



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title:	<u>SB0269.01 R: Generally revise laws regarding family and group day-care homes</u>		
Primary Sponsor:	<u>Dennis Lenz</u>	Status:	<u>As Introduced</u>
<input type="checkbox"/> Included in the Executive Budget	<input checked="" type="checkbox"/> Needs to be included in HB 2	<input type="checkbox"/> Significant Local Gov Impact	
<input type="checkbox"/> Significant Long-Term Impacts	<input checked="" type="checkbox"/> Technical Concerns	<input type="checkbox"/> Dedicated Revenue Form Attached	

FISCAL SUMMARY

	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
Expenditures				
Federal Special Revenue (03)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)
Revenues				
Federal Special Revenue (03)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)
Net Impact	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>
General Fund Balance				

Description of fiscal impact

Department of Public Health and Human Services

The provisions of SB 269 jeopardize the overall Child Care Development Funds (CCDF) funding with the department due significant areas of noncompliance with federal CFR's including 45 CFR 98.41 and 45 CFR 98.42. Penalties for noncompliance with these regulations include disqualification from future CCDF funding pursuant to and 45 CFR 98.92(b)(1).

FISCAL ANALYSIS

Assumptions

Department of Public Health and Human Services

1. SB 269 jeopardizes \$40,934,541 annually in federal Child Care Development Funds (CCDF) based on the following assumptions.
 2. There are many sections throughout the proposed new statutes where the health and safety requirements for family and group providers are vague and not quantifiable, making them impossible to consistently implement. Further, per Section 14(4), this proposed statute restricts the department's ability to adopt rule more "stringent," as that term is undefined. Beginning with assumption 3.a. through assumption 7. below are examples, but not an exhaustive list, of where requirements for family and group providers are unenforceable as required in 45 CFR 98.42(a) which states:
 - a. Each Lead Agency shall certify in the Plan that procedures are in effect to ensure that child care providers of services for which assistance is made available in accordance with this part, within the area served by the Lead Agency, comply with all applicable State, local, or tribal health and safety requirements, including those described in § 98.41.
3. New Section 2. Family and group day care homes--general requirements
 - a. *(2) indoor and outdoor space at the family day care home or group day care home that is adequate for*

the number of children in care to play, rest, and eat. The department's ability to adopt rule is restricted to not be able to further clarify "adequate."

b. (3) *Children in the care of the provider may not ever be left alone with a visitor or another adult who is not authorized to care for children.* The department's ability to adopt rule to define "authorized" or determine who makes the authorization is restricted.

4. New Section 3. Family and group day-care homes-health and sanitation.

- (1) *The provider shall submit to the department documentation that comprehensive fire, safety, and sanitation inspections have been completed. The inspections must be performed annually, and the provider shall make the inspection reports available for review on request by the department.* Per CFR 98.42.(b)(2), licensing inspectors must conduct annual unannounced inspections of child care providers and facilities. This is work currently performed by the department staff or qualified inspectors designated by the department, as required by federal regulation. Under the proposed new statute, it appears that these annual inspections would be completed by sanitarians and fire marshals—people who are not licensing inspectors.
- (3) *The provider may readmit a previously ill child for care only when the child's presence no longer endangers the health of other children.* The department's ability to adopt rule is restricted to clarify "no longer endangers the health of other children."
- (9) *The facility must be maintained in a sanitary manner.* The department's ability to adopt rule to define "sanitary" is restricted.

5. New Section 4. Family and group day –care homes-fire and safety requirements

6. (13) *The provider shall inform parents or legal guardians if the provider will be taking children away from the facility while the children are in the provider's care. If the provider transports children in a vehicle, the provider shall ensure age appropriate restraint devices are used and appropriate safety precautions are taken.* The department's ability to adopt rule to define "appropriate safety precautions" is restricted.

7. New Section 8. Family and group day-care homes-supervision of children does not include ratios in 1(b), signaling a single provider can care for up to 15 children at one time. There are some limits if there are children under 2, but if all children are over 2, it appears there are no ratio requirements. The ability for the department to adopt rules to implement ratios is restricted.

8. Restricting the department's ability to adopt rules to define sections such as these examples for family and group providers puts the department in direct noncompliance with federal regulations.

- 45 CFR 98.41(a) Health and Safety Standards states I. Each lead agency shall certify that there are in effect, within the State (or other area served by the Lead Agency), under State, local or tribal law, requirements (appropriate to provider setting and age of children served) that are designed, implemented, and enforced to protect the health and safety of children. Such requirements must be applicable to child care providers of services for which assistance is provided under this part. II The department must monitor the 98.41 requirements pursuant to 45 CFR 98.42(a): *Each Lead Agency shall certify in the Plan that procedures are in effect to ensure that child care providers of services for which assistance is made available in accordance with this part, within the area served by the Lead Agency, comply with all applicable State, local, or tribal health and safety requirements, including those described in § 98.41.*
- 45 CFR 98.92(b)(1) states penalties for noncompliance:
- (1) *Disqualification of the Lead Agency from the receipt of further funding under the CCDF;*
- As a result, the department assesses that the fiscal cost of implementing SB 269 is the potential of being disqualified from receipt of future CCDF funds in the amount of \$40,934,541 annually.

9. Additionally, the department will need to increase the capacity to project manage the changes to state plan, new rule making, updated forms and procedure, training needed to implement this legislation. As a result, the department assesses a cost of \$150,000 to contract a project manager to crosswalk this statute with federal CFR, rewrite the CCDF state plan, consult with stakeholders and other professions such as fire and sanitation, assist the department in the rule making process to adopt new rules, change and edit forms, create training documents for providers, and conduct training with impacted facilities so they can prepare for

licensing renewal. It is estimated this project implementation would take 1000 hours using contracted project management. The hourly rate is \$150 per hour for a project manager x 1000 hours = \$150,000. Project management costs are reflected within the Operating Costs section of the Fiscal Analysis Table Expenditure section.

10. Loss of funding would require DPHHS to reduce expenditures for 25.0 FTE.

Fiscal Analysis Table

FTE	-25.00	-25.00	-25.00	-25.00
TOTAL Fiscal Impact	-25.00	-25.00	-25.00	-25.00
Personal Services	(\$2,513,381)	(\$2,513,381)	(\$2,513,381)	(\$2,513,381)
Operating Expenses	(\$4,498,706)	(\$4,498,706)	(\$4,498,706)	(\$4,498,706)
Benefits	(\$33,922,454)	(\$33,922,454)	(\$33,922,454)	(\$33,922,454)
TOTAL Expenditures	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)
Federal Special Revenue (03)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)
TOTAL Funding of Expenditures	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)
Federal Special Revenue (03)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)
TOTAL Revenues	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)	(\$40,934,541)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures)				
Federal Special Revenue (03)	\$0	\$0	\$0	\$0

NO SPONSOR SIGNATURE

Sponsor's Initials

2/28

Date



Budget Director's Initials

2/27/2025

Date