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

ORIGINAL DATE 1/30/2012
SPONSOR Trujillo & Sapien **LAST UPDATED** **HB**

SHORT TITLE Child Daycare Services Gross Receipts **SB** 230

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14		
	($2,823.0)	($2,907.0)	Recurring	Local Governments
	($3,276.0)	($3,375.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates: HB 52

SOURCES OF INFORMATION
LFC Files

Responses Received From
Child Youth and Family Department (CYFD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 230 would allow a new deduction from the gross receipts tax for receipts from the state for fees paid to a child daycare provider for services to families qualified to receive child daycare assistance from the state.

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

The **effective date** is July 1, 2012. The bill includes a sunset date of July 1, 2020.

FISCAL IMPLICATIONS

This bill may violate the LFC tax policy principle of adequacy. According to the LFC General Fund Recurring Appropriation Outlook for FY14 and FY15 the December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations. Since currently forecasted revenues in FY14 and FY16 may not be adequate to fund government services there is insufficient funds for additional tax cuts.

CYFD is budgeted for $82,244,200 in FY12 (the projected expenditure level is the FY12 budgeted amount) in fees paid by the state for qualifying child daycare services in FY12. 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 HB52 on state revenue would be $6 million in FY13, $6.3 million in FY14, $6.5 million in FY15, and $6.7 million in FY16.

SIGNIFICANT ISSUES

According to CYFD, "Currently, CYFD Child Care Assistance policy (NMAC 8.15.2) 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 receipt tax on to families receiving child care assistance or are unable to collect gross receipt 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 2020."

SB230 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.

ADMINISTRATIVE IMPLICATIONS

If SB230 is passed, there may be minimal costs to the state to inform the affected parties of the change in the tax law, including the printing of new materials and/or the modification of existing publications.

TECHNICAL ISSUES

Per TRD: 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.

Per TRD: 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

Families who qualify to receive assistance for daycare services will be charged GRT on daycare service fees.

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

EWM/svb:amm