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FISCAL IMPACT REPORT

SPONSOR <u>Gallegos/Armstrong/Castellano/ Jaramillo</u>	LAST UPDATED _____
	ORIGINAL DATE <u>02/02/2024</u>
SHORT TITLE <u>Zoning of Child Care Homes</u>	BILL NUMBER <u>House Bill 202</u>
	ANALYST <u>Chilton</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Cities, Counties		Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From
 Early Childhood Education and Care Department (ECECD)
 Municipal League (NMML)

Agency Analysis was Solicited but Not Received From
 New Mexico Counties

SUMMARY

Synopsis of House Bill 202

House Bill 202 modifies three sections in statute to assure that registered child care homes, licensed family child care homes, and licensed group health care homes are not treated differently than private homes in the same locations would be treated.

Section 3-21-1 NMSA 1978, which is entitled “Zoning; authority of county or municipality,” is altered to make an exception to a county’s or municipality’s discretion in zoning decisions in a new Subsection H. This exception states that child care facilities of the three listed types not be treated differently in zoning, land use development, fire and life safety, sanitation or building codes, of in other regulations on private homes.

Section 3-21-11, which deals with conflicts between zoning regulations and other statutes and ordinances, is modified again to take into account Subsection H, as above.

In Section 3 of the bill, Section 59A-52-18, which deals with the reserved power of

municipalities, a similar requirement is made that no differentiation can be made by municipalities between private homes and the named child care facilities. In addition the bill would not interfere with ECECD's ability to regulate the named child care facilities.

The effective date of this bill is July 1, 2024.

FISCAL IMPLICATIONS

There is no appropriation in House Bill 202. NMML indicates that there may be minimal additional costs to cities administering the bill's provisions, and the same is likely to be the case with counties.

SIGNIFICANT ISSUES

ECECD makes note of what are at times onerous additional requirements imposed on child care homes and child care providers that go beyond the "robust safety requirements" [in ECECD words] imposed by ECECD. ECECD sees these requirements as limiting the availability of child care in the state and as unnecessary and imposing insurmountable costs on potential child care providers. The agency cites recent legislation in Colorado and Oklahoma that also limits the ability of subunits of those states to add layers of regulation to child care facilities.

In a 2022 New York Times article, New Mexico is mentioned for its provision of child care assistance. According to the article, "child care is unaffordable for more than 60 percent of families who need it, according to the Treasury Department, and half of all Americans live in places where child care is in short supply." The American Rescue Plan allotted \$10 million in discretionary funds to New Mexico to expand its over-crowded supply of day-care centers. ECECD sees local regulations as an impediment to growth in availability.

On the other hand, the Municipal League (NMML) decries what it describes as "infringe[ments] on local zoning decisions," which, it believes, need to be made at the local level. NMML states that "it is unclear why childcare homes would be treated the same as private residences, as childcare homes are still businesses that likely require additional health and safety regulations or have other implications (e.g. parking) for other nearby residences. Cities have the ability to impose reasonable restrictions on short-term rentals, so it seems logical that they should also be able to do so for other home-based businesses."

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The supply of child care in New Mexico may continue to be constricted by local regulations that vary from one community to another and differ from the regulations applied to private homes.

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