FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Cadena/Gallegos	**ORIGINAL DATE**	1/23/24
SHORT TITLE	Child Care Assistance Gross Receipts	**BILL NUMBER**	House Bill 166
		ANALYST	Torres, Ismael

REVENUE*
(dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Gross Receipts Tax		At least ($4,187.6)	At least ($4,288.1)	At Least ($4,421.0)	At Least ($4,558.1)	Recurring	General Fund
Gross Receipts Tax		At least ($5,021.5)	At least ($5,142.0)	At Least ($5,301.4)	At Least ($5,465.8)	Recurring	Local Governments

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
New Mexico Attorney General (NMAG)
Early Childhood Education and Care Department (ECECD)

Agency Analysis was Solicited but Not Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of House Bill 166

House Bill 166 (HB166) creates a new gross receipts tax (GRT) deduction for the sale of childcare assistance through either a licensed childcare assistance program or a for-profit prekindergarten provider.

For licensed childcare assistance services, the provider’s receipts must be pursuant to a contract or grant with the Early Childhood Education and Care Department and through a licensed childcare assistance program.

For a for-profit prekindergarten provider, the services must be pursuant to the Prekindergarten Act.

Finally, HB166 creates a requirement for the Taxation and Revenue Department (TRD) to compile an annual report to be presented to the Revenue Stabilization and Tax Policy Committee

and Legislative Finance Committee.
The effective date of this bill is July 1, 2024.

FISCAL IMPLICATIONS

The Early Childhood Education and Care Department (ECECD) used data from provider payments on file to determine the GRT deduction would cost at least $9.2 million to the general fund from the deduction of GRT on licensed childcare assistance programs and contracts or grants through ECECD. However, ECECD estimated the impact using an 8 percent GRT rate and assumed the entirety would impact the general fund. LFC analysis on page 1 uses the ECECD analysis of gross revenues from the current year-to-date awards and applies the year-to-date FY24 average effective statewide rate in municipalities of 8.027 percent and distributes the rounded costs to the state (3.65 percent) and local governments (the remaining 4.377 percent). The consensus revenue estimate for the gross receipts tax growth rate published December 2023 was used for out-year modeling.

This bill creates or expands a tax expenditure with a cost that is difficult to determine but likely significant. LFC has concerns about the risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting and targeting.

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

This bill narrows the gross receipts tax (GRT) base. Many New Mexico tax reform efforts over the last few years have focused on broadening the GRT base and lowering the rates. Narrowing the base leads to continually rising GRT rates, increasing volatility in the state's largest general fund revenue source. Higher rates compound tax pyramiding issues and force consumers and businesses to pay higher taxes on all other purchases without an exemption, deduction, or credit.

The Early Childhood Education and Care Department notes:

> For Childcare Assistance programs, GRT may be passed on to families who live at or below the federal poverty line, often times resulting in a burdensome monthly payment for families who already struggle to afford child care. In addition, ECECD has received feedback in stakeholder roundtables that the collection of gross receipts taxes from for-profit child care providers and PreK providers creates an unlevel playing field between for profit and non-profit and government entities.

In the duplicate version introduced during the 2023 session, the Taxation and Revenue Department noted:

> The bill proposes a GRT tax deduction to support the provision of childcare assistance and prekindergarten services. It is, however, unclear what the purpose of this bill is. For instance, it is unclear whether the bill attempts to assist providers of these services so that they can hire more staff and increase the wages of their workers to improve the quality of these services or to aid in subsidizing childcare for low and middle income families. TRD

suggests including a purpose statement in the bill to make the goal more transparent, which would help to evaluate the effectiveness of the deductions.

While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures and/or narrowing the tax base, with a negative impact on the general fund; and, (2) increases the burden of compliance on both taxpayers and TRD. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates House Bill 137 from 2023.

OTHER SUBSTANTIVE ISSUES

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

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

In addition, staff reviews whether the bill meets principles specific to tax expenditures. Those policies and how this bill addresses those issues:

Tax Expenditure Policy Principle	Met?	Comments
Vetted: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.	✓	**The topic was heard in the 2023 interim at a hearing of the RSTP Committee**
Targeted: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.		
Clearly stated purpose	✘	
Long-term goals	✘	
Measurable targets	✘	
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	✓	

Accountable: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date. Public analysis Expiration date	 ? ✘	
Effective: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure. Fulfills stated purpose Passes "but for" test	 ? ?	
Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	?	
Key: ✓ Met ✘ Not Met ? Unclear		

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