

LFC Requester:

Kelly Klundt

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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SECTION I: GENERAL INFORMATION

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

Date Prepared: 2/19/25 *Check all that apply:*
Bill Number: SB58 Original ☐ Correction ☐
 Amendment ☐ Substitute ☒

Sponsor: Michael Padilla **Agency Name and Code Number:** ECECD 611
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Short Title: Childcare Facility Licensing Act

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI			

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

The substitute for SB58 contains the following 4 parts:

1. Creates the Child Care Facility Licensing Act by moving the existing Child Care Facility licensing requirements from the Public Health Act, NMSA 1978, Sections 24-1-1 to 24-1-44, and places those requirements into the Children's Code under the Child Care Facility Licensing Act. This part also adds limited updates to clarify law, clarify current practices, and provide definitions, including the following:
 - a. Provides a needed definitions section for clarity;
 - b. Clarifies the Licensed-exempt and registered homes process;
 - c. Increases the licensure period from 1-year to 3-years;
 - d. Increases the license application fee from a maximum of \$300 to a maximum of \$1,000 for the 3-year license and requires ECECD to assess the fee pursuant to tiered fee structure adopted by ECECD based on the size and type of facility; and
 - e. Increases the maximum civil monetary penalty from \$5,000 per day to \$10,000 per day. The maximum civil monetary penalty was last increased in 2005.
 - f. The substitute also ensures that only a person who operates a child care facility without a license in violation of the Child Care Facility Licensing Act, rather than a person who violates a provision of the Child Care Facility Licensing Act or an order or rule adopted pursuant to the provisions of the act, is guilty of petty misdemeanor and subject to punishment by a fine or jail time.
2. Creates an exemption to the New Mexico Procurement Code (NMSA 1978 § 13-1-28 to – 199) for the procurement of child care for families that are eligible for child care assistance.
3. Updates the Pre-Kindergarten Act as follows:
 - a. Updates language referring to children with disabilities in NMSA 1978 Section 32A-23-2, Findings, to more inclusive language;
 - b. Updates the eligibility requirements to align with Part B Section 619 of the federal Individuals with Disabilities Education Act (IDEA) and Head Start to ensure continuity of services throughout the Pre-Kindergarten system.
 - c. The substitute requires the department to consult with an advisory council in the department composed of a diverse geographic representation of eligible providers, including for-profit and non-profit providers, head start programs, tribal

programs, public providers and parents when promulgating rules on pre-kindergarten and early pre-kindergarten program services.

- d. Updates language regarding distribution of awards to Pre-Kindergarten providers for consistency.
 - e. Updates the trainings that ECECD is required to provide to Pre-Kindergarten providers to include training on social-emotional learning, early literacy and early mathematics.
 - f. Specifies that ECECD shall consider community need to support a system of mixed delivery programming during the solicitation of Pre-Kindergarten and Early Pre-Kindergarten services.
 - g. Removes certain outdated requirements from the application process for prospective Pre-Kindergarten providers, including the submission of site and floor plans.
 - h. Adds additional application requirements for Pre-Kindergarten providers, including demonstrated adherence to the New Mexico's Pre-Kindergarten Standards, evidence that the lead teachers have a minimum of a bachelor's degree in early childhood and the provider's educational assistants have, at a minimum, an associate's degree in early childhood, or evidence that lead teachers are engaged in education towards these requirements or have received an exemption, description of curriculum, provider's plan to support children with special needs, provider's plan to provide each child with age-appropriate health and development screenings, nutritional plans, and how the classes will follow the highest level of ECECD's tiered quality rating system.
 - i. The substitute requires that the department will consider the adequacy and capacity of all prekindergarten and early pre-kindergarten facilities in the community when selecting applications.
4. Clarifies through definition that ECECD is the department to which the Early Childhood Care Accountability Act applies.

FISCAL IMPLICATIONS

No foreseeable fiscal implications.

SIGNIFICANT ISSUES

SB58 improves transparency through transferring ECECD's existing childcare licensing authority from the Public Health Act to the Children's Code and makes limited updates.

Many are unaware that ECECD's authority to license and regulate childcare facilities, and its authority to take action against licensing violations and against those who operate childcare without a license is currently found in the Public Health Act. This lack of clarity almost resulted in that authority being removed in 2024 when the Health Care Authority (HCA) was created and the associated laws recompiled into a new section of the Public Health Act. At that time, it was recommended by the legislature that ECECD move the licensing authority to the Children's Code.

SB58 also makes limited updates to the existing licensing authority, including clarification of the license exempted and registered home process, which allows licensed exempt providers to voluntarily become registered for the purposes of childcare assistance and to participate in the food nutrition program.

SB58 will reduce the administrative burden on providers by increasing the annual licensure period from one year to three and also requires a tiered fee structure to be implemented by the department. This will codify an already existing practice ensuring that this tiered structure is protected and licensed family childcare homes will not pay the same for licensure as large centers.

The second section of SB58 creates an exemption from the Procurement Code to allow ECECD to reduce barriers for providers in expanding infant and toddler care and aligns payment practices with the private market. This will allow ECECD to directly contract with providers for childcare slots for infants and toddlers, children with disabilities, and children in underserved geographic areas. This change will also bring ECECD into compliance with federal regulations.

The third section of SB58 updates the Pre-Kindergarten Act to codify existing standards for New Mexico Pre-Kindergarten educator qualifications and gives providers the opportunity to provide evidence that their lead teachers are working towards these requirements or received an exemption. This update improves a teacher's ability to provide high quality education in Pre-Kindergarten classrooms. The Pre-Kindergarten Act updates also prioritize inclusivity for children with disabilities. Currently, a child must be served in early childhood special education, also known as Part B 619, upon their third birthday. However, they cannot be included in New Mexico PreK unless they meet separate age eligibility requirements. This creates significant barriers for school districts and community programs that seek to align resources to ensure children with disabilities receive high-quality services and include children in classrooms with typically developing peers.

The fourth section of SB58 updates the Early Childhood Care Accountability Act to show ECECD as the department responsible for this Act. When ECECD was created, the applicable sections of the Children's Code were moved from CYFD to the newly created ECECD. This was a large undertaking, and one that was clearly intended to be moved to ECECD. However, this authority remains under the authority of CYFD by definition only. In the Children's Code, the term "department" is defined as CYFD unless otherwise stated NMSA 1978, Section 32a-1-4(H). The change in SB58 addresses this previous oversight and changes the reference from the Public Health Act to the Children's Code to be consistent with the first section of this bill, which moves ECECD's licensing authority from the Public Health Act to the Children's Code.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 206 proposes adding an exemption to the procurement code for childcare assistance slots for eligible families, as procured by or through the Early Childhood Education and Care Department.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

None.