



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 #4

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February 15, 2016

Down to the last few days. This year's 30-day legislative session ends at noon this Thursday, Feb. 18. So far, only a handful of bills have passed both the House and the Senate. Action – or inaction – in these last four days will determine the fate of any bills that are still moving through the process. It now appears that an agreement has been reached on two of this year's most contentious issues: a two-tiered system of driver's licenses/permit cards and a proposed constitutional amendment on conditions of bail for persons facing criminal charges. Most of the other "hot button" issues are unlikely to be passed. For the many other less controversial bills still in play, it will mostly be a question of whether they get scheduled for committee hearings and final votes in the House or Senate before the constitutionally mandated adjournment at noon on Thursday.

A few disability bills are still in play. Many of the bills tracked in this report call for new funding or tax credits, and no such bills are moving in this session. Some substantive bills, such as a prohibition on seclusion or restraint in public schools and the addition of homelessness to the hate crimes law, have been tabled in committee and are "dead" for the session. Others are far behind in the legislative process and thus unlikely to get through. Those bills that have passed one chamber, and thus have the best chance for passage, include:

- HB 61 Savings accounts for persons with disabilities – awaiting final Senate vote
- HB 205 Moving DVR to Workforce Solutions Department – SEC/SJC
- SB 21 "Brittany" alerts for missing persons with developmental disabilities – HJC
- SB 36 DD waiver waiting list report – HHC/HAFC
- SB 113 Mandated outpatient treatment – HJC
- SB 137 Brain injury protection for student athletes – awaiting House committee assignments
- SB 331 Reporting MI adjudications to FBI data base – HJC

Further revenue drop drives budget crisis. As the 30-day legislative session nears its end, a new state revenue projection puts the state into a potential deficit situation for the current fiscal year as well as the coming year. In response to the immediate need, the Senate Finance Committee is proposing small across-the-board budget cuts for most state agencies in the current year. Since that year ends this June 30, agencies will have very little time to implement those reductions.

For the coming year, beginning July 1, the SFC version of the state budget now amounts to a net spending reduction of \$7 million compared to the current year. Most state agencies will see flat budgets or small decreases. A few state agencies will see small increases for certain programs or initiatives. Medicaid, for example, will see an increase of \$20 million. Since HSD predicted at the start of the session that it would need \$85 million to sustain the program, this budget will require significant cost-cutting measures that will include but may not be limited to reductions in the rates paid to managed care companies as well as doctors, hospitals and other providers. HSD is directed under the bill to seek federal permission to impose monthly premiums and co-pays. Benefit cuts may also be implemented.

While some Democratic lawmakers are backing measures that would increase revenues by deferring implementation of tax cuts or by increasing taxes, the governor and her Republican allies are holding firm to her pledge not to raise taxes. The prospect of additional revenues to compensate for the drop in tax income linked to the oil and gas industry thus seems highly unlikely.

Conflict over germaneness delays DD waiver bill. A dispute over germaneness that erupted between the House and the Senate threatened to sink SB 36, the bill calling for DOH to report annually on the DD waiver and waitlist. Traditionally, each chamber has determined whether bills introduced by its members are “germane” and therefore can be considered in a 30-day session. Once those determinations are made, the decision stands, even if the bill is amended during the process, and even after the bill crosses over to the other chamber. In a startling break with that tradition, the Republican leadership in the House referred several Senate bills to its Rules Committee, signaling that it did not accept the Senate's determination as to germaneness. SB 36, from which the appropriation had been stripped, got caught up in the clash and was temporarily barred from moving forward. Fortunately, the House and Senate leadership were able to resolve the matter and the Senate bills, including SB 36, were released from HRC and sent on to other House committees for action. Unfortunately, this delayed the bill at a time when every remaining day is needed to get through the legislative process.

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 8 for a list of abbreviations used in this section.

If bills in the list below are now in the Senate Finance Committee (SFC) or the House Appropriations and Finance Committee (HAFC), they have virtually no chance of moving forward in this year's session because of the budget crisis. Bills which are listed as currently in the House Rules Committee (HRC) or the Senate Committees Committee (SCC) have not been found to be germane to this short session and will not be acted on this year.

The state budget

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. Due to the deteriorating revenue projections, the Senate Finance Committee has just made significant changes to the version passed by the House, including reductions in the budgets of some state agencies for the current year (FY 16). Instead of an \$81 million increase in state spending in the coming year, as approved by the House a little over a week ago, this version of the budget provides for

a net reduction in state spending of about \$7 million. The SFC's recommendations will now be presented to the Senate for action.

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. 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. 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.
- **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. 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.
- **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. 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. 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. 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.
- **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. 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. 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. SFC.
- **SB 113** Mandated Outpatient Treatment. Senator Mary Kay Papan. 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. *DRNM has opposed this bill in committee hearings, noting that it would authorize involuntary, court-ordered treatments for 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; passed HHC, pending in HJC.
- **SB 140** Limit Solitary Confinement. Sen. Mary Kay Papan. Identical to HB 193, above. SCC.
- **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.
- **SB 202** Hate Crimes Against Homeless. Sen. Bill O’Neill. Amends the existing hate crimes law to include crimes against homeless persons. Passed SPAC, but tabled 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. SFC.
- **SB 331** Reporting MH Adjudications to FBI Database. Sen. Daniel Ivey-Soto. Directs the state Administrative Office of the Courts to report to the FBI’s national instant background check system information from court determinations or verdicts when a person has been committed involuntarily to a mental hospital or has been found to be unable to manage their affairs due to mental incapacity, unable to stand trial due to mental incapacity, or found innocent of a criminal charge by reason of insanity. Such individuals would be prohibited from purchasing firearms or ammunition but could petition the court to reinstate their rights. Passed the Senate 38-0; HJC.
- **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; passed HHC, pending in HAFC but likely to be moved on because it is a Memorial with no funding.

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.
- **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. Awaiting final House vote.
- **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 the Senate 35-4; House committee assignments pending.

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 the House 65-0; awaiting final vote in the Senate.
- **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; pending in 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. Passed the Senate; HHC/HAFC.
- **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. 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. 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. 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. 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. Heard but not acted upon in HEC. This bill will not move further in this session.
- **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. HAFC.
- **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.
- **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. SFC.
- **SB 208** ENMU-Roswell Disability Program. Sen. Stuart Ingle. Identical to HB 251, above. 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 the Senate 34-0.

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.
- **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. Passed the House 58-0; SPAC.
- **HM 89** Early Hearing Loss Detection and Intervention. Rep. Terry McMillan. Calls on the Department of Health to report on the extent to which newborns in New Mexico are screened and treated for hearing loss, and how the state compares to the national average for such screening and intervention. Passed HHC, awaiting final vote by the House.
- **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 the House 65-0; SEC/SJC.
- **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.

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; passed SCORC, pending in 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.
- **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. HGEIC/HJC.

- **HM 71** Service Verification to Deter Medicaid Fraud. Rep. Idalia Lechuga-Tena. Calls on HSD to convene a diverse task force to look at systems such as explanation of benefit statements or telephonic or electronic visit verification systems that assure that Medicaid recipients, especially those with developmental disabilities or mental illness, are actually receiving the services that providers are billing for. Awaiting final House vote.
- **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. 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. Tabled in SCORC.
- **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.

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