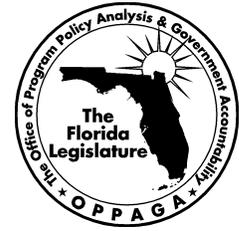




The Florida Legislature



OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY

RESEARCH MEMORANDUM

Child Care Services Placement Options for Legislative Consideration

December 30, 2009

Summary

As requested, OPPAGA reviewed the costs and feasibility of transferring the Child Care Services Program that is currently administered by the Department of Children and Families to another entity. This memo provides information on the program's purpose, current organizational placement and agency responsibilities, resources, and performance. In general, we found that there is considerable overlap of the child care establishments regulated by DCF, the Department of Health, and the Agency for Workforce Innovation as well as duplication among the agencies' inspections of these facilities.¹ Abolishing the program would eliminate much of this duplication and reduce state costs associated with child care regulation, but would not be in the state's best interest due to a potential decrease in the health and safety of children in child care settings and a loss of significant federal funding. Thus, we examined the advantages and disadvantages of several organizational options that the Legislature may wish to consider.

Purpose, Placement, and Responsibilities

The Child Care Services Program is intended to ensure that children are well cared for in a safe, healthy, positive, and educational environment by trained, qualified child care staff. Federal regulations require states, as a condition to qualify for federal Child Care and Development Block Grant Funds, to establish health and safety standards and procedures to ensure child care providers comply with all applicable requirements.² Florida law identifies those child care establishments that must be licensed.³ State licensure standards address health, sanitation, safety, and adequate physical surroundings; health and nutrition; and child development needs of children in child care.⁴

The Department of Children and Families' Child Care Services Program is statutorily responsible for administering child care licensing and training in 61 of the state's 67 counties. State law also provides that county governments with licensing standards that meet or exceed state minimum standards may designate a local licensing agency to license child care facilities in their county.⁵ Currently, six counties have state-approved local licensing and inspection programs.⁶ In the remaining counties, the Department

¹ 'Overlap' is used in this memorandum to refer to two or more entities that inspect or monitor the same child care establishments. 'Duplication' is used to refer to two or more entities that inspect the same child care establishments to verify adherence to the same or very similar requirements or issues.

² In response to the growing need for quality child care, Congress established the Child Care and Development Block Grant Act of 1990. Provisions governing the Child Care and Development Block Grant Act include 42 USC 9858, as amended, section 418 of the Social Security Act (42 USC 618), as amended, and Title 45, Parts 98 and 99, *Code of Federal Regulations*.

³ Section [402.312](#), *F.S.*

⁴ Section [402.305](#), *F.S.*

⁵ Section [402.306](#), *F.S.*

⁶ These counties are Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota.

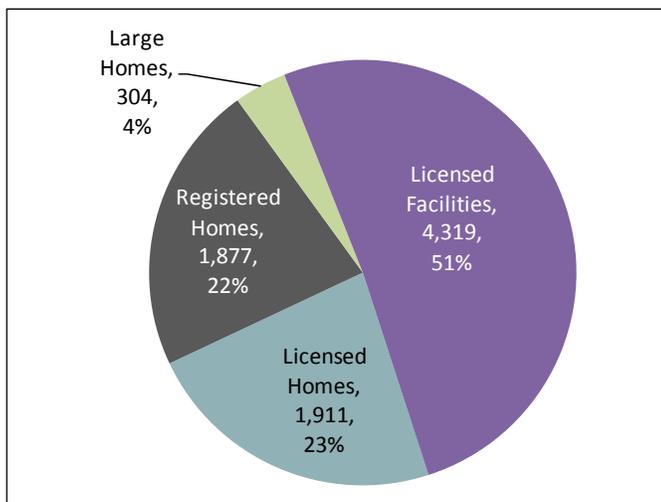
of Children and Families' Child Care Services Program performs child care regulatory and compliance activities.

As of June 30, 2009, the state Child Care Services Program regulated 8,411 child care facilities and homes in 61 counties (see Exhibit 1). According to DCF, these child care establishments could serve approximately 439,000 children. These licensed providers include child care facilities, family child care homes, and large family child care homes.⁷

Staff in the department's licensing units, located in most counties, inspect facilities a minimum of three times per year and licensed homes two times per year. In addition, staff conduct follow-up inspections and provide technical assistance to ensure deficiencies found during inspections are corrected. The program also annually registers family day care homes not required to be licensed; registration requirements include that the homes submit documentation of screening and background checks, successful completion of a 30-hour training course, and record keeping of current immunization records, but does not entail onsite inspections. Licensing staff also collect verifying documentation from child care facilities that claim religious exemption from licensure. These providers are an integral part of a church or parochial school and are accredited by, or a member of, one of the recognized religious exempt associations.

The Child Care Services Program's central office is responsible for formulating policy and developing and implementing a uniform system of procedures that provides for the consistent application of disciplinary actions across regions and a progressively increasing level of penalties.⁸ The central office also provides quality assurance, program oversight, and ongoing data analysis to identify trends that might require changes in provider and/or licensing staff training. In addition, the department maintains the Child Care Information System (CCIS) that stores information on regulated providers, and training and credential information specific to individual child care personnel. This system is used by DCF licensing inspectors and other agencies that administer early childhood programs to verify compliance with licensure requirements related to training. The department contracts with outside vendors for training for child care personnel and issues credentials to designate whether individuals' professional education meets or exceeds program requirements.

Exhibit 1
The Child Care Services Program Regulates 8,411 Child Care Facilities and Homes in 61 Florida Counties



Note: The Department of Children and Families also administers the religious exempt child care facilities process in accordance with s. [402.316](#), F.S.

Source: Department of Children and Families, Child Care Program, Quick Facts, as of June 30, 2009.

⁷ The program also regulates family child care homes that are licensed by counties and those participating in the subsidized child care program in counties that do not license the homes (s. [402.313](#), F.S.). Six counties license family day care homes and perform monitoring inspections: Alachua, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota. Six additional counties license family day care homes, but monitoring inspections are conducted by the Department of Children and Families. These counties are Clay, Duval, Miami-Dade, Nassau, Polk, and St. Johns. Family day care homes in the remaining Florida counties have a choice of being licensed or registering annually with the department or, if applicable, a local licensing agency.

⁸ Section [402.310\(1\)\(c\)](#), F.S.

Resources

The Legislature appropriated \$18.4 million and 137.5 full-time equivalent positions to the Child Care Services Program for Fiscal Year 2009-10 (see Exhibit 2). The program's primary source of revenue is the federal Child Care Development Fund, placed in the Federal Grants Trust Fund. These funds are distributed to states and are used to operate child care subsidy programs and improve the quality and availability of child care.

Exhibit 2

The Legislature Appropriated Over \$18 Million to the Child Care Services Program for Fiscal Year 2009-10¹

Child Care Services Program Activities	General Revenue	Federal Grants Trust Fund	Social Services Block Grant Trust Fund	Operations and Maintenance Trust Fund	TOTAL	Full-time Equivalents	Other Personal Services
Licensing	\$1,170,176	\$4,680,704	\$1,950,294	\$530,696 ²	\$8,331,870	116.50	
Training	665,741	2,662,967	1,109,570		4,438,278	1.00	
Quality Initiatives ³	470,268	1,881,071	783,780		3,135,119		50.50
Quality Assurance	141,552	566,206	235,919		943,677	12.00	
Administration	126,847	507,386	211,411		845,644	8.00	
Information Systems	111,284	445,135	185,472		741,891		
TOTAL	\$2,685,868	\$10,743,469	\$4,476,446	\$530,696	\$18,436,479⁴	137.50	50.50

¹ Funds for the Child Care Services Program are appropriated through the Family Safety and Preservation Services budget entity.

² In Fiscal Year 2008-09, the department collected \$396,058 in licensing fees from child care centers. Pursuant to s. [402.315\(3\)](#), F.S., these fees are established at rate of \$1 per child, with a minimum fee of \$25 and maximum of \$100 per center. All moneys collected by the department for child care licensing are held in a trust fund and reallocated to the department the following fiscal year to fund child care licensing activities, including the [Gold Seal Quality Care Program](#). DCF is responsible for the administration of the Gold Seal Quality Care Program, and early learning coalitions are responsible for the payment differential to providers that have attained the Gold Seal Quality Care designation.

³ For Fiscal Year 2009-10, the Department of Children and Families allocated \$1,053,246 to the six counties with local licensing agencies (Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota counties) to help offset their child care regulations costs, authorized by s. [402.315\(1\)](#), F.S.

⁴ This figure does not include funding to support Child Care Service Program activities that are performed by other departmental units. These other program activities including background screening of child care providers and administrative actions associated with the denial, suspension, or revocation of a license or registration.

Source: Department of Children and Families.

Performance

The Child Care Services Program's performance measures demonstrate mixed results, with some legislative performance standards not being achieved. As shown in Exhibit 3, the program met one of three legislative standards in Fiscal Year 2008-09 (number of instructor hours provided to child care provider staff). It should be noted that this measure and one of the measures not met—the number of facilities and homes licensed—are output measures beyond the program's control as its workload is based on demand and other external factors. The program's one outcome measure—the percentage of licensed child care facilities and homes with no Class 1 (serious) violations—fell short of meeting the legislative standard by approximately 3%. The department asserts that this measure creates a disincentive for licensing staff to ensure the health and safety of children in care by accurately classifying serious licensure violations as Class 1, and has recommended replacing this measure with its two internal performance measures.

Exhibit 3

The Child Care Services Program Met One of Three Legislatively Approved Performance Standards in Fiscal Year 2008-09

Performance Measure	Fiscal Year 2008-09	
	Actual Performance	Standard
Legislatively Approved Measures		
Percentage of licensed child care facilities and homes with no Class 1 (serious) violations during their licensure year	96.34%	99%
Number of facilities and homes licensed	6,534	6,868
Number of instructor hours provided to child care provider staff	71,008	63,019
Internal Program Measures		
Percentage of licensed child care facilities inspected in accordance with program standards	98.91%	95%
Percentage of licensed child care homes inspected in accordance with program standards	98.14%	90%

Source: The Department of Children and Families Performance Dashboard Application, as of August 12, 2009 (<http://dcfdashboard.dcf.state.fl.us/>) and *Long Range Program Plan, Fiscal Years 2009-2010 through 2013-2014*, Florida Department of Children and Families, September 30, 2008.

The department established these two internal measures through its performance tracking process, which requires each of its programs to establish performance measures and performance targets. The two internal measures assess the timeliness of its inspections of licensed child care facilities and homes. For each month in Fiscal Year 2008-09, the Child Care Program generally met or exceeded its targets for both measures. However, it should be noted that the internal measures do not assess the outcomes of the inspections (whether the facilities are complying with state standards), as does the current legislative measure.

Florida law also directs other state agencies to regulate child care establishments; considerable overlap occurs

Florida law also requires two other state agencies to regulate child care establishments. These agencies are the Agency for Workforce Innovation and the Department of Health. In addition, the Department of Business and Professional Regulation carries out similar regulatory functions to DCF for non-child care-related businesses in Florida.

The Agency for Workforce Innovation. In 2001, the Legislature transferred the responsibility for administering the School Readiness Program (previously called Subsidized Child Care) to the Agency for Workforce Innovation and the early learning coalitions.⁹ However, responsibility for child care licensing, training related to licensure and regulatory compliance, remained with the Department of Children and Families.

Pursuant to Florida law, the Agency for Workforce Innovation administers the School Readiness and Voluntary Prekindergarten Education (VPK) programs and the Child Care Resource and Referral Network.¹⁰ The agency works with 31 local early learning coalitions that provide School Readiness and

⁹ In 1999, the Legislature enacted the School Readiness Act (Ch. [99-357](#), *Laws of Florida*) to create a more efficient and integrated school readiness system, and increase children's chances of achieving future educational success and becoming productive members of society. The act created the Florida Partnership for School Readiness, a state-level governing board to coordinate statewide program efforts and created local School Readiness coalitions to plan and implement a comprehensive program of readiness services. The partnership was assigned to the Executive Office of the Governor for administrative purposes. In 2001, The Legislature transferred administrative support of the partnership from the Executive Office of the Governor to the Agency for Workforce Innovation (Ch. [2001-170](#), *Laws of Florida*). In 2004, the Legislature eliminated the partnership and transferred its responsibilities for early education to the Agency for Workforce Innovation, making the agency responsible for state-level coordination of the School Readiness and VPK programs and of the School Readiness coalitions, renamed as early learning coalitions.

¹⁰ Sections [411.01\(4\)\(b\)1](#). and [1002.75\(1\)](#), *F.S.*, and s. 17, Ch. [2001-170](#), *Laws of Florida*.

VPK services through a network of child care providers. Federal law related to the School Readiness Program requires that the agency ensure the quality, availability, and affordability of child care throughout the state. The agency is responsible for reviewing and approving coalitions' School Readiness Program plans, providing technical assistance to coalitions, and developing and adopting program performance standards and outcomes. With regard to VPK, the agency's duties include administering the program at the state level, adopting procedures governing the administration of the program including registering providers and enrolling children, paying providers, and approving improvement plans of low-performing providers.

To meet these responsibilities, the agency conducts annual eligibility reviews of client files in all 31 coalitions. In addition, the agency conducts coalition performance/program reviews of all coalitions or contracted service providers every three years to assure compliance with state and federal requirements related to the school readiness and VPK programs.

Early learning coalitions conduct unannounced monitoring visits at least once a year of all establishments that provide child care services through the School Readiness and VPK programs. During monitoring visits coalitions observe classroom practices, review the curriculum, and examine aspects of program administration, as well as verify providers' operating status, staff credentials, training, and record keeping. These annual reviews also help ensure compliance with child enrollment and eligibility requirements. In addition, coalitions monitor unlicensed providers (license exempt and informal providers) offering child care services through the School Readiness Program, which includes the health and safety of the provider's physical environment.

Some coalition monitoring reviews duplicate health and safety items inspected by the Department of Children and Families. Given that most School Readiness Program and all VPK providers are licensed child care establishments, there is considerable overlap between DCF and the coalitions in the child care providers they inspect. As shown in Exhibit 4, based on data provided by DCF and the Agency for Workforce Innovation, we estimated that coalitions conduct annual reviews of roughly 77% of the licensed child care establishments that are also inspected by DCF.¹¹ Most coalition monitoring reviews focus on issues that differ from those addressed in DCF inspections; coalition reviews include an examination of several educational quality items not covered by DCF's inspections. However, the monitoring visits of almost one-third of the coalitions (9 of 31 coalitions, 29%) also include an evaluation of adherence to health and safety standards that are very similar to or duplicative of the items examined by DCF during its inspections or the local licensing agencies.^{12, 13}

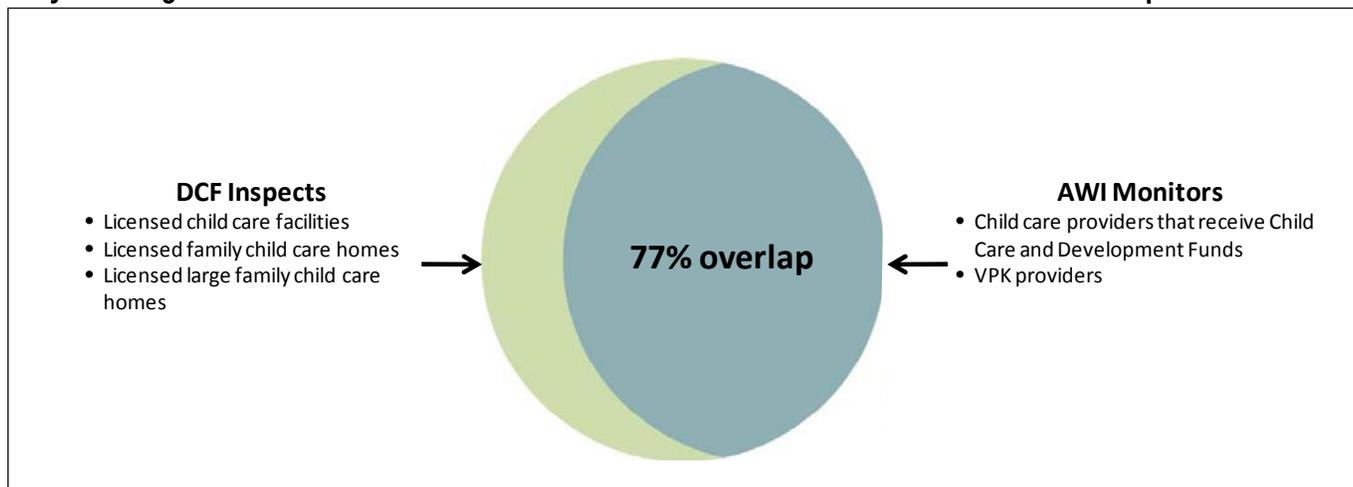
¹¹ This estimate is based on the number of establishments licensed by DCF as of June 30, 2009, and number of licensed child care providers that received either a School Readiness or VPK payment during the 2008-09 program year. See Exhibit 4 in this memorandum for a more detailed explanation of this estimate.

¹² These nine coalitions are Alachua; Flagler-Volusia; Indian River, Martin, and Okeechobee; Manatee; Orange; Osceola; Seminole; Gateway; and Santa Rosa. Seven of the coalitions use the Environment Rating Scales as a tool for monitoring for child care providers participating in School Readiness. The coalitions that use the Environment Rating Scales examine 33 of 63 items that also are included on the DCF inspection list. Two coalitions use other health and safety checklists for School Readiness providers; these coalitions examine 27 and 61 items, respectively, that are also inspected by DCF.

¹³ Two coalitions, Pasco-Hernando and Putnam-St John's, examine a limited number (fewer than 10) of the health and safety issues also inspected by DCF. In addition, 12 coalitions participate in voluntary provider quality rating initiatives that often include an examination of health and safety items similar to or the same as many of those included on DCF's inspection checklist. These coalitions are Big Bend, Broward, Duval, Heartland, Hillsborough, Miami-Dade, Northwest, Osceola, Palm Beach, Pinellas, Polk, and Sarasota.

Exhibit 4

Early Learning Coalitions Monitor 77% of the Licensed Child Care Establishments That DCF Inspects



Note: The estimated overlap in this exhibit is based on the number of facilities licensed by DCF as of June 30, 2009, and number of licensed child care providers that received either a School Readiness or VPK payment during the 2008-09 program year. There were 620 records in the Agency for Workforce Innovation data base that could not be matched to DCF data; these records were excluded from the percentage overlap calculation. According to the Agency for Workforce Innovation, its data may not equate to a one-to-one match with DCF's data as some providers may have gone out of business or had their licenses suspended, revoked, or terminated during 2008-09, or because of duplicate records in the Agency for Workforce Innovation data base. The Agency for Workforce Innovation and DCF indicated that they will work together to identify the reasons for and to eliminate unmatched records. Depending on the reasons for the unmatched records, the actual overlap may be slightly higher.

Source: Based on information obtained from the Department of Children and Families, and the Agency for Workforce Innovation.

DCF entered into its current interagency agreement with the Agency for Workforce Innovation in July 2009. The stated purpose of the interagency agreement includes the coordination of the two agencies' child care functions. This agreement indicates that the two entities will coordinate program monitoring to reduce duplication of effort but does not specifically state that the Agency for Workforce Innovation will direct early learning coalitions to discontinue their evaluation of health and safety standards that are also examined during DCF inspections.

Although coalitions and DCF examine many of the same health and safety items during their visits to child care establishments, the standards associated with these items vary and often require child care providers to meet different requirements. This is because DCF is charged with ensuring that child care establishments meet the state's minimum licensing standards while the nine coalitions identified above review child care providers to ensure they meet higher quality standards pursuant to the School Readiness Act. Regardless of the reasons for the differences, these inconsistencies can seem contradictory, and can be confusing and frustrating for child care providers. The Agency for Workforce Innovation indicated that it is currently working on developing a standardized process of program assessment that will focus on the educational aspects of School Readiness programs and likely will result in the elimination of the duplicative health and safety items.

Department of Health. The Department of Health's Environmental Health Program is charged with detecting and preventing disease caused by natural and manmade factors in the environment.¹⁴ As part of this program, the department inspects group care facilities including child care facilities and specialized child care centers for the mildly ill.¹⁵ As instructed in law, the Department of Health contracts with

¹⁴ Section 381.006, F.S.

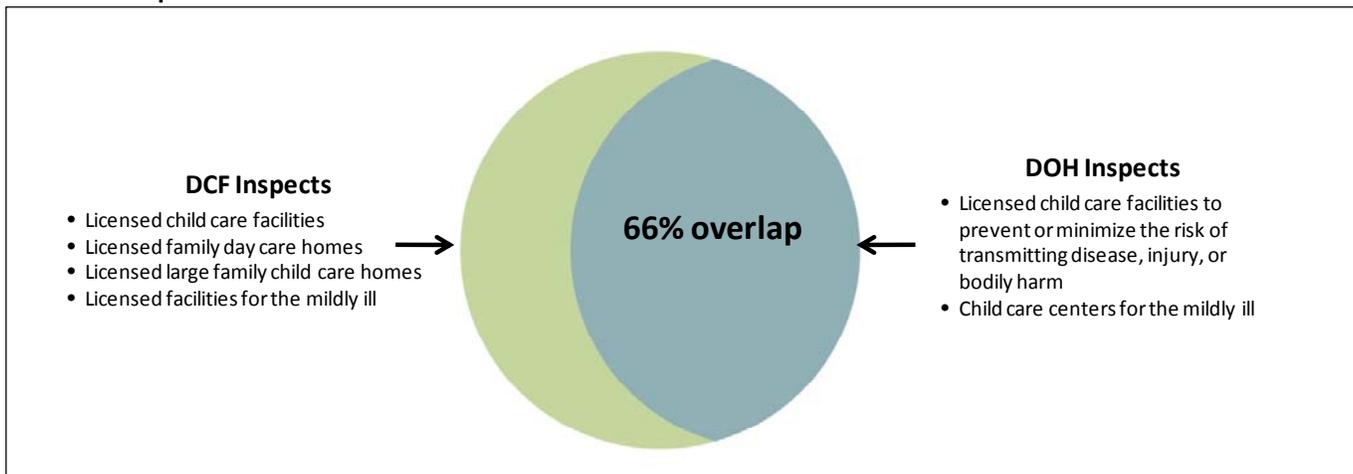
¹⁵ Environmental health inspections for the group care facilities include water supply and plumbing, sewage, food service, personnel health, hygiene, and work practices (s. 381.006(16), F.S.).

county health departments to conduct environmental health inspections of these facilities.¹⁶ In addition, four of the six counties with local licensing agencies have contracted with county health departments to carry out inspection functions.

There is considerable overlap between the child care establishments inspected by DCF and the Department of Health. The department, through its contract with the county health departments, conducts annual environmental health inspections of 66% of the licensed child care establishments also inspected by DCF; the remaining facilities are licensed family day care homes and large family child care homes that are not included in the Department of Health’s statutory inspection responsibilities (see Exhibit 5). In addition, there is duplication in the specific items that both agencies examine during their inspections. Our reviews of the checklists used by the two agencies found that both examine many of the same items in 11 of the 63 areas on the checklist used by DCF inspectors.¹⁷

Exhibit 5

The Department of Health Inspects Approximately 66% of the Licensed Child Care Establishments That DCF Inspects



Source: Based on information obtained from the Department of Children and Families, and the Department of Health.

The Department of Health has an interagency agreement with DCF to delineate each agency’s regulatory child care responsibilities and to reduce duplication of these activities between the agencies. The agreement identifies which of the two agencies will assume primary regulatory responsibility for enforcing the same or similar health and safety standards assigned in law or rule to both agencies. The Department of Health is in the process of modifying its inspection checklists to eliminate duplication in accordance with the interagency agreement. However, DCF does not plan to modify its inspection checklists pursuant to the interagency agreement because it asserts that the agreement does not relieve its legal responsibility to enforce these standards. Furthermore, DCF staff claim that this duplication is beneficial as health and safety violations not observed in Department of Health inspections may be caught during DCF’s inspections. However, this practice results in continued duplication of efforts between the two agencies despite the interagency agreement.

¹⁶ Section [154.01](#), F.S., directs the Department of Health to include environmental health services of group care facilities in its contracts with counties for delivery of services through county health departments.

¹⁷ These items include cleaning; toilets and bath facilities; bathroom supplies and equipment; bathroom supplies and supervision; proper hand washing; drinking water available; sanitary diapering; potty chairs; diaper changing station; diaper disposal; and toxic substances and materials.

The Department of Business and Professional Regulation. The Department of Business and Professional Regulation carries out regulatory functions similar to DCF's for many non-child-care-related businesses in Florida. The department has enforcement authority for 21 professions and monitors these professions and related businesses to ensure that the laws, rules and standards set by the Legislature are followed. The department's Division of Hotels and Restaurants, one of four divisions under the department's Deputy Secretary of Business Regulation, licenses, inspects, and regulates public lodging and retail food service establishments in Florida under Ch. [509](#), *Florida Statutes*.¹⁸ The division's mission is to protect the health and safety of the public by inspecting and regulating these establishments. There is no overlap between the facilities inspected by DCF and the Department of Business and Professional Regulation.

The Department of Children and Families bears the cost of some local child care ordinances

Currently DCF provides licensure and inspection services for six counties—Clay, Duval, Miami-Dade, Nassau, Polk, and St. Johns—that have passed local ordinances to require the licensure of family day care homes.¹⁹ Based on DCF estimates, we determined that this practice would require approximately six FTEs to conduct inspections of family day care homes in these counties. Currently Florida law does not allow DCF to charge counties for these additional services, which costs the state approximately \$300,000 annually based on the most recent DCF inspector salary and benefit data available.²⁰ The Florida Legislature may wish to amend Florida law to make counties that have such ordinances responsible for reimbursing DCF for the costs associated with state enforcement of the ordinances or to make counties assume responsibility themselves for enforcing these additional requirements. However, having counties assume these enforcement duties would introduce another entity into the child care regulatory system and could cause confusion among providers on the differences of DCF's and counties' roles in child care regulation. Alternatively, the Legislature could amend Florida law to allow DCF to charge a fee to pay for the state's costs associated with licensing family day care homes in counties that pass such ordinances.

The Legislature could consider several organizational placement options

We examined six organizational options: 1) abolishing state child care regulation; 2) maintaining the current placement of child care licensing and regulatory compliance functions in the Department of Children and Families; 3) transferring program responsibilities to the Agency for Workforce Innovation and early learning coalitions; 4) transferring program responsibilities to the Department of Health; 5) transferring program responsibilities to the Department of Business and Professional Regulation; and 6) transferring program responsibilities to the counties.

These options are summarized below and in Exhibit 6 at the end of this memorandum.

Option 1: Abolish the program. Although abolishing the child care licensing and regulatory compliance program would reduce state costs and much of the duplication associated with child care regulation, it would not be in the state's best interest. Federal regulations require the state to certify that it has licensure and other child care provider requirements that protect the health and safety of children in order to receive federal program funding. In Fiscal Year 2009-10, the Legislature appropriated \$548 million from the

¹⁸ The department licenses lodging establishments, free-standing restaurants, fast food services, and mobile units and bars serving food.

¹⁹ Section [402.313\(1\)](#), *F.S.*, includes a provision that allows a county to require the licensure of family day care homes through local ordinance. In the six counties that have passed such an ordinance, DCF has assumed the responsibility for licensing family day care homes. According to the department, ss. [402.313\(1\)](#) and [402.308](#), *F.S.*, read together, do not appear to require that a county establish itself as a local licensing agency in order to require that family day care homes in the county be licensed.

²⁰ Section [402.315\(2\)](#), *F.S.*, requires the department to bear the costs of the licensing of child care facilities when contracted to do so by a county.

Child Care Development Fund, which includes \$239 million transferred from the Temporary Assistance to Needy Families block grant.²¹ Abolishing the program would likely lead to the loss of these funds.

In addition, abolishing the program would eliminate oversight of 8,411 child care establishments in Florida (as of June 30, 2009) which could compromise the health and safety of children in these out-of-home environments. In Fiscal Year 2008-09, program inspectors identified approximately 35,000 instances in which child care establishments did not meet state standards in areas including staffing, health, training, physical environment, and record keeping. During the same period, the program cited 240 establishments for Class 1 (serious) violations of state laws and rules including those related to background screening requirements for child care personnel, supervision of children in their care, and administration of medication to children.

Option 2: Continue current placement. In this option, the Child Care Services Program would remain in its current placement within the Department of Children and Families. The primary advantage of this option is that it would not require additional state investments to move staff and equipment, and would avoid potential short-term confusion over who is responsible for child care regulation associated with other options that would transfer the program to another state or local entity. DCF has the necessary local-level infrastructure to conduct inspections of child care establishments and has inspected licensed child care facilities and homes as required. The department also has extensive experience in regulating and working with child care providers in addition to other related responsibilities such as training, maintaining a provider data management system, and conducting administrative hearings.

A primary disadvantage of this option is that it addresses neither the overlap nor the duplication in inspection activities that currently exists among regulatory entities. Currently, several different state and local entities inspect child care establishments, and providers have complained about the inefficiency and time burden of the current system in which DCF, early learning coalitions, and the Department of Health through county health department inspectors each separately visit facilities during the year and examine many similar issues and records. DCF asserts that regulatory overlap can be a valuable resource to a provider because of DCF's and the other regulatory entities' different areas of expertise. DCF has entered into interagency agreements with both the Agency for Workforce Innovation and the Department of Health to reduce duplication of inspection items. However, as noted earlier in this memorandum, these efforts have not eliminated the duplication.

If the Legislature chooses to continue the program's current placement, it may wish to take steps to eliminate unnecessary duplication among entities that regulate child care establishments. For instance, the Legislature could direct DCF to remove from its inspection checklists the health and safety items also examined by the Department of Health and to use information from Department of Health to certify child care facilities have met state minimum standards for these items.²² Alternatively, the Legislature could direct the Department of Health to eliminate its inspection of the duplicative items. Similarly, the Legislature could direct the Agency for Workforce Innovation to advise coalitions to use the results of DCF inspections related to health and safety, whenever possible, in monitoring child care providers. These changes would result in a more efficient use of state resources and may help to reduce frustration among child care providers.

²¹ Federal law (42 U.S.C. s. 618, 45 CFR 98.15(b)(5) and 45 CFR 98.41) requires the Lead Agency to certify that procedures are in effect to ensure that child care providers of services that receive federal [Child Care and Development Funds](#) (CCDF) comply with all applicable state, local, or tribal health and safety requirements.

²² The Department of Health inspects child care facilities twice per year while DCF inspects licensed child care facilities three times per year. Therefore, DCF could eliminate duplicative items for two of the three inspections it conducts annually.

Option 3: Transfer program responsibilities to the Agency for Workforce Innovation and early learning coalitions. In this option, the Legislature would revise the statutes to transfer state-level responsibility for child care licensing and regulation to the Agency for Workforce Innovation and local-level responsibilities to the early learning coalitions. A primary advantage of this option is that it removes one agency from oversight responsibility, which would streamline processes and potentially reduce administrative costs. In addition, the option would utilize the existing infrastructure of 31 regional coalitions that already oversee child care establishments that operate the School Readiness and VPK programs. Thus, this option could result in a more coordinated and comprehensive system of early learning and child care, and would reduce the inspection burden for licensed child care providers since it would remove one agency from oversight responsibility.

This option also has the potential to reduce state expenditures and improve the efficiency of the inspection process. Combining inspections could save the state as much as \$153,900 annually primarily as a result of the reduction in the number of inspectors and other expenses due to the need to conduct fewer total inspections per year.²³ The actual amount saved would depend on how existing DCF inspectors are distributed among the 31 coalitions. Furthermore, depending on how it is implemented, this option may result in additional savings, if existing state-level staff within the Agency for Workforce Innovation were able to absorb some of the duties of the current DCF program staff. Thus, this option has the potential to result in a more efficient use of state resources and may help to reduce the inspection burden on child care providers.

A disadvantage of this option is that it could result in potential conflict of interest where a single agency would be responsible for both ensuring the availability of child care services and regulating the providers of these services. However, prior to 1999, DCF had this dual responsibility. In response to a 1999 OPPAGA report examining early education programs, DCF asserted that it was important that these activities remain united in a single agency and that conflicts of interest had not been an issue in the past as the child care licensing counselors were separate from other program staff.²⁴

Some legal barriers also would need to be resolved before this option can be implemented. The First District Court of Appeal recently upheld a 2008 Division of Administrative Hearings' administrative order holding that early learning coalitions are not state agencies for purposes of Chapter [120, Florida Statutes](#). Therefore, the coalitions cannot carry out the administrative actions necessary to license and regulate child care providers. The Agency for Workforce Innovation could adopt rules for the program, but when the Legislature gave responsibility for the School Readiness Program to the agency its stated intent was that the administrative staff at the state level for the School Readiness Program be kept to the minimum and that School Readiness programs be regionally designed, operated, and managed.^{25,26} As a result, the agency does not currently have the infrastructure to absorb the licensing and regulatory functions that would accompany a transfer of those responsibilities to the agency. This could require the transfer of some or all of the current DCF staff, including attorneys supporting the program, to handle regulatory issues. The Legislature also would need to reconsider its earlier intent to keep agency administrative staff to a minimum if it wished to pursue this option.

²³ This estimate is based on surveys and interviews of coalition staff and an analysis of coalitions' and DCF's checklists. We identified seven coalitions that examine 33 of the 63 health and safety items on the DCF checklist, one coalition that examines 27 items inspected by DCF, and one coalition that examines 61 items of the DCF items. Our analysis determined that combining the coalitions' reviews with inspections conducted by DCF could result in a potential cost savings of between \$58,642 and \$153,886. These savings would come from the elimination of between one and three inspector positions (between \$47,622 and \$142,866 in salaries and benefits, respectively) and a reduction in travel-related expenses (\$11,020 in reimbursed mileage). The actual cost savings may be less because most of the duplicative items on the nine coalitions' checklists are very similar to but not exactly the same as health and safety items on DCF checklists.

²⁴ *Follow-Up Review of Early Education and Child Care Programs*, OPPAGA [Report No. 98-38](#), January 1999.

²⁵ Section [411.01\(2\)\(d\)](#), F.S.

²⁶ The [School Readiness Act](#) introduced educational requirements that were not part of the program prior to 1999.

Further, early learning coalitions are statutorily responsible for operating at the local level to meet the needs of the unique populations they serve. While the 31 different coalitions could be contractually given the responsibility to exercise the state's policing power to evaluate and correct licensing violations in a consistent manner, this function is different from the overall program quality support role that coalitions currently fill; as a result, providers and others could become confused about the nature of the role of the coalitions. Also, a conflict of interest could arise in some areas where coalition board members are also owners of child care businesses that would be licensed and regulated by the coalition under this scenario.

This option also may impede the coalitions' ability to collect matching funds as required by federal law. As a condition of receiving Child Care Development Block Grant funds, federal law requires each state to secure matching funds. While the Legislature appropriates a portion of these funds annually through the General Appropriations Act, it also requires each early learning coalition to collect 6% match from local sources based on the number of working poor eligible participants served. The Agency for Workforce Innovation reported that in 2008-09, it used \$18,674,615 collected by early learning coalitions to draw down \$23,196,719 in federal funds. Since each early learning coalition is a 501 (c) 3 not-for-profit corporation, collecting these funds is allowed under Florida Statute. According to the Agency for Workforce Innovation, if early learning coalitions were given state agency status, they would be prohibited from registering under Florida law as 501 (c) 3 not for profits, which would make it very difficult for them to raise local contributions. Thus, under this option, the agency asserts that the state could lose a total of \$41,871,334 in local and federal funds. If the Legislature were not to increase annual appropriations to offset the loss of locally generated contributions, this would result in a decrease of services to approximately 10,500 children annually.

Finally, the agency is not currently approved to receive the results of FBI background checks. Thus, the agency would either need to pursue statutory authority to receive screening results, or it would need to establish an interagency agreement with DCF to continue to process background screening for child care personnel (DCF has a similar arrangement with the Agency for Persons with Disabilities).

Option 4: Transfer program responsibilities to the Department of Health. In this option, the Legislature would revise the statutes to transfer responsibility for current child care licensing and regulation to the Department of Health and county health departments. This option assumes that state-level program responsibilities would be transferred to the department's Environmental Health Division due to the similarity of that division's mission to that of the Child Care Services Program. The Environmental Health Division focuses on protecting the health, safety, and well-being of individuals in residential facilities, including child care centers.

A primary advantage of this option is that it builds upon existing agency relationships and infrastructure at the local level. The Department of Health, through the county health departments, already conducts health and sanitation inspections of many of the child care providers licensed and inspected by the program. Also, this option removes one agency from oversight responsibility, which would streamline processes and potentially reduce administration costs. Based on data from both agencies, we estimate that this option also could generate cost savings of approximately \$465,000 annually primarily as a result of the reduction in the number of inspectors, supervisors, and travel expenses needed to conduct fewer total inspections per year.²⁷ Depending on how it is implemented, this option may result in additional savings,

²⁷ This estimate is based on interviews of agency staff and an analysis of the two agencies' inspection checklists, which found that county health department inspectors examine many of the same health and safety items in 11 of the 63 areas on DCF checklists. Our analysis determined that combining the two agencies' inspections of licensed child care providers could result in the elimination of up to seven inspector positions (\$333,354 in salaries and benefits), one supervisor position (\$65,864 in salaries and benefits), and reduction in travel-related expenses (\$66,080 in reimbursed mileage). The actual cost savings may be less because although county health department inspectors examine 11 of the 63 health and safety areas inspected by DCF, they may not inspect all sub-items associated with each area. The actual amount saved also would depend on how the option is implemented.

if existing state-level staff within the Department of Health were able to absorb some of the duties of current DCF program staff. Thus, this option also has the potential to result in a more efficient use of state resources and may help to reduce the inspection burden on child care providers.

Some barriers may need to be addressed to successfully implement this option. First, the Department of Health might have to retrain transferred DCF inspectors so that they are qualified to conduct a broader range of inspections that are not part of their current expertise. The *Florida Statutes* require Department of Health staff who perform environmental health or sanitary evaluations in any primary program area to meet certain education, training, or experience requirements that demonstrate their competency to perform such evaluations.²⁸ No such requirement exists for DCF Child Care Services Program inspectors. Thus, if Child Care Services Program inspectors are transferred to the Department of Health's Environmental Health Division they would likely be limited to inspecting only child care facilities unless they received additional education and training. Second, the Department of Health expressed concerns that this option would create additional workload for its Office of General Counsel, which the department reported is experiencing a significant case backlog. And third, the Department of Health is not a currently approved recipient of FBI screening results, but could be designated as a recipient of this information through statutory designation or through an interagency agreement under which DCF would continue to process background screening for child care personnel. Furthermore, this option would require the Department of Health to coordinate child care regulatory and oversight functions through an interagency agreement with the Agency for Workforce Innovation to minimize duplication.

Option 5: Transfer program responsibilities to the Department of Business and Professional Regulation. In this option, the Legislature would revise the statutes to transfer responsibility for current child care licensing and regulation to the Department of Business and Professional Regulation. This option assumes that the program would be transferred in its entirety as a separate unit under the Deputy Secretary of Business Regulation, who is responsible for the regulation of businesses throughout Florida.

An advantage of this option is that it places the program in one of the largest licensing agencies in the state. The department has experience in key program areas such as licensing and processing payments, conducting inspections, and managing training requirements, for many non-child care-related businesses in Florida. However, this option does not address the current duplication that exists among entities that regulate child care entities since the department would assume responsibility for the child care inspections that DCF currently performs. Similar to the current placement, this option would require the Department of Business and Professional Regulation to coordinate child care regulatory and oversight functions through an interagency agreement with the Department of Health and the Agency for Workforce Innovation to minimize duplication. Thus, this option may not eliminate confusion and frustration among child care providers in some coalitions regarding the role of various regulatory entities and varying standards.

In addition, implementing the option presents several potential challenges. First, the Department of Business and Professional Regulation's local-level presence is more limited than that of DCF, and the option could result in higher travel costs to inspect child care facilities. Second, the option has the potential to lose the program's focus on early childhood issues. The department lacks expertise related to child care services and would need to become familiar with program issues and requirements and establish relationships with child care providers and stakeholder groups. Third, the department has little

²⁸ Under s. [381.0101](#), *F.S.*, primary areas of environmental health are food protection program work and onsite sewage treatment and disposal system evaluations. Individuals performing Department of Health child care inspections are not specifically required to hold these certifications. However, according to the Department of Health, in practice, a typical child care inspector is certified in food protection in order to perform food-related aspects of the inspection so that a separate food inspector does not have to also visit the facility.

experience managing large federally funded programs, and could require additional staff to support the federal accounting and reporting requirements. Finally, the department expressed concern that the new program would have a negative impact on its call center and its Office of General Counsel, which the department indicates is experiencing a significant case backlog.

Option 6: Transfer program responsibilities to the counties. In this option, the Legislature would revise the statutes to transfer responsibility for child care licensing and regulation to the counties. As discussed earlier in this memorandum, under current law, counties have the option to conduct child care regulation, and six counties have opted to take on this responsibility. This option would transfer child care regulatory responsibilities to the remaining 61 counties. Each of these counties would assign these duties to a local agency or contract with a county health department to carry out the activities. This option assumes that the state would continue to maintain minimum health and safety standards but would allow counties to pass ordinances that exceed these minimums.

A primary advantage of this option is that it would move child care regulation closest to where these services are delivered. Counties could increase current standards above state minimums based on community needs and local demands. Those local areas wishing to establish higher standards would be able to do so, although this would likely increase expenses for child care establishments and child care costs for parents. The option also may reduce government bureaucracy for local child care providers by centralizing child care regulation with county-based business activities such as business licensing, building permitting, and fire inspections.

The primary disadvantage of this option is that counties may not have the resources needed to take on these additional responsibilities. Because this option would essentially create 67 separate child care programs, each with its own program and support staff, administrative processes, and infrastructure, the overall program would likely lose economies of scale and overall administrative costs would likely increase. To cover these costs, counties would likely need to raise provider fees and fines; each of the six counties that currently have local licensing authority charge substantially higher licensing fees than does the state and also charge fees to family day care homes currently not charged by DCF. Also, counties could interpret and enforce state minimum standards differently, resulting in a loss of consistency across the state.

An additional consideration associated with this option is that it might not eliminate the need for state-level oversight and data collection. To remain eligible for federal funding, the state must designate a single lead agency that retains overall responsibility for program administration, including data reporting to the federal government. DCF indicates that it currently has difficulty obtaining timely and accurate data from the six counties with local licensing authority, and data reporting problems may increase under this option because some counties may not have the resources needed to properly collect, store, process, and report data and ensure its validity and reliability. Overall program accountability could also suffer under this option as the state would have limited ability to oversee the performance of the county programs and to ensure that state standards are appropriately enforced. Furthermore, transferring the Child Care Services Program to the counties would not eliminate the duplication that exists among entities that regulate child care establishments since counties would assume responsibility for the child care inspections that DCF currently performs.

Exhibit 6

The Legislature Could Consider Several Options for the Child Care Services Program

Option	Advantages	Disadvantages
<p>Option 1 Abolish the program.</p>	<ul style="list-style-type: none"> ▪ Would reduce state costs associated with the government regulation of child care establishments ▪ Would eliminate duplicative inspection of health and safety items between DCF and the Department of Health and some coalitions 	<ul style="list-style-type: none"> ▪ Would lead to the loss of significant federal funding ▪ Would eliminate oversight of 8,411 child care providers in Florida which could compromise the health and safety of children in out-of-home settings
<p>Option 2 No change. Maintain child care licensing and regulatory functions in the Department of Children and Families.</p>	<ul style="list-style-type: none"> ▪ The department has extensive experience in regulating and working with local child care providers and early learning coalitions. ▪ The department has inspected licensed child care establishments and homes as required by law. ▪ Does not require additional state investments to move staff and equipment ▪ Would avoid potential short-term confusion over who is responsible for child care regulation 	<ul style="list-style-type: none"> ▪ Requires coordination of child care regulatory and oversight functions through interagency agreements to minimize duplication ▪ Does not address inefficiency due to duplicative inspection of health and safety items between DCF and the Department of Health and some coalitions ▪ Will not eliminate confusion and frustration among some child care providers regarding the role of various regulatory entities and varying standards
<p>Option 3 Transfer program responsibilities to the Agency for Workforce Innovation and early learning coalitions.</p>	<ul style="list-style-type: none"> ▪ Consistent with the agency's/coalitions' current responsibilities and expertise, which focus on early education and child care issues ▪ Potential to reduce inspection costs and could reduce the inspection burden on child care facilities ▪ Potential to reduce state-level administrative costs by consolidating child care regulatory and oversight functions ▪ Could result in a more coordinated and comprehensive system of early education and child care by decreasing the number of state agencies that share oversight of the system ▪ Potential to reduce the confusion and frustration among some child care providers regarding the role of various regulatory entities and varying standards 	<ul style="list-style-type: none"> ▪ Transferring the regulatory function of child care licensing to a non-state agency such as Early Learning Coalitions appears to be prohibited by Florida law. ▪ Might require the transfer of some or all of the current DCF staff, including attorneys, currently supporting the program to handle child care regulatory duties ▪ May be contrary to the original legislative intent of the agency's role in regulating the School Readiness Program ▪ Would either result in a loss of substantial federal funds due to the inability of coalitions to raise local contributions or require additional state appropriations to meet federal matching requirements ▪ Requires coordination of child care regulatory and oversight functions through an interagency agreement with the Department of Health to minimize duplication ▪ Might create conflicts of interest for the agency and early learning coalitions where they are responsible for both ensuring the availability of child care services and regulating the providers of these services ▪ Might create conflicts of interest for some coalition board members who are also owners of child care businesses that would be licensed and regulated by the coalition ▪ Would require the agency to take steps to receive the results of FBI background checks ▪ Could result in different licensing standards across the 31 early learning coalitions

Child Care Services Placement Options for Legislative Consideration

December 30, 2009

Page 15 of 16

Option	Advantages	Disadvantages
Option 4 Transfer program responsibilities to the Department of Health.	<ul style="list-style-type: none">▪ Consistent with the department's and local county health departments' missions, responsibilities, and areas of expertise, which focus on health and safety issues▪ Potential to reduce state-level administrative costs if child care regulatory and oversight functions were consolidated▪ Potential to reduce inspection costs and could reduce the inspection burden on child care facilities▪ Could result in a more coordinated and comprehensive system of early education and child care by decreasing the number of state agencies that share oversight of the system▪ Potential to build upon existing relationships and infrastructure at the local level. Four county health departments currently function as local licensing agencies▪ Local health departments are located in each county and might be more responsive, timely, and accountable to local child care providers.	<ul style="list-style-type: none">▪ Requires coordination of child care regulatory and oversight functions through an interagency agreement with the Agency for Workforce Innovation to minimize duplication▪ Would require the agency to take steps to receive the results of FBI background checks▪ County health departments might not have the resources needed to hire additional staff and to pay for increased legal expenses▪ Additional legal staff might be required in Department of Health's Office of General Counsel to address an increase in administrative hearings related to the child care program▪ Might require current DCF inspectors to obtain additional training to be able to inspect non-child care establishments.▪ Has the potential to lose the program's focus on early childhood issues, as the department's focus is on broader health issues
Option 5 Transfer program responsibilities to the Department of Business and Professional Regulation.	<ul style="list-style-type: none">▪ Regulatory functions align with the department's overall business regulatory mission.▪ The department has experience administering a statewide inspection program to ensure compliance with health and safety regulations for food and lodging establishments.▪ The department's existing units perform training, licensure, and fee collection activities for the programs it currently regulates and might be able to conduct these functions for the child care program.	<ul style="list-style-type: none">▪ Requires coordination of child care regulatory and oversight functions through interagency agreements to minimize duplication; may not eliminate confusion and frustration among child care providers in some coalitions regarding the role of various regulatory entities and varying standards▪ The department's presence is limited at the local level so it might experience increased travel costs to inspect child care facilities.▪ The department has little experience managing large federally funded programs. This might require additional staff to support federal accounting and reporting requirements.▪ The department lacks experience in regulating and working with local child care providers which may result in a period of transition, possible disruption of services and uncertainty at the local level.▪ Additional legal staff might be required in the department's Office of General Counsel to address an increase in administrative hearings related to the child care program.▪ Has the potential to lose the program's focus on early childhood issues

Option	Advantages	Disadvantages
<p>Option 6 Transfer program responsibilities to counties.</p>	<ul style="list-style-type: none"> ▪ Moves child care regulation closest to where these services are delivered ▪ Potential to increase standards over current state minimums and tailor standards to local community needs which might result in healthier and safer environments for children ▪ May reduce government bureaucracy for local child care providers by centralizing child care regulation with county-based business activities 	<ul style="list-style-type: none"> ▪ Counties may not have the resources to take on the additional responsibilities without making reductions in other local services or compromising level and quality of services. ▪ To avoid the loss of federal funding, the state would likely need to retain certain functions such as oversight, rule development, legislative monitoring activities, and administration. ▪ May result in a loss of continuity and consistency across the state with counties establishing different standards or interpreting and enforcing state standards differently. Fees and fines would likely vary across the state ▪ May be more difficult for the state to obtain the data it needs to monitor, assess, and report on program performance ▪ Might result in increased costs to child care providers if counties raise fees and fines to cover expenses, increase standards, or expand licensing standards to currently unlicensed providers, which may result in financial hardships or closures of some child care establishments ▪ Loss of economies of scale as 61 of the 67 counties would have to establish separate child care regulation programs with trained inspectors and procedures to monitor for compliance with standards, for example. ▪ Does not eliminate duplicative health and safety inspection items ▪ Would need to address how counties would obtain access to the results of FBI background checks

Source: OPPAGA analysis based on interviews and questionnaires of potentially affected stakeholders including state agencies, counties, early learning coalitions, and professional associations representing counties and county health departments.