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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 2nd Session, 2020

Bill Number	<u>SB18</u>	Sponsor	<u>Padilla/Trujillo, L.</u>
Tracking Number	<u>.215915.2</u>	Committee Referrals	<u>SCONC/SCORC/SFC</u>
Short Title	<u>Renewable Energy Production Tax</u>		
Analyst	<u>Andrews</u>	Original Date	<u>1/27/2020</u>
		Last Updated	

BILL SUMMARY

Synopsis of Bill

Senate Bill 18 (SB18) would create the Renewable Energy Production Tax Act, which would impose an excise tax on electricity generated from renewable resources. SB18 would also create the early childhood program fund, which would receive distributions from the renewable energy production tax for early childhood education and care services and programs. The Early Childhood Education and Care Department (ECECD) would administer the early childhood program fund, and money in the fund would be subject to appropriation by the Legislature for early childhood education and care services and programs. The bill would become effective January 1, 2021.

FISCAL IMPACT

SB18 does not contain an appropriation.

According to analysis from the Taxation and Revenue Department (TRD), SB18 would generate \$5.3 million in revenue in FY21. The fiscal impact in out years is estimated to be \$11.5 million in FY22, \$13.7 million in FY23, and \$16.3 million in FY24.

According to TRD, the department's methodology for the estimated revenue impact assumes a 131 percent increase in capacity by the end of the forecast period, resulting in an 18.2 percent annualized growth rate. TRD assumed all wind production at utility level and qualifying for the new tax. For solar, TRD assumed solar energy will grow at a 25.4 percent annualized rate through the forecast period. TRD used statistics that showed hydropower in New Mexico averaged over 10 years, and other sources – such as biomass and geothermal – averaged over five years, with both assumed to remain flat. For all production types, TRD assumed an average 2019 southwest region wholesale cost, and then the 2.5 percent tax rate applied to that. Since the taxes are only assessed beginning half-way through FY21, this cuts the revenue in FY21 in half.

SB18 also creates the early childhood program fund, to be overseen by ECECD. This bill also adds a new section to the Tax Administration Act to specify that revenues from the renewable energy production tax would be distributed to the early childhood program fund.

SUBSTANTIVE ISSUES

SB18 would create the Renewable Energy Production Tax Act, which would impose an excise tax on electricity generated from renewable resources to be distributed to the early childhood program fund, which would also be created through this bill. Money from the early childhood program fund would be subject to appropriation by the Legislature. The new tax would apply to facilities generating renewable energy production from solar, wind, hydropower, geothermal, or biomass (which includes agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass).

The renewable energy production tax would be a monthly, recurring tax of 2.5 percent of the taxable value of each megawatt-hour generated in New Mexico. The taxable value for electricity generated from renewable energy sources would be the wholesale value of the electricity established by the United States Energy Information Administration for the southwest regional wholesale market. SB18 provides exemptions from the renewable energy production tax for projects owned by the United States; New Mexico; Indian nations, tribes, or pueblos; any foreign nation or agency; and residential solar installations.

According to TRD, with the implementation of SB18, New Mexico would remain the sixth lowest tax burden in per megawatt-hour among Western states. Given that New Mexico has the eighth best overall wind potential and third best solar potential in the country, the low overall costs means New Mexico would likely remain an attractive option for location of new renewable production facilities, which may increase production and revenue to the early childhood program fund.

According to the Energy, Minerals and Natural Resources Department (EMNRD), taxing renewable energy production could have a significant negative impact on the renewable energy industry in New Mexico. EMNRD notes after Wyoming's passage of a \$1 per megawatt-hour excise tax on electricity produced by wind power, wind power generated in Wyoming flattened, indicating new wind farms were not being developed. EMNRD asserts that if an excise tax on all renewable energy was implemented in New Mexico, a similar trend could occur, stagnating production of renewable energy technologies.

According to the Economic Development Department (EDD), it appears that any renewable energy that is generated by the state of New Mexico will be exempted from tax which would make any industrial revenue bond (IRB) project that produces renewable energy exempt from this tax due to the fact that the municipality or county will own the property for up to 30 years.

EDD also noted in its analysis that SB18 would increase the difficulty of the EDD to recruit companies to the state of New Mexico. With one of our target sectors being renewables, a tax increase will make our state less competitive and subsequently less desirable for relocations or expansions in this field.

Early Childhood Education and Care Department (ECECD). SB18 creates a dedicated funding source for ECECD. The Early Childhood Education and Care Department Act, enacted in Laws 2019, Chapter 48 (Senate Bill 22), created a new cabinet agency to better coordinate early childhood programs. The act creating ECECD consolidates early childhood education and care programs that have historically been administered by the Children, Youth and Families Department, the Department of Health, the Human Services Department, and the Public Education

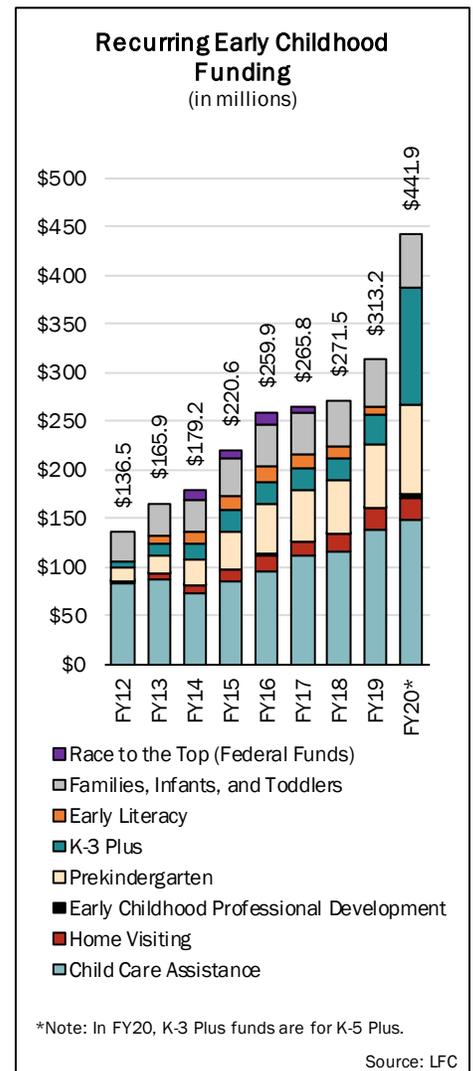
Department (PED) under ECECD to reduce duplication and fragmentation of services. Starting in FY21, ECECD will be responsible for coordinating and aligning childcare, early prekindergarten, prekindergarten, home visits for parental education and child health and support, Early Head Start, Head Start, early childhood special education, and early intervention and family support. It is important to note ECECD will receive federal funds for some of these programs.

To close the achievement gap, early childhood programs must be high-quality and based on the science of brain development. However, the Legislative Finance Committee (LFC) found a lack of coordination and competition for children among programs and rapid expansion of programming may be negatively impacting program quality. SB18 funds could help ECECD improve early childhood program collaboration and coordination, equitable access, and program quality.

Early Childhood Issues. High-quality early childhood education is a cornerstone to closing the achievement gap and ensuring all children are ready for kindergarten. Early childhood education, specifically prekindergarten, was a focus of the plaintiffs in the consolidated *Martinez* and *Yazzie* lawsuit, which noted that quality full-day prekindergarten addresses the issue of at-risk students – defined in the lawsuit as Native American, English learning, low-income, and special education students – starting school behind other children. The plaintiffs argued and the court found prekindergarten has “not been funded to the extent that all at-risk children can participate.” In FY19, the Legislature increased overall prekindergarten funding by 38 percent to serve more children in a variety of settings.

Investments in Early Childhood Education and Care. SB18 would provide a new funding source for New Mexico’s continued expansion of early childhood education. New Mexico has already demonstrated a significant investment in early childhood education by growing funding from \$136.5 million in FY12 to \$441.9 million in FY20, an increase of 224 percent. See **Attachment 1, Early Childhood Program Appropriations**. However, as the court noted, even with these increases prekindergarten has not been funded to the extent that all at-risk students can participate.

The LFC has consistently found prekindergarten programs improve math and reading proficiencies for low-income 4-year-olds and lower special education need, lower retention rates, and lessen the negative effects of mobility. According to LFC, New Mexico’s 4-year-old service capacity, when taking into account both state and federal care and education services, is at nearly 80 percent, which is considered universal access. See **Attachment 2, Early Childhood Service Capacity**. However, in FY20, PED chose to continue serving some students in half-day prekindergarten programs instead of serving all students in full-day programs, which would have meant serving fewer students. SB18 funds could be used to expand half-day prekindergarten programs to full-day prekindergarten programs. Service gaps in prekindergarten also exist. The percentage of 4-year-olds served varies by geographic area, with some areas experiencing oversaturation, leading to competition by providers, while other areas have few or no providers.



ADMINISTRATIVE IMPLICATIONS

According to TRD, implementing a new tax program would require additional funding for TRD's information technology and revenue processing divisions.

TECHNICAL ISSUES

On page 8, line 7, a preface to Section 8 should be added that specifies "a new section of the Early Childhood Care and Education Act is created to read:". This change will clarify where the fund is meant to be compiled and extend applicable definitions of "early childhood education and care services."

According to EMNRD, the exemption of electricity generated for personal consumption creates the ambiguities about what personal consumption is, for example, if it applies to facilities that are shared by several end users.

RELATED BILLS

Relates to HJR1, Permanent Funds for Early Childhood, CA, which would increase annual distributions from the land grant permanent fund by 1 percent for all beneficiaries, provided that the amount of the additional distribution from the permanent school fund for public schools would be designated for early childhood services that are administered by the state for children until they are eligible for kindergarten.

Relates to HB83, Early Childhood Education & Care Fund, which would create the early childhood education and care fund, a funding source that would create a long-term, revenue producing asset for early childhood and care services and programs.

Relates to SB3, Early Childhood Education & Care Fund, which duplicates HB83.

SOURCES OF INFORMATION

- LESC Files
- Economic Development Department (EDD)
- Taxation and Revenue Department (TRD)
- Energy, Minerals and Natural Resources Department (EMNRD)

MCA/tb/mc/sgs

Early Childhood Program Appropriations

(in millions of dollars)

ATTACHMENT 1

	FY12 Actual	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual	FY18 Actual	FY19 Actual	FY20 OPBUD	FY21 Request	FY21 LFC Rec.
Children, Youth and Families Department - Early Childhood Education and Care Department											
Childcare Assistance											
General Fund	\$ 26.8	\$ 29.8	\$ 33.3	\$ 30.3	\$ 30.0	\$ 30.6	\$ 30.6	\$ 52.6	\$ 52.6	\$ 74.1	\$ 53.6
Federal Funds	\$ 30.4	\$ 31.6	\$ 15.1	\$ 23.9	\$ 36.0	\$ 51.4	\$ 54.9	\$ 52.0	\$ 58.3	\$ 55.7	\$ 55.7
OSF	\$ 0.8	\$ 1.4	\$ 0.8	\$ -	\$ -	\$ -	\$ -	\$ 0.9	\$ 1.1	\$ 1.1	\$ 1.1
USDA E&T	\$ 0.6	\$ 0.6	\$ 0.6	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TANF	\$ 24.3	\$ 23.8	\$ 23.2	\$ 30.5	\$ 30.5	\$ 30.5	\$ 30.5	\$ 33.5	\$ 36.5	\$ 36.5	\$ 39.5
Total Childcare Assistance	\$ 82.9	\$ 87.2	\$ 73.0	\$ 84.7	\$ 96.5	\$ 112.5	\$ 116.0	\$ 139.0	\$ 148.5	\$ 167.4	\$ 149.9
Home Visiting											
General Fund	\$ 2.3	\$ 3.2	\$ 4.5	\$ 6.3	\$ 7.3	\$ 3.2	\$ 8.0	\$ 10.6	\$ 12.4	\$ 15.3	\$ 15.3
Federal Funds	\$ -	\$ 2.7	\$ 2.5	\$ 3.3	\$ 3.7	\$ 5.3	\$ 5.1	\$ 5.1	\$ 5.1	\$ 5.1	\$ 5.1
TANF	\$ -	\$ -	\$ -	\$ 2.0	\$ 4.5	\$ 5.0	\$ 5.0	\$ 5.0	\$ 5.0	\$ 5.0	\$ 5.0
Tobacco Settlement Fund	\$ -	\$ -	\$ 1.1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Medicaid Match	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.8	\$ 9.0	\$ 9.0
Total Home Visiting	\$ 2.3	\$ 5.9	\$ 8.1	\$ 11.6	\$ 15.5	\$ 13.5	\$ 18.1	\$ 20.7	\$ 23.2	\$ 34.4	\$ 34.4
Early Childhood Professional Development											
General Fund	\$ 0.5	\$ 0.5	\$ 0.5	\$ 1.0	\$ 1.3	\$ 0.9	\$ 1.3	\$ 1.4	\$ 4.2	\$ 23.3	\$ 5.7
Prekindergarten: Four Year Old Services											
General Fund	\$ 8.2	\$ 9.2	\$ 8.5	\$ 14.3	\$ 11.0	\$ 8.5	\$ 9.7	\$ 9.7	\$ 19.7	\$ 21.3	\$ 19.7
TANF	\$ -	\$ -	\$ -	\$ 6.1	\$ 11.6	\$ 11.6	\$ 12.1	\$ 12.1	\$ 12.1	\$ 12.1	\$ 12.1
Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.5	\$ 0.5	\$ 0.6	\$ 0.6	\$ 0.6	\$ 0.6
Tobacco Settlement Fund	\$ -	\$ -	\$ 3.1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 8.2	\$ 9.2	\$ 11.6	\$ 20.4	\$ 22.6	\$ 20.6	\$ 22.3	\$ 22.4	\$ 32.4	\$ 34.0	\$ 32.4
Prekindergarten: Three Year Old Services											
General Fund	\$ -	\$ -	\$ -	\$ -	\$ 2.0	\$ 4.7	\$ 3.5	\$ 5.4	\$ 9.4	\$ 13.5	\$ 11.9
TANF	\$ -	\$ -	\$ -	\$ -	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0	\$ 2.0
Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.4	\$ 1.2	\$ 1.1	\$ 1.1	\$ 1.1	\$ 1.1
Total	\$ -	\$ -	\$ -	\$ -	\$ 4.0	\$ 7.1	\$ 6.7	\$ 8.5	\$ 12.5	\$ 16.6	\$ 15.0
Prekindergarten: Mixed-Age Pilot Services											
General Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.6	\$ 1.1	\$ 5.5	\$ 3.6
TANF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ 0.6	\$ 1.1	\$ 5.5	\$ 3.6						
Subtotal CYFD/ECECD PreK											
	\$ 8.2	\$ 9.2	\$ 11.6	\$ 20.4	\$ 26.6	\$ 27.8	\$ 29.0	\$ 31.5	\$ 46.0	\$ 56.0	\$ 51.0
Planning Grant: High Quality Early Childhood Development Centers											
General Fund	\$ -	\$ -	\$ -	\$ 0.5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL CYFD/ECECD	\$ 93.9	\$ 102.8	\$ 93.1	\$ 118.2	\$ 139.8	\$ 154.8	\$ 164.4	\$ 192.6	\$ 221.9	\$ 281.1	\$ 241.0
Public Education Department - Special Appropriations *											
Prekindergarten: Four Year Old Basic Services											
General Fund	\$ 6.3	\$ 10.0	\$ 15.0	\$ 17.7	\$ 21.0	\$ 21.0	\$ 21.0	\$ 29.0	\$ 39.0	\$ 55.6	\$ 47.0
TANF	\$ -	\$ -	\$ -	\$ -	\$ 3.5	\$ 3.5	\$ 3.5	\$ 3.5	\$ 3.5	\$ 3.5	\$ 3.5
Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2.6	\$ -	\$ -
Total	\$ 6.3	\$ 10.0	\$ 15.0	\$ 17.7	\$ 24.5	\$ 24.5	\$ 24.5	\$ 32.5	\$ 45.1	\$ 59.1	\$ 50.5
Prekindergarten: Four Year Old Extended Day Services											
General Fund	\$ -	\$ -	\$ -	\$ 1.5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal PED PreK	\$ 6.3	\$ 10.0	\$ 15.0	\$ 19.2	\$ 24.5	\$ 24.5	\$ 24.5	\$ 32.5	\$ 45.1	\$ 59.1	\$ 50.5
K-5 Plus											
General Fund	\$ 5.3	\$ 11.0	\$ 16.0	\$ 21.2	\$ 23.7	\$ 22.6	\$ 23.7	\$ 30.2	\$ 119.9	\$ 119.9	\$ 119.9
Early Literacy											
General Fund	\$ -	\$ 8.5	\$ 11.5	\$ 14.5	\$ 15.0	\$ 14.1	\$ 12.5	\$ 8.8	\$ -	\$ -	\$ 14.0
TOTAL PED	\$ 11.6	\$ 29.5	\$ 42.5	\$ 54.9	\$ 63.2	\$ 61.2	\$ 60.7	\$ 71.5	\$ 165.0	\$ 179.0	\$ 184.4
Department of Health											
Family, Infant and Toddlers Program (Birth to 3)²											
General Fund	\$ 14.5	\$ 14.0	\$ 14.5	\$ 20.1	\$ 19.7	\$ 19.4	\$ 20.2	\$ 21.5	\$ 25.0	\$ 30.7	\$ 29.4
All other funds	\$ 16.5	\$ 19.6	\$ 19.6	\$ 19.6	\$ 23.0	\$ 24.3	\$ 26.3	\$ 26.7	\$ 30.0	\$ 32.2	\$ 31.0
TOTAL DOH	\$ 31.0	\$ 33.6	\$ 34.1	\$ 39.7	\$ 42.7	\$ 43.7	\$ 46.5	\$ 48.2	\$ 55.0	\$ 62.9	\$ 60.4
TOTAL RECURRING EARLY CHILDHOOD PROGRAMS											
	\$ 136.5	\$ 165.9	\$ 169.7	\$ 212.8	\$ 245.7	\$ 259.7	\$ 271.6	\$ 312.3	\$ 441.9	\$ 523.0	\$ 485.8
Race to the Top- Early Learning Challenge											
Federal Funds	\$ -	\$ -	\$ 9.4	\$ 7.8	\$ 14.0	\$ 6.2	\$ -	\$ -	\$ -	\$ -	\$ -
GRAND TOTAL EARLY CHILDHOOD PROGRAMS	\$ 136.5	\$ 165.9	\$ 179.1	\$ 220.6	\$ 259.6	\$ 265.9	\$ 271.6	\$ 312.3	\$ 441.9	\$ 523.0	\$ 485.8

Source: CYFD, PED, HSD, DOH, and LFC Files

Early Childhood Service Capacity

