



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2019 LEGISLATURE STATUS REPORT #1

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

Coming Events:

- **Jan. 24: Justice for All Day** at the Capitol. Displays by various legal service agencies.
- **Feb. 4-6: Disability Rights Awareness Days** in Santa Fe. Self-advocacy training, exhibits by sponsoring agencies, and legislator visits at the Capitol on Monday; breakfast with legislators Wednesday morning at the Drury Hotel. Tuesday's conference events are already at capacity and registration for them has been closed. Monday's events at the Capitol are open to all.
- **Feb. 6: Behavioral Health Day** at the Capitol

Committee Hearings:

Monday morning: In HHHC, HB 43 (behavioral health interventions), HB 48 (hearing aids) and HB 59 (art therapy); in SEC, SB 179 (lottery scholarship eligibility).

Monday afternoon: HAFC (Subcommittee A) hearing on budgets for five disability agencies; SJC hearing on SB 41 (Medicaid provider due process) and SB 48 (diabetes management in schools); SCORC hearing on three license plate bills (SB 189, SB 206, and SB 236)

Tuesday afternoon: SPAC hearing on SB 46 (home rehab for veterans).

Blast off! Moon shot and rocket docket launch 2019 legislative session. Governor Michelle Lujan Grisham helped kick off the opening of the 54th legislature last Tuesday with an energetic, ambitious, and optimistic State of the State speech, asking legislators to work together to move the state forward. She proposed a "moon shot" to transform the state's public education system, with an added investment of around \$500 million dollars. The new governor also highlighted her initiatives in economic development, renewable energy, infrastructure improvements and a rebuilding and strengthening of the behavioral health system.

She addressed a legislature that in some ways is quite different from last year's. In the House, there are 20 new members, reflecting the largest turnover in the past 50 years. As a result of the November election, Democrats picked up eight seats, creating a 46-24 edge over Republicans, who had won a majority in the chamber just four years earlier. Most of the new members are women, with the result that women now account for a majority of the Democratic members of

the House. There are several new committee chairs, and the membership of most of the House committees has changed significantly as well.

Senators were not up for election this past year, but there are still three new members: Gregg Fulfer from Jal has been appointed to fill the vacancy created when his father-in-law, Carroll Leavell, resigned for health reasons; Antoinette Sedillo Lopez of Albuquerque has replaced Cisco McSorley, who resigned to accept an appointment as Director of Probation and Parole for the Corrections Department; and Gabriel Ramos of Silver City replaces Howie Morales, who now serves as lieutenant governor.

The House and the Senate are off to a fast start with 48 bills on a “rocket docket” (also called “early track”). These are bills that passed in the last year or two, unanimously or by very wide margins, but were vetoed by Governor Martinez. They will each have one committee hearing in each chamber, and will be on a fast track for final passage with the expectation of being sent on to the governor for action within a few weeks. Hearings on the first batch of these bills are being held today.

State budget outlook

It’s now estimated that state revenue in the coming year will be around \$7.4 billion, which is \$1.1 billion more than the current level of on-going government spending. The opportunity to use a lot of this “new money” to create new programs or expand existing ones has caught the attention of the governor, legislators, and the army of lobbyists who roam the halls of the Capitol.

Just before the Legislature convened, the governor and the Legislative Finance Committee (LFC) each released their recommendations for how much the Legislature should spend next year, and on what agencies and programs.

The governor’s proposed budget calls for over \$700 million in additional spending, to reach a total of \$7.1 billion, with most of that new funding going to support raises for teachers, programs for at-risk students, and other public education initiatives. The LFC budget is only slightly less expansive, recommending \$7.0 billion in total on-going spending, with most of the new funding also going to public education.

It will be up to the 2019 legislature to compare the two sets of recommendations and determine final spending levels for all state agencies and programs. The House Appropriations and Finance Committee begins budget hearings this week and will develop the first draft of the state budget over the next few weeks.

Here are the recommendations and issues for some of the agencies and programs of greatest interest to the disability community:

Medicaid: The Human Services Department estimates that it will need about \$63 million in additional funding to continue the Medicaid program, primarily in the form of “Centennial Care 2.0”, the revised managed care program recently approved by the federal government. The governor’s budget recommends that level of additional spending, while the LFC budget calls for

about \$40 million in new funding. The intent of the LFC is to fully fund the program as well, but their budget is based on an assumption that Medicaid expenses won't be quite as much as HSD expects.

Developmental disabilities services: The governor is requesting over \$10 million in extra money for the current fiscal year to cover the rising costs of serving individuals already in the DD waiver program, increasing enrollment and costs in the Family Infant Toddler (FIT) program, and a 2% provider rate increase, and to address the backlog of investigations of alleged abuse or neglect in facilities serving vulnerable populations. For the coming year, the governor asks for \$7 million to move over 300 people off the waiting list and into the waiver program, \$1.5 million to develop and implement a limited-service "supports" waiver, and \$6 million more for the FIT program. The LFC budget also supports \$7 million in new money to take people off the waiting list, and smaller increases for FIT. It calls for better coordination between the waiver program and the general Medicaid program, noting that many individuals with developmental disabilities should be able to access "Community Benefit" services in Medicaid while they wait for waiver services.

Other disability agencies:

- The governor and the LFC recommend an increase of about \$500,000 in state funds for the Division of Vocational Rehabilitation (DVR). While these additional funds are vital, they will not be enough to allow the agency to return to its normal pattern of serving all people with disabilities who apply for services. DVR has gone to an "Order of Selection" that means they are now only accepting new clients with the most severe disabilities. Their very high vacancy rate has strained the program and the small increase in funding will also not be nearly enough to bring the agency back up to full capacity.
- The Commission for the Deaf and Hard of Hearing (NMCDHH) would see a \$162,000 increase in on-going state funds under the governor's budget, but that would be supplemented by a special one-time appropriation, anticipating that in future years the agency will generate additional funds from fees on telephone service companies. The LFC budget assumes that those additional fees will come in during this coming year, so they recommend only a very small increase in state funding.
- The Developmental Disabilities Planning Council, the Commission for the Blind, and the Governor's Commission on Disability get little if any increases in the budgets of either the governor or the LFC. However, in each budget these agencies get very close to what they requested last fall when their funding requests were first submitted.

Bills and Memorials Introduced or Expected in the 2019 Session

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. The deadline for introducing most bills is the half-way point of the session, which this year is Thursday, February 14th. Memorials can be introduced at any time.

Behavioral Health/Mental Health

HB 43 Behavioral health interventions for non-violent offenders. Rep. Sheryl Williams Stapleton. Charges the Human Services Department with responsibility to develop and implement services for non-violent offenders with behavioral health issues to reduce recidivism, and appropriates \$1.5 million to HSD for this purpose. HHHS/HAFC.

HB 59 Non-discrimination against art therapists. Rep. Christine Trujillo. Requires insurance companies to pay licensed art therapists for the services they provide if those services are covered by a policy and they pay other behavioral health providers for the same services. HHHC/HCEDC.

HB 83 Extreme risk protection orders. Rep. Daymon Ely. Allows for court orders for police to seize guns from those determined to pose a high risk of violence to themselves or others. The bill does not include any reference to mental illness, and is written so that it would apply to cases of domestic violence or other threatening situations, but the sponsor of the bill has made it clear that the primary intent of the bill is to allow for the confiscation of guns from people with mental illness who are suicidal or who pose a threat of gun violence to family members or other individuals. HCPAC/HJC.

HB 153 Suicide awareness training. Rep. Patricio Ruiloba. Requires virtually all licensed health care providers to receive a one-hour training annually on suicide awareness and prevention. HHHC/HJC.

HB 267 Criminal justice reforms. Rep. Daymon Ely. Establishes local criminal justice coordinating councils, provides grants for reform initiatives, and 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. The bill includes an appropriation of \$35.5 million. HSEIC/HJC/HAFC.

SB 64 Behavioral health investment zones. Sen. Cisco McSorley. Directs HSD to divide the state into different geographic zones, and give priority in targeting certain funding to zones with the highest needs. Tabled indefinitely [Sen. McSorley has resigned his Senate seat and bills that he pre-filed will not be acted upon].

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 to assist with construction, repair or remodeling. SPAC/SFC.

SB 141 Interstate psychology compact. Sen. Jerry Ortiz y Pino. Adopts an interstate agreement regulating the temporary practice of psychology across state lines through tele-psychology. SPAC/SJC.

SB 152 MH-DD Code grievance procedure. Sen. Liz Stefanics. Requires the Department of Health to establish a grievance procedure to address disputes related to a client's consent to mental health treatment or a determination that the client lacks the capacity to consent. SPAC/SJC.

Expected:

- Prohibition on use of solitary confinement of persons with serious mental illness

Brain Injury

SB 134 Brain injury fund appropriation. Sen. Jerry Ortiz y Pino. Appropriates \$500,000 for the Brain Injury Services fund. SPAC/SFC.

SB 171 Brain injury fee increase. Sen. Bill Tallman. Increases from \$5.00 to \$6.40 the portion of traffic violation fines that goes to support the Brain Injury Services Fund. SJC/SFC.

Deafness/Blindness

HB 96 Blind parents' rights. Rep. Tomas Salazar. Prohibits blindness from being used as a basis for denial of parental rights. HHHC/HJC.

HB 243 Instructional opportunities for children with hearing impairment. Rep. Dayan Hochman-Vigil. Requires all school districts and charter schools to provide individualized instruction for children who are deaf or have moderate to severe hearing loss. The bill establishes the factors to be considered in deciding upon the instructional setting for the child and requires the school to offer the choice of ASL, oral communication, or a combination of the two. HHHC/HEC.

Developmental Disabilities

HB 61 Sexual assault study. Rep. Christine Trujillo. Appropriates \$450,000 to the Crime Victims Reparation Commission to conduct a study of sexual assaults against persons with disabilities and to identify needed improvements in data collection. HHHC/HAFC.

HB 68 Reduce the DD Waiver waiting list. Rep. Liz Thomson. Directs the Department of Health to move 600 individuals on the waiting list into waiver services each year over the next five years, and appropriates \$25 million to the Department of Health for this purpose. HHHC/HAFC.

HB 69 Early detection of cerebral palsy. Rep. Liz Thomson. Appropriates \$200,000 to the Department of Health to provide training to health care professionals on new methods for early detection of cerebral palsy. HHHC/HAFC.

Expected:

- Amending the membership and duties of the state Developmental Disabilities Planning Council
- Creating an Office of Autism within the Developmental Disabilities Supports Division of the Department of Health.

Education Issues

HB 5 Education changes. Rep. Sheryl Williams Stapleton. Proposes a variety of changes to education policy and funding processes, including requirements that school districts report on how they spend funding generated based on their special education enrollment. HEC/HAFC.

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. *Part of the "rocket docket"*. SJC.

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. *Part of the "rocket docket"*. SEC.

SB 204 Medical marijuana in schools. Sen. Candace Gould. Directs public schools to allow parents/guardians to store and administer medical marijuana in the school for their child 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. SPAC/SJC.

SB 229 School support and accountability. Sen. Mimi Stewart. Repeals the A-B-C-D-F school rating system currently in place 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. SEC/SPAC.

Guardianship / Protective Arrangements

Expected:

- Legislation to provide better notice of the rights of an allegedly incapacitated person, and deleting an existing provision giving guardians of adults all the same rights as a parent of a minor child.

Health Care

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. HHHC/HSEIC.

HB 70 Health insurance coverage of prosthetics and orthotics. Rep. Liz Thomson. Requires insurance policies to cover prosthetics and orthotics to at least the same extent as Medicare and on terms equivalent to other covered services. HHHC/HCEDC

HB 72 Occupational therapy practice act. Rep. Liz Thomson. Updates the OT practice act to reflect current standards and practices. *Part of the "rocket docket"*. HJC.

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

HB 88 Health care value & access commission. Rep. Debbie Armstrong. Establishes a state commission to gather data about health care services and costs and to make recommendations to improve and better coordinate the provision of health care services in NM. Same as SB 101, below. HHHC/HAFC.

HB 90 Aid in Dying. Rep. Debbie Armstrong. Authorizes prescriptions that an individual with a terminal illness could self-administer which would bring about the person's death. Same as SB 153, below. HHHC/HJC.

HB 142 Pre-existing condition exclusions. Rep. Patricia Roybal Caballero. Prohibits health insurers from denying coverage to persons with pre-existing conditions. Does not prohibit higher premiums for coverage, nor prohibit annual or lifetime coverage limits. HHHC/HJC.

HB 143 PCS rate and wage increase. Rep. Christine Trujillo. Provides \$6 million to HSD to increase provider reimbursement rates for Medicaid personal care services, with a requirement that at least half of the money be used to increase wages for the workers who provide personal care services. HHHC/HAFC.

HB 213 Family and medical leave program. Rep. Patricia Roybal Caballero. Creates a new benefit program allowing employees to take paid leave to take care of themselves or other family members experiencing a serious medical condition. The benefit would be paid for through employee contributions and administered by the Department of Workforce Solutions. HCEDC/HJC/HEC.

HB 264 Family and medical leave program Rep. Christine Chandler. This bill also creates a new benefit program providing paid leave for employees who need to take care of themselves or

a family member due to a serious medical condition. The program would be funded by both employer and employee contributions. HCEDC/HJC/HEC.

SB 41 Medicaid providers due process. Sen. Mary Kay Papen. Provides protections for Medicaid providers accused of fraud. SJC/SFC.

SB 85 Domestic worker minimum wage. Sen. Liz Stefanics. Repeals the provision of current state law that exempts “domestic workers” from minimum wage requirements. This would assure that personal care workers, among others, would receive at least the state minimum wage, and that the Department of Workforce Solutions would enforce their rights to such wages. SPAC/SCORC.

SB 101 Health care value & access commission. Sen. Jeff Steinborn. Same as HB 88, above. SPAC/SJC/SFC.

SB 112 Limiting insurance policy changes. Sen. Liz Stefanics. Prohibits health insurers from changing coverage or co-pays for prescription drugs during a plan year, and requiring notice of any proposed changes at least 90 days before a new plan year. SPAC/SJC.

SB 123 Using sick leave for caregiving. Sen. Liz Stefanics. 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 for the purpose of caring for an ailing family member. SPAC/SJC.

SB 153 Aid in dying. Sen. Liz Stefanics. Same as HB 90, above. SPAC/SJC.

SB 185 Monitoring neurological disorders. Sen. Jeff Steinborn. Appropriates \$100,000 to the Department of Health to establish a program to monitor the incidence of neurological disorders and to identify, prevent and treat such disorders. SPAC/SFC.

Expected:

- Creating a Medicaid buy-in program to offer a new health coverage option that will increase affordability and access to care by leveraging the Medicaid program.

Motor Vehicles/Accessible Parking

HB 136 Voluntary driver registry. Rep. Liz Thomson. Allows but does not require persons with disabilities to note, in conjunction with their car registration, that they have a disability that might affect their ability to communicate. Law enforcement officers would be required to consult the registry prior to interacting with a motorist and to take appropriate steps when attempting to communicate with a driver or regular passenger who is on the registry. HTPWC/HJC.

HB 209 Car registration fee waiver. Rep. Miguel Garcia. Allows a low-income person with a severe, permanent disability to register one vehicle owned by the person without having to pay the usual registration fee. HTPWC/HTRC.

HB 245 Accessibility icon on specialty plates. Rep. Dayan Hochman-Vigil. Directs the Motor Vehicle Division to develop an accessibility emblem or decal that could be affixed to any other specialty license plate. Same as SB 206, below, but not part of the “rocket docket”. HTPWC/HTRC.

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). HTPWC/HJC.

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 spaces. *Part of the “rocket docket”*. SCORC.

SB 206 Accessibility icon on specialty plates. Sen. Mark Moores. Directs the Motor Vehicle Division to develop an accessibility emblem or decal that could be affixed to any other specialty license plate. *Part of the “rocket docket”*. SCORC.

SB 236 2nd free license plate for disabled veterans. Sen. Ron Griggs. Allows disabled veterans to obtain two free specialty licenses plates; under current law, they can get one free plate. *Part of the “rocket docket”*. SCORC.

Other

HB 82 Home rehab for veterans. Rep. Eliseo Alcon. Appropriates \$2 million to the Mortgage Finance Authority to rehabilitate homes owned and occupied by low-income veterans; includes home modifications for accessibility. Same as SB 46, below. HLVMC/HAFC.

HJR 3 Low income property tax exemption. Rep. Miguel Garcia. Would amend the state constitution to exempt very low income persons with severe disabilities from property taxes on a home they own and occupy.

SB 42 Expanding the use of “silver alerts”. Sen. Richard Martinez. Expands these alerts to include missing persons of any age who have dementia, and to all missing persons over 50 years old even if they do not have dementia. It also expands the dissemination of such alerts. SPAC/SJC.

SB 46 Home rehab for veterans. Sen. Richard Martinez. Same as HB 82, above. SPAC/SFC.

SB 53 State park accessibility. Sen. Jeff Steinborn. Requires the adoption of state rules intended to make state parks as affordable for and accessible to all state residents as possible. SCONC/SPAC.

SB 63 Medical and geriatric parole. Sen. Cisco McSorley. Directs the Corrections Department to implement a program providing parole for eligible inmates who are elderly, permanently incapacitated, or terminally ill. Tabled indefinitely [Sen. McSorley has resigned his Senate seat and bills that he pre-filed will not be acted upon].

SB 139 Funding for GCD programs. Sen. Jerry Ortiz y Pino. Appropriates \$300,000 to the Governor’s Commission on Disability for its assistive technology and home modifications 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.

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.

Each legislator now 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
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
HLELC	House Local Government, Land Grants and Cultural Affairs 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
DOH	Department of Health
GCD	Governor's Commission on Disability
HSD	Human Services Department
PED	Public Education Department
WFS	Workforce Solutions Department