



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2012 LEGISLATURE STATUS REPORT #2

By Jim Jackson, Executive Director
DISABILITY RIGHTS NEW MEXICO
January 30, 2012

Calendar

Wednesday, Feb. 8: Behavioral Health Day at the Capitol

Disability Rights Awareness Day a Success. Over 160 people participated in this year's events, which included a variety of presentations and workshops on Monday and a gathering in the Rotunda of the Capitol on Tuesday that featured poetry, youth leadership speakers, remarks by several state legislators, and a review of key issues in the legislative session. DRAD is a project of The Disability Coalition.

HAFC approves budget recommendations. The House Appropriations and Finance Committee has agreed on appropriation levels for all state agencies for the coming year. While the committee will not formally adopt the state budget until Monday, January 30, they agreed on the numbers this past Friday. State spending (not including federal funds) will total \$5.647 billion, an increase of about \$215 million over the current year budget. Since the official projection for next year is an increase in revenue of about \$255 million, there is an additional \$40 million that has not yet been allocated by the committee.

Some of the disability-related highlights in the bill, compared to current appropriations levels, include:

- \$40 million in additional appropriations for the Medicaid program, which includes \$8.1 million for rate increases for nursing homes to make up for an anticipated loss of revenue from the Medicare program. Total state funding for Medicaid is generally consistent with HSD's projections of what it will cost to maintain the current program and keep up with expected enrollment growth.
- HSD also got a one-time appropriation of \$19 million to cover a potential disallowance in the PCO program, and a \$35 million appropriation to resolve a longstanding discrepancy between state expenses and federal billings.

- \$2.35 million was earmarked for the Developmental Disabilities waiver waiting list, which should be enough to serve more than 100 additional individuals. The LFC had recommended \$2.7 million in new funding; the governor did not recommend any money for the waitlist.
- DVR received a total of \$5.6 million in state funding, an increase of around \$270,000 compared to current year state funding and \$54,000 more than recommended by the governor. Unfortunately, this funding level is not enough to match all available federal funds. For an additional \$125,000 or so in state funding, the state could have received over \$600,000 in additional federal money. But DVR did receive about \$325,000 in additional funds for the current year to draw down additional federal funds.
- The legal services program for low-income individuals, which is one of DRNM's funding sources, was funded at the same level as in the current year; the governor had proposed a cut of \$165,000, or 10% of the program.
- The budget will also include a number of one-time special appropriations:
 - \$130,000 for the NM Commission for the Blind, for 2 Independent Living positions
 - \$15,000 to the Department of Health for Special Olympics in Las Vegas
 - \$50,000 to the Governor's Commission on Disability for a lift-equipped van
 - \$10,000 to the Brain Injury Advisory Council to provide free bicycle helmets for children

Lots of new bills in play. It was a busy week for the introduction of new bills and memorials. As you read through the summary below you will see new entries in nearly every category that we track in this report. This trend will continue and may peak on Wednesday, which is the mid-point of the 30-day session and the deadline for introduction of most bills.

Watch for committee hearings. The schedule of committee hearings is posted each day on the legislature's web site, nmlegis.gov. Items of interest this week include:

Tuesday morning, HJM 16, calling for an interim Behavioral Health legislative committee, will be heard in HHGAC; SB 95 (funding for Native American suicide prevention) will be heard in SIAC.

Thursday morning, HHGAC will hear HB 172 (DD program funding), HB 173 (legislative approval of Medicaid changes), and HM 18 (integrated enrollment in health insurance programs)

Summary and Status of Bills and Memorials

Autism

HB 148 Public employee insurance coverage. Rep. Bill O'Neill. This bill would require the insurance plan for state and public school employees to cover services needed by children with autism. *This bill has not received a "message" from the governor and is not expected to move forward in this session. However, there may be a memorial requesting a study of the costs and benefits of providing such coverage.* HRC.

HM 7 Autism Day. Rep. Ed Sandoval. This memorial recognized January 18 as "Autism Day" in New Mexico and saluted the work of the New Mexico Autism Society. Speaker's table.

SM 4 Autism Day. Sen. Dede Feldman. The memorial recognized January 18 as "Autism Day" in New Mexico and saluted the work of the New Mexico Autism Society. **Passed.**

SM 20 Autism state plan. Sen. Jerry Ortiz y Pino. This memorial calls for the state to develop a comprehensive plan that addresses the need for access to evaluations as well as a wide variety of services and benefits for children and adults with autism. SRC/SPAC.

See also SB 221 and SB 254 in the section below on Education

Community Services

SJM 9 Implement Money Follows the Person. Sen. Linda Lopez. This memorial calls on the Human Services Department to fully implement the Money Follows the Person program, which supports the transition of individuals from nursing homes into home and community placements. This program was recently approved for additional federal funding. MFP has been required under state law since 2006 but has not been implemented in the manner intended. Passed SRC, pending in SPAC.

Developmental Disabilities

HB 82 Family Infant Toddler funding. Rep. Danice Picraux. Appropriates \$2.1 million to the Department of Health to assure that there will be enough funding available to serve all young children who qualify for services, and to increase provider rates. Passed HCPAC on a 3-2 vote; pending in HAFC.

HB 172 Funding for state-funded DD programs. Rep. Jimmie Hall. Appropriates \$2.5 million to DOH for the DD services funded by state dollars (not the waiver program). The money would be used to increase payment rates and serve more people. HHGAC/HAFC

SB 39 Mercury warning signs. Sen. Peter Wirth. Appropriates \$100,000 to the Department of Game and Fish to post warning signs at lakes and rivers where mercury levels may pose a risk to children and pregnant women. This is intended to prevent birth defects and health problems. SCONC/SFC.

SB 98 Family Infant Toddler funding. Sen. Howie Morales. Appropriates \$2.1 million to the Department of Health to assure that there will be enough funding available to serve all young children who qualify for services, and to increase provider rates. Passed SPAC; pending in SFC.

SB 114 Birth defect prevention and registry. Sen. Sue Wilson Beffort. Appropriates \$100,000 to DOH to fund the birth defects prevention and surveillance program. Passed SPAC; pending in SFC.

SB 133 FIT funding. Sen. Cynthia Nava. Appropriates \$3 million to DOH for the Family Infant Toddler program for higher rates and to serve more children. Passed SEC; pending in SFC.

SB 236 Funding for state-funded DD programs. Sen. Nancy Rodriguez. Appropriates \$2.5 million to DOH for the DD services funded by state dollars (not the waiver program). The money would be used to increase payment rates and serve more people. SCC/SPAC/SFC.

Pending: We expect Sen. Tim Jennings to introduce a memorial calling on the DD Services Division of DOH to develop a 3-5 year plan for addressing the needs of persons on the waiting list for the DD waiver. There are over 5,000 individuals on the list.

Education

HB 65 Special needs student scholarships. Rep. Ray Begaye. This bill would authorize the creation of organizations to provide scholarships to the families of special needs students to pay for tuition in private schools, and would provide a tax credit for 90% of the amount contributed to such organizations by individual and corporate taxpayers, which means the taxpayers would pay the vast majority of the cost of the scholarships. Same as SB 31, below. *DRNM's concerns with this bill are 1) children voluntarily enrolled in private schools do not have most of the legal protections regarding special education that are provided under IDEA and state law, so families would have little recourse if the private school is not providing an appropriate education; 2) there is no requirement in the law that the private school provide appropriate special education or use qualified teachers to do so; and 3) we believe that it is not good public policy to divert public tax dollars to private schools and in the process reduce funding for public schools.* Passed HEC; pending in HTRC.

HB 228 New public school funding formula. Rep. Patty Lundstrom. This bill would implement a new funding formula for public schools. The major elements of the new formula would take effect for the school year starting in 2013. Funding for special education students would be based on a flat rate of 16% of a school's enrollment, not the actual number of special education students. The bill would also create a separate fund to assist schools who are serving very high-cost special education students. HEC/HAFC.

HB 229 Funding formula changes. Rep. Patty Lundstrom. This bill makes a number of changes to the public school funding formula. One of the proposed changes would appear to severely limit funding for therapists and diagnosticians. HRC.

SB 31 Special needs student scholarships. Sen. Jerry Ortiz y Pino. This bill would authorize the creation of organizations to provide scholarships to the families of special needs students to assist them in attending private schools, and provide a tax credit. Same as HB 65, above. SCC/SEC/SFC.

SB 112 School services to age 22. Sen. Howie Morales. This bill would amend existing law to clarify that special education students can continue to receive educational services through the end of the school year during which they have their 22nd birthday. This is current practice in New Mexico but our state law does not so clearly require this. SCC/SEC/SFC

SB 221 Autism center. Sen. Cynthia Nava. Appropriates \$220,000 for the Las Cruces Public school district to establish a Southern New Mexico Autism Spectrum Disorder Center. The Center would provide a wide variety of supports and assistance to school personnel, parents, and community organizations serving children and adolescents with autism. SCC/SEC/SFC.

SB 223 School behavioral health services. Sen. Mary Kay Papen. Appropriates \$4.3 million to the Public Education Department to support behavioral health services and after-school suicide

prevention and anti-bullying programs for students in schools that have received a D or F grade under the new school rating system. SCC/SEC/SFC.

SB 254 Autism services. Sen. Cynthia Nava. Appropriates \$220,000 for the Las Cruces Public schools, to be used for teacher training and for academic and behavioral support for teens with autism in the Las Cruces, Gadsden, and Hatch Valley school districts. SCC/SEC/SFC.

Health Care and Medicaid

HB 17 Legislative approval of Medicaid changes. Rep. Eleanor Chavez. This bill is being deferred by the sponsor in favor of HB 173, below. HRC.

HB 173 Legislative approval of Medicaid changes. Rep. Eleanor Chavez. Requires legislative approval before HSD could apply for federal approval of significant changes to the Medicaid program, including but not limited to the "global" 1115 waiver program called for under the "Medicaid modernization" initiative. Same as SB174, below. Appropriates \$35,000 to HSD to carry out this mandate. HHGAC/HAFC.

HB 192 GRT exemption for DME. Rep. Jim Trujillo. This bill would exempt durable medical equipment and medical supplies from gross receipts (sales) tax. Prescription drugs and oxygen are already exempted. Same as SB 188, below. *DRNM generally opposes further exemptions from GRT since this is a major source of the state revenue that funds disability programs and other state services. Exemptions from the tax reduce the number of people or entities paying the tax and result in a higher tax rate for those who do pay it.* HBIC/HTRC.

HJR 23 State health care system. Rep. Gail Chasey. This proposed constitutional amendment would recognize health care as a fundamental human right and direct the state to establish a health care system that is accessible and affordable for all residents of the state. Same as SJR 5, below. HCPAC/HVEC.

HM 17 Medicaid Appreciation Day. Rep. Mimi Stewart. Recognizes the importance of the Medicaid program in New Mexico and declares January 24, 2012 as Medicaid Appreciation day. **Passed.**

HM 18 Integrated enrollment system. Rep. Mimi Stewart. Calls on HSD and others to develop a streamlined, integrated system for enrollment in Medicaid, the new health insurance exchange, and the Basic Health Plan (if that is implemented in New Mexico). HHGAC.

SB 6 Health Insurance Exchange. Sen. Dede Feldman. This bill would establish a health insurance exchange in New Mexico, as called for under federal health care reform. This is a revised version of a bill that passed last year but was vetoed by the governor. SCC/SPAC/SFC.

SB 7 Basic Health Plan. Sen. Dede Feldman. This would create a new health coverage program in New Mexico for persons with income above the new Medicaid eligibility level to be established under federal health care reform (138% of the federal poverty level) but no more than 200% of the poverty level. The program would likely provide greater benefits at lower cost than the insurance policies such individuals would be able to purchase through a health insurance

exchange, even with the subsidy that they would otherwise get. The program would be funded entirely by federal funds. SCC/SPAC/SFC.

SB 153 Legislative approval of Medicaid changes. Sen. Dede Feldman. Requires legislative approval before HSD could apply for federal approval of significant changes to the Medicaid program, including but not limited to the "global" 1115 waiver program called for under the Medicaid redesign (or "modernization") initiative. Same as HB 17, above. SCC/SPAC/SFC.

SB 174 Legislative approval of Medicaid changes. Sen. Dede Feldman. Requires legislative approval before HSD could apply for federal approval of significant changes to the Medicaid program, including but not limited to the "global" 1115 waiver program called for under the "Medicaid modernization" initiative. Appropriates \$35,000 to HSD to carry out this mandate. Same as HB 173, above. SCC/SPAC/SFC.

SB 188 GRT exemption for DME. Sen. Mary Kay Papen. This bill would exempt durable medical equipment and medical supplies from gross receipts (sales) tax. Prescription drugs and oxygen are already exempted. Same as HB 192, above. *DRNM generally opposes further exemptions from GRT since this is a major source of the state revenue that funds disability programs and other state services. Exemptions from the tax reduce the number of people or entities paying the tax and result in a higher tax rate for those who do pay it.* SCORC/SFC.

SJM 10 Report on health insurance exchange grant. Sen. Linda Lopez. This memorial calls on HSD to report to the legislature on its use of the first grant to the state to begin planning a health insurance exchange. The state has also recently received a much larger second grant to begin developing the exchange. SRC/SPAC.

SJM 33 Health Care Reform Oversight Committee. Sen. Dede Feldman. Requests that the Legislative Council create an interim legislative committee to address the implementation of health care reform in New Mexico. SRC/SPAC.

SJR 5 State health care system. Sen. Jerry Ortiz y Pino. This proposed constitutional amendment would recognize health care as a fundamental human right and direct the state to establish a health care system that is accessible and affordable for all residents of the state. Same as HJR 23, above. SRC/SJC.

SM 17 Medicaid Appreciation Day. Sen. Dede Feldman. Recognizes the importance of the Medicaid program in New Mexico and declares January 24, 2012 as Medicaid Appreciation day. **Passed.**

Mental Health/Behavioral Health

HJM 8 Study veterans' mental health needs. Rep. Rudy Martinez. Calls on a variety of state agencies and other organizations to study the unmet health care and behavioral health needs of veterans in southwestern New Mexico. HCPAC.

HJM 16 Interim Behavioral Health Committee. Rep. Dennis Kintigh and Sen. Mary Kay Papen. This memorial requests the Legislative Council to establish an interim committee that would meet monthly to address behavioral health issues. HHGAC/HAFC.

SB 95 Native American suicide prevention. Sen. Linda Lovejoy. Appropriates \$150,000 to UNM for a clearinghouse and technical assistance program to provide prevention, intervention and other assistance related to suicide among Native Americans. SCC/SIAC/SFC.

SB 172 Civil commitment responsibility. Sen. Jerry Ortiz y Pino. This bill would clarify that it is the responsibility of the local district attorney to file a civil commitment petition when a treating physician determines that an individual meets the criteria for involuntary in-patient treatment. As drafted, a petition could be filed when the physician determines that commitment would be in the "best interest" of the patient, but an amendment is expected that would eliminate that provision. SCC/SPAC/SJC.

SJM 7 Behavioral Health Day. Sen. Mary Kay Papen. Notes the work of advocates for behavioral health and the importance of behavioral health, and declares Feb. 8 to be Behavioral Health Day. President's table.

SJM 18 Study veterans' mental health needs. Sen. Richard Martinez. Calls on a variety of state agencies and other organizations to study the unmet health care and behavioral health needs of veterans in New Mexico. SRC/SPAC.

See also SB 223, behavioral health in schools, in the Education section above.

Voting Rights

HB 113 Voter ID requirement. Rep. Cathrynn Brown. This bill would require a picture ID (or proof of tribal enrollment) in order to register to vote and to vote in state elections. The bill would waive the usual fee for obtaining a picture ID from the Motor Vehicle Division if the ID is needed for voting. *DRNM's position is that such requirements pose a barrier to voting for some elders and persons with disabilities who are entitled to vote but may not have a picture ID and for whom it would be a hardship or even an impossibility to obtain one in person from the MVD.* HCPAC/HVEC/HJC.

HB 207 Voter ID. Rep. Jim Smith. This bill tightens up voter identification requirements but does not require a photo ID; it would allow a voter to submit a signed form at the polling place indicating the person's Social Security number and date of birth, which would have to match the information in the state voter data base. HCPAC/HVEC/HJC.

HB 235 Voter identification. Rep. Dianne Hamilton. This bill would require a photo ID or proof of tribal enrollment in order to register to vote and to vote in an election. HVEC/HJC

Other

HB 136 Guardianship fund. Rep. Rhonda King. Creates an Office of Guardianship fund to hold appropriations, contributions, grants or other funds earmarked for the guardianship program, use

such funds in accordance with the purpose of the Office, and retain any balance in the fund from year to year. Same as SB 110, below. HRC.

HM 11 Disability Rights Awareness Day. Rep. Eleanor Chavez. This memorial recognizes the value and dignity of persons with disabilities, notes the problems of bullying and domestic violence and their impact on persons with disabilities, and declares January 24 to be Disability Rights Awareness Day in New Mexico. **Passed.**

SB 110 Office of Guardianship Fund. Sen. Sue Wilson Beffort. Creates an Office of Guardianship fund to hold appropriations, contributions, grants or other funds earmarked for the guardianship program, use such funds in accordance with the purpose of the Office, and retain any balance in the fund from year to year. Same as HB 136, above. SPAC/SFC.

SB 157 Parental notification. Sen. William Sharer. This bill would require notice to the parents of a minor child, or to the guardian or conservator of an adult woman found to be incompetent, prior to the performance of an abortion, unless a court exempts the woman from the notification requirement. *DRNM's concerns with this legislation are that under New Mexico law, a conservator has no authority to approve or refuse an abortion, and a guardian's authority to approve or refuse an abortion for an adult is questionable at best. Some of the terminology in the bill is not consistent with New Mexico statutes.* SPAC/SJC.

SB 196 Capital outlay for state facilities. Sen. Cynthia Nava. This bill would clarify that the School for the Deaf and the School for the Visually Impaired qualify for construction and improvement funding under the state school capital outlay program, and it waives the usual requirement for local matching funds in some circumstances. SCC/SEC/SFC.

SB 210 Interim disabilities committee. Sen. Nancy Rodriguez. This bill would create a permanent interim legislative committee to address disability issues, with a total of six legislators as members. SCC/SRC/SFC.

REFERENCE INFORMATION

Contacting Your Legislators. You can contact your senator or representative during the session:

Telephone: 505-986-4300. This is the Capitol switchboard operator: ask for your legislator by name and they will route your call to his/her office.

E-mail: To find your legislator's e-mail address, log on to the Legislature's "Find Your Legislator" web site, <http://www.nmlegis.gov/lcs/legislatorsearch.aspx>, and click on the "Alpha List" for either the House or the Senate. Not all legislators have listed email addresses.

U.S. Mail: Legislator's name, NM State Capitol Bldg., Santa Fe, NM 87503

Don't know who your legislators are? It's easy to find out through the internet but you'll probably need your full 9-digit zip code. If you don't know that number, you can get it through the postal service using this link: <http://zip4.usps.com/zip4/welcome.jsp>. Then log on to the state legislature's "Find Your Legislator" web page, <http://www.nmlegis.gov/lcs/legislatorsearch.aspx>. Under either the House of Representatives or Senate, click on the link to "Search by Name, District or Zip Code". You'll see a page

with the photos and names of all the Representatives or Senators, with a search box near the top to search by zip code. Enter your five-digit zip code and click "Search". If you get a list including more than one Representative or Senator, you'll also get a search box at the bottom where you can enter the full 9-digit zip code. That search will result in a page that shows your specific Representative and Senator.

ABBREVIATIONS USED IN THIS REPORT

State Agencies

ALTSD	Aging and Long Term Services Department
CYFD	Children, Youth and Families 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

Legislative Committees

HAFC	House Appropriations and Finance Committee
HCPAC	House Consumer and Public Affairs Committee
HEC	House Education Committee
HHGAC	House Health and Government Affairs Committee
HJC	House Judiciary Committee
HTPWC	House Transportation and Public Works Committee
HTRC	House Taxation and Revenue Committee
HVEC	House Voters and Elections Committee
SCC	Senate Committees Committee
SCONC	Senate Conservation Committee
SCORC	Senate Corporations Committee
SEC	Senate Education Committee
SFC	Senate Finance Committee
SICAC	Senate Indian and Cultural Affairs Committee
SJC	Senate Judiciary Committee
SPAC	Senate Public Affairs Committee
SRC	Senate Rules Committee
LFC	Legislative Finance Committee (joint House-Senate committee that meets during the interim between legislative sessions)
LHHS	Legislative Health and Human Services Committee (interim committee)