



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2016 LEGISLATURE STATUS REPORT #2

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Disability Rights New Mexico
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Coming Events at the Capitol:

- **Feb. 1** Deaf-blind Awareness Day
- **Feb. 3** Mid-point of the session and deadline for introducing bills
- **Feb. 6** Justice for All Day

Bottom drops out of budget. Revised revenue estimates released last week were bad news for the state budget. Due primarily to predictions that oil and gas prices will remain very low, there is now only \$30 million in “new” money projected to be available for the coming fiscal year, rather than the \$232 million estimated as recently as December. Competition for the scarce funding is fierce, with Medicaid and education expected to receive most of these funds. The House Appropriations and Finance Committee plans to adopt a proposed budget this week and send it to the House for a final vote.

Based on the new projections, there also will be a budget shortfall of over \$330 million in the current fiscal year, but there is enough money in the state’s reserves to cover the deficit without having to cut current funding for state programs.

Getting the message. Since this is a “short” (30-day) session of the legislature, bills must be determined to be “germane” in order to move forward. Bills are germane if they deal with appropriations or taxation, or if the governor authorizes action on the topic by sending a written “message” to the Legislature. Legislators sponsoring bills that need a message to be considered this year have been making their case to the governor, and several more disability-related bills have now received a message, including:

- HB 61 – authorizing savings accounts that are exempt from resource limits for benefit programs,
- HB 205 – moving DVR from the Public Education Department to Workforce Solutions,
- SB 21 – authorizing “Brittany” alerts for persons with developmental disabilities who go missing and whose health or safety is at risk, and
- SB 113 – authorizing court-ordered outpatient treatment for certain persons with mental illness.

A message is also expected on HB 190, prohibiting seclusion and restraint in public schools except in emergencies.

There are many other bills listed in this report that, at least so far, “didn’t get the message”. Those include bills to prohibit solitary confinement for persons with serious mental illness, improve Medicaid EPSDT screenings for behavioral health and developmental disabilities, extend brain injury protections for young athletes, and fund a pilot program to divert youth with disabilities from the juvenile justice system.

New in this report. Several bills were introduced in the past week that are now being tracked in this report. These include funding requests for services to persons with behavioral health issues, support for the disability program at Eastern NM University in Roswell, and proposals to establish a legislative subcommittee to focus on workforce issues related to disability services.

Bills and Memorials in the 2016 Legislative Session

This list is grouped by disability or subject matter and shows the bill or memorial number, sponsor, a description and the current committee assignments or action taken. See page 7 for a list of abbreviations used in this section. The deadline for introducing most bills is the half-way point of the session, which this year is Wednesday, February 3rd.

If bills in the list below show a referral to HRC (House Rules Committee) or SCC (Senate Committees Committee), it means that that committee will have to decide whether the bill is germane and therefore can be acted on in the short session.

HB 2 General Appropriations Act. Rep. Larry Larrañaga. This is the state budget bill, providing funding for all state agencies for the year beginning July 1, 2016, which is referred to as Fiscal Year 2017. Some of the state agency budgets of interest to the disability community include the following:

Human Services Department. In December, HSD estimated that it will need an additional \$85 million in state funding to cover the cost of the Medicaid program in FY 2017. About \$41 million of that is the state’s 5% share, for half a year, of the costs for covering the nearly 260,000 people who will be newly enrolled in Medicaid under the Affordable Care Act by the end of the coming year. A similar amount of new money is needed to cover cost increases in the program due to higher medical costs and other factors.

The state budget bill is likely to include a reduction of up to \$8 million in state-funded services to persons with behavioral health issues; that funding would be diverted to the base budget for the Medicaid program.

Department of Health. Both the governor and the LFC recommended about \$1.5 million to bring people off the waiting list and put them into the DD waiver program, but the state’s tight budget situation makes any increase unlikely. DOH is also looking for additional funding this year and next year to meet its obligations under the *Waldrop* lawsuit settlement as well as in the *Jackson* case.

Division of Vocational Rehabilitation. DVR asked for \$876,000 in additional funds for FY 2017, but it now looks likely that they will receive little if any increase for the coming year. There will be no funding increase for Independent Living services.

Governor's Commission on Disability. GCD’s original budget proposal requested extra funding to add one new staff position dealing with accessibility of new buildings, with an otherwise flat budget for other agency services. The governor and the LFC have recommended an essentially flat budget for the agency.

Developmental Disabilities Planning Council. The DDPC asked for funding for additional staff and for rate increases to its contractors (including guardianship providers, treatment guardians,

guardians *ad litem* and others involved in the guardianship process), and to eliminate the waiting list for the guardianship program. The governor and the LFC each recommended budget increases for the agency, but such increases may be difficult to squeeze into the state budget based on new revenue estimates.

Autism

- **SB 62** Autism Funding and EPSDT. Sen. Nancy Rodriguez. Requires HSD to assure that every child with a diagnosis of autism spectrum disorder have access to Medicaid EPSDT screening and services. The bill would also appropriate a total of \$11.5 million to the Department of Health and the Public Education Department for various programs and services for individuals with autism. Passed SPAC, pending in SFC.
- **SB 112** Autism Center at NMSU. Sen. Mary Kay Papen. Appropriates \$359,000 to New Mexico State University to establish an Autism Research, Testing, Training and Intervention Center. Passed SPAC, pending in SFC.

Behavioral Health/Mental Health

- **HB 51** Gun Show Sales and Reporting MI Determinations. Rep. Miguel Garcia. Regulates the sale of guns at gun shows but also requires the state to report court findings of mental illness to federal authorities for purposes of maintaining the federal data base of those who are prohibited from buying guns. The bill provides for confidentiality of the data transmitted and opportunities to re-establish eligibility to purchase guns. HRC. There will be no further action on this bill unless there is a message from the governor.
- **HB 88** Housing for the Homeless. Rep. Tomas Salazar. Appropriates \$2.5 million to HSD for supportive housing, case management, skills training and other services to provide permanent housing for persons who are homeless, or at serious risk of homelessness, and who are mentally ill. This proposal would implement one of the key recommendations from the SJM 4 Task Force, which looked at alternatives to jail for persons with mental illness. Passed HHC, pending in HAFC.
- **HB 193** Limiting Solitary Confinement. Rep. Antonio Maestas. Prohibits the use of solitary confinement in detention or correctional facilities for individuals under 18 and for pregnant women. It would extend this prohibition, beginning in July 2017, to persons with a known serious mental illness. Identical to SB 140, below. HRC. There will be no further action on this bill unless there is a message from the governor.
- **HB 197** Infant Mental Health Services. Rep. Don Tripp. This bill by the Speaker of the House appropriates \$100,000 to CYFD to contract for the provision of infant mental health services. Passed HHC, pending in HAFC.
- **HB 198** Mandated Outpatient Treatment. Rep. Paul Pacheco. Identical to SB 113, described below. HRC.
- **HB 246** Services to Reduce Incarceration. Rep. Sheryl Williams Stapleton. Appropriates \$250,000 to HSD to provide services, such as supportive housing, behavioral health therapy and employment training to non-violent juveniles and adults with behavioral health issues in order to reduce incarceration or detention. HSCAC/HAFC.
- **HB 287** Behavioral Health Services for Veterans, Homeless. Rep. Idalia Lechuga-Tena. This bill appropriates \$2 million to HSD to provide behavioral health services to veterans and homeless individuals state-wide. HHC/HAFC.
- **SB 24** EPSDT Screening Requirements. Sen. Jerry Ortiz y Pino. Requires HSD to issue regulations to ensure that all children on Medicaid get screened by age 5 for behavioral health, developmental disabilities and substance abuse. HSD would have to establish a schedule for such

screenings to take place. SCC/SPAC/SFC. There will be no further action on this bill unless there is a message from the governor.

- **SB 26** School Based Health Services. Sen. Jerry Ortiz y Pino. Appropriates \$550,000 to the Department of Health for school-based health services, including behavioral health. SEC/SFC.
- **SB 66** Behavioral Health Training for EMTs. Sen. Jerry Ortiz y Pino. Appropriates \$100,000 to the Department of Health to provide behavioral health training to Emergency Medical Technicians (EMTs) around the state. Passed SPAC, pending in SFC.
- **SB 67** Behavioral Health Apprenticeships. Sen. Jerry Ortiz y Pino. Provides \$500,000 to NM Highlands University to create a program through which individuals, especially those from minority backgrounds, would serve as apprentices in behavioral health service agencies. The apprentices and the agencies they work for would provide behavioral health services to low-income individuals. Passed SPAC, pending in SFC.
- **SB 113** Mandated Outpatient Treatment. Senator Mary Kay Papen. Authorizes involuntary, court-ordered outpatient mental health treatment for persons with a history of mental illness who are not currently dangerous to themselves or others but who are considered “likely” to cause harm to themselves or others at some time in the future if they go without treatment. Identical to HB 198, above. *DRNM opposed this bill during its SPAC hearing, noting that it would apply to individuals who are legally competent to make their own decisions, not currently a danger to themselves or others, and not accused of any crime.* Passed SPAC, pending in SJC.
- **SB 140** Limit Solitary Confinement. Sen. Mary Kay Papen. Identical to HB 193, above. SCC/SJC/SFC. There will be no further action on this bill unless there is a message from the governor.
- **SB 169** Behavioral Health Apprenticeships. Sen. Jerry Ortiz y Pino. This is an unintended duplicate of SB 67 and will not be pursued by the sponsor. SPAC/SFC.
- **SB 202** Hate Crimes Against Homeless. Sen. Bill O’Neill. Amends the existing hate crimes law to include crimes against homeless persons. Passed SPAC, pending in SJC.
- **SJM 1** Reconvene the J. Paul Taylor Task Force. Sen. Jerry Ortiz y Pino. Calls for re-establishment of the J. Paul Taylor task force, which for the past few years has developed recommendations for mental health services for infants and children. Passed SRC, pending in SPAC

Brain Injury

- **HB 180** Student Athlete Appeals. Rep. Bill McCamley. Requires that any student wanting to appeal a coach’s decision to temporarily hold the student out of athletic competition as a result of a brain injury would have to appeal such a decision through the state activities association prior to seeking relief in state court. HRC. There will be no further action on this bill unless there is a message from the governor.
- **SB 137** Extend Protections for Young Athletes. Sen. Michael Sanchez. Extends the time a student athlete would be held out of further competition after a brain injury from one week to 10 days. The bill would also prohibit non-school youth athletic activities, such as club sports, from using school grounds or facilities unless the sponsor of such activities agrees to be bound by the same brain injury rules that apply to school athletic activities. SCC/SPAC/SJC. There will be no further action on this bill unless there is a message from the governor.

Developmental Disabilities

- **HB 61** Accounts for Persons with Disabilities. Rep. Sheryl Williams Stapleton. Authorizes the establishment of tax-free savings accounts for persons with disabilities. It would allow individuals to accumulate savings of up to \$100,000 while still remaining eligible for public benefits such as

SSI (which currently has a resource limit of just \$2,000), and use those savings for disability-related purposes such as home modifications, education, transportation and job training. HHC/HWMC.

- **SB 21** “Brittany” Alerts. Sen. Jacob Candelaria. Modeled on existing “Amber” Alerts for missing children and “Silver” Alerts for missing elders, this bill authorizes the issuance of public alerts when a person with developmental disabilities goes missing in circumstances where there is concern for the person’s health or safety. Passed SPAC, pending in SJC.
- **SB 36** DD Waiver Waiting List Report and Funding. Sen. Bill Soules. Requires the Department of Health to issue an annual report regarding the waiver program and the wait list, with projections of how much it would cost to address the waiting list over a 5-year period. As introduced, the bill also would have appropriated \$25 million to the Department of Health in the coming year to serve people currently on the waiting list. The bill was amended in SPAC to remove the appropriation but the bill is still assigned to go next to SFC.
- **SB 50** Rate Increases for SGF Providers. Sen. Nancy Rodriguez. Provides \$5 million for increases in reimbursement rates to providers of direct services to persons with developmental disabilities, when the services are funded only by state general fund dollars. Passed SPAC, pending in SFC.
- **SB 51** Rate Increases for FIT Providers. Sen. Nancy Rodriguez. Provides \$5 million for rate increases for agencies that provide Family Infant Toddler services. Passed SPAC, pending in SFC.
- **SB 54** Rate Increases for DD Waiver Providers. Sen. Nancy Rodriguez. Provides \$5 million for rate increases for agencies that provide DD waiver services. Passed SPAC, pending in SFC.
- **SB 246** Rate Increases for ICF/DD Providers. Sen. Nancy Rodriguez. Provides \$250,000 for rate increases for agencies that provide ICF/DD services. SCC/SPAC/SFC.

Education and Higher Education

- **HB 190** Prohibit Seclusion/Restraint in Schools. Rep. Jim Smith. Prohibits the use of seclusion/restraint in public schools, except in emergency situations, and in particular would prevent the use of seclusion or restraint as a planned intervention in IEPs. HRC. According to the sponsor, a message from the governor is expected.
- **HB 251** ENMU-Roswell Disability Program. Rep. Nora Espinoza. Appropriates \$219,500 for the special services department at ENMU-Roswell. Identical to SB 208, below. HEC/H AFC.
- **SB 39** Pilot Project for Educational Justice. Sen. Howie Morales. Appropriates \$150,000 to the Children Youth and Families Department to establish a pilot program in at least two counties that would increase school-based supports for students with disabilities so they are not pushed into the juvenile justice system. The programs would promote the use of positive behavioral supports and better collaboration between the juvenile justice system and public schools. SCC/SPAC/SFC. Despite the appropriation, the bill has not been ruled germane to the 30-day session and will not move forward unless there is a message from the governor.
- **SB 87** Training for School Staff. Sen. Linda Lopez. Appropriates \$150,000 to PED to provide training for all teachers and school staff to work with, and meet the instructional needs of, students with special needs in the classroom. SEC/SFC.
- **SB 208** ENMU-Roswell Disability Program. Sen. Stuart Ingle. Identical to HB 251, above. SEC/SFC.
- **SM 25** Transition Planning for Youth with Disabilities. Sen. Michael Padilla. Calls on the DD Planning Council and the Center for Development and Disability at UNM to convene a task force to look at ways to improve the transition of youth with disabilities from school to work. SEC/SPAC.

Sensory Impairments

- **HB 21** Optometrists Certifying Blindness. Rep. Jimmie Hall. Authorizes optometrists to diagnose and certify people as blind, for purposes of establishing eligibility for services from the NM Commission for the Blind. Present law allows only ophthalmologists to certify blindness for this purpose. HRC. There will be no further action on this bill unless there is a message from the governor.
- **HB 70** Hearing Aids and Assistive Listening Systems. Rep. Carl Trujillo. Requires audiologists and hearing aid dispensers to provide information about hearing aid options that can provide a direct connection between the hearing aid and assistive listening systems. HHC/HRPAC.
- **SB 70** Hearing Aids and Assistive Listening Systems. Sen. Michael Padilla. Similar to HB 70, but also directs the relevant licensing board to adopt regulations requiring providers to offer such information. SCC/SPAC/SFC.

Workforce Issues

- **HB 205** Move DVR to Workforce Solutions. Rep. Candy Spence Ezzell. Moves the Division of Vocational Rehabilitation from the Public Education Department to the Department of Workforce Solutions, and transfer all programs and facilities of the New Mexico School for the Blind and Visually Impaired that address the needs of blind individuals over the age of 18 to the relocated DVR. Various references to DVR in state law would be changed to reflect the new location in state government. HGEIC/HBEC.
- **HB 263** Direct Care Workforce Subcommittee. Rep. Sarah Maestas Barnes. Establishes a Direct Care Workforce Subcommittee of the interim Legislative Health and Human Services Committee. HRC.
- **SB 222** Direct Care Workforce Subcommittee. Sen. Michael Padilla. Identical to HB 263, above. SCC/SRC/SPAC.

Other

- **HB 25** Parking Placards for Agencies. Rep. Paul Pacheco. Allows agencies to obtain accessible parking placards for vehicles they own or lease if those vehicles are primarily used to transport persons with significant mobility impairments. Passed HTPWC, awaiting vote by full House.
- **HB 113** Specialty License Plates with Accessibility Logo. Rep. Sarah Maestas Barnes. Directs the Motor Vehicle Division to offer an accessibility emblem on other kinds of specialty license plates for people who qualify for a traditional accessibility license plate. This would allow them to display the specialty plate but also include the accessibility emblem so they could park in accessible parking spots. HRC. There will be no further action on this bill unless there is a message from the governor.
- **SB 126** Disability Dance Program. Sen. Linda Lopez. Appropriates \$50,000 to the Governor's Commission on Disability to fund a dance program for individuals with disabilities. Passed SPAC, pending in SFC.
- **SB 225** Sen. Gay Kernan. Provides for an income tax credit up to \$5,000, for one half of the costs of making accessibility improvements to a home, such as a ramp, widening doorways, installing grab bars, etc. SCORC/SFC

Contacting your Legislators

You can find out who your legislators are and get their contact information on the Legislature's "Find Your Legislator" web page: http://www.nmlegis.gov/lcs/legislator_search.aspx.

To find your state representative from this web page, take these steps:

- Under the heading “House of Representatives”, click on the link to “Search by Name, District or Address”
- Click on the link “OR Search by Address” near the top of the page.
- Enter your complete address (street, city, state and zip code) in the box provided
- Click on the “Find District” button, and in a few moments you’ll see the name (and a picture) of your representative and the number of the House district. If you hit the “back” button or arrow to return to the previous screen, you can click on the picture of your representative to find the member’s address and other contact information.

To find your state senator, go to the same starting web page and choose the “Search by Name, District or Address” link for the Senate.

During the session, each legislator has an office in the Capitol. You can reach any legislator’s office by calling the Capitol switchboard at 986-4300 and asking for your legislator. We encourage you to bring the voice of the disability community to the Legislature!

Policy and Legislative Action Network (PLAN): Join your friends and colleagues in working to promote favorable action on issues of concern to people with disabilities and their families. Become part of the PLAN! We’ll let you know when there are opportunities to speak out on bills in the Legislature and other key issues, and give you background info and talking points; you show the power of the disability community by following up with calls or emails to public officials. Sign up with DRNM’s project coordinator, Katie Gordon, at KGordon@drnm.org.

ABBREVIATIONS USED IN THIS REPORT

Legislative Committees

HAFC	House Appropriations and Finance Committee
HEC	House Education Committee
HGEIC	House Government, Elections, and Indian Affairs Committee
HHC	House Health Committee
HJC	House Judiciary Committee
HRC	House Rules Committee
HRPAC	House Regulatory and Public Affairs Committee
HSCAC	House Safety and Civil Affairs Committee
HTPWC	House Transportation and Public Works Committee
HWMC	House Ways and Means Committee
SCC	Senate Committees Committee
SCORC	Senate Corporations Committee
SEC	Senate Education Committee
SFC	Senate Finance Committee
SJC	Senate Judiciary Committee
SPAC	Senate Public Affairs Committee
LFC	Legislative Finance Committee (joint House-Senate committee that meets during the interim between legislative sessions)

State Agencies

ALTSD	Aging and Long Term Services Department
DDPC	Developmental Disabilities Planning Council
DOH	Department of Health
GCD	Governor's Commission on Disability
HSD	Human Services Department
PED	Public Education Department