



DISABILITY RIGHTS NEW MEXICO

3916 Juan Tabo Blvd., NE • Albuquerque, New Mexico 87111

TEL: (505) 256-3100 • FAX: (505) 256-3184

State-wide Toll Free 1-800-432-4682

WEBSITE: www.drnmm.org • EMAIL: info@drnm.org

James Jackson, Chief Executive Officer

Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2018 LEGISLATURE STATUS REPORT #2

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Disability Rights New Mexico

January 29, 2018

Coming Events:

Jan. 31 - MS Action Day

Jan. 31 - Deadline for bill introduction

Feb. 5 - Pat Grange ALS Awareness Day (Senate)

Committee Hearings:

Monday Jan. 29

- HHHC: HB 107 (DD waiver funding), HB 132 (rapid re-housing for behavioral health)
- SRC: SB 58 (transfer DVR), SM 3 (study Medicaid buy-in)
- SJC: SB 2 (due process for Medicaid providers)

Tuesday Jan. 30

- SPAC: SB 120, 121 and 122 (DD provider rate increases); SB 130 (Special Olympics funding); SJM 1 (veteran suicide prevention)

New Revenue Projections. The official estimate for state revenue in the coming year (FY 2019) climbed by nearly \$100 million on Friday, leaving legislators with over \$290 million in “new money” to work with in that year’s state budget. The new forecast also predicts an extra \$150 million in the *current* year, which will raise the state’s reserves to about \$700 million – over 10% of the annual budget. The House Appropriations and Finance Committee is taking advantage of some of this new money as it finalizes a version of the state budget that will increase state spending by about \$240 million.

New Bills Introduced. Several new disability-related bills were introduced this past week. Some of the new proposals include:

- A bill (SB 161) to require Medicaid coverage of certain services for persons with autism
- Three bills (SB 120, 121 and 122) to increase the rates paid to various DD provider agencies
- Three bills (HB 176, SB 6 and SB 130) to provide funding for Special Olympics
- Two bills aiming to reduce suicide among K-12 students (SB 173) and those in higher education facilities (SB 168)

Guardianship bill advances. The proposed overhaul of the state’s guardianship laws, SB 19, took one step forward as it passed out of the Senate Public Affairs Committee after a lengthy hearing. A package of nearly 70 amendments that were recommended by the bill’s sponsor were added in the

process, though a proposed amendment to delay implementation of some pieces of the bill was rejected by the committee. The bill now moves to the Senate Judiciary Committee, which may recommend further amendments.

DD Waiver Bill Rejected as Not Germane in 30-Day Session. SB 139, introduced last week by Sen. Bill Soules, would have provided \$25 million for the DD waiver program as well as requiring an annual report on the waiting list from the Department of Health. However, the Senate Committees' Committee determined that the bill was not "germane", i.e. it did not meet the criteria for consideration in a short 30-day session. A nearly identical bill by the same sponsor was introduced in the short 2016 session; that bill (SB 36) was not only determined germane, it passed the Legislature unanimously (with the funding removed) and was then vetoed by the governor. A new version of the bill that contains only the funding request has already been introduced – SB 190, by Sen. Jerry Ortiz y Pino.

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 a few bills or memorials expected but not yet introduced. See page 7 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 is this Wednesday, January 31st. Memorials can be introduced at any time.

Since this is a short session, the only bills allowed to move forward are 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 draft version of the bill, approved this past Saturday by the House Appropriations and Finance Committee, provides for total state spending of \$6.32 billion, which is an increase of about \$240 million over the current year. HAFC is scheduled to approve the final version of the bill on Tuesday; the House is expected to pass the bill on Wednesday and send it over to the Senate.

The latest version of the bill includes \$90 million for salary increases for state employees, \$69 million more for public school support, and \$6 million more for higher education. Medicaid would receive a \$16 million increase (compared to \$35 million in the original version), but this would still fully fund the program. The Human Services Department has lowered its cost projections for Medicaid due to declining enrollment and slower growth in the coming year, lower rates to be paid to the new managed care organizations (MCOs) beginning next January, and the recent waiver by Congress of a health insurance tax.

HB 2 now also includes \$2 million to provide DD waiver services to persons on the waiting list for the program. This should be enough to serve around 100 individuals; there are over 6,500 people on the waiting list.

Autism

SB 161 Medicaid Coverage of Autism Services. Sen. Linda Lopez. This bill would require Medicaid coverage of speech, occupational and physical therapy as well as applied behavioral analysis as treatments for autism spectrum disorder, without regard to an individual's age and without annual or lifetime limits on coverage. SCC.

Behavioral Health/Mental Health

HB 20 Reducing Prison Recidivism. Rep. Nate Gentry and Sen. Daniel Ivey-Soto. Requires 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. HHHC/HJC.

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. HHHC/HAFC. *Scheduled for hearing in HHHC today.*

HB 135 Interventions and Services for At-risk Youth. Rep Sheryl Williams Stapleton. Requires HSD 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 also establishes a transportation fund that counties could apply for to cover the cost of transporting individuals to the services they need, and appropriates \$1 million to the new fund. HRC has ruled this "not germane" for the 30-day session; the bill will not advance unless the governor provides a "message".

HB 217 Reducing Prison Recidivism. Rep. Damon Ely and Rep. Nate Gentry. This bill appears to be a substitute for HB 20 (above). This version requires correctional facilities to screen for behavioral health issues within 30 days of incarceration, and assist HSD or its MCO contractors in enrolling eligible individuals in Medicaid; HSD would be required to provide a behavioral health screening tool, and technical assistance and information technology, to the county upon request. HJC/HAFC.

HB 221 Home Entry for MH Evaluation. Rep. James Strickler. Current NM law allows a police officer to detain and transport a person for an emergency mental health evaluation without a court order if the officer believes, or has been provided a certification by a mental health professional, that an individual presents a likelihood of serious harm to the individual or others and that immediate detention is needed to prevent such harm. This bill is intended to allow a police officer to enter a home without consent or a court order in order to detain and transport the person, if the officer believes the person to be present in the home and the officer has made a good faith (but unsuccessful) attempt to get permission to enter from an owner or occupant. HHHC/HJC.

HB 251 County BH Transportation Fund. Rep. Sheryl Williams Stapleton. This bill establishes a separate, earmarked state fund to support the transportation of low income persons to behavioral health services. Counties would be allowed to apply for grants from the fund, which would receive an initial appropriation of \$1 million through this bill. HRC.

HJR 2 Tap Land Grant Fund. Rep. Damon Ely. This is a constitutional amendment that would require more of the annual earnings of the Land Grant Permanent Fund to be taken out to be spent on a variety of public safety programs, including behavioral health services. HCPAC/HLELC. Passed HCPAC on a 3-2 party-line vote; pending in HLELC.

HJR 3 Tap Severance Tax Fund. Rep. Damon Ely. This is a similar constitutional amendment that would require more of the annual earnings of the Severance Tax Permanent Fund to be taken out to be spent on a variety of public safety programs, including behavioral health services. HCPAC/HLELC. Passed HCPAC on a 3-2 party-line vote; pending in HLELC.

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 DOH 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. Passed SPAC, pending in SFC.

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

SB 168 Mental Health and Suicide Prevention Info to Students. Sen. Mary Kay Papen. This bill requires all higher education institutions to provide incoming students with information about available mental health and suicide prevention services provided by the school or affiliated programs, and appropriates \$10,000 for this purpose. SCC.

SB 173 Suicide Awareness Prevention Training. Sen. Jerry Ortiz y Pino. This bill requires most public and private school personnel to receive one or two hours of training annually for suicide awareness and prevention. 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 from public disclosure 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. HHHC/HAFC. *Scheduled for hearing in HHHC today.*

HB 176 Special Olympics Funding. Rep. Carl Trujillo. Appropriates \$300,000 for Special Olympics programs. HHHC/HAFC.

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

SB 120 SGF Provider Rate Increases. Sen. Nancy Rodriguez. Appropriates \$345,000 to DOH for rate increases for providers of DD services funded by State General Funds. SPAC/SFC. *Scheduled for hearing in SPAC on Tuesday, 1/30.*

SB 121 FIT Provider Rate Increases. Sen. Nancy Rodriguez. Appropriates \$5.5 million to the Department of Health for rate increases for providers of Family Infant Toddler (FIT) services. SPAC/SFC. *Scheduled for hearing in SPAC on Tuesday, 1/30.*

SB 122 DD Waiver Provider Rate Increases. Sen. Nancy Rodriguez. Appropriates \$5.1 million to the Department of Health for rate increases for providers of DD Waiver services. SPAC/SFC. *Scheduled for hearing in SPAC on Tuesday, 1/30.*

SB 130 Special Olympics Funding. Sen. John Sapien. Appropriates \$310,000 for supporting participation in Special Olympics by individuals receiving DD waiver services. SPAC/SFC. *Scheduled for hearing in SPAC on Tuesday, 1/30.*

SB 139 DD Waiver Report and Waiting List Funding. Sen. Bill Soules. This bill would have provided \$25 million to DOH to greatly reduce the waiting list for the DD waiver, but also required DOH to issue an annual report on the waiver waiting list, including estimates of the funding needed to gradually eliminate the wait list. Surprisingly, this bill was determined not to be “germane” to the 30 day session even though an almost identical bill was found germane in the last short session in 2016. A new version of the bill, dealing just with the appropriation, has been introduced as SB 190 (see below).

SB 190 DD Waiver Waiting List Funding. Sen. Jerry Ortiz y Pino. Appropriates \$25 million to the Department of Health to provide DD Waiver services to persons who are currently on the waiting list for such services. SPAC/SFC.

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. 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. Passed HHHC; awaiting vote by full House.

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. *Public testimony on the memorial was heard in HHHC last week; committee hearing to continue today.*

SB 2 Due Process for Medicaid Providers. Sen. Mary Kay Papen. Provides protections for Medicaid providers accused of fraud. SJC/SFC. *Scheduled for hearing in SJC today.*

SB 11 Limitations on "Step Therapy". Sen. Gay Kernan and Sen. Liz Stefanics. Identical to HB 42, above. SPAC/SCORC. *Scheduled for hearing in SPAC on Tuesday, 1/30.*

SB 77 Family Members as Paid Caregivers. Sen. Bill O'Neill. Requires HSD 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. *Scheduled for hearing in SRC today.*

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

Guardianship/Conservatorship

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. SPAC/SJC. Amended and passed by SPAC; pending in SJC.

Employment and Employment Services

HB 92 Transfer DVR to WFS. Rep Candy Ezzell. Transfers the Division of Vocational Rehabilitation from the Public Education Department to the Department of Workforce Solutions. Same as SB 58, below. Passed HEC, pending in HAFC.

HM 16 Minimum Wage Task Force. Rep. Joanne Ferrary. Notes the controversies involving the payment of sub-minimum wages to a small number of employees with disabilities, and calls for a diverse task force to study the issues and recommend solutions. HHHC.

SB 58 Transfer DVR to WFS. Sen. Michael Padilla. Same as HB 92, above. SRC/SJC. *Scheduled for hearing in SRC today.*

Other Disability Issues

HB 101 Mobility License Plates. Rep Sarah Maestas Barnes. 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. Adds 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. HJC/H AFC.

HB 171 Blind Parents’ Rights. Rep. Jane Powdrell-Culbert. Prohibits use of a parent’s blindness as a rationale for limiting the person’s parental rights. If blindness is considered a factor in a decision involving parental rights, the blind parent would have to be given an opportunity to show how supportive services could mitigate any perceived negative effect of the person’s blindness. HRC.

HB 230 Disabled Veterans License Plates. Rep. Rick Little. Allows veterans who are at least 50% disabled as a result of their military service to receive two free specialty license plates; current law allows for one free plate. HRC.

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 by sending an email to info@drnm.org and put PLAN in the subject line.

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)
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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
WFS	Workforce Solutions Department