



## 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 #1

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January 27, 2020

*(See page 8 for a list of abbreviations, including legislative committees, used in this report.)*

#### Coming events:

- **Jan. 29 Autism Day and Behavioral Health Day** at the Capitol

#### Committee hearings this week:

*Monday morning: HHHC hearing on HB 56, behavioral health licensure; HB 67, supported decision-making task force. SEC hearing on SB 13, higher salaries for special education teachers.*

*Wednesday morning: HHHC hearing on HB 55, autism funding; HB 98, homeless outreach for SSI*

**Let's get to work!** Governor Michelle Lujan Grisham launched the 2020 legislative session with the State of the State address last Wednesday afternoon. After reminding her audience of the legislative and other accomplishments of 2019, she laid out her goals and agenda for this year's session: rebuilding, expanding and improving state agency services; creating an early childhood services endowment fund as well as a fund for services to seniors and adults with disabilities; facilitating access to higher education; improving public safety; strengthening the solvency of pension funds for public employees; and more. She promised to be her typical self: relentless, competitive, and caffeinated. She finished with a call for cooperative effort: "let's get to work."

The House leadership may have taken her message to heart – on Friday, several committees held meetings and there was a floor session as well. That level of activity on the first Friday of a legislative session is highly unusual. The Senate and its committees, more in keeping with legislative norms for the day, were in recess until Monday.

They do have plenty of work to do. There were about 370 bills, memorials and resolutions pre-filed, before the session even started.

#### State budget outlook and overall spending recommendations

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, which

is almost \$7.1 billion. The state's cash reserves are predicted to reach \$2.5 billion by July 1, 2020, which would be about 34% of the current state budget – far higher than ever before.

Governor Michelle Lujan Grisham and the Legislative Finance Committee (LFC) each released their recommendations earlier this month 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 proposal also calls for using some of the “excess” cash reserves to shore up state pension funds, create an early childhood endowment fund, and other one-time (non-recurring) investments. The governor is also proposing the creation of a fund to be used to improve the quality of life of seniors and individuals with disabilities.

### **Bills and Memorials Introduced or Expected in the 2020 Session**

This list is grouped by specific disability or subject matter and shows the bill number, sponsor, a description of the bill, 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 Wednesday, February 5<sup>th</sup>. Memorials can be introduced at any time. In a 30-day session, such as this year's legislature, bills that do not involve taxes or appropriations require a “message” from the governor before they can move forward. Until such a message is issued, such bills are held in the House Rules Committee (HRC) or the Senate Committees Committee (SCC).

### **The State Budget**

**HB 2** General Appropriations Act. Rep. Patty Lundstrom. This bill will contain the appropriations for all state agencies for the year beginning July 1, 2020. The House Appropriations and Finance Committee began holding hearings before the session even started on budget recommendations for these agencies from the governor and from the Legislative Finance Committee. Those hearings continue, and the committee plans to complete the budget next Monday. Agency budgets of significant interest to the disability community include:

**Department of Health:** 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, around \$6 million. The governor and the LFC both support new funding to support regulation and monitoring of boarding homes serving individuals with mental illness.

**Human Services Department:** The governor's budget proposal requests an increase of \$55.8 million for Medicaid, while the LFC recommends \$45 million. The department's estimate of what's needed is in the range of \$60 to \$70 million, though a small portion of that may be funded with one-time money. The governor is requesting an increase in state funding for behavioral health services of about \$10.2 million, including at least \$4 million for supportive housing.

**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 also supports significant expansion of the program, but its recommended increase is slightly lower at about \$18 million.

**Division of Vocational Rehabilitation:** 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. DVR originally asked for an increase of \$3.3 million to eliminate their waiting list for services, meet federal requirements for serving young people transitioning out of public school, and reduce the employee vacancy rate. The governor’s budget requests \$250,000 in new state funds for the Independent Living program within DVR; the LFC is supporting an increase of only about \$25,000.

**DD Planning Council:** The governor is supporting an increase of \$292,000 in state funds for the Office of Guardianship. The LFC supports an increase of only about \$32,000 to be supplemented through spending more of the agency’s fund balance. However, according to DDPC, those fund balances have already been committed and are no longer available. For other DDPC programs, 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 \$650,000 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 governor is requesting \$300,000 in new money; the LFC is supporting an increase of about \$173,000.

**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.

### 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. HHHC/HAFC. *HHHC hearing scheduled for Wednesday, Jan. 29.*

### Behavioral Health/Mental Health

**HB 7** Extreme Risk Protection Orders. Rep. Daymon Ely. 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. *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.* Same as SB 5, below. 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 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. HHHC/HAFC. *HHHC hearing scheduled for Monday, Jan. 27.*

**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. HHHC/HAFC. *HHHC hearing scheduled for Wednesday, Jan. 29.*

**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.

**SB 5** Extreme Risk Protection Orders. Sen. Joseph Cervantes. This is the so-called “red flag” bill, same as HB 7, above. SPAC/SJC.

**SB 54** Behavioral health community integration. Sen. Mary Kay Papan. 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. SCC/SPAC/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. SPAC/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.

**SB 128** Extend and expand AOT. Sen. Mary Kay Papen. Adds district attorneys to the list of those who can file petitions for “assisted” (involuntary) outpatient treatment court orders, and expands the list of outpatient services that can be included in an AOT order, adding “comprehensive community support services” and “intensive outpatient services”. The bill would also delete a provision in current law that would “sunset” or repeal the AOT law on July 1, 2021. SCC/SPAC/SJC

**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 requests 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. SRC/SPAC.

### 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. SCC/SPAC/SFC.

### Developmental Disabilities

Potential legislation:

- The DD Planning Council plans legislation that would update state law provisions related to the Council.
- The Bernalillo County district attorney plans legislation to limit pre-trial interviews in criminal proceedings involving children and persons who have been determined to be 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. HEC/HAFC.

**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. SEC/SFC. *SEC hearing scheduled for Monday, January 27.*

**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. SCC/SEC/SFC.

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. 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. HHHC/HAFC. *HHHC hearing scheduled for Monday, Jan. 27.*

**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.

**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. HHHC.

**SM 8** Financial exploitation task force. Sen. Jerry Ortiz y Pino. Same as HM 10, above. SRC/SPAC.

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. This is related to HB 67, above, but would not include an appropriation.

### Health Care

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

**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. The bill includes an initial appropriation of \$25 million to the fund. HHHC/HAFC.

**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. SCORC/SFC.

**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. SPAC/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. SPAC/SFC.

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

#### 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. SCC/SCORC/SFC.

#### Other/Miscellaneous

**SB 117** Property tax valuations. Sen. Bennie Shendo. This bill clarifies that when a low-income person with a disability owns and resides in a home, the valuation of the property for tax purposes cannot be raised once the disability is documented, unless improvements are made that would increase the market value of the property. SCC/SPAC/SCORC.

**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. SCC/SPAC/SJC.

**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. SCC/SJC/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](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

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