



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

2011 LEGISLATIVE SESSION PREVIEW

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A New Administration: Susana Martinez took office as governor on January 1, and with her comes a new administration and new policy directions. Former State Representative Keith Gardner is the new governor's Chief of Staff, and former State Representative Brian Moore is her deputy Chief of Staff and legislative liaison. These appointments may create an opportunity for a better relationship with the legislature than was often the case under Governor Richardson.

Governor Martinez has also made a number of appointments for cabinet positions, including some departments of interest to the disability community:

Public Education Department: Hanna Skandera, age 37. She was Florida's deputy commissioner of education under former Gov. Jeb Bush, and undersecretary of education for California Gov. Arnold Schwarzenegger. She also held posts in the U.S. Department of Education.

Human Services Department: Sidonie Squier, 53. She was the director of the Office of Family Assistance at the U.S. Department of Health and Human Services from 2005 to 2009 under President George W. Bush. She previously held posts in the Texas Health and Human Services Commission and the Florida Department of Children and Families.

Children, Youth and Families: Yolanda Berumen-Deines, 61. She is a social worker from El Paso who currently runs a private clinic. She has held several positions in the Texas Department of Human Services, in child protective services, foster care, and child welfare.

The new governor has not yet named secretaries for the Department of Health or the Aging and Long-Term Services Department. Deputy secretaries from the Richardson Administration (Jessica Sutin at DOH and Matt Onstott at ALTSD) have stayed on and are serving as acting secretaries until new leadership is appointed.

Other Political Climate Change? The November election results reduced the size of the Democratic majority in the House. There has been some recent speculation that the larger Republican bloc might join forces with some dissatisfied Democrats to oust the current Speaker of the House, Ben Lujan, and instead elect Joseph Cervantes, a Democrat from Dona Ana County, as Speaker. If this happens, there could be major changes in committee leadership and perhaps a friendlier attitude toward the new governor, who is also from Dona Ana County. State Senators were not up for election this year so no changes in leadership are expected there.

The Budget Outlook: The economic situation facing the legislature is gloomy. The latest projections show that the state's expected revenue in FY 2012 (the 12-month period beginning July 1, 2011) will be close to \$400 million less than the current year's budgeted spending level. Governor Martinez campaigned on a pledge not to cut either Medicaid or the public schools, which make up about 12% and 45%, respectively, of the state budget, and not to raise taxes. More recently she has indicated a willingness to cut these programs while protecting "core services" in Medicaid and classroom-level services in the public schools.

It will take an additional \$337 million to maintain the current Medicaid program, in spite of significant cost containment measures implemented by the current administration. This budget gap is due largely to increased enrollment, brought on by the national economic recession, and the end of the extra federal money that the state has been receiving through the federal stimulus program. The extra federal funds have allowed the state to divert around \$200 million in state money that had been spent on Medicaid to be used to support other state programs. A major question for the legislature is how much new state money will be put back into Medicaid. Any remaining budget gap will have to be made up by cuts in benefits and services.

The Developmental Disabilities waiver program, also funded through Medicaid, faces a budget gap of about \$30 million due to the decrease in extra federal funds and increasing per capita costs. The Department of Health, which administers the DD waiver, recently announced budget cuts and provider rate cuts that it expects will reduce expenses by \$10 million in the coming year. The department is planning significant changes to the waiver program beginning July 1.

The Division of Vocational Rehabilitation is taking a number of difficult and controversial steps in response to the current budget situation. DVR plans to implement an "Order of Selection" in mid-February. An Order of Selection is essentially a priority preference for services, whereby those in certain top priority categories are sure to receive services while others may be put onto a waiting list for most services. High priority categories include police officers who became disabled as a result of injury in the line of duty, and all those with the most severe disabilities. DVR is closing local offices in Moriarty, Raton, and Anthony and is considering closing the Espanola office as well. The New Mexico Commission for the Blind has indicated that it will have to implement Order of Selection by September of this year.

The overall budget shortfall puts all state agency programs at risk for additional significant cuts. The governor and the Legislative Finance Committee are expected to release their respective recommendations for the FY 2012 budget within the next week. These two competing proposals will be the starting point for the legislature and in particular for the House Appropriations and Finance Committee, which will have the first crack at developing the state budget bill.

Government Restructuring: Fueled by the dire budget situation, there is significant legislative interest in streamlining state government. The Government Restructuring Task Force, created by the legislature, met during the summer and fall and has recommended the elimination of 65 of the state's 350 or more boards and commissions, and the transfer of certain programs between agencies. Some of the changes that may be considered by the legislature include:

- Elimination of the Governor's Commission on Disability
- Transfer of long-term services programs (such as CoLTS, Brain Injury, and PCO) from the Aging and Long Term Services Department to the Human Services Department
- Transfer of Medicaid, Medicaid waiver programs, behavioral health, health policy, and some other health-related programs into a new state agency

Anticipated Legislative Proposals: A number of bills are expected that would have an impact on persons with disabilities. Here are some of the issues we expect the legislature to address:

Education

- Limit or prohibit seclusion/restraint in public schools
- Technical changes to state special education law in order to better align with federal law
- Prohibit corporal punishment in public schools

Employment/Rehabilitation

- Revise the state Human Rights Act to reflect current definitions and protections established under the Americans with Disabilities Act.

Health Care

- Establish a framework for implementation of the state health insurance exchange consistent with federal health care reform.

Mental Health

- There may be amendments proposed to the state Mental Health Code that would limit or eliminate the role of district attorneys in filing petitions for civil commitment, because of the time and resources required to file such petitions.
- Require training in mental health and intervention strategies at the state police academy.
- In light of the budget deficit and the lack of resources that would be needed, it is now unlikely that there will be another attempt to enact mandatory outpatient commitment.

Self-Determination

- There may be amendments to the Probate Code that could extend the authority of guardians for up to a year after the death of a protected person, in order to wind up matters. At present, the guardian's authority is automatically terminated upon the death of a protected person.

Other

- The Governor's Commission on Disability is proposing legislation that would impose an additional \$5 fee on all vehicle registration fees. The proceeds, estimated at \$8 million per year, would go into the GCD "Disability Fund", which could then be used to support a variety of possible disability services, as determined by the GCD.

Contacting your Legislators

Before the session starts, you can still contact your legislators in your home communities. You can find out who your legislators are and get contact information on the legislative website at www.nmlegis.gov. Click on "Members" and then on "Find Your Legislator". There's also an "alpha list" of House and Senate members that will give their addresses and phone numbers.

Once the session starts, each legislator will have an office in the Capitol. The best way to reach them at that time is to call the switchboard at 986-4300 and ask for your legislator.