

<b>LFC Requester:</b>	<b>Dawn Iglesias</b>
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**AGENCY BILL ANALYSIS  
2017 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{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 2/27/17  
**Original**     **Amendment**    \_\_\_\_\_ **Bill No:** SB288  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Sponsor:** Senator Michael Padilla                      **Agency Code:** 924  
**Short Title:** TAXES & SURTAXES FOR EARLY CHILDHOOD FUND                      **Person Writing:** Aguilar/Craig  
**Title:** \_\_\_\_\_ **Phone:** 505-827-6519                      **Email:** Paulj.aguilar@state.nm.us

**SECTION II: FISCAL IMPACT**

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	<b>\$871.9</b>	<b>\$884.5</b>	Recurring	New CYFD Fund
	<b>\$326,955.5</b>	<b>\$323,161.8</b>	Recurring	New CYFD Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

SB 288 imposes an oil and gas emergency school surtax of 0.01 percent on producers of oil, natural gas, carbon dioxide, liquid hydrocarbons, helium, and non-hydrocarbon gases in the state, including Indian tribes. The bill also levies a tax of 1 cent per kilowatt hour (kWh) on all electricity produced in the state subject to some exemptions for the federal government, the State of New Mexico, Indian nations, some foreign nations and agencies, and individuals generating electricity for personal consumption at set amounts. SB 288 creates an early childhood education fund” and distributes all revenues generated from the oil and gas emergency school surtax and the electricity production tax to this fund to be administered by the Children, Youth and Families

Department (CYFD).

## **FISCAL IMPLICATIONS**

SB288 distributes all revenues from the oil and gas emergency school tax and the electricity production tax into the Early Childhood Education Fund. The LFC projects that the two revenue sources combined provide over \$320 million annually to the newly created early childhood education fund. The PED makes no claims as to the accuracy of this forecast, other than to say it is an estimate based upon revenues from a traditionally volatile revenue source. An estimate of revenues generated under the provisions of SB 288 is difficult, not only because even the act of creating new taxes can impact extractive industry production, and therefore revenues. Actual amounts could be higher or lower depending on numerous variables. PED does not have access to data on carbon dioxide extraction or energy production, but using forecasted data from the December Consensus Revenue Estimate, amounts generated by the 0.01 percent increase on oil and gas alone could be as high as \$1.04 million for FY 18. The LFC may have used more or different assumptions, including more recent data or decreases in production associated with additional taxes. Because of limitations on data that is available in other places, notably TRD, PED defers to the LFC forecasts.

## **SIGNIFICANT ISSUES**

The Pre-Kindergarten Act, Sections 32A-23 through 32A-23-9 NMSA 1978, provides “Any money appropriated for pre-kindergarten programs shall be divided equally between the public education department and the children, youth and families department.” The provisions of SB 288 do not appear to adhere to this requirement by providing equal distributions to the two agencies.

If the provisions of SB 288 are to be offset with \$327 million in new funding for the PED Pre-K program from an unnamed revenue source, there would be significant growing pains to such a rapid expansion of funding. PED Pre-K program prioritizes high expectations of quality and service while partnering with our school district and other sub-grantees. Phasing in long term capacity, while maintaining a high quality program, is a challenge to rapid expansion of access. The PED believes that sustained, long term growth of the program to expand access to Pre-K without negatively impacting program quality is the most beneficial approach to serving these children.

## **ADMINISTRATIVE IMPLICATIONS**

Since the new Early Childhood Education Fund will be completely administered by CYFD, there will be little administrative implications to PED. If however, the provisions of SB288 are to be offset with an additional \$327 million in additional funding for PED’s Pre-K program under the provisions of the Pre-Kindergarten Act, there are likely to be large administrative challenges regarding program development and delivery.

## **ALTERNATIVES**

The sponsor may wish to consider whether or not SB 288 should make equal distributions between the two entities. Alternatively, the legislature could either not create the fund and continue the practice of appropriations for these amounts or not levy the additional tax and continue to increase funding for Pre-K incrementally.