



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 timer.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 POST-SESSION REPORT

Jim Jackson, DRNM Public Policy Associate

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(See page 8 for a list of abbreviations used in this report.)

Slow session grinds to a halt. This year’s 30-day legislative session came to an end on Thursday amid partisan rancor. For the second year in a row, outnumbered Republicans used prolonged debates on the floor to limit the number of bills that could pass the House, thwarting the efforts of Democrats, who comprise nearly 2/3 of the membership of that chamber and thus represent a large majority of New Mexicans. House rules generally allow up to three hours of debate on measures before debate can be ended by a simple majority vote. This year, House Republicans were open and unapologetic about their tactics, claiming to be responding to the will of their own constituents to do whatever they could to prevent bills from passing. A series of late night sessions marked by seemingly endless questioning intended to fill up the three-hour time limit led to frustration all around and occasional heated flare-ups between individual members. The Senate was more cordial and efficient for most of the session, but couldn’t escape the friction as a filibuster on the final day revealed divisive feelings in that chamber as well.

Only 88 bills passed this year, the second lowest output for a short session in the past twenty years. Committee staffers and other session analysts, usually straining to keep up with a steady stream of bills in committees and on the floor, were often left with little to do during a session that more than one veteran lobbyist described as “eerily quiet”.

Pushing the governor’s agenda. When Governor Lujan Grisham gave the State of the State speech to kick off the legislative session, she outlined a number of initiatives she hoped to push through the legislature. With the help of leadership in the House and the Senate, she had a high rate of success by the time the legislature adjourned. Through the state budget and individual bills, the legislature came through for her: it created a \$320 million early childhood fund, the Kiki Saavedra Senior Dignity fund, and a higher education “Opportunity Scholarship” program; it passed the “red flag” gun control bill, authorized an attempt to import lower-cost drugs from Canada, funded an effort to assure an accurate count for the state in the 2020 Census, shored up the state employee pension fund, and passed a mini-package of criminal justice bills. Although not all of the governor’s initiatives were funded at the levels she wanted, the only obvious major

initiative that fell by the wayside was the attempt to approve and regulate the sale of recreational cannabis.

We have a budget. The process of crafting the state budget for next year was also contentious, beginning with a party-line vote on the budget bill in the House. Several days after the bill came over to the Senate, the chair of the Senate Finance Committee openly and repeatedly criticized the House Appropriations and Finance Committee for alleged overspending. The Senate’s revisions cut \$142 million in one-time spending out of the bill (including a \$75 million reduction for highway maintenance projects), reduced proposed teacher salary increases by a fifth (from 5% to 4%), and re-allocated funding among a number of other high-profile items. That version of the budget bill passed easily in the Senate, though some frustration was expressed in floor debate that individual legislators and other committees with expertise in various substantive matters have little say in preparation of the budget proposal prior to the session or shaping the budget during the session.

It was widely anticipated that the House would object to some of the Senate’s changes and a conference committee would be needed to iron out their differences. However, faced with very little time left in the session, the House concurred with the Senate changes and sent the budget bill to the governor for final action. The bill authorizes about \$7.6 billion in recurring expenditures by state agencies, which is an increase of about 7½% over the current level of spending.

“In memoriam” – memorials get buried. Legislative memorials express the sense of the legislature or request certain actions, but do not have the force of law if they are passed. Many simply recognize good causes or individuals, but some are more substantive in nature and call for task forces or work groups to study issues and provide reports and recommendations to the legislature that may lead to future legislation. As a result of the contentiousness in the House this year, most of these more substantive memorials were not brought up for a vote even if they appeared to be non-controversial. Memorials didn’t fare much better on the Senate side. Only 13 “substantive” memorials passed this year, and most of those passed well before the final few days of the session. As noted below, *none* of the memorials followed in this report – most of which required approval in only one chamber – passed this year. A memorial service for memorials may be in order.

Bills That Passed the 2020 Legislative Session

The following bills passed the legislature this year, and are now subject to review and action by Governor Lujan Grisham. The deadline for such action is March 11.

HB 2 General Appropriations Act (the state budget). Rep. Patty Lundstrom. This bill contains the appropriations for all state agencies for the fiscal year beginning July 1, 2020. Some of the key provisions of the House-passed version were highlighted in previous DRNM reports. The Senate revisions to the bill, all of which were subsequently agreed to by the House, included a number of budget increases for agencies serving the disability community, including the Commission for the Deaf and Hard of Hearing, the Commission for the Blind, and the Civil

Legal Services Commission. The Senate also added a little more funding for autism, behavioral health, outreach to the homeless, the Family Infant Toddler (FIT) program, and the Kiki Saavedra Senior Dignity Fund.

Highlights of the final approved budget bill, reflecting the work of the House and the Senate, include the following:

- \$14 million increase for developmental disabilities programs at the Department of Health
- \$56 million increase for Medicaid, plus \$10 million to settle lawsuits from behavioral health providers whose funding was cut off in 2013
- \$575,000 increase for the Commission for the Blind
- \$400,000 increase for the Commission for the Deaf and Hard of Hearing, with potential for \$500,000 more if projected revenues from telecommunications surcharges lag
- About \$600,000 increase for autism services at NMSU, part of which is earmarked for establishment of a regional office
- Increases in various programs serving persons with mental illness, including \$4 million for housing and support services for the homeless
- \$7.3 million investment in the new Kiki Saavedra Senior Dignity fund
- Special appropriation of \$1.6 million to PED to “monitor and ensure public schools and educators provided appropriate, evidence-based instruction for students with disabilities”

HB 109 Extend GRT exemption for DME. Rep. Javier Martinez. This will extend for ten years the existing exemption from gross receipts taxes for the sale of durable medical equipment (DME). Without this extension, the exemption would have expired in 2020.

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, in order to effectively interact with students.

HB 225 Kiki Saavedra Senior Dignity Fund. Rep. Debbie Armstrong. Creates a fund, named for the late long-serving state legislator, to improve access to transportation, physical and behavioral health services, care coordination and other assistance for seniors and adults with disabilities. *HB 2 includes \$7.3 million for this purpose.*

SB 5 Extreme Risk Protection Orders. Sen. Joseph Cervantes. This is the so-called “red flag” bill, authorizing court orders to temporarily remove weapons from someone determined to present a serious risk of violence against themselves or others. Upon the request of a current or former family or household member, employer or school official, a law enforcement officer is required to file a petition for such a protection order if the request gives the officer probable cause to believe that the allegedly dangerous individual meets the criteria for such an order. An officer who chooses not to file a petition after such a request must notify the county sheriff. The bill removes legal immunity for any law enforcement officer who fails to comply with the duties established by this law or any other law. That provision was a specific response and rebuke to the many county sheriffs who stated that they would not enforce or comply with the law if it was enacted.

SB 96 Public school financial transparency. Sen. Jacob Candelaria. As amended, this bill would require the development and use (by December 2021) of a new, standardized system for reporting budgeted and actual revenue and expenditures by all school districts, intended to allow for easy comparisons between and among schools. The new system would have to show, for example, how much funding was budgeted for a school and a district for special education services. The bill carries an appropriation of \$3 million to the PED. *(Note: legislation passed last year already requires school districts to report on how they spent funding generated to benefit special education students; this bill will require them to use the new system to report both budgets and expenditures).*

SB 117 Property tax valuations. Sen. Bennie Shendo. Current state law provides that the valuation for tax purposes of a home owned and occupied by a low-income person with a disability cannot be raised (unless improvements to the property are made), but does not indicate when the valuation freeze takes effect. This bill clarifies that the freeze kicks in beginning with the year when an application is filed.

SB 128 Extend and expand “Assisted” Outpatient Treatment (AOT). Sen. Mary Kay Papen. This bill deletes a provision in current law that would “sunset” (repeal) the existing AOT law, which authorizes courts to order involuntary treatment for people with mental illness, on July 1, 2021. The bill also expands the list of outpatient services that can be included in a court order.

Bills and Memorials That Did Not Pass

Autism

HB 55 Autism appropriations. Rep Liz Thomson. Appropriated \$550,000 to establish a regional office on autism at NMSU that would provide assessments and services and to provide additional funding for those 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. *HB 2 includes \$200,000 to establish a regional office on autism at NMSU, and about \$400,000 in additional funding for four autism services provided through NMSU.*

Behavioral Health/Mental Health

HB 7 Extreme Risk Protection Orders. Rep. Daymon Ely. This was the House version of SB 5, which passed the legislature.

HB 53 Behavioral health in schools. Rep. Patricia Roybal Caballero. Required public schools, including charter schools, to develop plans that assure that students have access to nursing, counseling and behavioral health services.

HB 56 Study BH licensing requirements. Rep. Liz Thomson. Appropriated \$200,000 to the Regulation and Licensing Department (RLD) to study current licensure requirements for professionals providing behavioral health services and to make recommendations for reducing

unnecessary requirements and streamlining processes in order to expand the availability of behavioral health services.

HB 98 SSI/SSDI outreach to homeless. Rep. Christine Trujillo. Appropriated \$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. *HB 2 includes \$200,000 for this purpose.*

HB 215 Emergency MH evaluation orders. Rep. James Strickler. This bill would have allowed an interested individual to seek a court order requiring a law enforcement officer to detain and transport an individual for emergency evaluation and treatment, even 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.

HB 243 Albuquerque/Bernalillo County MH authority. Rep. Patricio Ruiloba. Would have required, by law, the establishment of this joint commission to coordinate and oversee the delivery of mental health services throughout the county. *(Note: a similar joint commission has already been established by agreement between the city and the county.)*

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

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

HJM 7 Study behavioral health licensure requirements. Rep. Liz Thomson. Called on three state agencies to review requirements for licensure of various behavioral health professionals and recommend possible revisions that would make it easier to increase the supply of providers. Similar to HB 56, above, but without the funding.

SB 54 Behavioral health community integration. Sen. Mary Kay Papen. Similar to SB 182, below, but included an initial appropriation of \$7 million. *HB 2 includes \$200,000 for this purpose.*

SB 56 Mental health services for student athletes. Sen. Mark Moores. Appropriated \$500,000 to UNM and \$500,000 to NMSU to provide mental health and behavioral health services to student athletes at these schools. *HB 2 includes \$225,000 earmarked for UNM and an additional \$225,000 earmarked for NMSU.*

SB 78 Latino youth suicide prevention. Sen. Liz Stefanics. Appropriated \$50,000 to the Department of Health for a program to help prevent suicide among Latino youth.

SB 86 Membership changes at BH Purchasing Collaborative. Sen. Jerry Ortiz y Pino. This bill would have added five new non-state-agency members of the Collaborative.

SB 182 BH Community integration. Sen. Mary Kay Papen. Required HSD to develop and implement a community-based mental health system state-wide that provides support services to improve the lives of persons with mental illness. *HB 2 includes \$200,000 for this purpose.*

Brain Injury

SB 88 Brain injury study. Sen. Jerry Ortiz y Pino. Appropriated \$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.

Developmental Disabilities

HB 247 DD waiver study. Rep. Joanne Ferrary. Appropriated \$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.

HM 61 DD care coordination in Centennial Care. Rep. Liz Thomson. Called on HSD and DoH to review and report on care coordination services for individuals with developmental disabilities through Centennial Care, the Medicaid managed care program. Same as SM 65, below.

SB 192 DD waiver study. Sen. Linda Lopez. Same as HB 247, above.

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

Education Issues

HB 70 Facilitating friendships. Rep. Joanne Ferrary. Appropriated \$300,000 to the PED to support programs in mid schools and high schools that facilitate friendships between students with disabilities and students without disabilities.

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

HB 329 Social-emotional-mental health pilot program. Rep. Melanie Stansbury. Appropriated \$2 million to PED to create a three-year state-wide pilot program of social, emotional and mental health intervention program with a focus on at-risk students.

HB 354 Reporting seclusion/restraint. Rep. Javier Martinez. Current state law limits the use of seclusion and restraint in schools and requires that incidents involving their use be reported to the child's parents. This bill would have required the reports, along with the names of local school personnel trained in restraint techniques, to be sent to PED as well.

HM 48 Native American children with disabilities. Rep. D. Wonda Johnson. Called on the PED to convene a task force to address the needs of Native American children with disabilities.

SB 13 Special ed teacher salary differential. Sen. Michael Padilla. Provided that minimum salaries for special education teachers be 15% above the standard minimum teacher salary levels set by current state law.

SB 171 Increase funding for special ed teachers. Sen. Clemente Sanchez. Would have added a new element to the school funding formula that would have increased salaries for special education teachers, funded by an appropriation of \$27 million.

SB 173 Special education teacher loans. Sen. Linda Lopez. Created a loan program for individuals who are going to college to become special education teachers, and offered loan forgiveness to those who complete the program and serve as special education teachers.

SB 174 Special education reforms. Sen. Linda Lopez. This bill would have increased funding for special education through the state funding formula, elevated the special education unit within PED to a division, and strengthened the role of the division in providing training and monitoring for compliance with state and federal special education requirements.

SB 202 Training school resource officers. Sen. George Munoz. Same as HB 184, which passed.

SB 284 Seclusion and restraint. Sen. Linda Lopez. This bill would have prohibited the use of seclusion entirely, and would have prohibited mechanical, chemical, and prone restraint. It required public input to school policies related to restraint and training of school personnel on the use of restraints, and strengthened documentation and reporting requirements.

Employment

HB 82 Minimum wage changes. Rep. Patricia Roybal Caballero. This bill would have further raised the minimum wage to \$15/hour by January 2024, repealed the lower minimum wage for tipped employees, and repealed the provision in state law that allows sub-minimum wages for employees with disabilities.

Guardianship / Protective Arrangements

HB 67 Supported decision-making task force. Rep. Liz Thomson. Appropriated \$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.

HB 123 Waivers of conservator liability. Rep. Daymon Ely. This bill would have amended the state's 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.

HM 10 Financial exploitation task force. Rep. Debbie Armstrong. Called 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.

HM 23 Supported decision-making task force. Rep. Joanne Ferrary. Similar to HB 67, above, but the memorial did not include funding to carry out the work of the task force.

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

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

Health Care

HB 194 Chiropractic services for persons on Medicaid. Rep. Dayan Hochman-Vigil. Appropriated \$4 million to HSD to cover chiropractic services under the Medicaid program.

SB 39 Extend GRT exemption for DME. Sen. Mary Kay Papen. Same as HB 109, which passed.

SB 67 Therapeutic riding program. Sen. Mary Kay Papen. Appropriated \$390,000 to the Department of Health to support a therapeutic riding program for individuals with disabilities.

SB 77 Navigating the health care system. Sen. Liz Stefanics. Appropriated \$50,000 to the Department of Health to support programs that help individuals “navigate” their way through health and social service systems.

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

Transportation

SB 133 Planning for “Mobility for All” proposal. Sen. Liz Stefanics. Appropriated \$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 services for seniors and adults with disabilities.

Other/Miscellaneous

HB 141 Increase income tax exemption. Rep. Phelps Anderson. This bill would have increased 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 have doubled the amounts to a new maximum of \$16,000.

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

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

SB 124 No blind registry. Sen. Nancy Rodriguez. This bill deleted a provision in current state law requiring the Commission for the Blind to maintain a registry of all blind persons in NM. No such registry is currently maintained, but the outdated provision is still on the books.

SB 127 CLSC funding. Sen. Nancy Rodriguez. Appropriated \$1 million in additional funding to the Civil Legal Services Commission. *HB 2 includes \$250,000 for this purpose, as well as a provision allowing the commission to use \$400,000 in fund balance for one year to make up for any shortfall experienced by the Commission. A potential shortfall was created when a funding increase provided in the 2019 legislative session was later re-classified as “non-recurring”.*

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 health care facility, this joint memorial asked the Behavioral Health Purchasing Collaborative to convene a work group to review the issue and relevant data and recommend alternatives or solutions.

SM 69 Workplace violence against health care workers. Sen. Jerry Ortiz y Pino. This was a last-minute identical version of SJM 5 and was introduced when it became clear that the House would not pass any more memorials. However, this version was not voted on by the Senate in the final day so it too failed to pass.

ABBREVIATIONS USED IN THIS REPORT

HB	House Bill	HM	House Memorial		
SB	Senate Bill	SM	Senate Memorial	SJM	Senate Joint Memorial
BH	Behavioral Health	NMSU	New Mexico State University		
DOH	Department of Health	PED	Public Education Department		
HSD	Human Services Department	UNM	University of New Mexico		
MH	Mental Health				