FISCAL IMPACT REPORT

BILL NUMBER: CS/Senate Bill 96/SHPACS

SHORT TITLE: Regulated Child Care Zoning Requirements

SPONSOR: Senate Health and Public Affairs Committee

LAST UPDATE: 2/6/26 **ORIGINAL DATE:** 1/28/26 **ANALYST:** Garcia

REVENUE*
(dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
Local Government Business Fees	No fiscal impact	($5,000.0)	($5,000.0)	($5,000.0)	($5,000.0)	Recurring	Local Governments
Property Tax	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Recurring	State BO Bonding Fund
Property Tax	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Recurring	Local Governments

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

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
ECECD	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund
RLD	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	Other state funds
HSEM	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund
Total	**No fiscal impact**	**No fiscal impact**	**No fiscal impact**	**No fiscal impact**	**Recurring**	**General Fund**

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

Relates to House Bill 106

Sources of Information

LFC Files

<u>Agency or Agencies Providing Analysis</u>
Attorney General
Regulation and Licensing Department
Early Childhood Care and Education Department
Department of Homeland Security and Emergency Management

Agency or Agencies That Were Asked for Analysis but did not Respond
Tax and Revenue Department
New Mexico Association of Counties
New Mexico Municipal League

SUMMARY

Synopsis of SHPAC Substitute for Senate Bill 96

The Senate Health and Public Affairs Committee substitute for Senate Bill 96 (SB96) amends statute related to zoning, local government fees and taxes, and safety regulations as they relate to childcare providers.

The committee substitute clarifies childcare homes should be considered as residential use of property for zoning purposes. The bill would restrict zoning authorities (county, municipality, or other zoning authorities) from imposing additional regulations or permits for childcare homes that are not required of private residences. In addition, SB96 prohibits local governments from imposing a tax or fee for the privilege of operating a childcare home and from imposing off-street parking regulations that exceed those imposed on single-family residences in the same zoning district. The committee substitute defines "child care center" as, "a licensed, nonresidential facility that provides child care and services to and supervision of children for less than twenty-four hours of any day." The committee substitute defines a "child care home," as "a registered child care home, licensed family child care home, or a licensed group child care home, as defined in Section 9-29-2 NMSA 1978."

Additionally, the bill would allow licensed childcare centers to be permitted by right in any zoning district designated for commercial, mixed-use or multifamily residential purposes. SB96 would also prohibit local zoning authorities from imposing fees or taxes for the privilege of operating a licensed childcare center, imposing different or more restrictive building, safety, nuisance, or off-street parking requirements. The bill allows zoning authorities to establish some additional parking requirements for licensed childcare centers.

Additionally, SB96 would prohibit homeowner associations from prohibiting the operation of childcare homes or assessing fees or taxes for the operation of childcare homes and would require homeowner associations to provide reasonable exceptions to community documents to allow childcare homes to comply with Early Childhood Care and Education Department (ECECD) licensing requirements.

Finally, SB96 prohibits rules promulgated under the State Fire Marshal Act from imposing regulations on certain child care homes that do not apply to other private residences, requires licensed child care centers be permitted by right in all zones designated as commercial, mixed-use, or multifamily residential, and prevents promulgated rules from impairing ECECD's ability to determine standards for regulated child care homes, licensed family child care homes, or licensed child care centers.

The effective date of this bill is July 1, 2026.

FISCAL IMPLICATIONS

Local Governments: Business Permitting and Licensing Fees

Roughly 71 thousand childcare providers are authorized to operate in New Mexico, and SB96 would prevent county and municipal governments from charging these businesses an annual business registration fee. Statute currently allows municipal and county governments to charge up to a $35 business registration fee annually. LFC review of municipality and county business registration fees posted online suggests many municipalities are charging the maximum annual registration fee established in statute. If implemented, SB96 could result in a loss of roughly $5 million in annual business registration fee revenue collected by local governments.

Local Governments: Property Taxes

Provisions of SB96 could move some childcare provider properties from the nonresidential tax base into the residential tax base by requiring that a childcare home be treated as a residential use of property for zoning purposes. In practice, assessors often rely on zoning and use classifications when determining whether a parcel is taxed as residential or nonresidential. As a result, properties such as single-family homes or dwelling units used for in-home childcare that are currently assessed as nonresidential due to business activity could be reclassified as residential.

If reclassified, these properties would generally be subject to lower effective property tax rates. Residential properties are subject to separate yield-control calculations and, in many jurisdictions, lower mill rates than nonresidential property. Reclassification could therefore reduce property tax liability for affected childcare providers while modestly shifting tax burden to the remaining nonresidential tax base, depending on local assessor practices and the number and value of affected properties.

Estimating the fiscal impact of these changes is difficult due to limited statewide data. There is no centralized information on how many childcare properties are currently assessed as nonresidential, how assessor interpretations of primary use vary across counties, or the difference between residential and nonresidential taxable values for these parcels. Parcel-level data reflecting the effects of the residential 3 percent valuation cap and yield control are also not readily available.

Under New Mexico's yield-control statute, operating tax rates are adjusted separately for residential and nonresidential property classes to limit revenue growth when taxable values change. Shifting properties into the residential tax base could increase residential taxable value and result in lower residential mill rates, while a corresponding reduction in nonresidential taxable value could place upward pressure on nonresidential mill rates. Although yield control generally limits overall revenue impacts, it can shift tax burden between property classes. Because nonresidential property is not subject to the 3 percent assessment limitation that applies to residential property, moving properties from the nonresidential to the residential tax base would likely result in slower growth in taxable value and lower property tax revenues over time relative to current practice. The magnitude of these effects cannot be reliably quantified without detailed parcel-level data.

Agency Operating Budgets

The Regulation and Licensing Department reports no fiscal impact to the department associated with SB96.

ECECD reports no fiscal impact to the department associated with SB96.

The Department of Homeland Security and Emergency Management (DHSEM) reports no fiscal impact to the department associated with SB96.

SIGNIFICANT ISSUES

The Early Childhood Education and Care Department Act (Section 9-29-2) establishes the following types of childcare providers, regulated by ECECD:

- **Licensed childcare center:** nonresidential facilities that provide care and supervision of children for less than 24 hours per day;
- **Licensed family childcare homes:** private dwellings in which the licensee resides and provides care and supervision of no more than 6 children;
- **Licensed group childcare homes**: homes in which the licensee resides and provides care and supervision to 7 to 12 children;
- **Registered childcare homes**: independent primary caregivers whose homes are registered to provide care and supervision for no more than 4 children.

New Mexico childcare providers must obtain authorization to operate through ECECD. Part of the licensure process includes obtaining zoning approval from local zoning authorities, typically a municipal or county government. In addition, providers must meet local fire safety inspection standards.

SB96 would limit the authority of local governments to establish zoning, licensing, and permitting requirements for childcare providers and prevent local governments from charging business registration and other fees or taxes.

ECECD reports local governments have broad discretion to regulate zoning and, as a result, zoning and permitting regulations vary across the state. ECECD reports that local government zoning authorities may prohibit childcare homes from operating in residential zones, require them to operate with conditional use permits, or pay additional fees to operate. ECECD reports the bill will provide statewide consistency in land use and regulation related to childcare providers while removing additional requirements or fees imposed on childcare providers.

ECECD cites a 2024 survey study conducted by the low-income investment fund (LIIF) of the state’s childcare infrastructure and barriers to expansion. The survey report identified zoning, permitting, and other barriers experienced by childcare providers.

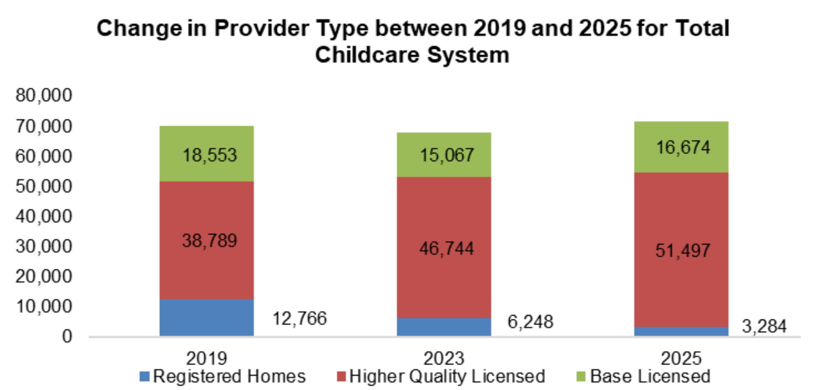
Local government fire marshals are responsible for reviewing new and existing building inspections, fire investigations, plan reviews, and conducting code enforcement. ECECD reports SB96 will align state fire marshal regulatory requirements with ECECD childcare licensing requirements. ECECD cites examples of some local building care requirements that were costly to home-based childcare providers, such as installing an automatic fire suppression system if the provider cares for more than five children. ECECD analysis states the agency collaborated with RLD and the State Fire Marshal to adopt new rules that removed the sprinkler system requirement for childcare homes licensed by ECECD as long as the facility had two or more egresses to an outside area. ECECD analysis reports this bill would codify this change in statute by requiring licensed and registered childcare homes be considered residential use in the state's fire marshal code.

The Department of Homeland Security and Emergency Management (DHSEM), which oversees the State Fire Marshal, reports the bill restricts local authorities from enacting or enforcing rules or ordinances that are inconsistent with promulgated state rules. The bill further restricts existing rules promulgated in Section 59A-52 of state statute, which establishes the State Fire Marshal's Office. According to the State Fire Marshal, the bill notes the State Fire Marshal shall not impair the power of ECECD. In analysis for the introduced bill, the department's analysis suggests, while the State Fire Marshal does not have authority over single-family home dwellings, the elimination or override of the State Fire Marshal's authority over licensed childcare centers could counteract fire code requirements for nonresidential childcare centers and requirements for fire extinguishers, fire alarms, fire sprinklers, and other equipment. DHSEM reports these are federally recognized safety requirements in other states. The department analysis also reports, "A childcare center would not be residential and subject to applicable state and local building codes." The SHPAC committee substitute aims to address this concern by removing licensed childcare centers from the proposed statutory changes, preserving the State Fire Marshal's authority over licensed childcare centers.

ECECD reports California, Colorado, Montana, Oregon, and Washington have all passed legislation requiring childcare homes to be treated as residential use by right and restricting local authorities from imposing additional requirements on childcare homes.

Types of Child Care Providers

Two broad categories of childcare providers operate in New Mexico: licensed providers and registered homes. Licensed providers make up most providers and are subject to ECECD's tiered quality rating system.



Source: LFC Files

Registered homes are not included in the ECECD tiered quality rating and improvement system (TQRIS) guidelines but are authorized by ECECD and must follow required safety guidelines.

According to the 2025 LFC Early Childhood Accountability Report, registered homes make up a small overall proportion of the state's childcare provider system but tend to serve higher-poverty families and rural areas. The LFC brief highlighted analysis of ECECD data indicates the number of registered homes further decreased to 3,284 in FY25—or a total of 75 percent across the six-year period. Of the children served by the state's Childcare Assistance program, 2.7 percent of children in June 2025 were served by registered homes.

According to LFC analysis, the vast majority of children in registered homes are in families with incomes at or below 200 percent of the FPL. Low Income Investment Fund (LIIF) studies have found, "smaller facilities such as registered homes and licensed family and group homes make up a relatively small share of the total [childcare] supply, but these providers often serve smaller and rural communities as well as demand from linguistic or cultural minority groups."

The 2025 LFC report also noted home-based providers are more likely than licensed childcare centers to offer flexible, non-traditional care hours, and may offer families a closer match to their cultural and linguistic preferences.

PERFORMANCE IMPLICATIONS

ECECD reports SB96 will streamline the process for opening and operating childcare homes and centers and suggests these improvements may lead to increased childcare provider capacity.

DHSEM reports the bill would eliminate the State Fire Marshal's authority over licensed childcare centers, which could result in a potential gap in fire and safety requirements for licensed childcare centers, if overridden by ECECD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bill 106 which would provide an income tax credit for individual New Mexico taxpayers to certain parents or guardians who care for young children at home.

MG/ct/cf/sgs/hg/sgs