



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 2020 LEGISLATURE STATUS REPORT #2

Jim Jackson, DRNM Public Policy Associate

February 2, 2020

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

Coming events:

- Thursday, Feb. 6: MS Day at the Capitol

Committee hearings this week:

Monday morning: SRC - SJM 5, workplace violence against health care workers; SM 8, task force on financial exploitation of adults with disabilities. HHHC - HB 109, DME tax exemption; HB 225, senior dignity fund. HTRC - HB 141, adjusting income tax exemptions

Tuesday afternoon: SPAC - SB 77, health care navigation; SB 78, Latino youth suicide; SB 128, AOT extension

It's a 30-day session, but... the governor has issued well over 100 "messages" to the House and the Senate authorizing the introduction of legislation that would not otherwise be "germane" to the short session. These and other bills are keeping committees busy as we approach the mid-point of the session this Wednesday. Nonetheless, the overall pace of the session appears slow to many veteran roundhouse watchers. So far, the House has passed one bill - HB 1, which funds the legislative session itself and is always one of the first bills to pass each session. The Senate has passed two bills, one of which is also HB 1. The other is SB 4, which appropriates funding to ensure that New Mexico's population is fully counted in this year's census so we don't lose out on federal funds that are allocated by population. The House is expected to pass this measure early this week and send it to the governor for signature.

Special ed teachers slighted – twice in one week. Attempts to increase salaries for special education teachers have been killed in the Legislature due to opposition from unions, school boards and school administrators. Early last week, SB 13, which would have assured that the minimum salaries for special education teachers were set at least 15% higher than for other teachers, was tabled in the Senate Education Committee. Union spokespersons argued that all teachers deserved raises, while school representatives promoted local control over salary decisions. Then on Saturday, the House Appropriations and Finance Committee agreed to delete a provision that would have earmarked \$16 million for salary increases for special education teachers, even though that funding was called for in a bill promoted by the Legislative Finance

Committee (SB 171). Those funds were re-directed to an additional salary increase for all teachers.

New since last time : Quite a few bills have been introduced since last week's report and are included below. These include HB 247 and SB 192, funding a study by DoH of how to streamline the DD waiver and prioritize reducing the waiting list and increasing direct care staff wages; HB 184 and SB 202, requiring training of school resource officers on interacting with children with behavioral challenges; HB 241 and SB 171, funding salary increases for special education teachers; SB 174, elevating the status and strengthening the role of the special education unit within the PED; and many others.

Budget taking shape. The House Appropriations and Finance Committee met on Saturday to put the final touches onto its version of the state budget bill (HB 2). They agreed to add over \$71 million to their preliminary spending plan, which would bring total state spending to about \$7.6 billion. That's about half-way between the budget recommendations from the governor (\$7.68 billion) and the LFC (\$7.55 billion). The committee is expected to vote on the budget bill Monday, with a vote by the House later this week. If the House approves it, as expected, it will be sent on to the Senate Finance Committee, which will doubtless make some changes. See below for how HAFC has addressed the budget requests of relevant state agencies.

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 this Wednesday, February 5th. 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 contains the appropriations for all state agencies for the year beginning July 1, 2020. The House Appropriations and Finance Committee is expected to approve its version of the bill Monday. Some of the agency budgets of significant interest to the disability community are noted below; these figures are tentative and subject to change.

Department of Health: an additional \$7.5 million to take people off the DD waiver waiting list, \$5 million for the new DD supports waiver, \$1.4 million for assessments of those individuals who will be enrolling in the supports waiver, and \$6 million for provider rate increases.

Human Services Department: an increase in the Medicaid program of about \$56 million, equal to the governor's request. The LFC recommended \$45 million, and the department's latest estimate of what's needed is almost \$94 million; some portion of that may be

funded with one-time money, but the possibility of cost containment measures was specifically raised at the HAFC hearing on Saturday. The committee approved \$4 million for BHSD's program of housing and support services to avoid recidivism.

Division of Vocational Rehabilitation: an increase of \$450,000 in state funds for rehabilitation services; the governor had requested a \$1 million increase. The Independent Living program within DVR will receive an increase of only \$25,000; the governor had requested \$250,000.

DD Planning Council: an increase of about \$179,000 in state funds for the Office of Guardianship, and an additional \$97,000 for other DDPC programs.

New Mexico Commission for the Blind: an increase in state funds of about \$187,000. The commission had requested \$650,000; the governor had asked for \$300,000 while the LFC had recommended \$87,000.

New Mexico Commission for the Deaf and Hard of Hearing: The Commission will receive \$300,000 in new money, as requested by the governor; the LFC had recommended only \$173,000.

Governor's Commission on Disability: an increase of \$22,000 for its program supporting home modifications to provide accessibility for persons with disabilities. The commission had asked for \$38,000 and the LFC had recommended \$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. Passed HHHC, pending in HAFC.

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. Passed HHHC, pending in HAFC.

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 HHHC, pending in HAFC.

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. HHHC/HAFC.

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

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, below.

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. *SPAC hearing scheduled for Tuesday, Feb. 4*

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. SPAC/SJC. *SPAC hearing scheduled for Tuesday, Feb. 4.*

SB 182 BH Community integration. Sen. Mary Kay Papen. This bill is generally the same as SB 54, above (with a few minor technical changes), except that this version does not include an initial appropriation to the fund. SPAC/SFC.

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. *SRC hearing scheduled for Monday, Feb. 3.*

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. SPAC/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. SPAC/SFC.

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. Passed HEC, pending in HAFC.

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 HJC, pending in HAFC.

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

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 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.

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.

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 202 Training school resource officers. Sen. George Munoz. Same as HB 184, above. SEC/SFC.

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, pending in HAFC.

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. HHC.

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, above, but the memorial does not include funding to carry out the work of the task force. Passed HJC, House vote likely in next few days.

SM 8 Financial exploitation task force. Sen. Jerry Ortiz y Pino. Same as HM 10, above. SRC/SPAC. *SRC hearing scheduled for Monday, Feb. 3.*

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. HHC/H AFC.

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. *HB 2 now includes \$5 million for this purpose.* HHC/H AFC. *HHC hearing scheduled for Monday, Feb. 3.*

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. Passed SCORC, pending in SFC.

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. 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. *SPAC hearing scheduled for Tuesday, Feb. 4.*

HB 109 Extend GRT exemption for DME. Rep. Javier Martinez. This bill is the same as SB 39, above. HHHC/HTRC. *HHHC hearing scheduled for Monday, Feb. 3*

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 temporarily tabled in SCORC; will be released only if funded in HB 2.

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; *HTRC hearing scheduled for Monday, Feb. 3.*

HB 266 Funding for 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. HLMVC/HAFC.

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

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. 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. 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. 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

| | |
|-------|---|
| 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