

LFC Requester:	Kelly Klundt
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**AGENCY BILL ANALYSIS
2018 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

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{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date 01/26/18
 Original Amendment _____ Bill No: HB97
 Correction Substitute _____

Sponsor: Representative Rebecca Dow Agency Code: 924
 Short Early Learning Advisory Person Writing Jane Henzerling
 Title: Council Changes Phone: 5056295401 Email jane.henzerling@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with the PreK Act of 2015 (NMAC 32A-23-1)

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 97 (HB97) changes the term duration of the Early Learning Advisory Council and establishes term limits for council members. HB97 also expands the requirements for recommendations by the council to the Children, Youth, and Families Department and the legislature as well as extends the sunset date for the council.

FISCAL IMPLICATIONS

The council does not have an appropriation but is allowed to apply for and accept grants, donations, gifts, or bequests from any source, public or private. The council may enter into contracts or other transactions with any federal or state agency, any private organization or any other source in furtherance of the purpose of the Early Childhood Care and Education Act.

Council members may not be paid, nor can they receive mileage or per diem. This provision may limit participation from rural areas.

SIGNIFICANT ISSUES

- HB97 changes the terms of council members appointed by the governor before January 1, 2019, which shall be for four years, and terms of those appointed by the governor on or after January 1, 2019 shall be for two years. Terms shall expire on December 31 of the appropriate year. Council members may not be appointed to serve more than three terms.
- HB97 does not include parent representation of currently enrolled children and the membership is not inclusive of all early learning programs. The membership lacks representation from home visiting, PreK providers from both CYFD and PED programs, Title 1 preschool, and a specific IDEA Part C, section 619 representative. Currently, one person represents both IDEA Part B and IDEA Part C, even though the programs serve different populations and are housed in two different agencies.
- The federal Improving Head Start for School Readiness Act that established the requirement for state Early Learning Advisory Committees indicates that Head Start representation must include Migrant and Seasonal Head Start, as well as American Indian and Alaska Native Head Start. As New Mexico has a large number of American Indian Head Start programs, this population should be represented.

- The New Mexico Early Learning Advisory Council (ELAC) was established pursuant to the Early Childhood Care and Education Act signed by Governor Susana Martinez on April 7, 2011, as provided for in Public Law 110-134, Section 642B of the Federal Improving Head Start for School Readiness Act of 2007.
- HB97 expands the duties of the council beyond those required by the federal Head Start Improving School Readiness Act of 2007 to include “making recommendations to the department (CYFD) and the legislature on:
 - (a) statewide coordination of early childhood care and education;
 - (b) delineating and addressing the current gaps in child care programs and the early childhood care and education system, including child care, home visitation, pre-kindergarten, head start, early head start and family infant toddler early intervention services;
 - (c) methods for improving the quality of and increasing the capacity for growth in the early childhood education and care system; and
 - (d) describing pre-kindergarten academic and parenting components.”
- The Federal Improving Head Start for School Readiness Act of 2007 prescribes the duties of Early Learning Advisory Council (listed below). The additional responsibilities above extend the reach beyond the original purpose of the ELAC:
 - Conducting periodic statewide needs assessments on the quality and availability of high-quality early care and education (ECE) programs.
 - Identifying opportunities for, and barriers to, collaboration and coordination among federally-funded and state-funded ECE programs and services, including collaboration and coordination among state agencies responsible for administering such programs.
 - Establishing recommendations for:
 - Developing a statewide, unified data collection system.
 - Creating or enhancing a statewide professional development system and career ladder.
 - Improvements in state early learning standards and undertaking efforts to develop high-quality and comprehensive early learning standards, as appropriate.
 - Increasing participation of children in ECE programs, including outreach to underrepresented and special populations.
 - Assessing the capacity and effectiveness of 2- and 4-year institutions of higher education to support the career development of early childhood educators, including the extent to which such institutions have in place articulation agreements, professional development and career advancement plans, and practice or internships for students to spend time in Head Start or pre-kindergarten programs.
- ELAC should be comprised of members with strong early childhood backgrounds in order to be the closest support for desired practices and outcomes.
- ELAC cannot dictate the use of appropriation of funding
- Duplication of effort occurs when the ELAC takes on responsibilities that are clearly the responsibility of state agencies or individual providers, including LEAs.
- Conflicts of interest occur when members advocate for policies to benefit their own businesses; ELAC members must be able to abstain from promoting personal interests.

PERFORMANCE IMPLICATIONS

The council's expanded role in "describing pre-kindergarten academic and parenting components" may impact the PED's strategic goal to increase the percentage of students in grades K-3 demonstrating growth in reading proficiency.

The specification of this Bill to state that this Act include language such as: ..."EXPANDING REQUIREMENTS FOR RECOMMENDATIONS BY THE COUNCIL TO THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT AND THE LEGISLATURE..." fragments the Early Learning System by isolating only one agency that serves young children. The Council will need to work collaboratively with the departments (DOH, PED, CYFD) to support the alignment of the early learning system without duplication of efforts.

State agencies, including PED, must provide yearly audit information for all fiscal and budgetary responsibilities. There is no mention in this bill proposal of accountability measures for fiscal or budget if ELAC directs any form of a budget decision(s) as related to Early Childhood Education.

ADMINISTRATIVE IMPLICATIONS

- HB97 lists one of the duties of the council is to "assist the department" (CYFD) in "describing pre-kindergarten academic and parenting components." This appears to contradict language in the Pre-Kindergarten Act that requires CYFD and PED to develop and implement the pre-kindergarten program, including promulgating rules, including state policies and standards.

32A-23-4. Voluntary pre-kindergarten; interagency cooperation; contracts; contract monitoring; research.

A. The children, youth and families department and the public education department shall cooperate in the development and implementation of a voluntary program for the provision of pre-kindergarten services throughout the state. The pre-kindergarten program shall address the total developmental needs of preschool children, including physical, cognitive, social and emotional needs, and shall include health care, nutrition, safety and multicultural sensitivity.

B. The departments shall collaborate on promulgating rules on pre-kindergarten services, including state policies and standards and shall review the process for contract awards and for the expenditure and use of contract funds.

- In addition, the two departments, the CYFD and the PED, have established the New Mexico Early Learning Guidelines, which are the standards and benchmarks for pre-kindergarten children and include the academic expectations. The PED and CYFD have also worked together to develop the PreK Program Standards, which delineate the requirements for program and family engagement activities.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The Pre-kindergarten Act (see above)

TECHNICAL ISSUES

On page 7, line 20 there must be a comma after child care and before home visitation:
“...including child care home visitation...”

This would need to read, “including child care, home visitation,” otherwise it may be interpreted as a new early learning program currently not part of the system.

OTHER SUBSTANTIVE ISSUES

As an advisory committee to CYFD and the legislature that is discussing public business, the ELAC should adhere to the provisions of the Open Meetings Act. This is not part of HB97.

ALTERNATIVES

None as of 1/17/2018

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Early Learning Advisory Council will sunset on July 1, 2018.

AMENDMENTS

None as of 1/17/2018