

THE DISABILITY COALITION

Advocating for People with Disabilities of All Types

Legislative Preview – 2023 Session
January 6, 2023

By Jim Jackson and Ellen Pinnes

The 2023 legislative session starts January 17. Barring any last-minute changes, this year’s session will be “business as usual”, with Senate and House committees meeting in person at the Capitol. For the first time in three years, public events will be back, including rallies in the rotunda, exhibit tables in the wings, and school field trips. The disability community will be back at the Roundhouse too, with Disability Rights Awareness Day on Wednesday, February 8. Mark your calendar!

And be sure to join us for the DRAD pre-legislative-session forum at the CNM Workforce Training Center in Albuquerque on Saturday, January 14. For information and registration, go to the DRAD website at www.arcnm.org/DRAD-2023/.

House leadership changes. Rep. Javier Martinez of Albuquerque will be elected as the new Speaker of the House once the session begins. He replaces Brian Egolf, who chose not to run for re-election this past year. Rep. Gail Chasey, also from Albuquerque and the most senior member of the House, is the new majority leader for the Democrats, and newly elected Rep. Reena Szczepanski of Santa Fe, who served for several years as Speaker Egolf’s chief of staff, is their new whip. There will be new chairs of a few committees, including Judiciary, which was formerly chaired by Rep. Chasey. On the Republican side, Rep. Ryan Lane from Farmington is the new minority leader (taking over from Rep. Jim Townsend of Artesia) and Rep. Jason Harper of Rio Rancho is the whip (replacing Rep. Rod Montoya from Farmington).

There will be 16 new members of the House as a result of the November elections – 8 new Republicans and 8 new Democrats. Since each party “flipped” two seats and lost two seats, there is no change in the overall balance: 45 Democrats and 25 Republicans.

Senators were not up for election, so there are very few changes in that chamber. Former Rep. Moe Maestas has been appointed to replace Jacob Candelaria, who resigned his seat late last year. Sen. Katy Duhigg will be the new chair of the Rules Committee, replacing Sen. Daniel Ivey-Soto, who stepped down from that position.

An ocean of new money. State revenue in the coming year is expected to hit \$12 billion. Since the current state budget includes spending of about \$8.4 billion, that means there will be \$3.6 billion in “new money” available to spend, stash away, or give back through rebates or tax cuts. That’s more than twice as much as last year, which set a then-record for new money at \$1.6 billion.

The state’s savings accounts will be full to the brim as well. When the coming fiscal year (FY 2024) starts on July 1, the state is expected to have a fund balance (“reserves”) of about \$5.2 billion,



which is 62% of the entire year's budget – a balance of 20 to 25% is considered an extremely strong financial position. And that doesn't even include the severance tax permanent fund (about \$7 billion), the land grant permanent fund (over \$25 billion), or the relatively new early childhood trust fund (\$5 billion). This year's session will feature numerous suggestions for utilizing the state's surpluses.

State Agency Budget Requests for FY 2024

An essential task for every legislative session is the adoption of a state budget. The budget process begins well before the session starts, with state agencies submitting their requests in September for the year that will start the following July. The governor and the Legislative Finance Committee will each release their budget recommendations in early January. In the meantime, here's a quick look at what was requested by state agencies that provide services to persons with disabilities:

Human Services Department (HSD). For Medicaid, HSD projected an increase of \$353 million, nearly all of it to cover provider rate increases and the rise in the state's share of program costs as increased federal funding provided as part of the covid pandemic response ended. The omnibus budget bill enacted in late December changes how that federal funding is calculated so the state's Medicaid request will be adjusted accordingly; the amount of the expected decrease is not yet known. For the Behavioral Health Services Division, an \$8.2 million increase to raise non-Medicaid provider rates and implement the new 988 assistance line and provide follow-up services.

Public Education Department (PED). Requesting an increase in overall ongoing public school support of about \$241 million, a rise of over 6%. In addition, PED is asking for \$168 million in one-time funding for a wide variety of initiatives, many of them specifically intended to benefit students with disabilities:

- \$33 million for enhanced learning for students with individualized education plans (IEPs)
- \$1.1 million for literacy coaching for special education
- \$1.5 million to promote best practices in special ed, with parent involvement
- \$6.5 million for behavioral health supports in schools
- \$4 million to help keep special ed students in high school and prevent dropping out
- \$2 million to support inclusion with non-disabled students

Department of Health (DoH). Seeking \$10.2 million for provider rate increases in the developmental disabilities service system. Although they will soon have offered services to every person who was on the DD Waiver waiting list when the plan to eliminate the waitlist was announced, they do not yet need additional state funding to support all of the newly served participants due to extra available federal funds.

Children Youth and Families Department (CYFD): Asked for an additional \$34.2 million (14.3% increase), including \$6 million for behavioral health services for children.

Developmental Disabilities Council (DDC). For the Office of Guardianship, requesting \$600,000 for provider rate increases and \$850,000 for 250 new guardianship cases in FY24, to reduce the wait list for services; also seeking an extra \$332,000 in the current year for 160 new cases.

Division of Vocational Rehabilitation (DVR). Looking for a small increase of \$140,540 (2.2%) to match and draw down the additional \$519,270 in federal funds available to them.

New Mexico Commission for the Blind (NMCB). Did not request additional state funds for the coming year.

New Mexico Commission for the Deaf and Hard of Hearing (NMCDHH). Looking for an increase of \$545,000 in state funding to make up for a projected shortfall in income they receive from surcharges on telephone bills. Those fees have never generated as much as predicted by legislative and state budget analysts.

Governor's Commission on Disability (GCD). Requested an increase in state funding of \$134,000 (9.3%).

Legislation Expected in the 2023 Session *Substantive Issues and Special Appropriations*

Legislators have already begun “pre-filing” bills for consideration in the 2023 session, and many bills will be introduced that will directly affect persons with disabilities. Here’s a quick look at some of the proposals that we expect to come into play.

Behavioral Health

- A bill to set up a fund to support the start-up of new or expanded provider agencies to cover expenses before reimbursements replenish operating cash.
- A bill to clarify Medicaid reimbursement for crisis triage centers and to encourage law enforcement personnel to take people to these centers rather than to jails or hospitals.
- A memorial to study the cost and feasibility of providing free tuition for graduate degrees for persons who would become behavioral health providers in New Mexico.
- A memorial to study the feasibility of creating/expanding certification programs in community colleges for peer counseling and other non-clinical support services.
- Additional funding for school-based health centers providing behavioral health services
- A bill to expand coverage of behavioral health services under Medicaid and commercial insurance, based on a much broader interpretation of mental health parity.

Community Services

- A bill requiring HSD to conduct a study of the cost of providing Personal Care Services in the Medicaid Community Benefit program, and to recommend reimbursement rates for service providers that take into account current costs, projected cost increases due to factors such as inflation, and additional costs that would be incurred if PCS workers are paid at least 150% of the state minimum wage.

Developmental Disabilities Services

- A bill, or a provision in the state budget bill, establishing a reserve fund that could be used in the future to help pay for the additional state cost of serving the individuals who have recently come off the waiting list for DD waiver services.
- An appropriation request of \$7.65 million for provider rate increases, in addition to the funding for rate increases being requested by DoH as noted above.
- A bill requiring DoH to conduct a cost study every two years for all services provided through the DD program. The study would include recommended reimbursement rates that take into account current costs, projected cost increases due to factors such as inflation, and the

additional costs that would be incurred if direct support professionals are paid at least 150% of the current state minimum wage

Education/Special Education

- A bill to elevate Special Education to become a Division in the PED organizational structure. The bill would likely spell out the duties and responsibilities of the division and PED.

Guardianship, Self-Determination and Protection of Vulnerable Persons

- A bill to authorize supported decision-making agreements under New Mexico law, as an alternative to guardianship orders.
- A bill to establish criminal penalties against financial exploitation of vulnerable adults
- A bill allowing victims of financial exploitation or their representatives to sue someone who has financially exploited a vulnerable adult.

Housing

- A \$20 million appropriation to HSD for the Linkages program providing supported housing for persons with behavioral health issues.
- A funding request of around \$860,000 to start up supported housing programs in Doña Ana County.

Miscellaneous

- A bill to establish and require a family/medical leave benefit for workers in New Mexico.
- A bill to make the Legislative Health and Human Services Committee a fully-staffed, year-round committee similar to the Legislative Finance Committee and the Legislative Education Study Committee.

Contacting Your Legislators

Before the session starts on January 17, you can still contact your legislators in their home communities. 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 that 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.

Once the session starts, each legislator will have 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!