



## DISABILITY RIGHTS NEW MEXICO

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*Promoting and Protecting the Rights of Persons with Disabilities*

### 2020 LEGISLATIVE SESSION PREVIEW

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January 13, 2020

**Session dates:** The 30 day session starts Tuesday, January 21 and ends Thursday, February 20.

#### Coming Events:

- **Jan. 17-18: Disability Rights Awareness Days, Part 1.** The Disability Coalition once again presents a pre-legislative-session informational program, this year at the Workforce Training Center in Albuquerque. Friday features presentations on the state budget, the governor's initiatives to end the DD waiver waiting list, an update on the Medicaid Community Benefit and initiatives in behavioral health services. A luncheon session with Rep. Melanie Stansbury will be followed by workshops on various topics of interest to the disability community. On Saturday morning there will be an interactive training on the legislative process and how people can get involved and have an impact on the outcome. If space is still available, you can register through [www.arcnm.org](http://www.arcnm.org)
- **Jan. 23: Disability Rights Awareness Days, Part 2.** Join other disability advocates for a day of activities at the Roundhouse in Santa Fe. Check out the exhibit tables on both sides of the main floor, and come to the rotunda at 10 a.m. for a brief session update, a welcome from Lieutenant Governor Howie Morales, entertainment by the Sunshine Ambassadors dance troupe, refreshments, networking and more! And don't forget to visit with legislators to educate them on how they can support people with disabilities in this year's session.
- **Jan. 29 Autism Day and Behavioral Health Day** at the Capitol

**What to expect in the 2020 session.** The governor and legislative leaders are planning to continue and expand on the initiatives they launched last year, as well as adding some new ones. In this year's session, we can expect to see:

- ***An unprecedented effort to address the waiting list for the DD waiver program.*** The governor has set a goal of eliminating the waiting list within six years.
- ***Efforts to rebuild and strengthen the behavioral health system,*** and emphasize treatment for mental illness and substance abuse over incarceration
- ***Further investment in public education,*** though not on the scale sought by those representing the plaintiffs in the *Yazzie/Martinez* lawsuit
- ***Proposals to make higher education more affordable,*** such as the governor's proposed Opportunity Scholarships that would essentially make tuition free at state colleges and university for those graduating from NM high schools

- ***Further investment in early childhood services***, including the establishment of a new endowment fund to provide additional funding in the future.
- ***Modest measures to reform the state's tax structure***, to make it more fair and to diversify the state's income streams.
- ***A continued focus on developing and supporting renewable energy***

**Membership changes.** Two senators died in 2019, creating vacancies that have been filled by Governor Lujan Grisham. Shannon Pinto of Tohatchi was named in place of her grandfather, John Pinto, and long-time Representative Bobby Gonzales of Taos was appointed to fill the position held by Carlos Cisneros. On the House side, Dan Barrone, the mayor of Taos, has been appointed to fill the vacancy created by Rep. Gonzales's move to the Senate. Marian Matthews of Albuquerque will be the new representative replacing Bill Pratt, who passed away on Christmas day.

### **State budget outlook**

The latest consensus revenue estimates indicate that there should be almost \$800 million in new (additional) income to the state during the year that begins July 1, 2020. That's money above and beyond the current level of state spending – almost \$7.1 billion.

There is also plenty of room for one-time expenditures, since the state's cash reserves are predicted to reach \$2.5 billion by July 1, 2020 (the beginning of FY 21). That would be about 34% of the current state budget, or enough to finance four months' worth of government operations. There will be fierce competition for these funds as legislators seek to shore up state employee retirement funds, establish an endowment fund for early childhood services, and address other challenges facing the state.

### **Budget requests for FY 2021**

Governor Michelle Lujan Grisham and the Legislative Finance Committee (LFC) have now released their recommendations for the FY 2021 budget. The governor's budget calls for an increase in on-going state spending of almost \$600 million – about 75% of the available new money – for a total of \$7.68 billion. The LFC proposal would spend about \$470 million of the “new” money, raising total state spending to \$7.5 billion.

Each of the two budget proposals calls for a significant increase in spending on public schools, but they differ in how the additional funds would be spent. For example, the governor proposes a 4% salary increase for teachers, while the LFC supports a 3% raise generally with higher increases for bilingual and special education teachers.

Legislators in the 2020 session will be reviewing and comparing these proposals as they develop a budget for the year beginning July 1, 2020. Here's a quick look at the recommendations for some of the agencies of particular interest to the disability community:

**Department of Health:** For the Developmental Disabilities Supports Division, the governor and the LFC both support an additional \$7.5 million to take people off the DD waiver waiting list; \$5

million for the new DD supports waiver; and \$1.4 million for assessments of those individuals who will be enrolling in the supports waiver. The LFC supports an additional \$4.5 million for provider rate increases; the governor proposes a higher figure, apparently around \$7 million.

For Health Certification, Licensing and Oversight, the governor is supporting an increase of \$665,000 to increase capacity to do surveys and investigate complaints of abuse or neglect and to begin regulating boarding homes serving individuals with mental illness. The LFC recommends an additional \$700,000 for these purposes.

**Human Services Department:** The department's projection of the amount of additional state funding needed for the Medicaid program increased from \$63 million in their September budget request to \$81 million late last year to account for the expected reinstatement of a federal tax on health insurers. Recent federal legislation that repealed the tax for 2021 will reduce the projection again. The governor's budget proposal requests an increase of \$55.8 million for Medicaid, while the LFC recommends \$45 million.

For the Behavioral Health Division of HSD, the governor is requesting an increase in state funding of about \$10.2 million, including at least \$4 million for supportive housing for persons with mental illness.

**Children Youth and Families Department:** For the children's behavioral health program, the governor is requesting an additional \$21.2 million, which would more than double the current level of funding. The LFC supports this initiative and recommends an increase of over \$18 million for the program.

**Division of Vocational Rehabilitation:** DVR originally asked for an increase of \$3.3 million in state funds for the vocational rehabilitation program to eliminate their waiting list for services (created when DVR imposed an "Order of Selection"), meet federal requirements for serving young people transitioning out of public school, and reduce the employee vacancy rate. The governor is supporting a \$1 million increase in the state budget for DVR's rehabilitation services; the LFC supports an increase of \$450,000.

The Independent Living program within DVR is facing a serious budget problem. Federal revenue from the Ticket to Work program, which has been used to help finance independent living services, has been reduced by about \$500,000 due to the Order of Selection. (Fewer clients served and fewer new clients taken in means less revenue from this Social Security program which pays DVR for certain successful case closures involving individuals receiving SSI or SSDI benefits). DVR had requested an additional \$700,000 in state funds to offset this loss and provide a net increase of about \$200,000. The governor's request recognizes the loss of \$500,000 in federal funds but asks for only \$250,000 in new state funds, for a net reduction of about \$250,000. The LFC is supporting an increase in state funding of only about \$25,000, which would reduce overall funding for Independent Living by more than \$475,000.

**DD Planning Council:** The governor is supporting an increase of \$292,000 in state funds for the Office of Guardianship, while the LFC supports an increase of only about \$32,000, although it also supports using existing fund balances to expand the program. For the "federal" program at the DDPC and the Center for Self-Advocacy, the governor is requesting an additional \$278,000 while the LFC recommends an additional \$97,000.

**New Mexico Commission for the Blind:** Their original budget request included a \$650 million increase in state funds. The governor supports a \$300,000 increase in state funds, while the LFC supports an increase of about \$87,000.

**New Mexico Commission for the Deaf and Hard of Hearing:** The Commission continues to seek state funding to make up for a shortfall in income projected to come in from surcharges on telecommunications services. The governor is requesting \$300,000 in new money and hopes to see total revenue increase by \$400,000. The LFC is supporting an increase of about \$173,000 and expects total funds available to the Commission to remain flat compared to FY 20.

**Governor's Commission on Disability:** This commission asked for a modest funding increase of \$38,000 for its program supporting home modifications to provide accessibility for persons with disabilities. The governor is supporting an increase of \$22,000 while the LFC is supporting the slightly higher increase of \$31,000.

### **Legislative Proposals in the 2020 Session**

The disability-related issues that we expect the Legislature to address this year are listed below. Listed first in each category are bills that have been “pre-filed” in advance of the session and have already been assigned a bill number. These bills will be introduced officially once the legislative session begins. Other legislation directly affecting persons with disabilities will also be pre-filed or introduced during the session. The deadline for introducing most bills is the half-way point of the session, which this year will be Wednesday, February 5<sup>th</sup>.

#### Autism

**HB 55** Autism appropriations. Rep Liz Thomson. Appropriates \$550,000 to establish a regional office on autism at NMSU that would provide assessments and services; \$1.15 million to UNM for assessments and services and to establish and operate an autism registry; \$300,000 for wrap-around services to children with autism with a need for intensive services; and \$500,000 to UNM to develop a model program for children with a need for intensive residential services.

#### Behavioral Health/Mental Health

**HB 53** Behavioral health in schools. Rep. Patricia Roybal Caballero. Requires public schools, including charter schools, to develop plans that assure that students have access to nursing, counseling and behavioral health services.

**HB 56** Study BH licensing requirements. Rep. Liz Thomson. Appropriates \$200,000 to the Regulation and Licensing Department to study current licensure requirements for professionals providing behavioral health services and to make recommendations for reducing unnecessary requirements and streamlining processes in order to expand the availability of behavioral health services.

**HB 98** SSI/SSDI outreach to homeless. Rep. Christine Trujillo. Appropriates \$750,000 to the Human Services Department to support outreach efforts to homeless individuals to facilitate

access to SSI or SSDI benefits based on a disability. Although not specific to individuals with mental illness, this is the primary disability group that the bill is intended to assist.

**SB 54** Behavioral health community integration. Sen. Mary Kay Papen. Establishes a new fund with an initial appropriation of \$7 million and directs HSD to contract with entities to provide comprehensive services to persons with mental illness in unserved or underserved areas.

**SB 78** Latino youth suicide prevention. Sen. Liz Stefanics. Appropriates \$50,000 to the Department of Health for a program to help prevent suicide among Latino youth.

**SB 86** Membership changes at BH Purchasing Collaborative. Sen. Jerry Ortiz y Pino. This bill would add five new members of the Collaborative, which is currently composed exclusively of state agency representatives. Two of the new members would be behavioral health “consumers” – one appointed by the Speaker of the House, the other by the Senate President Pro Tem; the other new members would be representatives of the Behavioral Health Providers Association, the Municipal League (representing New Mexico cities), and New Mexico Counties (representing county governments).

Other potential legislation:

- “Red flag” bill, authorizing court orders to temporarily remove weapons from someone determined to present a serious risk of violence against themselves or others. *This would have the potential benefit of reducing the incidence of suicide by persons with mental illness, though some advocates are concerned that persons with mental illness may be thought likely to become violent simply because of their mental illness.*

#### Brain Injury

**SB 88** Brain injury study. Sen. Jerry Ortiz y Pino. Appropriates \$150,000 to the Department of Health to conduct a study and review data regarding services available to persons with acquired brain injury and make recommendations on the expansion of such services in New Mexico.

#### Developmental Disabilities

Potential legislation:

- The DD Planning Council may seek legislation that would update state law provisions related to the Council
- The Bernalillo County District Attorney may seek legislation to limit pre-trial interviews in criminal proceedings involving children and persons who have been determined as incapacitated.

#### Education Issues

**HB 70** Facilitating friendships. Rep. Joanne Ferrary. Appropriates \$300,000 to the Public Education Department to support programs in mid schools and high schools that facilitate friendships between students with disabilities and students without disabilities.

**SB 13** Special ed teacher salary differential. Sen. Michael Padilla. Provides for an extra 15% salary differential, above the minimum salary levels for teachers set by current state law, for special education teachers.

**SB 96** Public school financial transparency. Sen. Jacob Candelaria. This bill would require the development and use of a new, standardized system for reporting by school districts, intended to allow for easy comparisons between and among schools. One of the specific requirements of the bill is that each school district would have to provide a report to any state-chartered charter school within the district detailing all actual special education costs incurred by the district and the basis for any assessment charged to the charter school related to such costs.

Other potential legislation:

- A bill that would increase funding statewide for special education, elevate the special education unit to a division within PED, and strengthen the role of the division to promote compliance by local school districts with state and federal requirements.

#### Employment

**HB 82** Minimum wage changes. Rep. Patricia Roybal Caballero. This bill would build on the state minimum wage increase passed last year; it would further raise the minimum wage to \$15/hour by January 2024, repeal the lower minimum wage for tipped employees, and repeal the provision in state law allowing for sub-minimum wages for employees with disabilities.

Other potential legislation:

- There may be a proposal to establish incentives for businesses and state agencies to employ persons with disabilities.

#### Guardianship / Protective Arrangements

**HB 67** Supported decision-making task force. Rep. Liz Thomson. Appropriates \$50,000 to the DD Planning Council to convene a task force to study and report on supported decision-making as an alternative to guardianship.

**SM 8** Financial exploitation task force. Sen. Jerry Ortiz y Pino. Calls on the Senior Citizens' Law Office to convene a task force to address the issue of financial exploitation of elders and adults with disabilities, and make recommendations for legislation on this topic. DRNM, the DD Planning Council and AARP are among the many groups requested to participate in this effort.

Other potential legislation:

- A memorial will also be introduced to request establishment of a task force to study supported decision-making and make recommendations for legislation to authorize supported decision-making in New Mexico.

#### Health Care

**SB 39** Extend GRT exemption for DME. Sen. Mary Kay Papen. This will extend the existing exemption on gross receipts for the sale of durable medical equipment for another 10 years. Without this extension, the exemption will expire in 2020. Same as HB 109, below.

**SB 67** Hippotherapy funding. Sen. Mary Kay Papen. Appropriates \$390,000 to the Department of Health to support an equine therapy program for individuals with disabilities.

**SB 77** Navigating the health care system. Sen. Liz Stefanics. Appropriates \$50,000 to the Department of Health to support programs that help individuals “navigate” their way through health and social service systems.

**HB 109** Extend GRT exemption for DME. Rep. Javier Martinez. This bill is the same as SB 39, above.

Other potential legislation:

- There may be a bill to limit changes to drug coverage by insurance companies during a plan year, and require notice of planned changes in advance so that consumers can take such potential changes into account when deciding which policies to buy at the beginning of a plan year.

### Contacting your Legislators

Before the session starts on January 21, you can still contact your legislators in their home communities. 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 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 “Search”.
- You should now see 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.

Once the session starts, each legislator will have 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!

### Get in on the Action

If you’re not already getting these reports and other alerts directly from The Disability Coalition or Disability Rights New Mexico, and you want to be involved and take action in support of disability issues, add yourself to our action network. Sign up by sending an email to [EPinnes@msn.com](mailto:EPinnes@msn.com) and ask to be added to the email list.