



## DISABILITY RIGHTS NEW MEXICO

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James Jackson, Executive Director

*Promoting and Protecting the Rights of Persons with Disabilities*

### DISABILITY ISSUES IN THE 2016 LEGISLATURE STATUS REPORT #3

Jim Jackson, Executive Director

Disability Rights New Mexico

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**Budget bill moves to Senate.** After a three-hour debate – the maximum allowed under the rules – the House on Saturday passed the state budget bill and sent it on to the Senate. HB 2 increases state spending in the coming year by \$81 million – a little more than 1% – by combining \$30 million in expected new state revenue with \$51 million from unspent balances in various state funds and from the tobacco settlement fund. The budget provides the Medicaid program with an increase of about \$38 million in state funds (about a 4.2% increase), and includes \$800,000 in new funding for the Developmental Disabilities waiver program – enough to take about 40 people off of the waiting list.

The budget passed on a largely party-line vote of 38-31, with only two Democrats joining all the Republicans in support. An attempt by Democrats to increase funding for public education and Medicaid, by delaying implementation of a reduction in the corporate income tax rate, failed on a party-line vote. One of the points of contention concerning HB 2 is a reduction in funding for non-Medicaid behavioral health services. HSD has noted that this will result in cuts to supported housing and other mental health services that aren't covered by Medicaid.

**Disability bills moving along.** A few of the disability-related bills that do not call for increased spending are making progress through the legislative process. SB 21, authorizing alerts for persons with developmental disabilities who go missing and whose health or safety is at risk, has passed the Senate and will now be considered in the House. SB 113, authorizing court-ordered involuntary outpatient mental health services, has also passed the Senate and goes on to the House. HB 61, authorizing savings accounts for persons with disabilities while preserving disability benefits, is scheduled for a vote in the full House today (Monday). SB 36, requiring DOH to issue an annual report on the DD waiver waiting list, is awaiting a vote by the full Senate.

HB 205, an unexpected bill that moves DVR from the Public Education Department to the Workforce Solutions Department, has cleared its first committee. It is not yet clear in the bill whether state-funded Independent Living programs, which historically have been administered through DVR, will also move to WSD or will go to a different state agency.

**Other bills just now out of the starting gate.** A few disability-related bills have just received in the past few days the “message” from the governor that they need in order to be considered in this short session of the legislature. HB 190, limiting use of seclusion and restraint in public schools, can now be heard in the House Education Committee. SB 137, extending protections for young athletes who have received a brain injury, received a quick hearing and approval in the Senate Education Committee and

goes next to the Judiciary Committee. SB 225, giving a tax credit for home accessibility modifications, should be heard today in the Senate Corporations and Transportation Committee.

### **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.

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. Passed the House 38-31; now referred to SFC. Some of the state agency budgets of interest to the disability community include the following:

*Human Services Department.* In December, HSD estimated that it would need an additional \$85 million in state funding to cover the cost of the Medicaid program in FY 2017. HB 2 allocates about \$38 million in additional state funding for the program. The bill directs HSD to achieve cost savings in the program by reducing reimbursement rates to doctors and hospitals, and by not reimbursing the Medicaid managed care companies for their required contributions to the Medical Insurance Pool or the Health Insurance Exchange. It directs HSD to seek federal permission to impose co-pays and monthly premiums on some Medicaid recipients, and recognizes that HSD may have to reduce benefits.

The bill includes a reduction of around \$4 million in state-funded services to persons with behavioral health issues. Of the funds appropriated for these state-funded services, at least \$500,000 is earmarked for crisis triage centers and \$1 million for services in “behavioral health zones”.

*Department of Health.* Although the base budget for the DD Service Division is reduced by about \$1.5 million, most of that is made up for by reduced costs for certain staff fringe benefits and by a small increase in the federal Medicaid match rate. There is also an additional \$800,000 for the DD waiver program in the budget, enough to take around 40 people off the waiting list for the program. There are currently about 6,500 on the waiting list, and it now takes over 10 years to get off the list and into the program. DOH will also receive \$6 million in one-time state funding to help them meet their 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. They will receive a net increase of about \$350,000 in this budget. Funding transferred to DVR from the Commission for the Deaf and Hard of Hearing is reduced to \$183,000 compared to \$466,000 in the current year.

As noted elsewhere, a bill being considered in this year’s session (HB 205) would move DVR from the PED to the Workforce Solutions Department.

*Governor's Commission on Disability.* GCD had asked for extra funding to add one new staff position dealing with accessibility of new buildings. This version of HB 2 gives the agency a very small cut in its budget, and no new staff position.

*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 agency will receive nearly \$400,000 in additional funds from

various sources in this budget for its guardianship program, but loses more than \$50,000 for other programs and does not receive funding for the new van it was seeking.

### 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. Tabled 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. Tabled 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. Passed HSCAC, pending in 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 statewide. 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 has opposed this bill in committee hearings, 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 the Senate 29-9; HHC/HJC.
- **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.
- **SB 250** Native American Suicide Prevention. Sen. George Munoz. Appropriates \$150,000 to UNM for a clearinghouse and technical assistance for suicide prevention for Native Americans. Passed SIAC, pending in SFC.
- **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 the Senate 34 - 0; House committee assignments pending.

#### 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.
- **HM 66** Brain injury insurance coverage. Rep. Deborah Armstrong. This memorial calls on the Governor’s Commission on Disability to conduct a study, in consultation with various agencies and groups, on the feasibility of requiring that insurance policies in New Mexico cover a continuum of health care and therapeutic services, as well as job development services, needed by persons with brain injuries. HHC/HAFC.
- **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. Passed SEC, pending in SJC.

### 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. Passed HWMC, awaiting vote by full House, which is expected today (Monday).
- **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 Senate 37-0; it has only one House committee referral: HJC.
- **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, including projections of how much it would cost over the next five years to get the waiting time down to three years or less. An appropriation of \$25 million to the Department of Health originally included in the bill has been removed. Awaiting vote by full Senate.
- **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. Passed SPAC, pending in SFC.
- **SM 81** Classify Rett Syndrome as DD. Calls on the Department of Health to include this condition within the definition of “developmental disabilities” so that such persons would be eligible for the DD waiver. SRC/SPAC.

### 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. An executive message on this bill has just been issued. HEC/HSCAC.
- **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. Passed HEC without recommendation, pending in HAFAC.
- **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. SEC hearing scheduled for today.
- **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. Passed SEC and SPAC, awaiting vote in the Senate.

### 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. Passed SPAC, pending in 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. Various references to DVR in state law would be changed to reflect the new location in state government. The NM Commission for the Blind would remain separate and responsible for vocational rehabilitation services for those with significant visual impairment. Passed HGEIC, pending in HBEC, where a hearing is scheduled for Tuesday morning.
- **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 the House 64-0; SCORC/SPAC.
- **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.
- **HB 312** Photo ID for voting. Rep. Nora Espinoza. Requires a photo ID for voting in person or by absentee ballot, and provides for the issuance of free ID cards by the state for those without such an

ID, if they can produce the necessary documents and get to an office that would provide the ID. HRC.

- **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** Tax Credits for Home Modifications. Sen. Gay Kernan. Provides for an income tax credit up to \$5,000, for one half of the costs of making accessibility modifications to a home, such as installing a ramp, widening doorways, installing grab bars, etc. SCORC/SFC. SCORC hearing scheduled for Monday afternoon.
- **SB 278** Adverse determination appeals. Sen. Jacob Candelaria. Requires the continuation of insurance coverage for prescription drugs while an appeal is in process, where the prescription was previously covered but further coverage has then been denied or terminated by the insurance company. SCC/SPAC/SJC.

### 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](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](mailto: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