



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2020 LEGISLATURE STATUS REPORT #4

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(See page 9 for a list of abbreviations, including legislative committees, used in this report.)

In the final stretch. This year's 30-day session ends at noon on Thursday, so there are only four days left for bills and memorials still in play to make it through to passage. A few high profile bills have already passed and have been sent to the governor: SB 4, funding efforts to assure a complete count in the 2020 Census; SB 5, the "red flag" bill authorizing court orders to remove guns from persons determined to be a threat to themselves or others; and HB 83, creating an early childhood fund intended to serve as a future revenue stream for services and supports. Many bills or memorials are awaiting final votes in the House or Senate, while others are still going through the committee hearing process. As noted below (beginning on page 4), a substantial number of bills introduced this year are already out of the running, either because they were not found to be germane to the 30-day session, they request funding that has not been included in the state budget bill, or because they have been tabled in one of the committees.

Budget battle brewing. Hopes for a speedy agreement on a final version of the state budget bill were dashed last week when Senate Finance Committee chairman John Arthur Smith declared that the House version of the bill, combined with other finance-related bills acted on by the House, would lead the state to fall short of its cash-balance goal by as much as \$160 million. That goal – a reserve fund worth 25% of the state's annual spending level – is far higher than in previous years but reflects concerns over the volatility of oil and gas revenue that is driving the state's current surpluses.

Over the next few days, the SFC will adopt its own version of the bill, the Senate will vote on that version, and then House and Senate negotiators will have to find a compromise that both chambers can live with. Failure to complete all three steps by Thursday noon would create the need for a special session of the legislature, an outcome dreaded by most legislators. Stay tuned!

Bills and Memorials in the 2020 Session

Bills or memorials that have already passed or are still moving through the process:

HB 2 General Appropriations Act (the state budget). Rep. Patty Lundstrom. This bill contains the appropriations for all state agencies for the year beginning July 1, 2020. It passed the House at the mid-point of the session and is now being considered by the Senate Finance Committee, which is expected to make a number of changes in the bill and pass it on in the next day or two for a vote in the full Senate.

HB 109 Extend GRT exemption for DME. Rep. Javier Martinez. This bill is the same as SB 39, below. Passed the House, pending in SFC.

HB 184 Training school resource officers. Rep. Patricio Ruiloba. Requires school resource officers (law enforcement officers) to receive training in de-escalation techniques, informal counseling techniques and how to respond to students with mental health disorders before they can begin working in such a job. Passed the House, pending in SEC.

HB 225 Kiki Saavedra Senior Dignity Fund. Rep. Debbie Armstrong. Creates a fund, named for the late long-serving state legislator, to improve access to transportation, physical and behavioral health services, care coordination and other assistance for seniors and adults with disabilities. *HB 2 now includes \$5.4 million for this purpose.* Passed the House, passed SFC, awaiting final vote in the Senate.

HJM 7 Study behavioral health licensure requirements. Rep. Liz Thomson. Calls on three state agencies to review requirements for licensure of various behavioral health professionals and recommend possible revisions that would make it easier to increase the supply of providers. This memorial is in place of HB 56, which would have funded the study but has been tabled in HAFC because there is no money in the budget for this endeavor. Passed HHHC, awaiting floor vote in the House.

HM 10 Financial exploitation task force. Rep. Debbie Armstrong. 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. Same as SM 8, below. Passed HHHC, awaiting final floor vote in House.

HM 23 Supported decision-making task force. Rep. Joanne Ferrary. Calls on the DDPC to convene a task force to study and report on supported decision-making as an alternative to guardianship or conservatorship. Similar to HB 67, below, but the memorial does not include funding to carry out the work of the task force. Passed HJC, awaiting final floor vote in House.

HM 61 DD care coordination in Centennial Care. Rep. Liz Thomson. Calls on HSD and DoH to review and report on care coordination services provided to individuals with developmental disabilities through Centennial Care, the Medicaid managed care program. Same as SM 65, below. Passed HHHC, awaiting final House vote.

SB 5 Extreme Risk Protection Orders. Sen. Joseph Cervantes. This is the so-called “red flag” bill, authorizing court orders to temporarily remove weapons from someone determined to present a serious risk of violence against themselves or others. The bill has been amended so that only law enforcement officers, not current or former household members, could bring a petition for a court order. Passed the legislature, awaiting action by the governor.

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, above. Passed SCORC and SFC, awaiting vote in the Senate.

SB 96 Public school financial transparency. Sen. Jacob Candelaria. As amended, this bill would require the development and use (by December 2021) of a new, standardized system for reporting budgeted and actual revenue and expenditures by all school districts, intended to allow for easy comparisons between and among schools. The new system would have to show how much funding was budgeted for a school and a district for special education services. The bill carries an appropriation of \$3 million to the PED. Passed SEC, pending in SFC.

SB 117 Property tax valuations. Sen. Bennie Shendo. This bill amends existing law providing that the valuation for tax purposes of a home owned and occupied by a low-income person with a disability cannot be raised (unless improvements to the property are made), to clarify that the freeze takes effect in the year when an application is filed. Passed the Senate, pending in HTRC.

SB 124 No blind registry. Sen. Nancy Rodriguez. This bill deletes a provision in current state law requiring the NM Commission for the Blind to maintain a registry of all blind persons living in the state. No such registry is currently maintained. Passed the Senate, pending in HHHC.

SB 128 Extend and expand “Assisted” Outpatient Treatment. Sen. Mary Kay Papen. As amended, this bill expands the list of outpatient services that can be included in an involuntary court order for AOT orders, but its principal purpose is to delete a provision in current law that would “sunset” or repeal the AOT law on July 1, 2021. Passed the Senate, pending in HHHC.

SB 182 BH Community integration. Sen. Mary Kay Papen. As amended, this bill requires HSD to develop and implement a community-based mental health system state-wide that provides support services to improve the lives of persons with mental illness. It also establishes a fund that would be the source of money for contracts to provide case management, housing, psychosocial rehabilitation and other support services. However, there is no appropriation to the fund and no financing mechanism for it. Passed the Senate, passed HHHC, awaiting final vote in the House.

SB 202 Training school resource officers. Sen. George Munoz. Same as HB 184, above. Passed SEC and SFC, awaiting Senate vote.

SJM 5 Workplace violence against health care workers. Sen. Jerry Ortiz y Pino. Recognizing that criminal penalties for assault on a health care worker may inappropriately criminalize the

behavior of some individuals with mental illness or intellectual disability who are in a treatment facility, this joint memorial asks the Behavioral Health Purchasing Collaborative to convene a work group to review the extent to which this is an issue and recommend alternatives or solutions as appropriate. Passed the Senate, passed HHC, awaiting final vote in the House.

SM 8 Financial exploitation task force. Sen. Jerry Ortiz y Pino. Same as HM 10, above. Passed SRC and SPAC, awaiting final floor vote in Senate.

SM 65 DD care coordination in Centennial Care. Sen. Linda Lopez. Same as HM 61, above. SPAC.

Bills not expected to go any further in this year's session:

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. Passed HHC, tabled in HAF.

Behavioral Health/Mental Health

HB 7 Extreme Risk Protection Orders. Rep. Daymon Ely. This bill is the same as the original version of SB 5, which has passed the legislature. Action on this bill was deferred in favor of the Senate version. HCPAC/HJC

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. HRC.

HB 56 Study BH licensing requirements. Rep. Liz Thomson. Appropriates \$200,000 to the Regulation and Licensing Department (RLD) 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. Passed HHC, tabled in HAF. (HJM 7, on page 2, asks RLD to conduct such a study even without the funding.)

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. Passed HHC, tabled in HAF.

HB 215 Emergency MH evaluation orders. Rep. James Strickler. Current state law allows a law enforcement officer to detain and transport an individual for emergency evaluation and treatment

if the officer believes, or if a mental health professional has certified, that the person poses an immediate danger to self or others due to mental illness. This bill would allow an interested individual to seek a court order requiring the law enforcement officer to detain and transport the individual if the officer has refused to do so due to concerns for the safety of the officer or the individual or for any other reason. The same court order could authorize the officer to enter a building where the person is believed to be present, in order to carry out the detention and transport, without the consent of the person or the owner of the building. HRC.

HB 243 Albuquerque/Bernalillo County MH authority. Rep. Patricio Ruiloba. Establishes this joint commission, to be overseen by representatives of the city and the county as well as a few other public entities. It would have the power to coordinate and oversee the delivery of mental health services throughout the county, and to identify issues and solutions related to the mental health system. The bill appropriates \$500,000 to DFA to create and operate the new program. HRC.

HB 273 Rate increases for competency evaluators. Rep. Christine Trujillo. Appropriates \$250,000 to HSD to increase compensation for psychiatrists and psychologists who perform mental health competency evaluations in criminal proceedings. Passed HHHC, tabled in HAFC.

HB 338 Outpatient services at Children's Psych. Hosp. Rep. Day Hochman-Vigil. Appropriates \$1.75 million for the UNM Children's Psychiatric Hospital for intensive outpatient treatment and partial hospitalization for adolescents. Passed HHHC, tabled in HAFC.

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. Abandoned in favor of SB 182, above.

SB 56 Mental health services for student athletes. Sen. Mark Moores. Appropriates \$500,000 to UNM and \$500,000 to NMSU to provide mental health and behavioral health services to student athletes at these schools. Passed SEC, pending in SFC.

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. Passed SPAC, pending in SFC.

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). SCC/SPAC/SFC.

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. Passed SPAC, pending in SFC.

Developmental Disabilities

HB 247 DD waiver study. Rep. Joanne Ferrary. Appropriates \$250,000 to DoH to study how to streamline the existing DD waiver program and assure that available funds are prioritized toward reducing wait lists and increasing direct care staff wages. Same as SB 192, below. HHC/HAFC.

SB 192 DD waiver study. Sen. Linda Lopez. Same as HB 247, above. Passed SPAC, pending in SFC.

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. Passed HEC, tabled in HAFC.

HB 241 Increase funding for special ed teachers. Rep. Patricio Ruiloba. Same as SB 171, below. HEC/HAFC.

HB 329 Social-emotional-mental health pilot program. Rep. Melanie Stansbury. Appropriates \$2 million to PED to create a three-year state-wide pilot program of social, emotional and mental health intervention program with a focus on at-risk students. HEC hearing on Monday, Feb. 17, but expected to be tabled in HAFC.

HB 354 Reporting seclusion/restraint. Rep. Javier Martinez. Amends existing law, which limits the use of seclusion and restraint in schools, to require school districts to report incidents involving seclusion or restraint to the PED as well as to the parents of the child. Districts would also be required to report to the PED the names of the school personnel trained in the use of seclusion and restraint. HRC.

SB 13 Special ed teacher salary differential. Sen. Michael Padilla. Provides that minimum salaries for special education teachers be 15% above the standard minimum teacher salary levels set by current state law. SEC/SFC. Heard and tabled in SEC.

SB 171 Increase funding for special ed teachers. Sen. Clemente Sanchez. This bill would, among other things, add a new element to the school funding formula based on the number of special education teachers in a school district. The extra funding would be contingent on certification by the district that the salaries of those teachers are higher than teachers without special education certification, in an amount equal to or greater than the extra funding made available. The bill includes an appropriation of \$27 million. SEC/SFC. Tabled by unanimous vote in SEC.

SB 173 Special education teacher loans. Sen. Linda Lopez. Creates a loan program for individuals who are going to college to become special education teachers, and offers loan forgiveness to those who complete the program and serve as special education teachers. SCC/SJC/SFC.

SB 174 Special education reforms. Sen. Linda Lopez. This bill would elevate the special education unit within PED to a division, increase funding for special education through the state funding formula, and strengthen the role of the division in providing training and monitoring for compliance with state and federal special education requirements. SCC/SEC/SFC.

SB 284 Seclusion and restraint. Sen. Linda Lopez. This bill would prohibit the use of seclusion on any students, and would also prohibit the use of mechanical, chemical, and prone restraint. It would require public input to school policies on the use of restraint, training of school personnel on the use of restraints, and strengthen documentation and reporting requirements. SCC/SJC.

Employment

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

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. Passed HHHC, tabled in HAFC. (HM 23, above on page 2, asks the DDPC to convene such a task force even without the funding.)

HB 123 Waivers of conservator liability. Rep. Daymon Ely. This bill would amend the recently reformed guardianship law to allow conservators to seek a waiver of liability for their work as conservator, which would typically be done upon the completion of that work, as long as the protected person or other interested person is independently represented by an attorney. These waivers are currently prohibited by law. HRC.

SB 283 Abandoning children with disabilities. Sen. Linda Lopez. Increases existing criminal penalties for abandonment of a child if the child is known to have a disability. SCC/SJC/SFC.

Health Care

HB 194 Chiropractic services for persons on Medicaid. Rep. Dayan Hochman-Vigil. Appropriates \$4 million to HSD to provide chiropractic services to persons eligible for Medicaid. HHHC/HAFC.

SB 67 Therapeutic riding program. Sen. Mary Kay Papen. Appropriates \$390,000 to the Department of Health to support a therapeutic riding program for individuals with disabilities. Passed SPAC, pending in SFC.

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. Passed SPAC, pending in SFC.

SB 276 Medical marijuana in schools. Sen. Antoinette Sedillo-Lopez. Amends existing law to require public schools to allow school personnel to store and administer medical cannabis to qualified students, rather than requiring parents to come to the school area to do so. SCC/SEC/SJC.

Transportation

SB 133 Planning for “Mobility for All” proposal. Sen. Liz Stefanics. Appropriates \$40,000 to the Center on Development and Disability at UNM to convene a task force of state agencies, advocacy groups and other stakeholders to develop a plan to seek funding from the U.S. Department of Transportation for a “mobility for all” grant. These grants are intended to improve transportation connections to jobs, education and health services for older adults, individuals with disabilities and persons with low incomes. SCORC/SFC. Heard and tabled in SCORC.

Other/Miscellaneous

HB 141 Increase income tax exemption. Rep. Phelps Anderson. This bill would increase the amount of the **state** income tax exemption available to those who claim the extra **federal** tax exemption for individuals who are over 65 or blind. The amount of the exemption phases out as income rises and the current maximum is \$8,000; this bill would double the amounts to a new maximum of \$16,000. Passed HCPAC, tabled in HTRC.

HB 266 Funding for disabled veterans service organizations. Rep. G. Andres Romero. Appropriates \$50,000 to the state Veterans’ Service Department to contract with organizations providing services to veterans with disabilities. HLVMC/HAFC.

HB 322 CLSC funding. Rep. Christine Trujillo. Same as SB 127, below. Passed HSEIC, tabled in HAFC.

SB 127 CLSC funding. Sen. Nancy Rodriguez. Appropriates \$1 million in additional funding to the Civil Legal Services Commission. The Commission funds a number of agencies that provide legal services to low-income people in NM, such as Legal Aid, Disability Rights New Mexico, the Senior Citizens’ Law Office, DNA Legal Services and others. The commission is facing a financial shortfall because last year it received additional recurring funding through “HB 2 Junior” and passed those funds through to its contractors. However, DFA re-classified those funds as non-recurring and they are not in the agency’s “base” budget for next year. Same as HB 322, above. Passed SJC, pending in SFC. *HB 2 now includes a provision allowing the commission to use \$400,000 in fund balance for one year to make up for the shortfall, but this does not increase the base budget and would leave the commission with the same shortfall next year.*

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 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.

During the legislative session, 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!

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 and ask to be added to the email list.

ABBREVIATIONS USED IN THIS REPORT

Legislative Committees

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| HAFC | House Appropriations and Finance Committee |
| HCEDC | House Commerce and Economic Development Committee |
| HCPAC | House Consumer and Public Affairs Committee |
| HEC | House Education Committee |
| HHHC | House Health and Human Services Committee |
| HJC | House Judiciary Committee |
| HLVM | House Labor, Veterans, and Military Affairs |
| HLLC | House Local Government, Land Grants and Cultural Affairs Committee |
| HRC | House Rules Committee |
| HSEIC | House State Government, Elections and Indian Affairs Committee |
| HTPWC | House Transportation and Public Works Committee |
| HTRC | House Taxation and Revenue Committee |
| SCC | Senate Committees Committee |
| SCORC | Senate Corporations Committee |
| SEC | Senate Education Committee |

SFC Senate Finance Committee
SJC Senate Judiciary Committee
SPAC Senate Public Affairs Committee

LFC Legislative Finance Committee (joint House-Senate committee that meets during the interim between legislative sessions)

State Agencies

ALTSD Aging and Long Term Services Department
DDPC Developmental Disabilities Planning Council
DFA Department of Finance and Administration
DOH Department of Health
GCD Governor's Commission on Disability
HSD Human Services Department
PED Public Education Department
WFS Workforce Solutions Department