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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/18/09  
 LAST UPDATED 03/13/09    HB 811/HLCS

SPONSOR HLC

SHORT TITLE Access to Quality Child Care Workforce Act    SB \_\_\_\_\_

ANALYST Peery-Galon

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Indeterminate but Substantial	Indeterminate but Substantial	Indeterminate but Substantial	Recurring	General Fund/Federal Funding

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Children, Youth and Families Department (CYFD)  
 State Personnel Office (SPO)

#### No Responses Received From

Workforce Solutions Department  
 Association of Counties  
 New Mexico Municipal League

### SUMMARY

#### Synopsis of HLC Substitute

The House Labor and Human Resource Committee substitute for House Bill 811 allows child care centers to organize into one statewide unit and bargain collectively with the Children, Youth and Families Department regarding issues such as: the stability, funding and operation of the child care program; expansion of quality child care; improvement of learning environments; state subsidies; health and retirement benefits or payments; professional development and training; committees; and grievance procedures related to the application of department regulations and child care center licensing.

### FISCAL IMPLICATIONS

CYFD and SPO reported implementation of the proposed legislation would have **significant fiscal implications and ramifications for CYFD.** CYFD receives a fixed sum of money from

state general fund and federal sources to provide child care subsidies to low income families, including and especially Temporary Assistance for Needy Families (TANF) recipients. Depending upon the amount of money received in each legislative session, a specific poverty level is determined for eligibility. At present, that level is 200 percent of the federal poverty level. An undefined increase in expenses negotiated through agreements with one statewide unit could potentially have the effect of drastically lowering that poverty level in order to fund it, and thereby reducing the number of families served.

CYFD reported there would be administrative costs related to negotiating with a new collective bargaining unit, overseeing the agreement, and addressing any grievances stemming from that agreement.

## **SIGNIFICANT ISSUES**

CYFD and SPO stated collective bargaining generally covers a worker's right to bargain with management over the terms of their employment relationship, most often their wages, hours and working conditions. CFFD noted the relationship between licensed centers and the State is a contractual or quasi-contractual relationship and has traditionally been addressed through the public rule-making process and the public policy advocacy process.

CYFD reported child care caregivers are not public employees as defined in the Public Employees Bargaining Act (PEBA). As a state agency, CYFD does not qualify as an employer under this bill in reference to the PEBA definition of an employer. Although the collective bargaining activities outlined in the bill are described as being under the purview of the Public Employee Labor Relations Board, and there are governmental entities that provide child care (e.g. the City of Santa Fe, University of New Mexico), caregivers are employees of the child care center, not the State of New Mexico.

CYFD and SPO noted the bill does not discuss the potential impact on parents that pay for their child's care without assistance from CYFD, or the co-payments that parents receiving child care subsidy must pay in addition to the subsidy payments made by the state.

SPO noted the House Labor and Human Resource Committee substitute for House Bill 811 changes the definition of "unit" to mean all caregivers and child care centers. This bill now appears to cover all individual caregivers and all childcare centers. Other bills introduced this session keep these two stakeholders separate. If passed this bill would cover 1,032 licensed facilities, 5,237 registered homes and 2,420 child care workers.

SPO noted the House Labor and Human Resource Committee substitute for House Bill 811 adds language specifying that the agreement may address grievance procedures related to the application of department regulations and child care center licensing. Although this is more specific than the original language, this significantly broadens the scope of what may be grieved with CYFD.

CYFD stated the House Labor and Human Resource Committee substitute for House Bill 811 stipulates that the child care centers would organize into a single unit for the purpose of collective bargaining; and clarifies the parameters of the grievance procedures such that CYFD will probably not be obligated to hear non-related grievance issues.

**PERFORMANCE IMPLICATIONS**

CYFD and SPO reported that CYFD has made a significant financial commitment over the past twenty years to quality improvement and has a performance measure related to increasing providers' quality level. The impact of the proposed legislation on those performance measures is unknown at this time.

**ADMINISTRATIVE IMPLICATIONS**

CYFD reported administrative resources necessary to negotiating with a new collective bargaining unit, overseeing the agreement, and addressing any grievances stemming from that agreement, will need to be diverted from existing programs.

**RELATIONSHIP**

House Bill 811 has a relationship to House Bill 245, Senate Bill 380 and Senate Bill 402.

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