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

SPONSOR Trujillo, J **ORIGINAL DATE LAST UPDATED** 02/04/16 **HB** 299

SHORT TITLE State-Paid Day Care & Pre-K Gross Receipts **SB**

ANALYST Keyes

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	**FY17**	**FY18**	**FY19**	**FY20**		
$0.0	($4,042.0)	($4,163.0)	($4,288.0)	($4,417.0)	Recurring	Local Government
$0.0	($4,690.0)	($4,830.0)	($4,975.0)	($5,124.0)	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	($4,100.0)	($4,100.0)	($4,100.0)	($12,300.0)	Recurring	General

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Children, Youth and Families Department (CYFD)
Public Education Department (PED)

SUMMARY

House Bill 299 would enact a deduction for private for-profit child care and pre-kindergarten service providers from gross receipts tax benefit for the period of July 1, 2016 through July 1, 2024. The bill would allow for receipts of fees paid by the state to these providers for child care and pre-kindergarten services to families qualified to receive child care assistance from the state, to be deducted from gross receipts.

The bill requires the Taxation and Revenue Department to compile an annual report that includes the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed, and any other information necessary to evaluate the effectiveness of the deduction, including an

analysis of the effectiveness and cost of the deduction and whether the deduction is performing the purpose for which it was created, which will be presented to the revenue stabilization and tax policy and the legislative finance committees.

FISCAL IMPLICATIONS

Early child care and pre-kindergarten programs are estimated for $119.4 million in FY16 (the projected expenditure level is the FY16 budgeted amount) in fees paid by the state for qualifying child daycare services in FY15. 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 HB299 on state revenue would be $8.7 million in FY17, $9 million in FY18, $9.3 million in FY19, and $9.5 million in FY20. Pre-kindergarten expenditures are anticipated to grow approximately $3 million year over year.

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.

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.

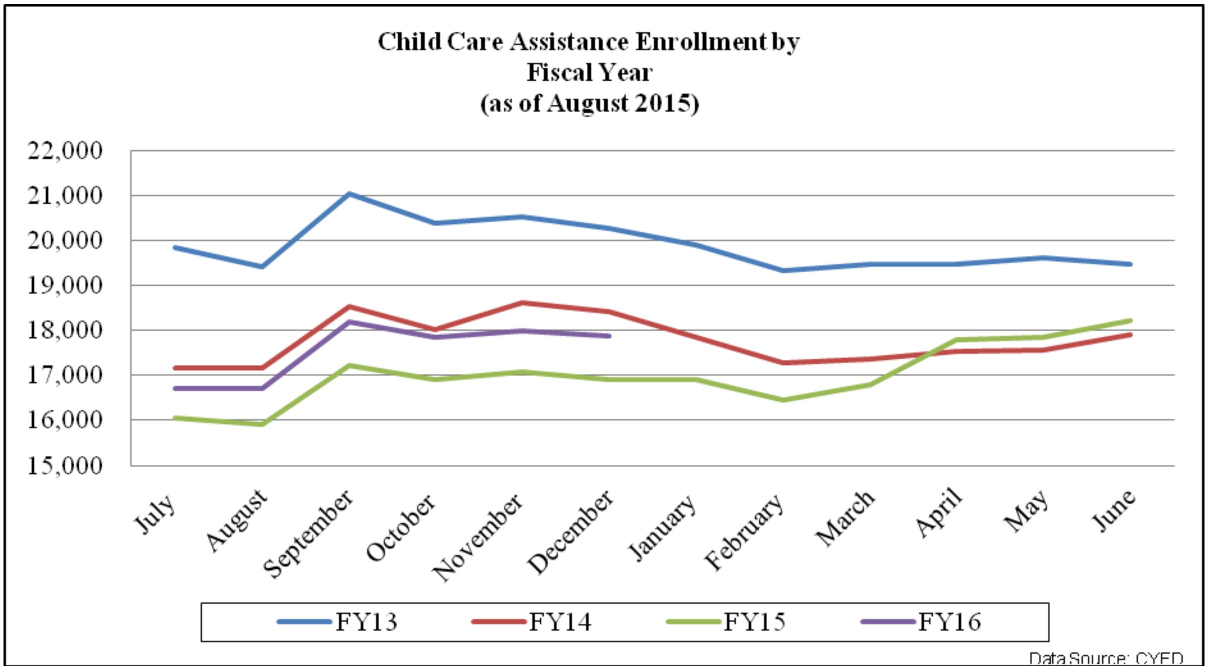
PED has noted that not for profit pre-kindergarten providers do not pay gross receipts tax. HB299 does not affect the state-funded pre-kindergarten programs provided by PED.

HB299 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.

PERFORMANCE IMPLICATIONS

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

According to LFC analysis, childcare and pre-kindergarten services directly impact the health and well-being of children. Research indicates evidence-based quality early care and development improves outcomes for children. The services contribute strongly to readiness for kindergarten and advancement in elementary school grades.



Child Care Assistance Enrollment				
	FY13	**FY14**	**FY15**	**FY16**
July	19,862	17,176	16,056	16,710
August	19,417	17,171	15,918	16,719
September	21,050	18,542	17,232	18,189
October	20,394	18,021	16,922	17,847
November	20,534	18,633	17,084	18,008
December	20,288	18,420	16,915	17,887
January	19,893	17,851	16,915	
February	19,348	17,294	16,453	
March	19,487	17,359	16,784	
April	19,487	17,535	17,805	
May	19,610	17,576	17,852	
June	19,464	17,903	18,230	

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

Child care and pre-kindergarten services providers would continue to pay gross receipts tax to the state for fees paid by the state to these providers. The incentive for additional private, for-profit child care providers to open child care businesses may not be sufficient to raise the number of available providers to meet the growing needs of the child population.

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

CK/jo/jle