LFC Requester:	Kelly Klundt

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to **billanalysis@dfa.nm.gov**
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/31/2025 *Check all that apply:*
Bill Number: HB 138 Original X Correction __
Amendment __ Substitute __

Sponsor: Rep. Cates
Short Title: Hospital Patient Safety Act

Agency Name and Code Number: University of New Mexico-952
Person Writing Kelly O'Donnell
Phone: 5056595702 **Email** kodonnell@unm.edu

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0	0	0

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	**0**	**0**	0	0

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Staffing Ratios	$35,812	$95,903	$98,780	$230,495	Recurring	Operating
Committees	$2,500	$6,700	$6,900	$16,100	Recurring	Operating
Total	**$38,312**	**$102,603**	**$105,680**	**$246,595**	**Recurring**	**Operating**

Duplicates/Conflicts with/Companion to/Relates to: HB 72
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 138 enacts the "Hospital Patient Safety Act". This Act will require hospitals to establish staffing committees that will develop hospital staffing plans to prioritize patient safety.

FISCAL IMPLICATIONS

HB 138 has the potential to significantly increase operating costs at University of New Mexico Hospital (UNMH) and its Sandoval Regional Medical Center (SRMC) campus. For the last 4 months of FY 25 (assuming the bill was signed at the end of February), HB 138 would increase UNMH operating costs by $38.3M, increasing to $102.6 M in FY 2026 and growing at an estimated rate of 3% going forward.

UNMH have determined that the cost of forming the staffing committees as outlined in HB 138 would be $6.5M in FY 25, a recurring cost that, for purposes of the fiscal impact estimate, is assumed to grow at 3 percent annually.

If the ratios mandated in HB 72 (2025) were promulgated by the staffing committees, FY 25 nurse staffing costs would increase by $76,291,891 and unlicensed staff staffing costs would increase by $16,819,200, for a total increase in staffing costs of $93,111,091 in FY25. The fiscal impact estimate assumes a 3 percent annual inflation rate.

SIGNIFICANT ISSUES

The requirement to establish multiple staffing committees and develop detailed staffing plans for nursing, professional and technical, and service staff is an administrative burden that will divert valuable resources away from direct patient care. UNMH and other hospitals have dynamic mechanisms in place to ensure appropriate staffing levels, and adding additional layers of regulatory requirements will only complicate operations without necessarily improving patient outcomes. Moreover, the mandated staffing committee for various hospital work units, while well-intentioned, does not account for the dynamic and often unpredictable nature of healthcare. Patient needs and acuity can vary significantly from day to day, and rigid staffing matrices may preclude the flexibility hospitals need to respond effectively to these fluctuations. This could lead to situations where the hospital is either overstaffed, resulting in unnecessary costs, or understaffed, compromising patient care.

A hospital operates twenty four hours a day, 365 days a year. Staffing committees that meet quarterly will not afford necessary staffing adjustments in the middle of the night on any given Sunday. As an example, hospitals currently have the flexibility under the direction of their Chief Nursing Officer to staff nurses and unlicensed personnel as appropriate and needed based on the hospital's census, acuity, and staffing availability. Staffing decisions are managed locally empowering direct care staff and leaders to problem solve staffing adjustments based on patient acuity and patient safety. Mandating staffing committees provides hospitals less flexibility on a shift-to-shift, day-to-day basis, which could force hospitals to bring in additional nursing and unlicensed personnel, including more expensive contract labor, based on a predetermined

staffing grid which may not be relevant in the moment. This could also force hospitals to close beds. Mandating and removing the autonomy of hospital nursing leaders to make decisions in the best interest of patient care will contribute to higher levels of moral distress and burnout. Professional and Technical as well as Service staff follow their own staffing plans in the same fashion, allowing front line staff and supervisors to problem solve as a team on how best to cover the needs of their departments.

Hospitals also have in place safe harbor laws, which allows nursing staff to invoke safe harbor when there are concerns about safe staffing. This empowers frontline staff to communicate directly with leadership in real time so that immediate solutions can be put into place.

This bill fails to consider the current challenges hospitals face in recruiting and retaining qualified healthcare professionals. The healthcare industry is experiencing a significant workforce shortage, and imposing staffing committees that will ultimately determine hospital staffing requirements will exacerbate this issue. We need the flexibility to allocate our limited resources where they are most needed, rather than being constrained by prescriptive staffing plans.

PERFORMANCE IMPLICATIONS

An unfunded ongoing additional expense of nearly $6.5M per year, for the committees alone, cannot be funded by UNMH. Additional expense related to mandated staffing plans and ratios will escalate cost to over $100M annually. Ultimately, such an unfunded mandate could mean that UNMH and SRMC would have to close hospital beds.

The closing of those beds means fewer New Mexicans have access to hospital care, including care at New Mexico's only Level 1 Trauma Center. However, since the Emergency Medical Treatment and Labor Act (EMTALA) requires that hospitals evaluate all patients who arrive at the hospitals' emergency rooms, the very busy emergency rooms of UNMH and SRMC would be overwhelmed with patients who could not be admitted into hospital beds because the beds were closed. This bill places UNM hospital in an impossible position where we would be unable to reconcile obligations related to health care access and patient care, workforce availability limitations, and federal law.

Furthermore, the requirement to submit staffing plans to the "department" every six months adds an additional layer of reporting that may not provide meaningful insights into our staffing practices. Instead, we should focus on continuous improvement and real-time adjustments based on patient needs and staff availability.

ADMINISTRATIVE IMPLICATIONS

The bill tasks "the Department" with administering HB 138, but does not define "Department." The state agency tasked with administering and enforcing the provisions of HB 138 would be required to investigate all variances of this bill throughout the state, a heavy administrative burden. If "the Department" were the New Mexico Heath Care Authority (NM HCA), HB 138 could divert scarce resources from the HCA's primary mission, ensuring actual patient safety in hospitals throughout New Mexico.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill potentially conflicts with the collective bargaining process in those hospitals whose employees are represented by an organization pursuant to the National Labor Relations Act or the Public Employee Bargaining Act. The bill also has the potential to conflict with the

acceptable standard of care as recognized by licensed professionals such as nurses, physical therapists or pharmacists.

Moreover, this bill potentially conflicts with the Center for Medicare and Medicaid Services (CMS) Condition of Participation staffing requirements.

House Bill 72 also seeks to establish nurse staffing requirements for hospitals. However, House Bill 72 seeks to implement a state-wide committee to establish ratios for all hospitals.

TECHNICAL ISSUES
None identified

OTHER SUBSTANTIVE ISSUES
There is no conclusive evidence that mandated staffing ratios, as developed by staffing committees, improve patient care outcomes. Research on the impact of ratio laws has been mixed, with some studies showing no significant improvement in quality, safety, or outcomes. It is essential to base policy decisions on robust evidence to ensure that they achieve the intended goals without unintended negative consequences.

ALTERNATIVES
None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
Hospitals will continue to have the flexibility needed for their Chief Nursing Officers and other healthcare leaders to determine appropriate staffing based on census, acuity, and staffing availability.

AMENDMENTS
N/A