



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2017 LEGISLATURE STATUS REPORT #3

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Disability Rights New Mexico

February 6, 2017

Coming Events at the Capitol

Today:

- Celebration of Pat Grange /ALS Awareness Day in the Senate
- HJC hearing on HB 98, absentee voting by blind persons
- SRC hearing on SJM 6, direct care workforce issues
- SJC hearing on SB 217, due process protections for Medicaid providers.

Feb. 15: Behavioral Health Day at the Capitol

Feb. 23-24: Disability Rights Awareness Days in Santa Fe – Thursday at Drury Plaza Hotel and Friday at the State Capitol. Registration available through The Arc of New Mexico (arcnm.org).

Solvent again – except for the courts. The governor has now signed three bills that resolve the state's financial crisis for the current fiscal year. The bills reduce funding for this year for most public schools by \$46 million, reduce spending in a few targeted programs, and sweep up unspent money in various government funds. The governor used her line item veto to spare \$26 million from the spending cuts in one of the bills, including proposed reductions to an economic development fund and certain education initiatives. The result is total savings of \$190 million, which should let the state finish the fiscal year on June 30 with about \$120 million in reserve –below 2% of the annual budget.

The state's court system, however, is still in dire straits. The Supreme Court Chief Justice and other court officials have indicated that without significant new immediate funding, some courts will soon close down fully or partially, and jury trials will be postponed or eliminated due to a lack of funding for jurors. The Legislature has twice passed bills that include emergency funding for the courts, but the governor vetoed that funding in each bill. A loan from the state Board of Finance – which was previously denied – may become available, although sooner or later such funds have to be repaid through an appropriation from the Legislature.

With the resolution of the budget crisis for all other government programs, the funding committees in the House and the Senate have begun to turn their attention to the budget for FY 18, which begins on July 1. State agency budget requests are now being heard and reviewed in those committees.

Disability-related bills beginning to move. Several bills have completed the first step in their long journey to passage by the legislature. HB 75, limiting seclusion and restraint in public schools, passed

out of HEC on a close 7-5 vote after school administrators and teachers' union representatives voiced their concerns. A few amendments may be suggested when the bill is presented to HJC. HB 85, providing for licensure of board and care homes, passed unanimously in HHHC although concerns were expressed over DoH's estimate that it would cost nearly \$5 million to implement the bill; most legislators were highly skeptical of this figure. HB 98, providing a mechanism for blind voters to cast absentee ballots on their own, passed HLELC easily and will be heard in HJC today. SB 38, requiring schools to provide information on brain injury to student athletes, has passed two committees and is on the calendar for a vote by the full Senate. SB 83, removing behavioral health from managed care, was recognized in SPAC as a reflection of legitimate concerns over the havoc wreaked on the behavioral health system, but was passed along to SJC without recommendation.

The current status of these and other bills is shown below.

Bills and Memorials in the 2017 Session

This list is grouped by disability or subject matter and shows the bill number, sponsor, a description of the bill and the current committee assignments or action taken on the bill or memorial. See page 6 for a list of abbreviations, including legislative committees, used in this section. The deadline for introducing most bills is the half-way point of the session, which this year will be February 16th.

The FY 2018 State Budget

HB 2 General Appropriation Act of 2017. Rep. Patricia Lundstrom. The House Appropriations and Finance Committee has begun hearings on state agency budgets, a process that will continue through the middle of February, when the committee will present to the House a budget bill that sets spending levels for all state agencies for the coming year (FY 2018). The Senate Finance Committee is also holding hearings on state agency budgets even though HB 2 will not come over to the Senate for a few weeks.

The Human Services Department projects that it will need \$42 million in additional state funding to support the Medicaid program in the coming year. The HAFC has voted temporarily not to provide that funding, but will revisit that issue before taking final action on the bill. Without the new funding, HSD will have to make serious cuts to the program, as noted in last week's report.

An increase in federal funding for the DD waiver allows the state either to keep total spending level while using less state money or to spend the same amount of state funds and use the additional money to add more people to the waiver. HAFC has tentatively decided to take the first course of action and transfer \$1 million in state funds out of the program instead of using it for the waitlist. There are now around 6,800 on that list, and the wait is over 10 years.

Behavioral Health/Mental Health

- **HB 136** Rapid Re-housing. Rep. Tomás Salazar. Appropriates \$2 million to provide services and supports to homeless persons to help them obtain and maintain permanent housing. HAFC
- **HB 157** Occupational Health Coverage for Firefighters. Rep. Debbie Armstrong. Establishes a rebuttable presumption that professional firefighters who are newly diagnosed with mental illness or post-traumatic stress disorder are eligible for worker's compensation health care. HHHC/HLEDC

- **SB 83** Carve Out Behavioral Health. Sen. Jerry Ortiz y Pino. Prohibits HSD from providing Medicaid-funded behavioral health services through any managed care program. Moved out of SPAC “without recommendation”, pending in SFC
- **SB 84** Add Members to BH Collaborative. Sen. Jerry Ortiz y Pino. Adds representatives of the behavioral health provider association, the NM Association of Counties and the Municipal League to the state Behavioral Health Purchasing Collaborative. Passed SPAC, pending in SFC

Brain Injury

- **SB 38** Student Athlete Training. Sen. Bill Soules. Requires schools to provide information to their student athletes about concussions and the need to protect against potential brain damage. Passed SPAC and SEC, awaiting final Senate vote

Caregivers - Professional and Family/Volunteer

- **HB 86** Use of Sick Leave to Provide Care. Rep. Debbie Armstrong. Requires private employers to allow employees with accumulated sick leave to use that leave to provide caregiving to family members in need of such assistance. Passed HHHC and HJC, awaiting final House vote
- **SM 1** Recognizing Family Caregivers. Sen. Bill O’Neill. Recognizes the contributions of caregivers and calls for support of measures to assist or compensate them for their services. SRC/SPAC
- **SJM 6** Issues Affecting Direct Care Workers. Sen. Jerry Ortiz y Pino. Calls for a task force to review and make recommendations regarding issues affecting direct care workers, including implementation of federal protections under the Fair Labor Standards Act and promoting a stable and adequate workforce to meet the needs of growing populations of seniors and persons with disabilities in New Mexico. SRC/SPAC – SRC hearing set for Monday, Feb. 6.
- **SJM 9** Issues Affecting Direct Care Workers. Sen. Jerry Ortiz y Pino. Identical to SJM 6, above, this was an unintentional duplicate and will not be pursued by the sponsor. SRC/SPAC

Criminal Justice

- **HB 72** Reinstate the Death Penalty. Rep. Monica Youngblood. Re-establishes the death penalty in New Mexico for the murder of police officers or children. The bill provides for some exceptions for persons with intellectual disabilities or mental illness though concerns remain regarding those provisions. HCPAC/HJC/HAFC
- **HB 175** Limiting Solitary Confinement. Rep. Moe Maestas. Prohibits the use of solitary confinement in jails or prisons for persons with severe mental illness, effective July 1, 2018. HCPAC/HJC
- **HB 242** Limiting Solitary Confinement. Rep. Liz Thomson. Identical to HB 175, above. HSIVC/HJC
- **SB 185** Limiting Solitary Confinement. Sen. Mary Kay Papen. Identical to HB 175 and HB 242, above. SPAC/SJC

Developmental Disabilities

- **SJM 2** Rett Syndrome. Sen. Michael Padilla. Calls on the Department of Health to include Rett Syndrome as a qualifying condition to be eligible for the DD waiver program. A person with Rett Syndrome would not typically qualify under current standards. Passed SRC, pending in SPAC

Education/Higher Education

- **HB 75** Prohibit Seclusion and Restraint. Rep. Jim Smith. Prohibits the use of seclusion/restraint in public schools except in emergency situations. Passed HEC, pending in HJC

- **HB 187** Funding for ENMU Special Services Program. Rep. Bob Wooley. Appropriates \$219,500 for the Special Services program at Eastern New Mexico University, which supports college students at ENMU with developmental disabilities. HEC/HAFC
- **SB 188** Lottery Scholarship Eligibility. Sen. Liz Stefanics. Makes students with disabilities who had to attend an out-of-state high school in order to receive an appropriate education eligible for lottery scholarships to New Mexico universities. Passed SEC, pending in SFC

Healthcare/Medicaid

- **HB 87** Department of Health Diabetes Committee. Rep. Debbie Armstrong. Directs DOH to convene an inter-agency committee to identify goals and benchmarks to reduce the incidence of diabetes, improve diabetes care, and control complications of the condition. Passed HHHC, pending in HJC
- **HB 112** Limiting Changes to Insurance Policy Drug Coverage. Rep. Bobby Gonzales. Under this bill, insurance companies could not increase co-pays for a covered drug, drop a drug from their formulary, or impose a new requirement for prior authorization after the beginning of the annual period of the policy coverage. Insurers would have to provide at least 90 days notice before the beginning of a plan year if such changes are proposed for that plan year. Identical to SB 291, below. HHHC/HJC
- **HB 244** Step Therapy. Rep. Liz Thomson. Clarifies the process that health insurers must follow in implementing a “step therapy” protocol for services or medications, and requires granting of exceptions in numerous situations. Step therapy requires an individual to try common or lower cost prescription drugs or medical treatments first and show that they don’t work before use of a more expensive drug or treatment is allowed. Identical to SB 179, below. HHHC/HJC
- **SB 8** Medical Marijuana Changes. Sen. Cisco McSorley. Creates presumptive eligibility for the medical marijuana program for persons with chronic, debilitating health conditions, and extends the length of time for which a certification of eligibility is valid. SPAC/SJC
- **SB 179** Step Therapy. Sen. Liz Stefanics. Identical to HB 244, above. SPAC/SCORC
- **SB 291** Limiting Changes to Insurance Policy Drug Coverage. Sen. Liz Stefanics. Identical to HB 112, above. SPAC/SJC

Self-Determination and Protective Services

- **HB 146** Financial Exploitation of Vulnerable Adults. Rep. Yvette Herrell. Makes financial exploitation of a vulnerable adult a misdemeanor or felony crime, depending on the severity of the case. Failure to use the adult’s available resources for needed support and maintenance, resulting in neglect, is included as a crime. HHHC/HJC/HAFC
- **HB 171** Aid in Dying. Rep. Debbie Armstrong. This bill enacts the End of Life Options Act, which would allow physicians to prescribe a lethal dose of medication that a competent adult with a terminal illness could use. Identical to SB 252, below. *This controversial proposal is generating considerable attention and debate. A workshop on this bill will be offered on the first day of Disability Rights Awareness Day.* Passed HHHC, pending in HJC
- **SB 171** Limiting Referrals by LTC Ombudsman. Sen. Gay Kernan. Prohibits the Long-Term Care Ombudsman from referring suspected cases of abuse or neglect to Adult Protective Services without consent from the resident or the resident’s surrogate decision-maker. The bill is supported by the Aging and Long Term Services Department and is intended to assure compliance with recent changes to the federal Older Americans Act. SPAC/SJC
- **SB 252** Aid in Dying. Sen. Liz Stefanics. Identical to HB 171, above

Service Provider Issues

- **HB 85** Licensure and Oversight of Board and Care Facilities. Rep. Debbie Armstrong. Makes clear that boarding homes that provide personal assistance to their residents, including assistance with taking or managing prescription drugs, must be licensed by DOH and will be subject to visitation by the Long-Term Care Ombudsman. The bill includes provisions making it a criminal offense to abuse or neglect residents of such homes. Identical to SB 187, below. Passed HHHC, pending in HJC
- **HB 132** Accessibility Logo on Specialty License Plates. Rep. Sarah Maestas Barnes. Allows auto owners with a disability to obtain a specialty license plate of their choice that would also feature the logo that allows for parking in designated accessible parking spaces. Passed without recommendation by HTPWC, pending in HTRC
- **SB 69** License Plates for Disability Agencies. Sen. Sander Rue. Allows agencies providing services to persons with disabilities to obtain accessibility license plates for their agency-owned vehicles as long as those vehicles are used primarily for the purpose of transporting individuals with disabilities. SCORC/SPAC
- **SB 187** Licensure and Oversight of Board and Care Facilities. Sen. Mary Kay Papen. Identical to HB 85, above. SPAC/SJC
- **SB 217** Due Process Protections for Medicaid Providers. Sen. Mary Kay Papen. Provides due process protections for Medicaid providers who are suspected of fraud, and clarifies the definition of fraud. This bill is in response to HSD's actions in 2013 that put many long-time behavioral health provider agencies out of business; all of those providers have since been exonerated of fraud by the Attorney General. SJC/SFC – SJC hearing set for Monday, Feb. 6

Voting rights

- **HB 98** Paper Ballot for Blind Voters. Rep. Tomas Salazar. Requires the Secretary of State to establish procedures whereby a blind or visually impaired voter could complete a paper ballot either at a polling place or by absentee ballot. Such a process is typically available now at polling places but not for absentee voting. Passed HLELC, pending in HJC – HJC hearing set for Monday, Feb. 6

Other Disability Issues

- **HB 222** Increase Adoption Tax Credit. Rep. Alonzo Baldonado. Increase the state tax credit for families that adopt a special needs child from \$1,000 to \$1,500. HHHC/HTRC
- **SM 3** Patrick Grange ALS Awareness Day. Sen. Clemente Sanchez. Promotes public awareness of ALS by declaring Feb. 6 as “Patrick Grange ALS Awareness Day”, in honor of the late UNM soccer player. Scheduled for action by the full Senate on Monday, Feb. 6.

Contacting your Legislators

You can find out who your Senator and Representative are and get their contact information on the Legislature's web page: https://www.nmlegis.gov/Members/Find_My_Legislator.

From this page, choose “Search by Name, District or your Address” for either the House of Representatives or the Senate. Then ...

- Enter your full home address in the box provided under “Your Address” and click on “Go”.
- Scroll down to find a picture of your Representative or Senator.
- Click on his or her name to get contact information.

- From the same page with the picture you can choose a different political body to find out who else represents you in Santa Fe or in the U.S. Congress.

Each legislator has an office in the Capitol. You can find the office phone number in the contact information provided through the Find My Legislator function, or you can call the Capitol switchboard at 986-4300 and ask to be put through to the office of any 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
HCPAC	House Consumer and Public Affairs Committee
HEC	House Education Committee
HHHC	House Health and Human Services Committee
HJC	House Judiciary Committee
HLEDC	House Labor and Economic Development Committee
HLELC	House Local Government, Elections, Land Grants and Cultural Affairs Committee
HTPWC	House Transportation and Public Works Committee
HTRC	House Taxation and Revenue 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