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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/09

SPONSOR Trujillo LAST UPDATED _____ HB 359

SHORT TITLE Child Daycare Services Gross Receipts SB _____

ANALYST Gutierrez

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	(\$7,233.7)	(\$7,595.4)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to HB241

SOURCES OF INFORMATION

LFC Files
Children, Youth and Families Department (CYFD)

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 359 creates a new gross receipts tax credit for the state share of gross receipts tax due on all taxable gross receipts of child daycare providers licensed by CYFD. The state gross receipts tax rate is 5 percent in unincorporated areas and 3.775 percent in municipalities.

The provisions of the bill will be effective on July 1, 2009.

FISCAL IMPLICATIONS

TRD estimates that taxable gross receipts totaling \$177.8 million will be eligible for the proposed credit in FY10. About 91 percent of that tax base will be in municipalities and the remaining 9 percent will be in unincorporated areas. Taxed at 3.775 percent in municipalities and 5 percent in counties, the proposed credit is expected to reduce general fund gross receipts tax revenue by \$7,234 thousand in FY10. Claims for the credit are expected to grow annually by 5 percent.

SIGNIFICANT ISSUES

CYFD reported in 2008 on a similar bill that under current regulations, child care providers are authorized to pass gross receipts tax liability on to clients. Therefore, the credit could result in lower costs to consumers for child daycare. CYFD also indicates that the proposal could increase child daycare access.

LFC notes that while individual credits, deductions and exemptions from the gross receipts tax may have small fiscal impacts, their cumulative effect significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue.

ADMINISTRATIVE IMPLICATIONS

TRD:

There will be some cost to the Department from the proposed credit. The majority of the cost will come from processing additional credit claims. The proposal requires setting up a new business credit for CRS with revenue accounting and testing estimated at 120 hours.

There will be a high need for taxpayer education. Coordination with CYFD will help with the education of daycare providers. A mail-out would be an alternative to assist with the education. A new form would need to be developed to support the credit. Audit procedures would need to be developed. Minor Gentax changes will be needed. The biggest impact will be an additional 1/3 FTE. Until a business credit module can be added to Gentax, each of these returns will require manual review to process.

The effective date leaves little time to implement and educate the taxpayers. We can expect to see additional amended returns and refunds to process.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to HB241 which provides for a gross receipts deduction from providing licensed child daycare services pursuant to a contract with CYFD.

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

- 1. Adequacy:*** revenue should be adequate to fund government services.
- 2. Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc

TECHNICAL ISSUES

The bill provides a credit against all of a child daycare provider's taxable gross receipts not just their taxable gross receipts from providing child daycare services. A child daycare provider's total taxable gross receipts could be many times greater than their receipts from providing child daycare services.

The bill is silent on how the credit affects local option gross receipts distributions. The revenue impact assumes the credit will be taken 100% from the State's share of revenue.

OTHER SUBSTANTIVE ISSUES

Because the proposed credit is larger for services performed outside of a municipality it may provide an incentive to locate day care services away from existing public transportation and create other economic inefficiencies.

CYFD would need to provide some type of documentation to the taxpayer to submit with their application for credit which should include their license number.

BLG/mt