



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.drn.org • EMAIL: info@drnm.org

Gary Housepian, Chief Executive Officer

Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2019 LEGISLATURE FINAL REPORT

Jim Jackson, DRNM Public Policy Associate

April 8, 2019

(See page 6 for a list of abbreviations used in this report.)

Clean sweep! Governor signs every disability bill. Governor Michelle Lujan Grisham signed into law every disability-related bill that was passed in this year's legislative session. It's a dramatic change from the last 60-day session in 2017, when then-Governor Martinez vetoed 2/3 of the disability bills we followed that had been passed by the Legislature. A summary of all of the bills signed into law by the governor is shown below. A recap of bills and memorials that did not pass this year begins on page 4.

Governor Lujan Grisham highlighted HB 322, expanding insurance coverage for individuals with autism, by signing it into law at a ceremony held at the Center for Development and Disability at UNM. She and Rep. Liz Thomson, the bill's sponsor, addressed the large crowd that had gathered to support the signing and celebrate World Autism Awareness Day.

Only 28 bills were vetoed by the governor, and none of them were disability-related.

Budget bills signed into law. HB 2, the state budget bill, was signed into law with only a few vetoes. One of those vetoes eliminated \$40 million that had been earmarked for "public/private partnerships", funding that was contingent on the passage of legislation authorizing such projects. That bill failed to pass. None of the funding for any health or human services programs was affected by vetoes. The two "HB 2 Junior" bills - HB 548 and SB 536 - were also signed into law, although various items in each bill were vetoed, and a few of those involved disability-related appropriations as noted below.

Governor's Action on Bills that Passed in the 2019 Legislative Session

The State Budget

HB 2 General Appropriation Act. Rep. Patty Lundstrom. This is the overall state budget bill, which appropriates funding to all state agencies. **Signed into law with a few line-item vetoes.** The bill includes:

- About \$52 million in additional funding for the Medicaid program.
- About \$20 million in additional funding for DD programs at the Department of Health.
- A one-time appropriation of \$2.5 million to HSD for behavioral health services

HB 548 (“House Bill 2 Junior” for House members). **Signed into law with line-item vetoes.** This bill includes funding for home modifications, behavioral health, a study of sexual assault on people with disabilities, fostering friendships in schools between students with and without disabilities, and autism services. Two appropriations in the bill earmarked for teen mental illness and suicide prevention were narrowed by vetoes to focus only on suicide prevention. None of the other vetoes affected funding for disability services.

SB 536 (“House Bill 2 Junior” for senators). **Signed into law with line-item vetoes.** This bill includes funding for civil legal services, a review of the Children’s Code, planning for a Medicaid buy-in program, assistive technology and home modifications, waiver and early childhood services, the sexual assault study, dyslexia screenings, telehealth crisis intervention, autism services, and brain injury services. The governor vetoed a one-time appropriation of \$150,000 for early intervention services that was specifically earmarked for La Vida Felicidad, a disability provider agency; she left in place a one-time appropriation of another \$150,000 for DD waiver services but vetoed the language that earmarked the appropriation specifically for La Vida Felicidad.

Substantive Bills Signed into Law

HB 5 *Education changes.* Rep. Sheryl Williams Stapleton. Enacts various changes to education policy and funding processes, including higher teacher salaries, funding for extended school time, more professional development time, and requirements that school districts report on how they spend the funds they generate based on special education enrollment. The cost of implementing the bill is included in HB 2. Same as SB 1, below.

HB 43 *Behavioral health interventions for non-violent offenders.* Rep. Sheryl Williams Stapleton. Charges HSD with developing a method for meeting the needs of non-violent offenders with behavioral health diagnoses when they are in jail or prison and to connect them with supports and services when they are released, to reduce recidivism. HSD would be required to set up a grant program for counties seeking funds to implement the program. HB 2 includes \$2.5 million for this as a “special” (one-time) appropriation.

HB 48 *Training on assisted listening technology.* Rep. Patricia Roybal Caballero. Requires audiologists and other hearing aid dispensers to provide information about assisted listening systems.

HB 72 *Occupational therapy practice act.* Rep. Liz Thomson. Updates the OT practice act to reflect current standards and practices.

HB 81 *Limiting co-pays for therapy services.* Rep. Eliseo Alcon. Limits the co-pays that insurance companies charge for occupational therapy, physical therapy, or speech/language therapy to the amounts they charge for primary care visits.

HB 248 *Blocking accessible parking spaces.* Rep. Martin Zamora. Makes it unlawful to park a motor vehicle in such a way that it blocks access to an accessible parking space, and establishes a fine of \$250 to \$500 for violations (the same as illegally parking in an accessible space).

HB 267 *Info sharing and local councils.* Rep. Daymon Ely. Allows for information sharing without individual consent for research purposes or for continuity of care for persons with mental illness or developmental disabilities who are entering or being discharged from criminal justice facilities.

HB 285 *Short-term and limited-benefit insurance plans.* Rep. Micaela Cadena. Establishes state standards for these plans and authorizes the Superintendent of Insurance to regulate them.

HB 322 *Autism insurance coverage.* Rep. Liz Thomson. Prohibits health insurance companies and the Medicaid program from imposing age limits or expense caps on covered services for

persons with autism. Such limits are prohibited by the federal Affordable Care Act but are still being imposed in both private insurance and the Medicaid program.

HB 342 *Criminal justice reforms.* Rep. Antonio Maestas. One part of this omnibus bill directs HSD to develop a method for meeting the needs of persons with behavioral health diagnoses when they are in jail or prison and to connect them with supports and services when they are released (very similar to HB 43, above).

HB 364 *Limiting solitary confinement.* Rep. Antonio Maestas. Prohibits jails and prisons from placing persons known to have serious mental disabilities, or who are exhibiting obvious signs of such disabilities, in solitary confinement (“restricted housing”), with some exceptions. This prohibition would not apply during the first five days of detention. The bill also forbids use of solitary confinement for juveniles and pregnant women.

HB 429 *Increasing income limits for property tax limitation.* Rep. Bill Rehm. Current law sets limits on increases of property taxes for low- to moderate-income homeowners who are elderly or have severe disabilities. This bill increases the income cap to qualify for the limitation from \$32,000 to \$35,000.

HB 436 *Incorporate ACA protections into state law.* Rep. Liz Thomson. Amends New Mexico law to include many of the provisions of the federal Affordable Care Act, such as prohibiting denial of coverage based on pre-existing conditions, barring higher premiums based on a person’s disability, requiring coverage of essential health benefits, eliminating co-pays for preventive services, etc.

SB 1 *Education changes.* Sen. Mimi Stewart. Same as HB 5, above.

SB 41 *Medicaid providers due process.* Sen. Mary Kay Papen. Provides procedural protections for Medicaid providers accused of fraud, to avoid a repeat of the type of disruption caused by the termination of behavioral health providers that occurred in 2013.

SB 42 *Expanding the use of “silver alerts”.* Sen. Richard Martinez. Expands these alerts to include endangered missing persons of any age who have dementia, and to all endangered missing persons over 50 years old. It also expands the dissemination of such alerts.

SB 48 *Diabetes management in schools.* Sen. Mimi Stewart. Requires training of public school staff in diabetes management, requires school personnel to provide diabetes management services in conjunction with an approved plan for individual students, and allows students to self-manage their diabetes in school settings.

SB 85 *Domestic worker minimum wage.* Sen. Liz Stefanics. Repeals a provision of state law that excludes “domestic workers” from minimum wage protections. This would assure that personal care workers, among others, would be paid at least the state minimum wage, and that the Department of Workforce Solutions would enforce their rights to such wages.

SB 123 *Using sick leave for caregiving.* Sen. Michael Padilla. Allows employees of private businesses as well as state and public school employees who have accumulated sick leave provided by their employer to use such leave to care for an ailing family member. .

SB 128 *Behavioral health clinic funding.* Sen. Mary Kay Papen. Would allow behavioral health clinics in rural or other underserved areas, if owned by a county or municipality, to access funding from the Behavioral Health Capital Fund for construction, repair or remodeling.

SB 179 *Lottery scholarship eligibility.* Sen. Liz Stefanics. Extends lottery scholarship eligibility to students with disabilities who had to attend an out-of-state high school in order to receive a free, appropriate education (as required by the Individuals with Disabilities Education Act), if they graduated from an accredited school.

SB 189 *Parking placards for disability agencies.* Sen. Sander Rue. Allows agencies that own or lease vehicles used to transport individuals with disabilities to obtain parking placards for those vehicles, allowing them to be parked in accessible parking.

SB 204 *Medical marijuana in schools.* Sen. Candace Gould. Directs public schools to allow parents/guardians or designated school personnel to store and administer medical marijuana in the school if the child is certified to receive it under state law because of the child's medical condition, but allows schools to opt out of this requirement in certain circumstances. *These provisions are also included in SB 406, below.*

SB 229 *School support and accountability.* Sen. Mimi Stewart. Repeals the A-B-C-D-F school rating system and replaces it with a new set of criteria for rating schools. Reports on school performance would have to include data specific to students with disabilities.

SB 236 *2nd free license plate for disabled veterans.* Sen. Ron Griggs. Allows disabled veterans to obtain two free specialty license plates rather than one as allowed under current law.

SB 395 *Guardianship reforms.* Sen. James White. Clarifies the right of allegedly incapacitated persons to participate, present evidence, and cross-examine witnesses during court hearings. Strengthens the requirement for a court review of existing guardianships at least every ten years by allowing the appointment of an investigator to assess the person's capacity and to report to the court on the need for continuing guardianship. Requires professional guardians and conservators to be certified and in good standing with a national or state certifying organization. Deletes an existing provision giving guardians of adults all the same rights as a parent of a minor child.

SB 398 *Screening and services to children with dyslexia.* Sen. Mimi Stewart. Requires all school districts to screen first-grade children for possible dyslexia, and to develop and implement a literacy training program for all elementary school teachers. Funding for this initiative is provided in SB 536.

SB 406 *Medical marijuana changes.* Sen. Jerry Ortiz y Pino. This bill makes a variety of changes to state law related to medical marijuana, including:

- Allowing for administration of medical marijuana in schools (*same as SB 204, above*)
- Adding numerous medical conditions that would qualify for medical marijuana
- Extending the length of time for which a medical certification card is valid to three years, while still requiring an annual physician's statement of continuing eligibility
- Extending legal immunity under state law for additional activities related to the production and transportation of medical marijuana
- Strengthening employment protections for employees who use medical marijuana, provided they are not in a safety-sensitive position and do not use it during work hours.

Memorials That Passed in the 2019 Session

Memorials do not carry the force of law and are not subject to approval or veto by the governor

HM 12 *CP Task Force.* Rep. Liz Thomson. Extends and expands an existing task force promoting implementation of new techniques for early detection of cerebral palsy.

Review: Bills and Memorials That Did Not Pass in the 2019 Session

HB 59 *Non-discrimination against art therapists.* Rep. Christine Trujillo.

HB 61 *Study sexual assault of persons with disabilities.* Rep. Christine Trujillo. HB 548 includes \$50,000 and SB 536 includes \$100,000 for this purpose.

HB 68 *Reduce the DD Waiver waiting list.* Rep. Liz Thomson. There is \$7.5 million for the waiting list in HB 2.

HB 69 *Early detection of cerebral palsy.* Rep. Liz Thomson. HM 12, extending an existing task force working on this issue, passed the Legislature.

HB 70 *Health insurance coverage of prosthetics and orthotics.* Rep. Liz Thomson.

HB 82 *Home rehab for veterans.* Rep. Eliseo Alcon. There is \$110,000 non-recurring and \$17,500 recurring funds in HB 548 for this purpose.

HB 83 *Extreme risk protection orders.* Rep. Daymon Ely.

HB 88 *Health care value & access commission.* Rep. Debbie Armstrong.

HB 90 *Aid in dying.* Rep. Debbie Armstrong.

HB 96 *Blind parents' rights.* Rep. Tomas Salazar.

HB 136 *Voluntary driver registry.* Rep. Liz Thomson.

HB 142 *Pre-existing condition exclusions.* Rep. Patricia Roybal Caballero.

HB 143 *Personal care services rate and wage increase.* Rep. Christine Trujillo. HB 2 includes an increase of \$6.76 million for Medicaid. Some of that funding is to be used to raise rates for personal care services, and HSD staff indicate that some of this will be required to be passed through to increase wages for direct care workers.

HB 153 *Suicide awareness training.* Rep. Patricio Ruiloba. HB 548 includes \$100,000 non-recurring and \$40,000 recurring funds for this purpose.

HB 209 *Car registration fee waiver.* Rep. Miguel Garcia.

HB 213 *Family and medical leave program.* Rep. Patricia Roybal Caballero.

HB 243 *Instructional opportunities for children with hearing impairment.* Rep. Dayan Hochman-Vigil.

HB 245 *Accessibility icon on specialty plates.* Rep. Dayan Hochman-Vigil.

HB 264 *Family and medical leave program.* Rep. Christine Chandler.

HB 295 *Health Security Act.* Rep. Debbie Armstrong.

HB 348 *Emergency MH evaluations and restrictions on release of information.* Rep. James Strickler.

HB 354 *Autism diagnosis and services.* Rep. Liz Thomson. HB 548 includes \$350,000, and SB 536 includes \$580,000 for this purpose.

HB 414 *Notice of nursing home closures.* Rep. Susan Herrera.

HB 416 *Medicaid buy-in.* Rep. Debbie Armstrong. SB 536 includes \$132,000 to plan for a buy-in program.

HB 422 *DDPC membership and duties.* Rep. Joanne Ferrary.

HB 483 *Zoning accommodations for casitas for family members with disabilities.* Rep. Gregg Schmedes.

HB 500 *CYFD authority over boot camps.* Rep. Micaela Cadena.

HB 510 *School bus attendants for students with disabilities.* Rep. Natalie Figueroa.

HB 532 *Friendships and inclusion.* Rep. Joanne Ferrary. HB 548 includes \$100,000 for this purpose.

HB 563 *Behavioral health services in Albuquerque's international district.* Rep. Sheryl Williams Stapleton. HB 548 includes \$50,000 for this purpose.

HB 567 *Students in need of accommodations.* Rep. Javier Martinez.

HB 591 *Mental, emotional and social health education.* Rep. Joy Garratt.

HB 615 *Mental health training for school personnel.* Rep. Raymundo Lara. HB 548 includes \$30,000 for this purpose.

HB 642 *ALS support.* Rep. Antonio Maestas.

HM 75 *Educational stability for foster children.* Rep. Patricio Ruiloba.

HJM 15 *School bus safety task force.* Rep. Natalie Figueroa.

HJR 3 *Low-income property tax exemption.* Rep. Miguel Garcia.

SB 46 *Home rehab for veterans.* Sen. Richard Martinez. There is \$110,000 non-recurring and \$17,500 recurring funds in HB 548 for this purpose.

SB 101 *Health care value & access commission.* Sen. Jeff Steinborn.
SB 112 *Limiting insurance policy changes.* Sen. Liz Stefanics.
SB 134 *Brain injury fund appropriation.* Sen. Jerry Ortiz y Pino.
SB 139 *Funding for GCD programs.* Sen. Jerry Ortiz y Pino. There is \$150,000 in SB 536 for this purpose.
SB 141 *Interstate psychology compact.* Sen. Jerry Ortiz y Pino.
SB 152 *MH/DD Code grievance procedure.* Sen. Liz Stefanics.
SB 153 *Aid in dying.* Sen. Liz Stefanics.
SB 171 *Brain injury fee increase.* Sen. Bill Tallman.
SB 185 *Monitoring neurological disorders.* Sen. Jeff Steinborn. SB 536 includes \$100,000 for this purpose.
SB 206 *Accessibility icon on specialty plates.* Sen. Mark Moores.
SB 220 *Increasing income limits for property tax limitation.* Sen. Peter Wirth. Same as HB 429, which passed.
SB 250 *Rural wrap-around services.* Sen. Mary Kay Papen.
SB 279 *Health Security Act.* Sen. Carlos Cisneros.
SB 327 *Non-waiver of fine supporting BI fund.* Sen. Cliff Pirtle.
SB 334 *AOT Funding.* Sen. Mary Kay Papen. HB 2 includes \$200,000 for this purpose.
SB 355 *DD provider rate increases.* Sen. Nancy Rodriguez. HB 2 includes \$1.6 million for this purpose.
SB 405 *Medicaid buy-in.* Sen. Jerry Ortiz y Pino. SB 536 includes \$132,000 to plan for a buy-in program
SB 467 *Students in need of accommodations.* Sen. Linda Lopez.
SB 495 *Add members to BH Collaborative.* Sen. Jerry Ortiz y Pino.
SB 570 *Crisis intervention through Project Echo.* Sen. Jacob Candelaria. HB 2 includes \$150,000, and SB 536 includes another \$150,000 for this purpose.
SB 583 *Limiting psychotropic medications.* Sen. Bill Tallman.
SB 611 *Train school personnel re special needs students.* Sen. Linda Lopez.
SB 612 *Special education reform.* Sen. Linda Lopez.
SB 630 *Special education loans for service.* Sen. Linda Lopez.
SM 22 *Sexual assault task force.* Sen. Linda Lopez.
SM 25 *Medically fragile waiver task force.* Sen. Liz Stefanics.
SM 125 *Study health care value and access commission.* Sen. Jeff Steinborn.

ABBREVIATIONS USED IN THIS REPORT

Legislative Proposals

HB	House Bill	SB	Senate Bill
HM	House Memorial	SM	Senate Memorial
HJM	House Joint Memorial	SJM	Senate Joint Memorial

State Agencies

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