



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2012 LEGISLATURE FINAL REPORT

March 8, 2012

By Jim Jackson, Executive Director
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No suspense for us this year. March 7th was this year's deadline for Governor Martinez to sign or veto legislation passed in the 2012 legislative session, and we usually watch this closely to see how things come out. There was no suspense in the disability community this year concerning what actions she might take, though, because none of the bills that focused on disability issues passed, so none of them reached her desk. The disability-related *memorials* that passed – and there were many – do not need approval by the governor because they are simply requests and do not carry the force of law. Those memorials are listed below.

Money bills signed, with vetoes. The governor signed the state budget bill (HB 2) into law, although she vetoed many items in the bill as well as some of the language imposing conditions on the use or administration of state funding. She also signed the two major capital outlay bills, while vetoing a significant number of the projects contained in one of those bills because she considered them too “local” in their impact rather than addressing statewide needs. With the primary business of the legislature accomplished, there is little chance of a special session later in the year. See page 2 for highlights of the state budget and the governor's line-item vetoes.

Major changes in store for 2013. All House and Senate seats are up for election this year, and it is already clear that there will be many new faces in each chamber when the new legislature convenes in January 2013. Many current members are retiring, several are seeking different offices, and a few will be pushed out as a result of re-districting, the every-ten-years process that has changed the shape of most districts, and moved a few from one part of the state to another, forcing neighboring legislators to run against each other. So far, the following 16 incumbent legislators have announced that they will not seek re-election to their current seats:

Senators

Vernon Asbill (retiring)
Mark Boitano (retiring)
Eric Griego (running for Congress)
Dede Feldman (retiring)
Steven Fischmann (retiring)
Clint Harden (retiring)
Cynthia Nava (retiring)

Representatives

Joseph Cervantes (running for Nava's Senate seat)
Eleanor Chavez (running for Griego's Senate seat)
David Doyle (challenging Sen. Sapien for his seat)
Joni Gutierrez (retiring)
Rhonda King (retiring)
Speaker Ben Lujan (retiring)
Bill O'Neill (running for Feldman's Senate seat)
Al Park (running for PRC)
Danice Picraux (retiring)

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In addition, redistricting has combined the districts of Representatives Dennis Kintigh and Bob Wooley, Representatives Thomas Garcia and Nick Salazar, and Senators Rod Adair and William Burt, so one from each pair will not be returning next year.

These changes mean, at a minimum, that there will be a new Speaker of the House in 2013, as well as new chairpersons for the House Judiciary Committee, the Senate Education Committee, and the Senate Public Affairs Committee. Of course, if the elections result in a different political party holding a majority of seats in the House or the Senate, there will be changes in leadership positions across the board.

Budget

HB 2 General Appropriations Act of 2012. Rep Kiki Saavedra. This is the state budget bill that funds state government in the coming fiscal year (July 1, 2012 through June 30, 2013). As noted in earlier reports, the state budget bill includes these provisions of interest to the disability community, with vetoes by the governor shown *in italics*:

Medicaid: With an increase of \$39 million in state general funds and \$17 million in other state funding, the appropriation for Medicaid is enough to meet current cost projections. The total includes funding for rate increases to nursing homes, although *the governor vetoed \$1 million to support such rate increases for publicly operated nursing homes*. Medicaid will receive an additional \$19 million if needed to cover a possible federal pay-back related to the Personal Care Option (PCO) program, and an additional \$35 million to cover previous over-spending in Medicaid. *The governor vetoed language that made this \$35 million contingent on HSD submitting its plan for Medicaid re-design ("modernization") to the Legislative Finance Committee and to the Department of Finance and Administration prior to submitting the plan to the federal government.*

Developmental Disabilities: Received \$2.7 million in new funds intended to serve persons on the waiting list for services. *The governor vetoed language that would have drastically limited the amount that the Department of Health could spend on consultants, court costs and attorneys fees in the Jackson lawsuit, which addresses the DD services system.*

NM Commission for the Blind: Received an increase of around \$137,000, which can support two Independent Living staff positions.

DDPC Office of Guardianship: Received almost \$400,000 in additional funding. The bill provides that if there is any leftover funding at the end of the current budget year (June 30, 2012) it can be carried over to next year, but *the governor vetoed language that would have allowed for similar carryover at the end of the coming year.*

Other items of note: The state budget also includes \$50,000 to GCD for a lift-equipped van; \$10,000 to the Brain Injury Advisory Council for distributing child bicycle safety helmets; \$15,000 to DOH for Special Olympics in Las Vegas, NM; \$325,000 to DVR to replace federal funding for administration of assistive technology and independent living programs; and an extra \$112,000 to the Office of Guardianship for spending in the current fiscal year. Some of these "earmarks" are particularly noteworthy because the governor vetoed most of the other small appropriations in HB 2 that supported similar targeted activities.

The following sections of the report recap action on bills and memorials in the legislative session. This material was covered in the February 20 report and is included here again for your convenience.

Bills and Memorials Passed by the Legislature

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

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 provided for under federal health care reform (if that option is implemented in New Mexico).

HM 38 Study Basic Health Plan. Rep. Gail Chasey. Calls on the Legislative Finance Committee to review the benefit and feasibility of developing a Basic Health Plan and asks HSD and the Office of Health Care Reform to develop an integrated enrollment program to facilitate enrollment in Medicaid, the Basic Health Plan, or private insurance available through a health insurance exchange. Same as SM 54, below.

HM 44 Autism state plan. Rep. Ed Sandoval. 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. Same as SM 20, below.

HM 52 Report on progress toward health insurance exchange. Rep. Miguel Garcia. Asks the state Office of Health Care Reform to periodically report on progress toward establishing a health insurance exchange, pursuant to the \$34 million grant recently received by the state, and to consult with the Legislative Health and Human Services Committee.

HM 61 Guardianship oversight study. Rep. Gail Chasey. Requests that the Administrative Office of the Courts (AOC) determine the resources and procedures that would be needed to inventory all guardianship cases in the courts statewide, provide oversight to assure annual reports by all guardians are submitted, require background checks on guardians, and other measures to improve oversight of guardians of incapacitated adults.

SM 20 Autism state plan. Sen. Jerry Ortiz y Pino. Calls for the state to develop a comprehensive autism plan. Same as HM 44, above.

SM 54 Study Basic Health Plan. Sen. Michael Sanchez. Calls on the LFC to review the benefit and feasibility of developing a Basic Health Plan. Same as HM 38, above.

Bills and Memorials That Did Not Pass in the Legislature

Autism

HB 148 Public employee insurance coverage. Rep. Bill O'Neill. Would have required insurance plans for state and public school employees to cover services for children with autism.

Community Inclusion

SJM 9 Implement Money Follows the Person. Sen. Linda Lopez. This memorial called on the Human Services Department to fully implement the Money Follows the Person program.

SJM 40 Assistance animals. Sen. Nancy Rodriguez. Asked GCD to convene a task force to review ways to promote compliance with the state Assistance Animal Act.

Developmental Disabilities

HB 82 Family Infant Toddler funding. Rep. Danice Picraux. Would have appropriated \$2.1 million in additional funding for the FIT program.

HB 172 Funding for state-funded DD programs. Rep. Jimmie Hall. Would have appropriated \$2.5 million to DOH for DD services funded by state dollars (not waiver services).

SB 39 Mercury warning signs. Sen. Peter Wirth. Would have provided funding to post warning signs at lakes and rivers with high mercury levels.

SB 98 Family Infant Toddler funding. Sen. Howie Morales. Would have appropriated \$2.1 million in additional funding for the FIT program.

SB 114 Birth defect prevention and registry. Sen. Sue Wilson Beffort. Would have appropriated \$100,000 to DOH to fund the birth defects prevention and surveillance program.

SB 133 FIT funding. Sen. Cynthia Nava. Would have appropriated \$3 million to DOH for the Family Infant Toddler program for higher rates and to serve more children.

SB 236 Funding for state-funded DD programs. Sen. Nancy Rodriguez. Would have appropriated \$2.5 million to DOH for DD services funded by state dollars (not waiver services).

SB 261 Fully fund DD waiver wait list. Sen. Tim Jennings. Would have appropriated \$129.7 million to DOH to fund services for everyone on the DD waiver program.

SJM 39 DD waiting list plan. Sen. Tim Jennings. This memorial called on the Department of Health to develop a 3-5 year plan to address the needs of persons on the wait list for the DD waiver program. There are around 5,500 individuals now on the waiting list.

Education

HB 65 Special needs student scholarships. Rep. Ray Begaye. This bill would have authorized certain non-profit organizations to provide scholarships to the families of special needs students to pay for tuition in private schools, and provided a tax credit for 90% of the amount contributed to such organizations by individual and corporate taxpayers.

HB 228 New public school funding formula. Rep. Patty Lundstrom. This bill would have implemented a new funding formula for public schools.

HB 229 Funding formula changes. Rep. Patty Lundstrom. This bill would have made a number of changes to the public school funding formula.

HB 308 Rep. Rick Miera. Would have appropriated a total of \$2.3 million to the Public Education Department to support behavioral health services and after-school suicide prevention and anti-bullying programs for students in low-performing schools.

SB 31 Special needs student scholarships. Sen. Jerry Ortiz y Pino. Same as HB 65.

SB 112 School services to age 22. Sen. Howie Morales. Would have clarified that special education students can stay in school for the year in which they reach age 22.

SB 221 Autism center. Sen. Cynthia Nava. Would have appropriated \$220,000 for the Las Cruces public school district for a Southern New Mexico Autism Spectrum Disorder Center.

SB 223 School behavioral health services. Sen. Mary Kay Papen. Would have appropriated \$4.3 million to the Public Education Department to support behavioral health services for students in low-performing schools.

SB 254 Autism services. Sen. Cynthia Nava. Would have appropriated \$220,000 for the Las Cruces Public schools for services to teens with autism in southern New Mexico.

Employment

SB 267 Employment Services and Promotion. Sen. Howie Morales. Would have appropriated \$150,000 to GCD to overcome barriers to employment of persons with disabilities.

Health Care and Medicaid

HB 173 Legislative approval of Medicaid changes. Rep. Eleanor Chavez. Would have required legislative approval before HSD could apply for federal approval of major changes to eligibility, benefits, or co-pay arrangements in the Medicaid program.

HB 192 GRT exemption for DME. Rep. Jim Trujillo. This bill would have exempted durable medical equipment and medical supplies from gross receipts (sales) tax.

HB 271 Native American diabetes prevention. Rep. Sandra Jeff. Would have provided \$250,000 to DOH to prevent or mitigate diabetes in Native American youth.

HJR 23 State health care system. Rep. Gail Chasey. This proposed constitutional amendment would have recognized health care as a human right and directed the state to establish an accessible and affordable health care system for state residents. Same as SJR 5.

SB 6 Health Insurance Exchange. Sen. Dede Feldman. This bill would have established a health insurance exchange in New Mexico, as called for under federal health care reform.

SB 7 Basic Health Plan. Sen. Dede Feldman. Would have created a new health coverage program for persons with income up to 200% of the federal poverty level but not eligible for Medicaid, as part of the implementation of federal health care reform.

SB 174 Legislative approval of Medicaid changes. Sen. Dede Feldman. Same as HB 173, above.

SB 188 GRT exemption for DME. Sen. Mary Kay Papen. This bill would have exempted durable medical equipment and medical supplies from gross receipts (sales) tax.

SB 278 Health Insurance Exchange. Sen. George Muñoz. Would have established a health insurance exchange in New Mexico, as called for under federal health care reform.

SJM 10 Report on health insurance exchange grant. Sen. Linda Lopez. Called on HSD to report on its use of the first federal grant to begin planning a health insurance exchange.

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

SJR 5 State health care system. Sen. Jerry Ortiz y Pino. This proposed constitutional amendment was the same as HJR 23, above.

SM 42 Integrated enrollment system. Sen. Howie Morales. Called on HSD and others to develop an integrated system for enrollment in Medicaid, the new health insurance exchange, or a Basic Health Plan. *This was the same as HM 18, which passed the House.*

Mental Health/Behavioral Health

HJM 8 Study veterans' mental health needs. Rep. Rudy Martinez. Called on a variety of agencies and groups to study unmet behavioral health needs of veterans in southwestern NM.

SB 95 Native American suicide prevention. Sen. Linda Lovejoy. Would have appropriated \$150,000 to UNM for a clearinghouse and technical assistance program to provide prevention, intervention and other assistance related to suicide among Native Americans. **HB 2 includes \$100,000 for this purpose.**

SB 179 Civil commitment responsibility. Sen. Jerry Ortiz y Pino. This bill would have directed local district attorneys to file a civil commitment petition when a treating physician determines that an individual meets the criteria for involuntary in-patient treatment.

SJM 18 Study veterans' mental health needs. Sen. Richard Martinez. Called on a variety of agencies and groups to study the unmet behavioral health needs of veterans in NM.

SJM 34 Interim Behavioral Health Committee. Sen. Bernadette Sanchez. Requested the Legislative Council to establish an interim behavioral health committee. *Same as HJM 16, which passed.*

Voting Rights

HB 113 Voter ID requirement. Rep. Cathrynn Brown. This bill would have required a picture ID or proof of tribal enrollment in order to register to vote and to vote in state elections.

HB 207 Voter ID. Rep. Jim Smith. This bill would have tightened up voter identification requirements with a preference (but not a firm requirement) for a photo ID, and prevented cities and counties from imposing stricter requirements.

HB 235 Voter identification. Rep. Dianne Hamilton. This bill also addressed photo ID or proof of tribal enrollment in order to vote.

Other

HB 51 Parental notification. Rep. Alonzo Baldonado. Would have required notice to the guardian or conservator of an adult woman with a disability, prior to the performance of an abortion, unless a court exempted the woman from such notice. *Same as SB 157, below.*

HB 136 Guardianship fund. Rep. Rhonda King. Would have created a fund for the Office of Guardianship to hold contributions, grants or other funds. *Same as SB 110, below.*

HB 254 Motor vehicle fees to GCD Disability Fund. Rep. Miguel Garcia. Would have added a \$4 surcharge to all motor vehicle registration fees, for the GCD Disability Fund.

SB 110 Office of Guardianship Fund. Sen. Sue Wilson Beffort. Would have created a fund for the Office of Guardianship to hold contributions, grants or other funds.

SB 157 Parental notification. Sen. William Sharer. *Same as HB 51, above.*

SB 210 Interim disabilities committee. Sen. Nancy Rodriguez. This bill would have created a permanent interim legislative committee to address disability issues.

ABBREVIATIONS USED IN THIS REPORT

State Agencies

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
PRC	Public Regulation Commission