



# Agenda

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## MAYOR'S COMMITTEE ON DISABILITY

THURSDAY, FEBRUARY 20, 2014

10:00 A.M.

GENOVEVA CHAVEZ COMMUNITY CENTER

3221 RODEO RD.

CLASSROOM 1

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF THE AGENDA
4. APPROVAL OF MINUTES: JANUARY 16, 2014
5. PUBLIC COMMENTS (15 MIN. TOTAL)
6. NEW BUSINESS
  - a) CONSTRUCTION INSPECTIONS AND LAND USE COMPLIANCE PRESENTATION – MIKE PURDY, CONSTRUCTION INSPECTOR, DIVISION DIRECTOR AND JON GRIEGO, LAND USE COMPLIANCE OFFICER, CITY OF SANTA FE
  - b) FUNDING REQUEST FOR MAIN LIBRARY DOOR ENTRANCE: \$4,875 – DAVID CHAPMAN
  - c) FUNDING REQUEST FOR WATER DIVISION HEAT CURTAIN: Not to exceed \$5,000 - DAVID CHAPMAN
7. OLD BUSINESS
  - a) MCD SUB-COMMITTEE REPORTS
  - b) CREATIVE SANTA FE UPDATE – MARCIA BOWMAN
  - c) WATER DIVISION ENTRANCE ACCESSIBILITY UPDATE – DAVID CHAPMAN

ITEMS FROM MEMBERS AND STAFF (3 MINUTES)

8. ADJOURN

NEXT MEETING March 20, 2014

**PERSONS WITH DISABILITIES IN NEED OF ACCOMMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 955-6520, FIVE (5) WORKING DAYS PRIOR TO MEETING DATE.**

**THIS IS A FRAGRANCE FREE MEETING**

SUMMARY INDEX  
CITY OF SANTA FE  
MAYOR'S COMMITTEE ON DISABILITY

FEBRUARY 20, 2014

**ORIGINAL**

<u>ITEM</u>	<u>ACTION TAKEN</u>	<u>PAGE(S)</u>
CALL TO ORDER		
ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	1
APPROVAL OF MINUTES January 16, 2014	Approved	1-2
PUBLIC COMMENTS	None	2
NEW BUSINESS		
a) Construction Inspections/Land Use Compliance Presentation	M. Purdy j. Griego	2-5
b) Funding Request-Main Library Door Entrance: \$4,875	David Chapman	5-6
c) Funding Request-Water Division Heat Curtain:\$5,000 max	David Chapman	6-7
OLD BUSINESS		
a) MCD Sub-Committee Reports	Discussed	8
b) Creative Santa Fe Update –	Marcia Bowman	8-9
c) Water Division Entrance Accessibility Update –	David Chapman	9
ITEMS FROM MEMBERS AND STAFF	Discussed	9
ADJOURNMENT & Next Meeting	Adjourned 11:42 a.m. March 20, 2014	9

Page 4, paragraph 5: "He said one is shown and there is a corner diagonal curb ramp *that directs the pedestrian to the center of the lane*". Mr. McQuarie asked the sentence be stated as: "...that directs pedestrians to the center of the intersection."

**Ms. Pieters moved to approve the January minutes as amended. Mr. McQuarie seconded the motion and it passed by unanimous voice vote.**

**PUBLIC COMMENTS-** There were none

#### **NEW BUSINESS-**

a) Construction Inspections and Land Use Compliance Presentation – Mike Purdy, Construction Inspector, Division Director and Jon Griego, Land Use Compliance Officer, City Of Santa Fe

Chair Bowman provided background for Mr. Purdy. She said the Committee gets a fair number of inquiries regarding accessibility that are not City facilities. She said the Committee wondered what he could offer.

Mr. Purdy said he is the Division Director for Inspections and Enforcement for the Land Use Department and the building official for the City of Santa Fe, as well. He said the City uses accessibility codes and enforces the 2003 ANSI (American National Standards Institute) for accessibility and the 2009 IBC (International Building Code).

He said for new construction the process is simple; construction documents are submitted. The Department makes sure the submittals and construction documents reflect 100% compliance with the codes adopted by the City. The existing buildings and alterations are more difficult. He said the IBC has levels of alteration which trigger more compliance; a level three alteration to an existing building expects 100% compliance, whereas levels one and two are less compliance, because of the amount of work.

Mr. Purdy said the technical and feasibility are taken into consideration, such as structural conditions that do not allow 100% accessibility compliance with code. The City tries to find alternative means of compliance, but in all cases the buildings are improved when they come into the permit and inspection process. He said there is always a level higher in accessibility and building safety.

He explained that Jon Griego is the Compliance Officer for enforcement and inspects the sites parking lots and conditions and the parking space conditions for accessibility. He and Mr. Griego work together and try to be creative with the developers, contractors and property owners to get them to go to the maximum extent reasonable in compliance for accessibility.

Ms. Pieters thanked both men for coming. She said she has heard issues where a restaurant closes and another restaurant moves into the existing building. She said there may be some alteration, but the bathrooms which were never accessible to begin with, continue to remain inaccessible. She said Santa Fe has a lot of old buildings and she found it hard to imagine that if an alteration is made, an accessible bathroom wouldn't be the first.

Mr. Purdy explained there is no requirement to make a business alter the restrooms for accessibility if a building is not altered and a new business moves in within 180 days of the previous business.

Ms. McGinnis asked if that was because the business is privately owned. She asked for more information on the different levels.

Mr. Purdy said the levels are based on the amount of alteration being made to the building. A level one alteration might be 20% of the total area being altered; level 2 is closer to 30-40% and a level 3 is 50% or more of the building would be altered. Level 3 can be brought in to full compliance.

He said ownership has nothing to do with the code; it is the way the codes are adopted. The codes are adopted by the State and if Santa Fe adopts the same codes, they follow the State. He said there are national code hearings every few years where changes to the code could be made, if there is enough push for change.

Ms. Pieters asked what he would suggest a person do when they find inaccessibility.

Mr. Purdy said if there is no accessibility (i.e. a restroom) in a commercial or a public building, but accessibility can be provided by a common accessible restroom; or a service is on a second level and the business can provide the service on the main level; those are alternatives to making the property owner bring into 100 percent compliance. He said consumers could complain to him as the building official, but he could only do what the codes authorized and he doesn't have authority to make a business change.

Ms. Pieters said that seems daunting and unlikely. She thought this is a national problem

Ms. Hunt said the code issue is separate and she hopes that will get more progressive. She would suggest the individual talk to the manager. She said usually it is a lack of awareness not a desire to keep people from using the facility and she encourages starting with communication and awareness. She said people should also understand that the business owners are not doing anything illegal.

Mr. Ortiz Dinkel asked if there are business examples where the owner has upgraded their facility to make them more accessible, even though alterations were not required.

Mr. Purdy said yes; a recent alteration was Wells Fargo. He said they moved into a building and could have chosen not to provide better accessibility. They brought the parking lot and restrooms into compliance without being asked. He said the inspectors push that concept and explain to owners how to make their business more accessible. He said the City is progressing.

Mr. McQuarie said a major complaint has been the permit and one deficiency is that the inaccessibility should have been included in the permit. He asked about the people who issue the permits and if they know what is required. He said so many things slip through the cracks and the excuse is "it wasn't required by the permit".

He gave an example of Wal-mart when they revised their parking lot and removed all the accessible parking in front of the garden center. He noted the new De Vargas Center remodel had parking issues. He said he has been to City Council a couple of times. He said ADA, IBC, State law states they have to provide certain accessible parking arrangements and they have not. The current state law requires the access aisle have a pavement aisle painted with "no parking", but he has yet to see that done. He added that the City Council years ago changed the emblem on the pavement to white on blue and Kmart used yellow on blue.

Mr. McQuarie talked about problems with projects. He said when you build and have access along the sidewalk and the sidewalk is not accessible, you make an access point. He said he was chewed out by police for being in the street because there were holes in the sidewalk, but an inspector has never given them a red tag.

Mr. Purdy said his Department makes sure that for the level of alteration taking place, the code is adhered to before the project is issued the final CO (Certificate of Occupancy) for each phase. He added that the Inspections and Enforcement and Permitting Division are human and they do make mistakes, but they are certified for plan review. He said some things get through the cracks, but they try to catch them.

Mr. McQuarie asked if something is out of 'spec' is there documentation showing an exception is granted.

Mr. Purdy said he issues inspection tags with comments and the building final and inspection report shows the history and the comments are included from the inspector. That is where comments pertaining to why a door wasn't widened or at that the level did not require an owner to widen the door, etc. would be.

Mr. McQuarie asked what recourse a person has if the inspector missed something.

Mr. Purdy said number one: bring the issue to his attention. He said if there is a violation that was missed they will correct it. He gave an example of a McDonalds' toilet of the wrong height and after talking with the owner, the correct toilet was installed. He said at the time of the certification the toilet was accessible, but had been replaced because of a problem with a regular height toilet. He said inspectors do go back and there are variables of what takes place after the fact.

Mr. Purdy said there has been turnaround in plan reviewers however they are constantly training staff in accessibility codes. He has been in Inspections and Enforcement for 15 years and has seen major progress. He and his staff meet with Hope Reed and go to classes on accessibility and on updates. He said everyone in his Department wants all existing buildings to be compliant with the accessibility codes.

Mr. McQuarie mentioned there was federal/state government accessibility training where the class puts participants in wheelchairs and blindfolds, etc. He said that gives others what it is like to have a disability.

Mr. Purdy said he would definitely have his staff attend. He said he has had personal experience with disabilities. He told of problems when his son broke his leg and said his mother is in a walker. He said he appreciates and is sensitive to persons with disabilities and he and his staff do everything possible.

Mr. Chapman said another accessibility training is in March and he would send information to Mr. Purdy.

Ms. Pieters asked how the public could access comments written on the inspection tags by the inspectors. She was told to submit a request for public information through Bernadette Romero at the City Attorney's office. Mr. Chapman offered to provide Ms. Pieters the information on how to file a request, etc.

Mr. Griego said he would elaborate that a section in the code that provides that owners do not have to go over 20% of the total costs of the project, has hindered accessibility. He said sometimes they have to choose what would be the most beneficial for the disabled community and often comes down to a personal decision. He said they do their best to have parking lots and ramps compliant, but sometimes the Land Use Director overrides their decisions made in the field.

Mr. McQuarie talked about an instance where a decision was overridden. He said Planning and Land Use does not require developers to provide access if their area is only one side of the street; they do not have to make the other side accessible. He asked when a person crosses the street and is met by a barrier, then what.

Mr. Griego said they couldn't force improvements on someone else's property. He said inspectors contact the Streets Division to see if they can make a coordinated effort between the City and the adjacent property owner; or it is taken care of through the work by the DOJ (Department of Justice).

Chair Bowman thanked Mr. Purdy and Mr. Griego for their presentation and input.

Mr. Purdy passed out his card and urged members to call with concerns or questions.

b)Funding Request for Main Library Door Entrance: \$4,875 – David Chapman

Mr. Chapman said he received a request from Patricia Hodat, the Director of Libraries downtown. He said Ms. Hodat wants MCD to share some of the expense and has asked for \$5,000 to replace the existing automatic door openers at the main entrance. Currently the automatic door system does not work. The total invoice for \$20,000 is to make the front door more accessible. MCD's share would be about a fourth of the total cost.

Chair Bowman thought the amount minimal. She said it sounds like the libraries have been at the forefront of providing accessibility and the Committee should encourage that.

Mr. McQuarie said he would advise "no". He went to the library last week to check this out and there is a system and it may not be the best, but it is working. He said the ADA recommends *initial* is done; not follow up and maintenance, which is not covered under ADA. He said he would therefore recommend not sharing the costs.

He said he further recommends the MCD send a letter to Ms. Wurzbarger as the chair of the Finance Committee asking that she not use ADA money for the purpose of upgrading the library doors. He said the doors meet ADA and there is a limited budget available to projects.

Ms. Hunt said the letter states the existing automatic door system does not work and that conflicts.

Mr. McQuarie said on Wednesday it *was* working. He said even if the door is not working; it is a maintenance issue and the Committee should not use their ADA funding for maintenance.

Ms. Pieters said from a different point of view; the libraries have had cut backs year after year and had to close for many hours and she knows the libraries are limited in money. She said she sees libraries as huge advocates of accessibility for people with disabilities; or anyone. The libraries provide what she feels are essentials for citizens. She pointed out the library is not asking that MCD replace the system, just for help. She said it feels like a good citizen response to say yes.

Mr. Ortiz Dinkel said to him it is a question of whether the system is working or not. He said if working, he would ask why the Committee would commit funds. He said if it is not working, then MCD should seriously look at what they could do to help.

Mr. Chapman said the door didn't work for him and the Transition Plan notes that the system should be replaced or repaired. Chair Bowman added if the system is not functioning part of the time that isn't helpful either.

Mr. Ortiz Dinkel asked how much the library spends to maintain the door and if the money is better spent to replace it. Mr. Chapman replied the system is old.

The Committee discussed the system and whether the door could function sometimes, depending on the strength of the person opening the door. It was noted if the equipment is out of date that would still fall under maintenance and under the Facilities budget.

Chair Bowman agreed the libraries are wonderful, but thought that isn't enough to share costs. She said she isn't clear whether the system needs a complete replacement or is just maintenance.

Ms. Pieters suggested David Pfeiffer, head of Facilities be asked about the maintenance.

Chair Bowman said the Committee could not pay for ongoing maintenance, but it is in the Transition Plan.

Mr. Chapman said he would ask Mr. Pfeiffer for his comments on maintenance/replacement and the history. He would bring that back to the Committee in March and advise Ms. Hodat of the Committee's concerns and let her know her request is still under consideration

Ms. Hunt asked to clarify if the \$4,875 [MCD share of expense] is the responsibility of Facilities. She said she would also ask to look at the question in general and clarify whether as a Committee, their focus is to support and fund *initial* installations versus maintenance.

Mr. Ortiz Dinkel asked if the ADA Transition Plan and Barrier Mitigation Schedule are specific to the library.

Mr. Chapman said it was. He said all City buildings have a part of the Transition Plan dedicated. He said the part dedicated to the main library is thick and the door is listed as one of the items to be mitigated.

Mr. Ortiz Dinkel said that adds to the question whether this is maintenance or something for the Committee just to look at.

Mr. McQuarie said the money the Committee has access to should be used for ADA initial improvements, not maintenance. He doesn't want MCD to set this precedent. He said there are so many things that need to be taken care of in the City.

Chair Bowman said in addition to the how the funds should be utilized, she would like to see the page in the Transition Plan that addresses this particular issue. Mr. McQuarie asked to also see the fiscal year that is to address all of the mitigating factors in the library.

c)Funding Request for Water Division Heat Curtain: Not To Exceed \$5,000 -David Chapman

Mr. Chapman passed around pictures before improvements and after of the Water Division Building. He said the City repainted the curbing and put in new accessible plaques on the ground and installed the automatic doors. He explained that Mayor Coss got involved when he joined the Committee for their

Christmas luncheon and heard about the issue. The Public Works Director was directed to look at the issue and Nick Schiavo, the Water Division Director decided not to do the installation. The Mayor found that unacceptable.

He said Brian Snyder, the Public Works Director agreed to put automatic doors in if MCD would look into providing a heat curtain that would mitigate drafts. The automatic doors were installed and the cost would be \$5,054 for the heat curtain.

Mr. Chapman said the question now is what would happen if MCD pays for the heat curtain after the last discussion.

Chair Bowman noted that by the time that heat curtain is installed, it would be summer.

Ms. Hunt said a heat curtain has nothing to do with accessibility; it is a comfort and the Committee provided the doors. She said she doesn't support the costs and doesn't see how that is an MCD issue.

Mr. McQuarie said ADA funding is to mitigate a barrier to the disabled and he couldn't see what barrier they would mitigate.

Chair Bowman asked the possibility of moving the staff that takes the payments to avoid the draft. Ms. Pieters agreed. She said it is not a new issue; staff has been taking payments there for years. Mr. McQuarie added the Water Department staff is who requested the automatic door openers.

Mr. Ortiz Dinkel said this request makes it easier to say no; it doesn't fit the MCD purview and there is no barrier the Committee is helping to remove.

Chair Bowman agreed. She said providing the funds for the automatic doors was providing for the barrier.

**Mr. McQuarie moved that the Mayors Committee on Disability direct Mr. Chapman as staff liaison to inform the Water Division that the MCD recommends not paying for the heat curtain.**

**Chair Bowman added a friendly amendment that the heat curtain is not mitigating any barriers. Mr. McQuarie accepted the amendment. Ms. Hunt seconded the motion.**

**The motion directing Mr. Chapman to inform the Water Division that the MCD recommends not paying for the heat curtain as it does not mitigate any barriers, was passed by unanimous voice vote.**

Ms. Hunt said to her a quid pro quo situation is not appropriate and ADA is not "we'll do the right thing if you do something for us". She said she has no time for that and finds it offensive and unacceptable.

Chair Bowman asked Mr. Chapman to send her an e-mail and with everyone's agreement she would send a note that summarizes the Committee's gratitude to Mr. Schiavo and their reasons for not funding.

## **OLD BUSINESS**

### **a) MCD Sub-Committee Reports**



- Transportation-Mary McGinnis

Ms. McGinnis said the issue brought up by the KIVA students would be discussed at the TAB meeting (February 25). She said she is now an official member.

Mr. McQuarie asked that members going up Rodeo Road notice the conditions of the lava rock on the sidewalk and to look at whether the sidewalks are accessible. He said that is a safety hazard.

- Media – Roberta Hunt

Ms. Pieters said the automatic door opener at the City Water Department is a positive situation and a media type event. She asked if there was a way to get that into the newspaper. She said it also lets the public know that the MCD is "on task, we're helping, were doing things, moving forward and they could contact the Committee with other situations". Chair Bowman suggested that could be a public interest story.

Ms. Hunt said she would make the contact for approval to send a press release to the newspaper. Mr. Chapman offered to send her the information on the contact.

Chair Bowman suggested Ms. Hunt state she could be contacted if someone wants to do something similar.

- Plan Review-Dave McQuarie

Mr. McQuarie said three plan reviews are in the packet. He said they looked good and comments were made about the good job done by the Engineering Service and the City engineer. He said two things were recommended; one was signage.

He said on Cerrillos Road they recommended that at Apache Avenue and Maclovía the pedestrians with disabilities be able to cross the street. He said according to the plans; people without a disability just have to walk over the curb, but *he* couldn't do that.

He said between Camino Carlos Rey and Lujan Street is a good stretch and same with Lujan and Osage. He said he was told by an engineer years ago that he could take a shuttle. He explained that taking the shuttle and transferring and returning back to work within an hour wasn't feasible.

Mr. McQuarie said the last review was for the Southside Transit Center and as he said at the last meeting, the biggest thing was that the plan was presented as the Villa Linda Mall. He said now they are not going to put it at the Mall and he will not approve the plans until he knows the location.

- b) Creative Santa Fe- Marcia Bowman

Chair Bowman said she met with Creative Santa Fe. She said they are an interesting nonprofit organization, but what they are doing has nothing to do with MCD. Their focus is to get people out to walk and they are not looking at accessibility.

Chair Bowman said Claudia Horn with the City's Pedestrian Master Plan would present next month.

Mr. Chapman asked that if there is someone members would like to speak or have share information, etc., to send him and Chair Bowman an e-mail and he would schedule them.

c) Water Division Entrance Accessibility Update- David Chapman

Previously discussed

#### **ITEMS FROM MEMBERS AND STAFF**

Mr. Ortiz Dinkel said he received the Disability Rights New Mexico status report on disability issues in the legislature. He said there is a list of the House Bills and Memorials and their status. (Exhibit 1)

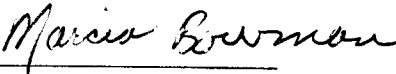
Chair Bowman added that she is working on an *Older Adult, Fall Prevention Education Bill* that got through two committees in the House and one committee in the Senate, but that was it.

Mr. McQuarie requested a report on the status of the updated Transition Plan; what has been done and is lacking and the dates of the FY deadlines; i.e. what has happened with the \$150,000.

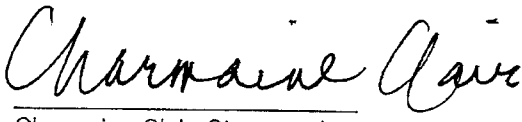
#### **ADJOURNMENT & NEXT MEETING: March 20, 2014**

*Having completed the agenda and with no further business, the meeting adjourned at 11:42 a.m.*

Approved by:

  
\_\_\_\_\_  
Marcia Bowman, Chair

Submitted by:

  
\_\_\_\_\_  
Charmaine Clair, Stenographer



## 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 2014 LEGISLATURE STATUS REPORT #4

Jim Jackson, Executive Director

Disability Rights New Mexico

February 17, 2014

**Down to the final few days.** This is the final week of this year's regular session, as the Legislature will adjourn at noon on Thursday. There will be long floor sessions in each chamber and some late night committee meetings as legislators try to overcome a slow start and complete action on hundreds of pending bills.

**A Little Progress on State Budget.** It's been about ten days since the proposed state budget bill, HB 2, failed on a tie vote (34 - 34) in the House. The bill was later sent back to the House Appropriations and Finance Committee, but they have not been able to agree on a revised version so the bill remains in the committee. Meanwhile, the Senate Finance Committee has produced its own version of the budget bill, using the House version as a starting point. With the clock ticking down, it is not clear whether a budget agreement will be reached. If there is no final approval of a budget bill (or if a bill is passed but vetoed by the governor), a special session will be needed to resolve the impasse.

**Some Bills Make Progress.** HB 58, which would open up the Brain Injury Fund to those whose brain injury was the result of an acquired condition rather than traumatic/accidental injury, has passed the House and is making progress in the Senate. Bills (HB 52 and SB 75) authorizing schools to stock and administer emergency medications for treating asthma and allergies have been passed separately in the House and the Senate and each is moving forward in the other chamber. A bill (SB 181) to provide procedural protections to behavioral health and other Medicaid providers has made some progress in the Senate but still has a long way to go before its possible passage by the legislature; an attempt is being made to add requirements for continuity of services to consumers in the event a provider's Medicaid payments are suspended by HSD.

**Other Bills Struggling or Dead.** A bill (SB 174) authorizing CYFD to license and regulate "wilderness youth programs" such as the Tierra Blanca Ranch near Hillsboro was tabled in the Senate Judiciary Committee this past week. Many committee members were clearly unhappy with CYFD's performance and management in view of high staff vacancy rates and turnover along with recent high-profile cases involving apparent failures in child protective services. As a result, they're reluctant to give the department additional regulatory authority, and this bill is very unlikely to move further in this session. SB 55, which would provide \$10 million to take people off of the DD waiver waiting list and move them into service, and would require the Department of Health to develop a 5-year plan for significantly reducing the waiting list, has been stalled in the Senate Finance Committee, a victim of

the state budget impasse. Bills that would have allowed or required certification of in-home care providers such as attendants or homemakers have been withdrawn by their sponsors in response to concerns raised by provider agencies and by many in the disability community who were concerned over interference with the selection and training of attendants by self-directing consumers.

## Bills, Memorials and Resolutions in the 2014 Legislative Session

### State Budget

**HB 2** General Appropriations Act. Rep. Kiki Saavedra. The bill approved by the House Appropriations and Finance Committee (HAFC) failed to pass the House on a tie vote and was later referred back to HAFC, where it remains. The Senate Finance Committee has developed its own version of the budget bill (SB 313) but it has not been formally sent to the full Senate and complete information on final numbers is not yet available. Funding levels for state agencies providing services to persons with disabilities (including state, federal and other funding sources) in the HAFC version of the bill are included in the table below:

<u>Agency/Program</u>	<u>Current Year Budget</u>	<u>Governor's FY 2015 Recommendation</u>	<u>LFC FY 2015 Recommendation</u>	<u>HB 2 per HAFC</u>
Department of Health				
Developmental Disabilities	\$149.748 million	\$159.057 million	\$162.223 million	\$162.123 million
Human Services Department				
Medicaid general	\$4.065 Billion	\$4.341 Billion	\$4.331 Billion	\$4.349 Billion
Medicaid Behavioral Health	\$306.1 million	\$422.6 million	\$400.7 million	\$394.1 million
BHSD (non-Medicaid)	\$ 59.4 million	\$ 61.5 million	\$ 60.4 million	\$ 60.8 million
Div. of Vocational Rehabilitation				
Rehabilitation services	\$27.725 million	\$29.893 million	\$28.429 million	\$28.529 million
Independent Living	\$ 1.457 million	\$ 1.543 million	\$ 1.457 million	\$ 1.543 million
NM Commission for the Blind	\$12.353 million	\$12,837 million	\$12.837 million	\$12.837 million
NM Comm. for the Deaf & HH	\$ 3.753 million	\$ 3.700 million	\$ 3.703 million	\$ 3.753 million
Governor's Comm. on Disability	\$ 1.525 million	\$ 1.554 million	\$ 1.598 million	\$ 1.629 million
DD Planning Council				
Federal program	\$ 1.287 million	\$ 1.431 million	\$ 1.288 million	\$ 1.320 million
Office of Guardianship	\$ 4.595 million	\$ 5.045 million	\$ 4.980 million	\$ 4.997 million

The current version of HB 2 includes these new/additional funding items of particular interest to the disability community:

- \$3.3 million additional funding for the DD waiver, intended to bring people off of the wait list
- \$500,000 for a pilot program of flexible supports for those at or near the top of the wait list, as recommended by the SM 20 task force
- \$5.1 million additional funding for the FIT (Family Infant Toddler) program
- \$150,000 for evidence-based treatment practices for children with autism
- \$5 million for Medicaid rate increases for nursing homes and PCO providers
- \$250,000 for non-Medicaid in-patient psych services in southern NM
- \$100,00 for a concussion needs assessment
- \$50,000 for distribution of child safety helmet
- \$75,000 to the Commission for the Blind to purchase and distribute magnification devices
- \$164,000 in supplemental FY 2014 funding for the DDPC Office of Guardianship
- \$3 million to PED as needed to meet "maintenance of effort" for special education funding (in addition to contingency funds appropriated last year).

HB 2 also includes a prohibition on HSD using money to contract with a managed care company to manage non-Medicaid behavioral health funds.

The Senate and the House will have to agree on a single version of the budget to send to the governor or a special session will be necessary to resolve the matter.

#### Autism

**HB 69** Autism Services. Rep. Liz Thomson. Appropriates \$100,000 to the Department of Health to support the Autism Oversight Team (planning and promoting in-state services for persons currently placed out-of-state) and \$250,000 for clinical services for children with significant problem behaviors. Passed HHGIC, pending in HAFC. *The latest version of HB 2 includes \$150,000 for clinical treatment services.*

**SB 109** Autism Services. Sen. Lisa Torracco. Same as HB 69, above, appropriating \$350,000 to DOH for autism services. Passed SPAC, pending in SFC. *The latest version of HB 2 includes \$150,000 for clinical treatment services.*

#### Behavioral Health/Mental Health

**HB 44** Firearms Sales and Federal Mental Illness Reporting. Rep. Miguel Garcia. This bill would require background checks for the purchase of firearms at gun shows, and would also require state reports to the FBI identifying individuals who have been found by courts to be mentally incapacitated and thus ineligible to purchase firearms. **The sponsor has decided not to move the bill forward.**

**HB 61** Native American Youth Suicide Prevention. Re. James Roger Madalena. Appropriates \$300,000 to HSD for the Behavioral Health Purchasing Collaborative to establish three prevention programs statewide. Passed HHGIC, pending in HAFC.

**HB 63** Inmate Mental Health. Rep. James Roger Madalena. This bill had an appropriation of \$563,180 to establish a pilot program in Grant, Luna and Hidalgo County (southwestern NM) to provide comprehensive behavioral health and support services to inmates of the county detention centers and to individuals who have been released from those facilities. The funding was removed from the bill by amendment, leaving an "unfunded mandate" to establish the program. Passed the House 61 - 0; pending in SPAC.

**HB 243** Housing Assistance for the Homeless. Rep. Doreen Gallegos. This bill provides \$500,000 to the Mortgage Finance Authority to provide supportive housing and support services to help homeless persons become more stable and move into housing. Passed HBIC, pending in HAFC.

**SB 35** NMSU Nurse Practitioner Program. Sen. Mary Kay Papen. This bill appropriates \$171,200 for the Mental Health Nurse Practitioner program at NMSU. Passed SPAC, pending in SFC.

**SB 66** Infant Mental Health Services. Sen. Jerry Ortiz y Pino. This bill will appropriate \$2 million to the Children, Youth and Families Department to provide infant or early childhood mental health services that are not covered by Medicaid. The bill would also prohibit the state from requiring providers of these services to be endorsed by a national organization in order to be reimbursed for services. This provision is intended to continue or extend services to communities where there are few if any endorsed providers. Passed SPAC, pending in SFC.

**SB 290** Behavioral Health Services in Lea County. Sen. Gay Kernan. This bill appropriates \$100,000 to the Children, Youth and Families Department to provide behavioral health services and supportive housing to pregnant and parenting teenagers in Lea County (southeastern NM). Passed SPAC, pending in SFC.

**SB 321** Resolving Financial Claims Related to BH Audits. Sen. Howie Morales. This lengthy bill sets up a process whereby the 15 provider agencies whose payments were suspended due to HSD's determination of "credible allegations of fraud", and their employees or contractors, can resolve claims against the state without having to pursue damage cases in court, if a valid tort claim against the state was filed by January 1, 2014. The claims would be reviewed by a special master, and payments up to a total of \$750,000 could be made for valid claims if the agency is not charged with either civil or criminal fraud. SCC/SJC/SFC. **Determined "not germane" and will not be pursued further in this session.**

**SR 2** No Confidence in HSD Secretary Squier. Sen. Michael Sanchez. This Senate Resolution indicates that the state Senate has "no confidence" in the ability of Sidonie Squier to carry out her duties as Secretary of the Human Services Department. *We include this Resolution in the behavioral health section of this Legislative Report because Secretary Squier's handling of the abrupt suspension of Medicaid funding for 15 major behavioral health agencies last year is the principal (though not the only) basis cited for proposing the Resolution.* Awaiting action by the full Senate.

**SM 5** Early Childhood Task Force. Sen. Jerry Ortiz y Pino. This memorial asks UNM to reconvene a task force to continue working on improving collaboration among early childhood stakeholders, and to develop an infant and early childhood mental health action plan. Awaiting action by the full Senate.

**SM 29** Behavioral Health Study. Sen. Jerry Ortiz y Pino. This memorial cites a number of systemic changes that have been made in the behavioral health delivery system over the years, typically resulting in difficult transitions that delayed and disrupted services. It calls for another study group to recommend the changes needed to develop an effective and accountable mental health system. SRC/SPAC.

**SM 79** BH Collaborative Task Force. Sen. Carlos Cisneros. This memorial calls on the Behavioral Health Purchasing Collaborative and local collaboratives to establish a task force to identify strategies for expanding and improving behavioral health service delivery through community partnerships. *DRNM would be one of the many entities requested to serve on the task force.* Passed SPAC, awaiting final vote in the Senate.

#### Brain Injury

**HB 58** Expand Eligibility for Brain Injury Services. Rep. Jim Trujillo and Sen. Gay Kernan. This bill would amend the law establishing the Brain Injury Services Fund to eliminate its current limitation to those with "traumatic" brain injury. This would provide eligibility for those whose acquired brain injury was caused by stroke or other non-traumatic causes, as long as the injury occurred after birth and was not caused by substance abuse. Passed the House 65 - 0, passed SPAC, pending in SFC.

**HM 9** Concussion Study. Rep. Jim Smith. This memorial asks the Brain Injury Advisory Council to conduct a study of the incidence of concussions in student athletes and returning veterans, and identify needs related to diagnosis and treatment of concussions. *The current version of HB 2 includes a total of \$100,000 to conduct the study.* **PASSED.**

**SB 52** Insurance Coverage for Brain Injury Services. Sen. Tim Keller and Rep. Liz Thomson. This bill would require most individual and group health insurance policies in New Mexico to cover a number of treatment services and community reintegration services for persons with brain injuries. **Determined “not germane” and will not be pursued further in this session.**

#### Community-based Services

**HB 88** Certification of Personal Care Providers. Rep. Kelly Fajardo. This bill proposed a voluntary program of certification for individual providers of personal care, attendant care, homemaker or similar in-home services for pay. With a “message” from the governor, the bill was determined germane to the short session. However, due to concerns raised by home care agencies, representatives of disability organizations and others, the sponsor decided not to move the bill forward and instead introduced a memorial calling for a group to study the issue (see HJM 20, below).

**HJM 4** Family Caregiver Study. Rep. Tomás Salazar. This memorial calls for appointment of a coalition or task force to review the needs of family members and friends who provide unpaid care and support to elders and others and to recommend policy changes to support these caregivers. The DD Planning Council and the Governor's Commission on Disability would be members of the task force. Passed the House 48 – 0; SRC/SPAC.

**HJM 20** Oversight of Home Care Agencies. Rep. Kelly Fajardo. This memorial calls for a group to look at oversight and regulation of home health agencies, some of which are not licensed by the state, in order to promote quality assurance. Care givers who work independently for self-directing consumers would not fall within the scope of the memorial. Passed HHGIC, awaiting final vote in the House.

**SB 14** Certification of Personal Care Providers. Sen. Michael Padilla. This bill is similar to HB 88 but would **require** anyone providing personal care, attendant care, homemaker or similar in-home services for pay to be certified by the state. Certification would require completion of a course of study, passing an exam, and accreditation by a national accrediting entity. **Due to concerns expressed by the disability community as well as providers, the sponsor is not pursuing this bill.**

#### Developmental Disabilities

**HB 75** Rate Increase for DD Providers. Rep. Jimmie Hall. This bill will appropriate \$2.65 million to the Department of Health to provide reimbursement rate increases to provider agencies for DD services funded by state general funds (would not apply to waiver services). Same as SB 249, below. Passed HHGIC, pending in HAFC.

**HB 218** FIT rate increases. Rep. Liz Thomson. This bill appropriates \$4 million to the Department of Health to provide reimbursement rate increases to Family Infant Toddler (FIT) provider agencies as called for in a rate study conducted in 2003. Same as SB 188, below. Passed HHGIC, pending in HAFC.

**HB 319** Prevent Fetal Alcohol Syndrome. Rep. Liz Thomson. This bill appropriates \$100,000 to the Department of Health to fund a program at the University of New Mexico to prevent fetal alcohol syndrome. HAFC. *\$50,000 for this purpose is included in the current version of HB 2.*

**HB 354** DD Provider Rate Increase. Rep. Kelly Fajardo. This bill appropriates \$5.2 million to the Department of Health to provide “cost-of-living” increases to agencies providing DD waiver services. Passed HHGIC, pending in HAFC.

**SB 55 DD Waiver Waiting List Plan and Funding.** Sen. Bill Soules. This bill would require the Department of Health and the Human Services Department to develop a 5-year plan, to be updated annually, to address the waiting list for the DD waiver program. The plan would identify the total number of people on the waiting list, a target for the number of new people to be served during the five-year period covered by the plan, and the amount of funding needed each year to meet the target. As amended in SPAC, the bill would also appropriate \$10 million to the Department of Health in the coming year to serve some of those currently on the waiting list. Passed SPAC, pending in SFC.

**SB 188 FIT rate increases.** Sen. Howie Morales. This bill appropriates \$4 million to the Department of Health to provide reimbursement rate increases to Family Infant Toddler (FIT) provider agencies as called for in a rate study conducted in 2003. Same as HB 218, above. Passed SPAC, pending in SFC.

**SB 249 Rate Increase for DD Providers.** Sen. Nancy Rodriguez. This bill will appropriate \$2.65 million to the Department of Health to provide reimbursement rate increases to provider agencies for DD services funded by state general funds. Same as HB 75, above. Passed SPAC, pending in SFC.

**SB 277 Rate Increase for DD Providers.** Sen. Carlos Cisneros. This bill appropriates \$5.2 million to the Department of Health to fund cost-of-living increases for DD waiver provider agencies. Passed SPAC, pending in SFC.

**SM 8 Jaden's Way.** Sen. Lisa Torracco. This memorial acknowledges the extraordinary challenges faced by individuals with multiple disabilities and their families, as exemplified by Jaden Fawver, who died recently at the age of 10. **PASSED.**

#### Education

**SB 5 ASL as Language Credit.** Sen. Carlos Cisneros. This bill would allow a course in American Sign Language to count as a language credit when calculating total credits needed for high school graduation requirements. **Determined "not germane" and will not be pursued further in this session.**

**SB 280 Fostering School Friendships.** Sen. Howie Morales. This bill appropriates \$100,000 to the Public Education Department to support programs in mid schools and high schools that promote friendships between students with and students without developmental disabilities, and promote inclusion in the schools. SEC/SFC.

**SM 69 Educational Services.** Sen. Bill O'Neill. This memorial calls for a task force to help the PED devise strategies and funding for providing educational services for students who have been suspended or expelled from school or referred to the juvenile justice system. Passed SRC, awaiting final Senate vote.

#### Medicaid and Health Care

**HB 52 Emergency Medications in Schools.** Rep. Yvette Herrell. As amended, this bill allows (but does not require) school districts to stock albuterol and epinephrine medications in schools for use by nurses or other trained personnel, respectively, for students experiencing respiratory distress or anaphylaxis. Same as SB 75, below. Passed the House; SPAC/SJC.

**HB 60 Native American Opt-in for Centennial Care.** Rep. James Roger Madalena. This bill would clarify that Native Americans who are eligible for Medicaid cannot be required to enroll in Centennial Care or any other Medicaid managed care program, although they could do so voluntarily. Currently,



Native Americans can choose whether they want to enroll in a Centennial Care managed care organization (MCO), except for those who are "dual eligible" (receiving both Medicaid and Medicare) and those receiving long-term services, who are required to be enrolled with an MCO. **Determined "not germane" and will not be pursued further in this session; but see HB 337, below, for a revised version of this effort.**

**HB 267 Nursing Home Rate Increases.** Rep. Lucky Varela. This bill appropriates \$8 million to HSD to increase payment rates for nursing homes in the coming year. It also directs HSD to change the formula used to calculate future payment rates to assure that they fully cover the costs incurred by nursing homes in serving their residents. *The current version of HB 2 includes \$5 million for rate increases for nursing homes and PCO providers.* Passed HHGIC, pending in HAFC.

**HB 337 Native American Opt-in.** Rep. James Roger Madalena. This is a revised version of HB 60 (above), which adds a requirement for HSD to do outreach and education about the choices available to Native Americans, as well as an appropriation of \$100,000 to cover HSD's costs. Same as SB 284, below. Because of the appropriation, the bill has been considered germane to the short session. Passed HHGIC, pending in HAFC.

**HM 66 Medicaid and HIX Data.** Rep. Roger Madalena. As amended, this memorial calls on the Human Services Department and the NM Health Insurance Exchange to report monthly a wide range of data involving successful as well as denied applications for healthcare coverage. The new version of the memorial is identical to SM 89, below. Passed HHGIC, awaiting final House vote.

**HM 84 Medicaid Services to Native Americans Data.** Rep. Roger Madalena. Citing inadequate tribal consultation by HSD and concerns over commercial managed care programs, this memorial calls on HSD to provide data comparing costs and satisfaction with services for Native Americans in managed care, fee-for-service, and IHS/tribal programs. Identical to SM 98, below. Passed HHGIC, awaiting final House vote.

**SB 33 Due Process for Medicaid Providers.** Sen. Mary Kay Papen and Rep. James Roger Madalena. This bill establishes a definition of what constitutes a "credible allegation of fraud", and gives providers a right to appeal in court if they are referred to the Attorney General for investigation based on such an allegation. The bill also clarifies that simple or inadvertent errors in billing do not constitute fraud. The bill is a response to HSD's actions in 2013, when 15 agencies were referred for investigation based on such allegations, leading to suspension of their funding and the replacement of 12 of the agencies by companies headquartered in Arizona, without the original agencies getting information about exactly what they allegedly did wrong and without an opportunity to challenge the determination in an administrative hearing or in court. **Determined "not germane" and will not be pursued further in this session.**

**SB 75 Emergency Medications in Schools.** Sen. Mark Moores. As amended, this bill allows (but does not require) school districts to stock albuterol and epinephrine medications in schools for use by nurses or other trained personnel, respectively, for students experiencing respiratory distress or anaphylaxis. Same as HB 52, above. Passed the Senate; passed HHGIC, awaiting final House vote.

**SB 126 Due Process for Medicaid Providers.** Sen. Bill O'Neill. This bill addresses some of the same issues as SB 33 but provides a more comprehensive approach to defining Medicaid fraud as well as providing procedural protections to Medicaid service provider agencies. **Determined "not germane" and will not be pursued further in this session.**

**SB 181 Medicaid Due Process.** Sen. Bill O'Neill. This bill began as an appropriation of \$500,000 to HSD to cover the cost of affording additional due process protections for Medicaid providers. It was amended in SPAC to include some of the procedural protections contained in SB 33 and SB 126, above. Passed SPAC, pending in SJC and then goes to SFC.

**SB 284 Native American Opt-in.** Sen. Benny Shendo. This bill duplicates HB 337, above, exempting most Native Americans from mandatory enrollment in Centennial Care and providing an appropriation to HSD for outreach activities. SCC/SIAC/SFC.

**SJM 5 Oversight Council on Medicaid and Disability.** Sen. Tim Keller and Rep. Liz Thomson. This memorial asks the legislative leadership to create a permanent council to provide oversight of Medicaid services for persons with disabilities. The Council would be made up of four legislators, five individuals who are persons with disabilities, representatives of or advocates for persons with disabilities, and one representative each from HSD and DOH. Passed the Senate 24 – 18; passed HHGIC, awaiting final House vote.

**SJM 22 Equal Due Process.** Sen. Howie Morales. This memorial calls on the governor to direct the HSD secretary to give all Medicaid providers the same due process protections that the five new behavioral health agencies from Arizona are entitled to under their contracts with HSD. Those contracts include protections that are not typically provided to Medicaid providers. SRC/SPAC.

**SM 59 Health Care Transitions.** Sen. Jerry Ortiz y Pino. This memorial calls on the Children's Medical Services program at the Department of Health and the Center for Development and Disability at UNM to convene a group to make recommendations to improve the transition of persons with special health care needs as they age and transition from pediatric systems to adult health care providers and systems. SRC/SPAC

**SM 89 Medicaid and HIX Data.** Sen. Jerry Ortiz y Pino. This memorial calls on the Human Services Department and the NM Health Insurance Exchange to report monthly a wide range of data involving successful as well as denied applications for healthcare coverage. Identical to the revised version of HM 66, above. SRC/SPAC.

**SM 98 Medicaid Services to Native Americans Data.** Sen. Benny Shendo. Citing inadequate tribal consultation by HSD and concerns over commercial managed care programs, this memorial calls on HSD to provide data comparing costs and satisfaction with services for Native Americans in managed care, fee for service, and IHS/tribal programs. Identical to HM 84, above. SIAC/SPAC.

#### Other

**HB 43 Car Registration Fee Exemption.** Rep. Miguel Garcia. This bill would exempt low income persons with disabilities from the usual Motor Vehicle Division fee for car registration for one vehicle. Passed HHGIC, pending in HAFC.

**HB 217 Guardianship Oversight.** Rep. Liz Thomson. This bill appropriates \$200,000 to the state district court in Albuquerque (2<sup>nd</sup> Judicial District) to fund the court's initiative to review and monitor guardians and guardianship arrangements for adults who have been determined to lack capacity to make their own decisions. Increased court oversight was recommended by the SM 94 task force and other groups in previous years that have looked at this issue. *Based on its title and provisions, this was*

*previously reported as a bill that would create a special court for seniors and persons with disabilities.* Passed HJC, pending in HAFC.

**HB 265 Reporting Child Abuse.** Rep. Gail Chasey. This bill clarifies that, with a few exceptions, any person who knows or reasonably suspects that a child is being abused or neglected has a duty to report the matter to local law enforcement, Child Protective Services, or a comparable tribal entity. The bill is a response to a court case last year that held that only certain persons such as teachers, doctors, social workers or others are required to report. *DRNM notes that children with disabilities are more frequently the victims of abuse or neglect than other children.* This bill was originally determined to be not germane, but with the governor's message in support of HB 334 (see below), it could now move forward. However, that's unlikely at this late point in the session. HRC.

**HB 334 Reporting Child Abuse.** Rep. Nate Gentry. This bill addresses the same issue as HB 265, above, regarding who is required to report suspected child abuse. HB 334 explicitly eliminates any and all exceptions to the reporting requirement. HCPAC/HJC.

**HB 342 CYFD Oversight of Wilderness Youth Programs.** Rep. Rudy Martinez. As amended, this bill would clarify that the Children Youth and Families Department has authority to license and regulate certain residential wilderness programs serving youth. *DRNM notes that some of the children served in such programs may have been placed there because of their behavioral challenges.* Passed HHGIC, awaiting final House vote.

**HM 69 Removing Barriers to Employment.** Rep. Cathrynn Brown. This memorial calls on the New Mexico Congressional delegation to work to change federal rules that limit how much income a non-elderly nursing home resident with disabilities can earn and still maintain eligibility for nursing home services, and require most of a person's earnings to be turned over to the nursing home to cover costs of room and board. **PASSED.**

**SB 50 Changes to Procurement Code.** Sen. Tim Keller and Rep. Eliseo Alcon. This bill would limit the ability of state agencies such as HSD to avoid competitive bid processes when contracting for audits or arranging for services after suspending payments to agencies based on allegations of fraud. This is another legislative response to the way HSD dealt with 15 behavioral health agencies in 2013. Determined "not germane" and will not be pursued further in this session.

**SB 174 CYFD Oversight of Residential Programs.** Sen. Sue Wilson Beffort. As amended, this bill would clarify that the Children Youth and Families Department has authority to license and regulate certain residential wilderness programs serving youth. Passed SPAC but tabled in SJC after extensive debate reflecting a lack of confidence in CYFD.

**SB 312 Assessment Exemption for Disabled Veterans.** Sen. Michael Sanchez. This bill would exempt the property of military veterans with 100% disability or their surviving spouses from any financial assessments by certain governmental bodies such as conservancy or flood control districts, if the individual resides on the property. Passed SPAC, pending in 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.

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.

Each legislator has an office in the Capitol. To reach a legislator's office during the session, call the Capitol switchboard at 986-4300 and ask 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 LEGISLATIVE REPORTS

##### Legislative Committees

HAFC	House Appropriations and Finance Committee
HAGC	House Agriculture and Water Resources Committee
HBIC	House Business and Industry Committee
HEC	House Education Committee
HHGIC	House Health, Government and Indian Affairs Committee
HJC	House Judiciary Committee
HTPWC	House Transportation and Public Works Committee
HTRC	House Taxation and Revenue Committee
SCORC	Senate Corporations Committee
SEC	Senate Education Committee
SFC	Senate Finance Committee
SIAC	Senate Indian Affairs 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
CYFD	Children, Youth and Families Department
DDPC	Developmental Disabilities Planning Council
DOH	Department of Health
GCD	Governor's Commission on Disability
HSD	Human Services Department
PED	Public Education Department