F I S C A L   I M P A C T   R E P O R T

SPONSOR Trujillo
ORIGINAL DATE 01/29/13
LAST UPDATED
HB 248

SHORT TITLE Child Daycare Gross Receipts
SB

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
$0.0	($2,900.0)	($2,987.0)	($3,077.0)	($3,169.0)	Recurring	Local Government
$0.0	($3,365.0)	($3,465.0)	($3,569.0)	($3,676.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Children, Youth and Families Department (CYFD)
Human Services Division (HSD)

SUMMARY

Synopsis of Bill

House Bill 248 would allow a new deduction from the gross receipts tax for receipts from the state for fees paid to a child daycare provider for services to families qualified to receive child daycare assistance from the state.

The purpose of the deduction is to 1) reduce costs of providing child daycare services for private, for-profit daycare providers so that the costs are equivalent to the costs of providing child daycare services for not-for-profit providers; and 2) to encourage more child daycare providers to open child daycare businesses."

The **effective date** is July 1, 2013. The bill includes a sunset date of July 1, 2021.

FISCAL IMPLICATIONS

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

CYFD is budgeted for $85,660,800 in FY13 (the projected expenditure level is the FY13 budgeted amount) in fees paid by the state for qualifying child daycare services in FY12. The estimate above assumes an average gross receipts tax rate of 7.1 percent and an annual growth rate of 3 percent. The total impact of HB248 on state revenue would be $6.3 million in FY14, $6.5 million in FY15, $6.7 million in FY16, and $6.9 million in FY17.

SIGNIFICANT ISSUES

The CYFD Child Care Assistance Policy (NMAC 8.15.2) currently allows child care providers to pass on the gross receipt tax to low-income families receiving child care assistance from CYFD. This bill would have a positive impact on those families by reducing their out-of-pocket cost for child care services. This bill would result in increased revenue for child care providers who choose not to pass the gross receipts tax on to families receiving child care assistance, or who are unable to collect gross receipts tax from families. However, the bill would have a negative impact on the overall revenue generated for all state-funded programs and to local governments until the year 2021.

HB52 also has the tax policy implication of creating differential tax treatment of similar activity based on the characteristics of the purchaser. By definition, this violates the tax policy principle of equity. Additionally, monitoring compliance will be difficult.

The Income Support Division (ISD) has seen the number of families who receive TANF cash assistance and are required to participate in a work program decrease since FFY11 from a monthly average of 13,299 families to a monthly average of 11,452 in FFY12. ISD is not aware of any unmet need for child daycare services among this population.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill’s requirement to report annually to the revenue stabilization and tax policy committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

TECHNICAL ISSUES

This is a deduction and not an exemption. Although most gross receipts tax deductions require the claimant to obtain a non-taxable transaction certificate from the purchaser of the services (or, in this case, the entity that “buys” the services by paying for them.), this bill makes no analogous provision. However, the bill could require that the daycare provider – claimant provide a copy of the payment transmittal from the Human Services Department (HSD) in order to verify the validity of claim. Alternatively, the bill could require HSD to provide detailed records of payments made to providers of daycare services provided to qualified assistance recipients, including the CRS IDs of the providers.

OTHER SUBSTANTIVE ISSUES

This may create precedence for all services subsidized by the government, which will have a much larger impact on state revenue.

Section 7-9-54 NMSA 1978 states that services to governmental entities are taxable. The payment would still be for services performed for the government. This bill would give a special allowance for certain sales which would likely lead to requests for additional deductions in the future.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to HSD, the incentive for more private, for-profit daycare providers to open child daycare businesses may not be sufficient to increase the number of providers.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

EWM/bm