAM FUND.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 9-29A-1 NMSA 1978 (being Laws 2020,  
17 Chapter 3, Section 1) is amended to read:

18 "9-29A-1. EARLY CHILDHOOD EDUCATION AND CARE FUND.--

19 A. The "early childhood education and care fund" is  
20 created within the state treasury. The fund shall consist of  
21 distributions, appropriations, gifts, grants and donations.  
22 Income from investment of the fund shall be credited to the  
23 fund. Money in the fund shall be expended only as provided in  
24 this section.

25 B. The state investment officer, subject to the

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1 approval of the state investment council, shall invest money in  
2 the early childhood education and care fund:

3 (1) in accordance with the prudent investor  
4 rule set forth in the Uniform Prudent Investor Act; and

5 (2) in consultation with the state treasurer.

6 C. The state investment officer shall report  
7 quarterly to the legislative finance committee and the state  
8 investment council on the investments made pursuant to this  
9 section. Annually, a report shall be submitted no later than  
10 October 1 each year to the legislative finance committee, the  
11 revenue stabilization and tax policy committee and any other  
12 appropriate interim committees.

13 D. On July 1 [~~2021, a distribution shall be made~~  
14 ~~from the early childhood education and care fund to the early~~  
15 ~~childhood education and care program fund in the amount of~~  
16 ~~twenty million dollars (\$20,000,000) and on July 1, 2022 and on~~  
17 ~~each July 1 thereafter]~~ of each year, a distribution shall be  
18 made from the early childhood education and care fund to the  
19 early childhood education and care program fund in an amount  
20 equal to the greater of five percent of the average of the  
21 year-end market values of the fund for the immediately  
22 preceding three calendar years or [~~thirty million dollars~~  
23 ~~(\$30,000,000)] forty million dollars (\$40,000,000).~~

24 E. In addition to the distribution pursuant to  
25 Subsection D of this section, money in the early childhood

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1 education and care fund may be expended in the event that  
2 general fund balances, including all authorized revenues and  
3 transfers to the general fund and balances in the general fund  
4 operating reserve, the appropriation contingency fund, the  
5 tobacco settlement permanent fund, the state-support reserve  
6 fund and the tax stabilization reserve, will not meet the level  
7 of appropriations authorized from the general fund for a fiscal  
8 year. In that event, to avoid an unconstitutional deficit, the  
9 legislature may appropriate from the early childhood education  
10 and care fund to the general fund only in the amount necessary  
11 to meet general fund appropriations for that fiscal year and  
12 only if the legislature has authorized transfers from the  
13 appropriation contingency fund, the general fund operating  
14 reserve, the tax stabilization reserve and the tobacco  
15 settlement permanent fund that exhaust those fund balances."

16 SECTION 2. Section 9-29A-2 NMSA 1978 (being Laws 2020,  
17 Chapter 3, Section 2) is amended to read:

18 "9-29A-2. EARLY CHILDHOOD EDUCATION AND CARE PROGRAM  
19 FUND.--The "early childhood education and care program fund" is  
20 created as a nonreverting fund in the state treasury. The fund  
21 consists of distributions, appropriations, gifts, grants,  
22 donations and income from investment of the fund. The early  
23 childhood education and care department shall administer the  
24 fund. Money in the fund is subject to appropriation by the  
25 legislature for [~~early~~] childhood education and care services

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1 and programs. Expenditures from the fund shall be by warrant  
2 of the secretary of finance and administration pursuant to  
3 vouchers signed by the secretary of early childhood education  
4 and care, or the secretary's authorized representative, or the  
5 authorized representative of the executive agency for which the  
6 appropriation is made by the legislature."

7 SECTION 3. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2022.

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