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## FISCAL IMPACT REPORT

**SPONSOR** Ortiz y Pino **ORIGINAL DATE** \_\_\_\_\_ **LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Legislative Health Committee Powers & Staff **SB** 41/aSRC

**ANALYST** Chabot

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	\$200.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Aging and Long-Term Services Department (ALTSD)  
 Children, Youth and Families Department (CYFD)  
 Commission for the Deaf and Hard-of-Hearing Persons (CDHH)  
 Department of Health (DOH)  
 Division of Vocational Rehabilitation (DVR)

### SUMMARY

#### Synopsis of SRC Amendment

The Senate Rules Committee amendment to Senate Bill 41 strikes the appropriation for a permanent staff and extends the meeting schedule for the Legislative Health and Human Services Committee (LHHS) to at least 30 meetings a year beginning no sooner than 30 days after the end of the legislative session and ending by December 15 of each year. A subcommittee of the LHHS must meet at least four times a year. This requirement is specifically added for the Disabilities Concerns Subcommittee. Requests for information from agencies must come from the committee and not subcommittees and subpoenas must also come from the committee.

#### Synopsis of Original Bill

Senate Bill 41 appropriates \$200 thousand from the general fund to the Legislative Council Service for the purpose of funding staff and activities of the permanent interim Legislative Health and Human Services Committee. The committee would have a permanent, year-round staff which includes individuals with expertise in law, policy or finance related to health care

delivery or finance or to human services matters. The committee will have the power to request documents, material or information from the executive social service agencies identified as the Human Services Department, Department of Health, Aging and Long-Term Services Department, Children, Youth and Families Department, Workforce Solutions Department, Interagency Behavioral Health Purchasing Collaborative and every other state agency and political division of the state. The committee may conduct hearings and administer oaths. The committee and any subcommittee of three or more members may subpoena through district courts for information not received.

## **FISCAL IMPLICATIONS**

The appropriation of \$200 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY16 shall revert to the general fund.

If the intent of the bill is only to provide permanent staff to the committee and it is managed within Legislative Council Service (LCS) which would continue to pay the expense of the committee, provide additional staff resources as needed, the \$200 thousand appropriation could be used to hire two to three staff as permanent employees of the committee.

If the intent is to have a committee similar to the LFC and Legislative Education Study Committee (LESC), LFC staff estimates costs would be similar to the LESL. The LESL has 13 staff positions and an annual budget of approximately \$1.3 million. While the committee would not immediately grow to the size of the LESL, overtime it may grow to that size. As a minimum, the following staff would be required: Director, Secretary/Receptionist, Administrative/Finance Manager, Clerical Assistant, and 3 to 4 Staff Analysts. Lastly, there is an issue of where the permanent interim committee staff will be located. There may be additional costs, such as leases, if the committee cannot be located in existing legislative staff office space.

## **SIGNIFICANT ISSUES**

The LFC Staff estimates 27.8 percent of the 2014 General Appropriations Act general budget goes to the Health, Hospitals and Human Services category. This percent of funding has increased from 20.7 over the past 10 years. It is anticipated this category of spending will continue to increase in future years.

Currently, there is an interim Legislative Health and Human Services Committee (LHHSC) established in statute (Section 2-13-1 NMSA 1978). This bill would give the committee additional powers to request and subpoena, if necessary, information related to social service activities.

The CDHH assesses the use “of a staff member to carry out the committee duties exclusively will create a more efficient utilization of committee time when they do meet to discuss concerns in the community.”

CYFD states “Granting a legislative committee monitoring and oversight authority over programs, agencies, policies, issues and needs relating to health and human services moves a legislative committee into an executive role. This move into executive functions violates the

separation of powers doctrine as defined in the Constitution of New Mexico.” In addition, requests for information to consider “any issues related to confidential or privileged material and testimony or its use in public hearings....Additionally, the bill does not prescribe timelines for compliance or procedures for overly burdensome requests.” Lastly, depending on how much information is requested or hearings held, “a number of new FTEs could be required” or could “significantly increase the workload of existing employees.”

DOH expresses the same concerns. It states “The expression “monitor and oversee” indicates that the Committee would direct the work of those executive agencies and programs.” In addition, “the Committee would also assume a quasi-judicial role, conducting evidentiary hearings of the kind held in a court of law.” DOH also states the bill would “violate the separation of powers indentified in the New Mexico State Constitution.” It argues the provision compels state agencies to furnish documents, material or information would “convert executive agencies and programs into employees or functionaries of the Committee....” Further, DOH states “SB41 would represent a significant expansion of legislative power, and would impose significant burdens upon agencies such as the Department of Health.”

ALTSD echoes with similar concerns. “If adopted, SB 41 would alter the function of the LHHSC, effectively converting the Committee into a form of executive body with powers to direct the work of executive agencies.” It also questions the constitutionality of the bill.

### **ADMINISTRATIVE IMPLICATIONS**

Executive agencies providing social services will see an increase in requests for information from a permanent, year round committee than from an interim committee.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

CYFD suggests the new powers of the committee may already be in statute: Section 2-1-2, Section 2-1-10A and Section 2-3-14.1(D) NMSA 1978.

GAC/aml/bb