



DISABILITY RIGHTS NEW MEXICO

1720 Louisiana Blvd. NE, Suite 204 • Albuquerque, New Mexico 87110

TEL/TTY: (505) 256-3100 • FAX: (505) 256-3184

State-wide Toll Free 1-800-432-4682

WEBSITE: www.drnmm.org • EMAIL: info@drnm.org

James Jackson, Executive Director

Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2012 LEGISLATURE POST-SESSION REPORT

By Jim Jackson, Executive Director
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Focused session comes to an end. This year's legislative session ended last Thursday with its main goal - the state budget for the coming year - accomplished with bi-partisan support. Capital outlay projects for the year were also approved after a last minute Republican filibuster in the House was called off in order to secure a final vote on the bill. Most of the governor's initiatives, such as voter ID, repeal of driver's licenses for non-citizens, and mandatory retention of 3rd graders not proficient in reading, failed to pass the legislature. Frustration with this inaction led to the filibuster, although the vast majority of *all* bills introduced this year failed to make it through to passage.

Year of the memorial. Other than the state budget bill, *not a single bill addressing disability services or disability rights passed this year.* With most of their bills going nowhere in the 30-day session, legislators turned toward memorials to address the issues covered in those bills, with an eye toward discussing them during the interim and following up in next year's 60-day session. A number of these memorials passed the legislature (see list below), but several more failed as the House took care of other business on the last day and did not take the time to vote on them.

State budget passes easily in the end. Once the state budget bill (HB 2) finally got out of the House Appropriations and Finance Committee (HAFC), it was clear sailing the rest of the way. It passed the House unanimously, the Senate made only minor changes to it, and the House went along with those changes without debate. Earlier in the session it appeared that a bi-partisan agreement had been reached in HAFC, but Governor Martinez objected to language in the bill dealing with how to reduce spending if state income doesn't live up to estimates. This held up the bill on the House side for more than a week, and as a result HB 2 didn't get up to the governor's desk until very near the end of the session. That means that she has 20 days from the end of the session to consider whether to sign it or veto some or all of it. Since the final version did not differ significantly from her original recommendations, it is expected that the governor will sign the bill, but certain line item vetoes are likely.

HB 2 includes these provisions of interest to the disability community:

Medicaid: With an increase of \$39 million in state general funds and \$17 million in other state funding, the appropriation for Medicaid is more than enough to meet current cost projections. The total includes funding for rate increases to 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. *This \$35 million is 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 any proposal to the federal government.*

Developmental Disabilities: Received \$2.7 million in new funds intended to serve persons on the waiting list for services.

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.

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.

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 (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, as provided for under federal health care reform, 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 Failed to Pass

Autism

HB 148 Public employee insurance coverage. Rep. Bill O'Neill. This bill would have required the insurance plans for state and public school employees to cover services needed by children with autism. Such coverage is mandated for most individual and group policies in New Mexico. The governor did not provide an executive message for the bill so it was not "germane" and could not be considered in the 30-day session.

Community Services

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.

Developmental Disabilities

HB 82 Family Infant Toddler funding. Rep. Danice Picraux. Would have appropriated \$2.1 million to the Department of Health to assure that there would be enough funding available to serve all young children who qualify for services, and to increase provider rates.

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

SB 39 Mercury warning signs. Sen. Peter Wirth. Would have funded 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 was intended to prevent birth defects and health problems.

SB 98 Family Infant Toddler funding. Sen. Howie Morales. Would have appropriated \$2.1 million to the Department of Health to assure that there would be enough funding available to serve all young children who qualify for services, and to increase provider rates.

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 the DD services funded by state dollars (not the waiver program). The money would have been used to increase payment rates and serve more people.

SB 261 Fully fund DD waiver wait list. Sen. Tim Jennings. This bill would have appropriated \$129.7 million to DOH to fully fund the DD waiver program and serve everyone (about 5,500 individuals) currently on the waiting list for this 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 creation of 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, which means taxpayers would have paid the vast majority of the cost of the scholarships. Same as SB 31, below.

HB 228 New public school funding formula. Rep. Patty Lundstrom. This bill would have implemented a new funding formula for public schools. Funding for special education students was to be based on a flat rate of 16% of a school's enrollment, not the actual number of special education students.

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

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, above.

SB 112 School services to age 22. Sen. Howie Morales. This bill would have amended 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.

SB 221 Autism center. Sen. Cynthia Nava. Would have appropriated \$220,000 for the Las Cruces public school district to establish 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 and after-school suicide prevention and anti-bullying programs for students in low-performing schools.

SB 254 Autism services. Sen. Cynthia Nava. Would have appropriated \$220,000 for the Las Cruces Public schools, to support 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 changes to eligibility, benefits, or co-pay arrangements that would result in \$10 million or more of savings or additional spending in the Medicaid program. *HB 2 contains language requiring HSD to submit its plan for re-designing Medicaid to the LFC and DFA prior to submitting any waiver application to the federal government.*

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 appropriated \$250,000 to DOH for programs and protocols 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 fundamental human right and directed the state to establish a health care system that is accessible and affordable for all residents of the state. Same as SJR 5, below.

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. This bill would have created 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.

SB 174 Legislative approval of Medicaid changes. Sen. Dede Feldman. Would have required legislative approval before HSD could apply for federal approval of significant changes to the Medicaid program. *HB 2 contains language requiring HSD to submit its plan for re-designing Medicaid to the LFC and DFA prior to submitting any waiver application to the federal government.*

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. This bill would have established the structure, scope and governance of 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. This memorial called on HSD to report to the legislature on its use of the first \$1 million federal grant to the state to begin planning a health insurance exchange. *HM 52, requesting a report on the use of the current, much larger exchange planning grant, passed.*

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 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). *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 state agencies and other organizations to study the unmet health care and behavioral health needs of veterans in southwestern New Mexico.

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. 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.

SJM 34 Interim Behavioral Health Committee. Sen. Bernadette Sanchez. This memorial requested that the Legislative Council establish an interim committee that would meet monthly to address behavioral health issues. *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 but did not require 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. This bill would have required notice to the guardian or conservator of an adult woman found to be "incompetent", prior to the performance of an abortion, unless a court exempted the woman from the notification requirement. 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 earmarked for the guardianship program. Same as SB 110, below.

HB 254 Motor vehicle fees to GCD Disability Fund. Rep. Miguel Garcia. This bill would have added \$5 to all motor vehicle registration fees, \$4 of which would go to 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 earmarked for the guardianship program. Same as HB 136, above.

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