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## FISCAL IMPACT REPORT

**SPONSOR** Padilla/Maestas **ORIGINAL DATE** 2/12/16  
Barnes **LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Direct Care Workforce Subcommittee **SB** 222

**ANALYST** Chilton

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY 16	FY 17	FY 18	3 Year Total Cost	Recurring or Non- recurring	Fund Affected
<b>Total</b>		\$5.0	\$5.0	\$10.0	Recurring	General Fund

Duplicates HB 263.

### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

Aging and Long-Term Services Department (ALTSD)

Higher Education Department (HED)

University of New Mexico Health Sciences Center (UNM HSC)

#### Responses Not Received From

Department of Health (DOH)

### **SUMMARY**

#### Synopsis of Bill

SB 222, Direct Care Workforce Subcommittee, sets up a subcommittee of the Legislative Health and Human Services Committee (LHHS) that would study a number of aspects of the direct care workforce, defined as “individuals employed as home health aides, personal care assistants,

personal care aides, nursing assistants, and home care aides,” usually to the elderly and to individuals of any age with disabilities. The committee is charged with deliberating on the following list of aspects of this group and with reporting to the Legislative Health and Human Services Committee (LHHS):

- Review opportunities for informing employers of federal fair labor laws applying to the profession,
- Identify methods of complying with fair labor laws, and the cost of doing so,
- Recommend policies for consumer input to be incorporated into an exceptions process
- Recommend implementing the fair labor standards’ application without affecting consumer services or hours,
- Leverage and allocate state and federal funds for overtime and travel time for direct care workers
- Hear testimony from payers,
- Recommend means by which payers can be encouraged to meet federal Americans with Disabilities Act requirements, so that individuals are not put at risk of institutionalization secondary to application of state and federal regulations,
- Recommend state agency actions to develop information for consumers, direct care workers, and employers, indicating the new rights and responsibilities of each group,
- Study how private and public systems of direct care can come together in a comprehensive system that would analyze
  - Statewide collaboration of services, both rural and urban, within New Mexico
  - Availability of direct care workforce employees and services
  - Affordability of direct care services
  - Recruitment, sustainability, and retention of direct care workers, including methods to provide direct care workers with a living wage
  - Means of making direct care services “a sustainable source of employment” for New Mexicans,
- Evaluate barriers to the ability of New Mexicans to “age in place,” and the use of technology to help to overcome those barriers,
- After consulting with direct care workers, report on the feasibility of creating a registry of direct care workers,
- Recommend to payers and to the LHHS how to support family members serving as direct care givers, and how to enhance relations between them and members of the direct care workforce,
- Discuss the affordability of long-term care for low- and middle-income New Mexicans, and ways to make that easier,
- Examine provision of consumer education regarding direct care and accessibility to direct care services,
- Consider means of improving the quality of home care,
- Consider setting up a seamless program to obtain care regardless of source of funding,
- Discuss collaboration with state and local programs, and health and behavioral health programs,
- Consider data collection systems’ use to improve coordination of direct care systems,
- Recommend means of responding to the state’s cultural diversity in these programs,
- Determine a method of professional development for direct care workers,
- Consider developing an administrative framework to coordinate direct care services in all

parts of the state,

- Analyze the state’s aging population, its income and needs, and
- Assess the state’s attraction for economically solvent retirees and means of increasing their influx into New Mexico.

The subcommittee is to consist of 15 members, six of whom will be legislators, three from each house. An additional nine members from agencies representing or employing direct care workers would also be selected.

## **FISCAL IMPLICATIONS**

LFC estimates that a subcommittee including six Legislators would cost approximately \$1000 in per diem for each meeting day, exclusive of travel costs. Travel costs for members would be minimized if the subcommittee met on a day adjacent to regular LHHS meeting days and in the same location. The other members of the subcommittee would not be provided per diem or travel reimbursement unless there were an appropriation to do so, but the agencies employing them would see a fiscal impact for their expenses and time.

The charge to the committee is extensive, but the frequency of meeting is not specified. The “estimated additional operating budget impact” is based on a schedule of five meetings per year, approximately every two months when the Legislature is not in session.

## **SIGNIFICANT ISSUES**

Direct care givers – home health aides, personal care assistants, personal care aides, home care aides, and nursing assistants – are employed by private agencies and by the state disability program and the Developmental Disabilities Waiver Program, which operates through Medicaid in a federal/state matching program.

The New Mexico Direct Caregivers Coalition (<http://nmdcc.org/what-we-do/what-is-home-care>) comments, and defines itself as being composed of the following groups: Nursing Assistants, Orderlies or Attendants; Personal Care Aides; and Home Health Aides make up the direct caregiver. Together, these are among the four fastest-growing occupations nationally and in New Mexico.

Caregivers are considered unskilled workers, with little regard for their knowledge or skills. Their median annual income is \$17,000, which is why nearly 50% of direct care workers rely on some form of public benefits. Besides low wages and a lack of training, many have no health benefits, paid sick days or compensation for transportation between clients. Those who are offered health insurance report they are unable even to afford the employee portion of insurance.

Labor market projections indicate occupational growth of 50% over the next ten years nationally. In New Mexico, we’ll see these occupations growth from 47,963 in 2009 to 60,728 in 2016, an increase of 27 percent! Many more care for a loved without pay. And, New Mexico’s population is aging. The largest population increase from 2000 to 2010 was among those ages 60-64, a 5.8% increase. New Mexico ranks 39th in the nation in percentage of population age 65 and older. By 2030, however, we will rank fourth in the nation for persons who are elderly. Three million of the projected 5 million direct

caregivers in the nation will be working in people's homes (rather than institutions) by 2020.

The Department of Health indicated in 2014, with respect to a bill, 2014 HB 75, that would have increased the rate of pay for some state-funded direct care workers, that, "with the exception of early intervention services under the Family, Infant, and Toddler (FIT) program, 100 percent state general fund developmental disability (DD) program service providers have not received a rate increase since SB163 (2001) was enacted for FY02." The bill did not pass.

Given the growing number of elderly New Mexicans and the growing dependence of some of the elderly, as well as individuals with disabilities, on aides to be able to remain at home, the bill envisions the importance of studying this set of occupations and improving its conditions.

UNM HSC comments that

New Mexico is facing a crisis in access to care, especially as a poor, rural state with a disproportionate number of home bound elderly whose children have left for work, those needing long term care without adequate funds to pay for these needed services.

A Direct Care Workforce Subcommittee can provide current and future projections of the need for these services. This component of the workforce is growing faster than other components. Entry level educational requirements are lower, job openings are great and workforce training options are easily created through New Mexico's institutions of higher education. The Direct Care Workforce is not only trained more quickly, but can be trained locally to serve the needs of the local population.

The creation of a Direct Care Workforce Subcommittee would provide this needed workforce analysis, needs assessment, cost and benefit projection and regional preparation options.

The effectiveness of such a subcommittee would be enhanced if it collaborated and shared data and resources with the state's Health Care Workforce Committee at the UNM Health Sciences Center.

**DUPLICATION** with HB 263.

#### **OTHER SUBSTANTIVE ISSUES**

HED notes that SB 222 "imposes a significant workload on the subcommittee members without providing resources for staff. There would be additional recurring costs for administration of NMHED duties under SB 222," as there would be to other agencies participating in the subcommittee.

LAC/jle