

LFC Requester:	Jon Clark
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

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:

Original	<input type="checkbox"/>	Amendment	<input type="checkbox"/>	Date	<u>3/11/2017</u>
Correction	<input type="checkbox"/>	Substitute	<input checked="" type="checkbox"/>	Bill No:	<u>SB344/SCORCS</u>

Sponsor:	<u>Senate Corporations and Transportation Committee</u>	Agency Code:	<u>924</u>
Short Title:	<u>INCOME TAX RATES & PRE-K FUNDING</u>	Person Writing	<u>David Craig</u>
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
\$0	\$11,300	\$23,300	Recurring	PED Pre-K Fund
\$0	\$67,500	\$46,500	Recurring	Public School Fund

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	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

Synopsis:

SB344/SCORCS establishes a new top personal income tax (PIT) bracket, raises taxes on impacted taxpayers, and limits deductions on capital gain income to no more than \$1,000. For FY 20 SB344/SCORCS distributes 1.5 percent of net PIT proceeds equally between the Children, Youth and Families Department’s (CYFD’s) Pre-Kindergarten Fund and the Public Education Department’s (PED’s) Pre-Kindergarten Fund. For FY 21 and beyond, SB344/SCORCS distributes 3.0 percent of net PIT proceeds equally between the CYFD Pre-Kindergarten Fund and the PED’s Pre-Kindergarten Fund. These funds are to be used for early childhood care and education services provided for prenatal care through third grade and the applicable enabling language for the funds is adjusted accordingly. Additionally for FY 20, SB344/SCORCS distributes 4.5 percent of PIT proceeds to the public school fund for distribution through the state equalization guarantee (SEG). For FY 21 and beyond, SB344/SCORCS distributes 3.0 percent of PIT proceeds to the public school fund for distribution through the SEG. The sections regarding redistribution of PIT proceeds to the Pre-Kindergarten Funds and the SEG (1 and 4) are effective January 1, 2019.

FISCAL IMPLICATIONS

The table below shows the distribution by fiscal year by receiving fund as a percent of total personal income tax (PIT) proceeds. As illustrated, SB344/SCORCS diverts more funds to the SEG in FY 20 than in FY 21 and beyond.

CS/SB344 Impacts on PIT Proceeds
(in percent)

Recipient of Proceeds	FY 20	FY 21 and Subsequent Years
CYFD Pre-K Fund	.75	1.5
PED Pre-K Fund	.75	1.5
Public School Fund (SEG)	4.5	3.0
Total Distribution of PIT yearly proceeds	6.0	6.0

According to the Legislative Finance Committee, the provisions of SB344/SCORCS would provide \$11.3 million to the Public Pre-Kindergarten in FY20 and \$23.3 million in FY21 and beyond. Additionally, a distribution to the public School Fund for distribution through the SEG would be made in amounts of \$67.5 million in FY20 and \$46.5 million in FY21 and beyond. The effective date of these distributions is January 1, 2019 which would normally imply a FY 19 distribution. However, specific language in Section 1 indicates distributions do not take place until FY20.

For FY 17 the General Appropriations Act included \$21 million in revenues to the Public Pre-kindergarten Fund (including \$3.5 million in federal Temporary Assistance to Needy Families (TANF) funds). It is unclear from the provisions of SB 344a whether or not the additional \$11.3 million in FY 20 to the Public Pre-Kindergarten Fund would supplement or replace the current practice of a non-categorical (“below the line”) distribution in the General Appropriations Act. If the provisions supplement the current level of \$21 million, then the provisions of SB 344a would result in a large increase in funding. This would result in scaling challenges at local school districts as well as the PED. Some of the issues that the LFC recognized in the original bill’s FIR regarding capacity limitations with availability of physical plant assets or locating available teachers could provide significant hurdles to expanding access.

If the intent of SB344/SCORCS is to instead replace the below the line appropriation with a direct funding source, the current mechanism may produce funding in FY20 that is below recent appropriation amounts. This could result in PED program staff having tough conversations regarding available funds for current staffing levels of programs, only to turn around and ask entities to scale back to program size in FY21. Absent some supplementing appropriation to keep the current level of funding, the PED and sub-grantees in the school districts would be turning away kids and teachers one year only to ask them all to come back the next.

Similarly, it is unclear from the provisions of SB344/SCORCS whether or not the additional \$67.5 million in FY 20 would supplement or replace the current appropriation level of the SEG in the General Appropriations Act. Absent any clause that indicates that the funding shall supplement and not supplant traditional revenues to the Public School Fund, the provisions of SB344/SCORCS may not provide any additional funding to the SEG if appropriators take credit for this revenue stream to reduce General Fund appropriations in future years. The provisions of SB344/SCORCS would create a dedicated revenue stream to the Public School Fund for distribution through the SEG, though the availability of funds depends upon PIT, a traditionally volatile part of the state’s revenue stream.

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 344 adhere to this requirement by providing equal distributions from the PIT.

The LFC, in their original bill analysis, indicates that an equal distribution requirement may result in the inability of the Public Education Department (PED) to expand services as quickly as the Children, Youth and Families Department (CYFD) due to capital infrastructure needs for additional classrooms in public schools and those school districts may look at contracting for additional capacity growth. The PED Pre-K program has always prioritized 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. Again, challenges resulting from expanding programs and access are much preferable to having to tell school districts, and by extension parents, that they cannot provide Pre-K to kids because of a lack of funding.