



## DISABILITY RIGHTS NEW MEXICO

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James Jackson, Chief Executive Officer

*Promoting and Protecting the Rights of Persons with Disabilities*

### DISABILITY ISSUES IN THE 2018 LEGISLATURE STATUS REPORT #1

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Disability Rights New Mexico

January 22, 2018

#### Coming Events:

**Jan. 25-26 – Disability Rights Awareness Days** in Santa Fe. Thursday at the Drury Plaza Hotel and Friday at the State Capitol. Opening keynote address by Secretary of State Maggie Toulouse Oliver. Plenary sessions and an afternoon of workshops on Thursday, while Friday features exhibits by sponsoring agencies, awards to legislative champions, updates on legislative developments, and more!

#### Jan. 31 - MS Action Day

**Session underway.** The 2018 state legislative session started last Tuesday, with the usual State of the State address by Governor Susana Martinez. But in some ways the session had already started by then: both the House Appropriations and Finance Committee and the Senate Finance Committee met the prior week to begin hearing agency budget proposals, and about 250 bills were pre-filed before the session began, all in an attempt to beat the 30-day clock of this year's short session.

The mood of the Legislature in the first week was upbeat, due largely to the favorable revenue outlook, leading to expressions of hope for cooperative accomplishments.

The national movement against sexual harassment made itself evident in New Mexico, as virtually all state legislators attended mandatory training and many lobbyists attended voluntary sessions arranged by the Secretary of State. In the Senate, Mimi Stewart was elected as Majority Whip, replacing Michael Padilla, who had been ousted earlier from that position due to allegations of harassment from a decade ago.

**Nursing compact approved.** Facing a Jan. 19 deadline, the Legislature wasted no time in passing a bill to ratify the interstate nursing compact, and Governor Martinez promptly signed it into law. Although quick passage had been widely predicted, there was considerable debate on the measure as lawmakers came to realize that in addition to simple reciprocity – allowing nurses licensed in NM to practice in other states that adopt the compact and nurses licensed in those states to practice in NM – the compact also includes provisions dealing with investigations and disciplinary proceedings that supersede policies or regulations of the state Board of Nursing. Although the compact passed the legislature unanimously, it may not be the end of the discussion in this year's session.

## The Budget Outlook

The official revenue estimate for FY 2019, which begins on July 1, 2018, is that recurring income (from gross receipts tax, income taxes, income from reserve funds, etc) will total about \$6.281 billion. Recurring spending authorized for the current year is \$6.082 billion. This means that an estimated \$199 million in “new money” is available for the 2018 legislature to spend, save, or give away through tax cuts.

A new projection is expected within a week or so. Based on revenue tracking by staff of the Legislative Finance Committee and predictions by the governor, the new estimate may increase the amount of new money to over \$300 million.

Governor Martinez and the Legislative Finance Committee have each made recommendations to the Legislature for funding for all state agencies in the coming fiscal year. The LFC’s proposed budget would spend \$178 million of the \$199 million that’s officially available at this time. The governor’s proposed budget would spend an additional \$251 million in the coming year, using much of the available new money and supplementing it based on her proposal to impose the gross receipts tax on non-profit and governmental hospitals.

## Bills and Memorials Introduced or Expected

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 and action taken on the bill or memorial. The report also includes bills or memorials expected but not yet introduced. See page 6 for a list of abbreviations, including legislative committees, used in this report. The deadline for introducing most bills is the half-way point of the session, which this year will be Wednesday, January 31<sup>st</sup>. Memorials can be introduced at any time.

Since this is a short session, the only bills allowed to move forward will be funding or tax bills, bills addressing a topic requested by the governor, and bills passed in the last session that were vetoed by the governor. All House bills go first to the House Rules Committee to determine whether they fall within one of those categories; on the Senate side, the bills go first to the Senate Committees Committee. Memorials, resolutions and constitutional amendments do not have to go through that process and are typically referred directly to the relevant committee.

### The State Budget

**HB 2** General Appropriation Act. Rep. Patty Lundstrom. This is the state budget bill for FY 2019 that will include appropriations for all state agencies. The specific funding levels are being determined in meetings of the House Appropriations and Finance Committee, which plans to approve the bill and pass it on for action by the House by Jan. 31. HAFC.

The following table shows the **increases or decreases** (not the total funds) recommended by the governor and by the LFC for each disability-related agency/program in the coming year, compared to the spending level authorized for the current year.

	<u>Governor</u>		<u>LFC</u>	
	<u>State Funds</u>	<u>All Funds</u>	<u>State Funds</u>	<u>All Funds</u>
NM Comm Deaf & Hard of Hearing	0	- 89,400	-319,400	- 17,800
NM Commission for the Blind	0	-1,259,800	- 38,800	- 230,300

Consumer/Elder Rights in ALTSD	-10,200	+ 472,000	-139,300	+342,900
Adult Prot Services in ALTSD	-241,100	- 235,900	-171,700	- 166,500
Behavioral Health Services in HSD	0	+1,963,400	0	+1,963,400
DVR Rehabilitation Services	0	- 98,300	0	0
Independent Living (in DVR)	0	- 94,800	0	- 94,600
Governor's Commission on Disability	+ 52,300	+ 51,600	+ 700	+ 73,500
DDPC Office of Guardianship	0	+ 188,000	+ 65,600	+ 67,300
DDPC Other Programs	0	+ 13,100	- 20,300	- 7,200
DD Services Division in DoH	+1,924,000	+1,993,600	+2,930,100	+2,999,700
Children's Protective Services in CYFD	+4,555,800	+4,234,400	+5,655,800	+5,334,400
Children's Mental Health in CYFD	+1,364,500	+ 404,400	+1,364,500	+ 404,400

Behavioral Health/Mental Health

**HB 20** Reducing Prison Recidivism. Rep. Nate Gentry and Sen. Daniel Ivey-Soto. This bill would require jails and prisons to screen inmates or detainees who are in the facility for 100 days or more for substance abuse or mental health issues, and to refer such individuals for case management and support services upon their release from the facility. The facilities would have to help these individuals enroll in Medicaid as allowed by current state law. HRC.

**HB 132** Rapid Re-housing. Rep. Tomas Salazar. Appropriates \$2 million to the Department of Health, to be provided to the Mortgage Finance Authority, to provide services and supports to homeless persons to help them obtain and maintain permanent housing. HRC

**HB 135** Interventions and Services for At-risk Youth. Rep Sheryl Williams Stapleton. This bill would require the Human Services Department to create a program to provide services to meet the needs of youth with behavioral health issues who are at risk for involvement in the juvenile justice or criminal justice system. The bill would also establish a transportation fund that counties could apply for to cover the cost of transporting individuals to the services they need, and would appropriate \$1 million to the new fund. HRC.

**HJM 2** In-patient services in southern New Mexico. Rep. Joanne Ferrary. This memorial calls on the Legislative Finance Committee to develop a plan to provide inpatient beds for mental health patients in southern NM, initially through contractual arrangements and then through construction of one or more new facilities. HAFC.

**SB 4** AOT Funding. Sen. Mary Kay Papen and Sen. Peter Wirth. Appropriates \$1 million to the Department of Health to assist cities or counties that implement an Assisted Outpatient Treatment (AOT) program. These programs, authorized by law in 2016, allow for court ordered mental health outpatient treatment for certain individuals who refuse voluntary treatment, but only in cities or counties that enter into agreements with their local district court to cover the costs of judicial proceedings. SPAC/SFC.

**SB 73** Supportive Housing for Persons with Behavioral Health Issues. Sen. Howie Morales. Appropriates \$2.5 million to the Human Services Department to provide rental assistance, supportive services and other help to individuals with behavioral health disabilities who are homeless or at risk of homelessness. SCC.

**SJM 1** Veterans Suicide Prevention. Sen. Jeff Steinborn. Calls on the Veterans Services Department to convene a task force to hold hearings around the state to gather input on how to reduce the incidence of suicide among New Mexico veterans. SRC/SPAC.

Expected:

- Licensure of “wilderness camps”: Rep. Rebecca Dow is expected to introduce a bill clarifying the authority of the Children, Youth and Families Department to license residential “camp” facilities that serve teens with behavioral issues. Similar bills have been introduced in recent sessions but have not passed.
- IPRA amendments. A memorial is expected that would call for a task force to consider potential amendments to the state Inspection of Public Records Act (IPRA). The focus of the group would be possible exclusion of lapel camera videos of police encounters with the public in some situations due to privacy concerns, including certain encounters with persons with mental illness.

#### Developmental Disabilities

**HB 107** DD Waiver Program funding. Rep. Miguel Garcia. This bill would appropriate an additional \$25 million for the DD waiver program. The funds could be used to provide additional services and take people off of the waiting list. HRC.

Expected: Sen. Bill Soules plans to introduce a similar request for \$25 million for the DD waiver program. His bill will also require DOH to issue an annual report on the waiver waiting list, including estimates of the funding needed to gradually eliminate the wait list.

#### Healthcare/Medicaid

**HB 42** Limitations on “Step Therapy”. Rep. Liz Thomson and Rep. Monica Youngblood. Imposes some restrictions on (but does not prohibit) “step therapy” or “fail first” requirements in health insurance policies, whereby an individual has to try common or lower cost prescription drugs first, and show that they don’t work, before use of a more expensive drug is allowed. Identical to SB 11, below. HRC.

**HM 8** Movement Disorders Center at UNM. Rep Debbie Armstrong. This memorial calls on the Regents of the University of New Mexico to develop a plan to establish a Movement Disorders Center at UNM to provide services and support to persons with movement disorders (including Parkinson’s Disease, Huntington’s Disease, tremors and other disorders) and their caretakers. Same as SM 4, below. HHHC.

**HM 9** Study Possibility of Medicaid Buy-in Plan. Rep Debbie Armstrong. Calls for a study by the interim Legislative Health and Human Services Committee of the feasibility of allowing low/moderate income individuals the opportunity to “buy in” to the state Medicaid program by paying a small monthly premium. Same as SM 3, below. HHHC.

**SB 2** Due Process for Medicaid Providers. Sen. Mary Kay Papen. This bill would provide protections for Medicaid providers accused of fraud. SCC

**SB 11** Limitations on “Step Therapy”. Sen. Gay Kernan and Sen. Liz Stefanics. Identical to HB 42. SPAC/SCORC.

**SB 77** Family Members as Paid Caregivers. Sen. Bill O’Neill. This bill would require the Human Services Department to allow family members to serve as paid care-givers to other adults in the family, including spouses. SCC.

**SM 3** Study Possibility of Medicaid Buy-in Plan. Sen. Jerry Ortiz y Pino. Same as HM 9, above. SRC.

**SM 4** Movement Disorders Center at UNM. Sen. Jerry Ortiz y Pino. Same as HM 8 above. SRC.

#### Guardianship/Conservatorship/ Protective Orders

**SB 19** Uniform Guardianship and Conservatorship Code. Sen. Jim White. This bill involves a complete re-write of state law dealing with guardianship and conservatorship, based on a model state law developed by a national commission. The bill would require notice to a wide range of interested persons prior to any court hearings in such cases, and cause most such hearings to be open to those interested parties; assure legal representation in proceedings for any person alleged to be in need of a guardian or conservator; and impose new and more detailed annual reporting requirements on those serving as guardians or conservators. There would be a stronger requirement to show that less restrictive arrangements, such as supportive decision-making, would not work for the individual. SCC.

#### Service Provider Issues

**HB 92** Transfer DVR to WFS. Rep Candy Ezzell. This bill would transfer the Division of Vocational Rehabilitation (DVR) from the Public Education Department (PED) to the Department of Workforce Solutions. Same as SB 58, below. HRC.

**SB 58** Transfer DVR to WFS. Sen. Michael Padilla. Same as HB 92, above. SCC.

#### Other Disability Issues

**HB 101** Mobility License Plates. Rep Sarah Maestas Barnes. This bill directs the Motor Vehicle Division to develop an accessibility emblem or decal that could be affixed to any other specialty license plate. HRC.

**HB 120** Sentencing Enhancements. Rep. “Moe” Maestas and Rep. Monica Youngblood. This bill would add three years to the sentence served by people convicted of felonies in which a person with a disability or a person at least 60 years of age was seriously injured. HRC.

**SB 6** Special Olympics Funding. Sen. Mary Kay Papen. Appropriates \$300,000 for Special Olympics programs. SPAC/SFC.

### 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](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 by sending an email to [info@drnm.org](mailto:info@drnm.org) and put PLAN in the subject line.

### ABBREVIATIONS USED IN THIS REPORT

#### Legislative Committees

H AFC	House Appropriations and Finance Committee
H CPAC	House Consumer and Public Affairs Committee
HEC	House Education Committee
H HHC	House Health and Human Services Committee
H JC	House Judiciary Committee
H LEDC	House Labor and Economic Development Committee
H LEGLC	House Local Government, Elections, Land Grants and Cultural Affairs Committee
H TPWC	House Transportation and Public Works Committee
H TRC	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