

THE DISABILITY COALITION
Advocating for People with Disabilities of All Types

DISABILITY ISSUES IN THE 2023 LEGISLATURE
STATUS REPORT #2
January 30, 2023

By Jim Jackson and Ellen Pinnes

(A list of abbreviations, including legislative committees, is included at the end of this report.)

Mark your calendar:

Tuesday, Jan. 31st: ALS Awareness Day at the Capitol

Wednesday, February 8th: Disability Rights Awareness Day at the Capitol

Committee hearings: Mon. Jan 30:

HCEDC: HB 127 Salary increases for educational assistants

HJC: HB 40 MVD nontraditional communication registry

*SHPAC: SB 117 Prescribing psychologists; SB 118 Crime of financial exploitation; SB 119
Civil action against financial exploitation.*

Thurs. Feb. 2:

HCPAC: HB 75 Chiropractic coverage

Moving right along: The 2023 legislative session continued at its fast pace in the second week, with a total of 539 bills, memorials and resolutions introduced and committees moving more quickly than usual to consider and act on the bills referred to them. Committees typically start with an organizational meeting that often doesn't take place until the second week of the session, with no bills presented before the second meeting. That's not because they're lazy, but to give staff a chance to catch up on getting the bills analyzed before they're heard in committee. But this year, many committees have skipped the organizational meeting and proceeded directly to the bills before them. That's keeping the Legislative Finance Committee staff, which prepares the Fiscal Impact Reports (FIRs), and staff assigned to the House and Senate committees busy as they work to keep up with the onrush of bills. In another sign of the expedited tempo, one House committee – Energy, Environment and Natural Resources – even held a hearing on Saturday, a virtually unheard-of occurrence in a session's second weekend.

Another shakeup: In another surprise move, House Republicans ousted their newly-elected Minority Whip, Rep. Jason Harper of Rio Rancho, less than two weeks into the session. Rep. Greg Nibert of Roswell will take his place as whip. Such leadership changes during a session are extremely rare.



Bills and Memorials Introduced or Expected in the 2023 Session

This list is grouped by specific disability or subject matter and shows the bill number, sponsor, a description of the bill, committee assignments, and action taken on the bill or memorial. This week's report also includes bills or memorials expected but not yet introduced. The deadline for introducing most bills is the half-way point of the session, which this year is Thursday, February 16th. Memorials can be introduced at any time.

State Budget

HB 2 General Appropriation Act. Rep. Nathan Small. This is the budget bill that funds most of state government. The House Appropriations and Finance Committee will be reviewing budget proposals from the governor and the Legislative Finance Committee and hearing presentations by agency heads for another two weeks and will then adopt a recommended budget and present it to the House for action. Once HAFC approves the bill we will track here the funding levels for agencies serving persons with disabilities. HAFC.

Behavioral Health

HB 104 Funding for supervision of behavioral health professionals in training. Rep. Anthony Allison. Appropriates \$3.1 million to HSD to provide funding to provider agencies to cover the cost of supervising individuals who are on a path to licensure as behavioral health professionals. A significant number of supervised clinical hours are required for licensure but no funding is currently available to cover the additional cost of such supervision. Similar but not identical to SB 262, below. Passed HHHC, pending in HAFC.

HB 112 Wellness rooms in public schools. Rep. Pamela Herndon. Appropriates \$5 million to fund a 6-year pilot program to show that public school wellness rooms can positively affect student behavioral health. HEC/HAFC

SB 117 Prescribing psychologists. Sen. Bill Soules. Repeals existing law allowing certain psychologists to prescribe behavioral health medications and replaces it with a new and broader structure allowing psychologists to prescribe such medications through a program overseen by the NM Medical Board. SHPAC/SJC. *Scheduled to be heard in SHPAC today*

SB 139 Services and housing for homeless individuals. Sen. Nancy Rodriguez. Appropriates \$20 million to HSD to provide behavioral health services, substance abuse treatment, and housing for homeless individuals. Passed SHPAC, pending in SJC.

SB 148 Community college peer counseling program. Sen. Gerald Ortiz y Pino. Provides \$100,000 to the Higher Education Department to study the feasibility of creating/expanding certification programs in community colleges for peer counseling and other non-clinical support services. SEC/SFC

SB 149 Study grad school tuition waivers. Sen. Gerald Ortiz y Pino. Appropriates \$100,000 to the Higher Education Department to study the cost and feasibility of providing free tuition for graduate degrees for persons who would become behavioral health providers in New Mexico. SEC/SFC.

SB 262 Funding for supervision of behavioral health professionals in training. Sen. Siah Correa Hemphill. Appropriates \$3.1 million to HSD to provide funding to provider agencies to cover the cost of supervising individuals who are on a path to licensure as independent behavioral health professionals. Similar but not identical to HB 104, above. SHPAC/SFC.

Other expected legislation:

- A bill to clarify Medicaid reimbursement for crisis triage centers and to encourage law enforcement personnel to take people experiencing a behavioral health crisis to these centers rather than to jails or hospitals.

- A bill to expand coverage of behavioral health services under Medicaid and commercial insurance. The intent is to improve access to mental health and substance use treatment; some of the expansion would be based on a much broader interpretation of mental health parity.

Brain Injury

HB 139 Eliminate court fees. Rep. Micaela Cadena. This bill would eliminate most fees that are assessed against persons convicted of crimes, including the \$5 fee from traffic tickets that goes to the Brain Injury Services Fund. The change would not take effect until July 2024 in order to provide enough time to adjust the state budget to provide other funding to replace the lost revenue. Passed HJC, pending in HAFC.

Civil Rights

HB 207 Human Rights Act Amendments. Rep. Kristina Ortez. Extends the anti-discrimination provisions of the state Human Rights Act, which currently applies to private businesses and the state as a whole, to any public body funded by a governmental entity, including school districts, and expands definitions to improve protections for the LGBTQ community. The bill deletes outdated references in the current statute to “handicap” and replaces them with “disability”. HGEIC/HJC.

Community Living and Services

HB 40 MVD disability registry. Rep. Liz Thomson. Allows but does not require individuals to note, in conjunction with their car registration, that they or a regular passenger in their vehicle have a disability that might affect their ability to communicate. Law enforcement officers would be required to consult the registry prior to interacting with a motorist and to take appropriate steps when attempting to communicate with a driver or passenger who is on the registry. Passed HHHC, *scheduled for hearing in HJC today.*

HB 220 GRT exemption for home modifications. Rep. Kathleen Cates. Under this bill, agencies or companies that provide home modifications for accessibility funded by Medicaid would not have to pay gross receipts tax on payments they receive for such services. HHHC/HTRC

SB 261 ALS funding. Sen. Antonio Maestas. Appropriates \$500,000 to the Department of Health to support individuals living with Amyotrophic Lateral Sclerosis (ALS) and their caregivers. SHPAC/SFC.

Other expected legislation:

- 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

HB 41 DD Provider rate increases. Rep. Liz Thomson. Appropriates \$7.65 million to DoH to raise provider reimbursement rates, in addition to the \$10.2 million for rate increases being requested by DoH. Passed HHHC, pending in HAFC.

HM 5 Dual diagnosis task force. Rep. Liz Thomson. Requests that DOH convene a task force to study the feasibility of requiring all mental health and developmental disabilities providers to be trained in working with persons with developmental disabilities who also have mental health issues. HHHC.

SB 203 DD cost study and higher pay for direct support professionals. Sen. Gerald Ortiz y Pino. Requires 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. SHPAC/SFC.

SB 260 Delete references to “mental retardation”. Sen. Linda Lopez. Changes all remaining references in state law to “mental retardation” and replaces them with “developmental or intellectual disability”. SHPAC/SJC

Other expected legislation:

- 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 DD waiver program. The state’s share of program costs will rise significantly in future years because of the growth in enrollment associated with the “super-allocation” that has nearly eliminated the waiting list for DD waiver services that existed when the allocation began. However, hundreds of people continue to be added to the waitlist each year, and funding will also be required to serve some or all of them in order to avoid returning to the extremely long wait times that prevailed before federal ARPA funds made the super-allocation possible.

Education/Special Education

HB 39 Dual-licensed instructional support providers in three-tier system. Rep. Liz Thomson. Adds professionally-licensed school providers such as therapists, social workers and nurses into the three-tier licensure and salary system currently in place for teachers and school administrators. Passed HEC, pending in HCEDC.

HB 127 Educational assistant salary increase. Rep. Susan Herrera. Raises the minimum salary for educational assistants from \$12,000 per year (an amount first implemented in the 2004-2005 school year) to \$25,000. EAs are commonly used in special education. HCEDC/HEC *Scheduled for hearing in HCEDC today*

Other expected legislation:

- 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.
- The governor is expected to propose a package of changes relating to special education, but details are not yet available.

Guardianship, Self-Determination and Protection of Vulnerable Persons

SB 89 Supported decision-making. Sen. Siah Correa Hemphill. Authorizes supported decision-making agreements under New Mexico law as an alternative to guardianship orders, and appropriates funding to establish a supported decision-making program within the DD Council’s Office of Guardianship. SHPAC/SJC/SFC. Passed SHPAC with amendments to strengthen the DDC’s role and increase the appropriation from \$189,000 to \$289,000, pending in SJC.

SB 118 Financial exploitation of vulnerable adults – criminal penalty. Sen. Michael Padilla. Makes it a crime for a person to trick, coerce or use undue influence to gain control of the resources or property of an elderly, disabled, or otherwise vulnerable adult. A first offense would be a third-degree felony; further offenses by the same person would be second-degree felonies. SHPAC/SJC/SFC. *Scheduled for hearing in SHPAC today.*

SB 119 Financial exploitation of vulnerable adults – civil remedy. Sen. Katy Duhigg. Allows lawsuits against someone who has financially exploited a vulnerable adult. SHPAC/SJC. *Scheduled for hearing in SHPAC today.*

SB 183 Waivers for conservators. Sen. Stuart Ingle. Current law prohibits a conservator from obtaining a release or waiver of liability with respect to property or resources over which they have

some authority. This bill would allow for such a waiver if the protected person or another person interested in the estate is represented by independent counsel. SHPAC/SJC

Health Care

HB 38 Expand rural healthcare provider tax credit. Rep. Miguel Garcia. Adds a number of categories of clinicians, including registered nurses, physical therapists and various types of behavioral health providers, to those eligible for the tax credit available to clinicians practicing in underserved rural areas of the state. Passed HHHC, pending in HTRC

HB 47 Rural health care project revolving fund. Rep. Marian Matthews. Appropriates \$7.5 million to establish a fund that would provide loans to set up practices providing health care services in underserved rural areas. HHHC/HAFC.

HB 51 Prescription Drug Affordability Board. Rep. Pamelya Herndon. Creates a board to develop strategies to lower the cost of prescription drugs. Members of the board would be appointed by the governor and legislative leadership of both parties; its operations would be funded through assessments on drug manufacturers and distributors and pharmacy benefit managers. HHHC/HAFC.

HB 53 Insurance coverage of diabetes. Rep. Liz Thomson. Expands and clarifies required insurance coverage of services and equipment for persons with diabetes. HHHC/HAFC

HB 73 Insurance coverage of biomarker testing. Rep. Meredith Dixon. Biomarkers are physical characteristics that can be used to diagnose, monitor or assess the risk of a health condition. The bill requires coverage of analysis of a patient's blood, tissue or other biological specimen to measure biomarkers in order to evaluate normal or disease processes or responses to a therapeutic intervention. Passed HHHC, pending in HCPAC.

HB 75 Insurance coverage of chiropractic services. Rep. Day Hochman-Vigil. Provides that copays or coinsurance for chiropractic services may be no more than those for primary care services. Passed HHHC, *scheduled for hearing in HCPAC on Thurs. Feb. 2*

HB 131 Insurance coverage of orthotics/prosthetics. Rep. Liz Thomson. Requires insurance policies to cover prosthetics and custom orthotics, including a second prosthetic for physical activities such as running or swimming, as prescribed by a treating provider. Passed HCPAC, pending in HHHC.

SB 71 Non-discrimination in anatomical gifts. Sen. Craig Brandt. This bill would prohibit discrimination in organ transplants based on an individual's disability. A potential recipient's disability could be taken into account only to the extent that a physician finds it to be medically significant to the transplant based on an individualized evaluation. Passed SJC, pending in STBTC

Housing

HB 92 Supported housing and services. Rep. Joanne Ferrary. Appropriates \$859,000 to HSD to start up supported long-term housing programs for persons with serious mental illness in Doña Ana County. Passed HHHC, pending in HAFC.

SB 140 Housing Trust Fund. Sen. Nancy Rodriguez. Appropriates \$48 million to the NM Housing Trust Fund to support development of low-income housing options through the Mortgage Finance Authority. Passed SHPAC, pending in SFC.

SB 162 Transitional housing. Sen. Carrie Hamblen. Appropriates \$1.843 million to HSD to support a program in Dona Ana County providing transitional housing for persons with mental illness or substance abuse disorder. SHPAC/SFC.

Miscellaneous

HB 186 Disabled veterans tax exemption. Rep. Alan Martinez. Updates and simplifies language regarding eligibility for a property tax exemption for disabled veterans or surviving spouses. HLVMC/HTRC.

SB 263 LHHS as year-round staffed committee. Sen. Martin Hickey. Provides for a staff director and year-round staff for the Legislative Health and Human Services Committee (similar to the

Legislative Finance Committee and the Legislative Education Study Committee). Appropriates \$350,000 for this purpose. SRC/SFC.

Expected legislation:

- A bill to establish and require a paid family/medical leave benefit for workers in New Mexico.

Contacting Your Legislators

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. Due to heightened security measures after several recent drive-by shootings directed at the homes of legislators and other elected officials in Albuquerque, this currently includes only the legislator’s email address and their office and phone number in the Capitol during the session.
- 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.

Now that the session has started, each legislator has 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!

ABBREVIATIONS USED IN THIS REPORT

Legislature and Committees:

HB	House Bill
HAFC	House Appropriations and Finance Committee
HCEDC	House Commerce and Economic Development Committee
HEC	House Education Committee
HHHC	House Health and Human Services Committee
HJC	House Judiciary Committee
HLVMC	House Labor, Veterans, and Military Affairs
HGEIC	House Government, Elections and Indian Affairs Committee
HTRC	House Taxation and Revenue Committee

SB	Senate Bill
SEC	Senate Education Committee
SFC	Senate Finance Committee
SJC	Senate Judiciary Committee
SHPAC	Senate Health and Public Affairs Committee
STBTC	Senate Tax, Business and Transportation Committee

State Agencies:

ALTSD	Aging and Long Term Services Department
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CDHH Commission for Deaf and Hard-of-Hearing Persons
CFB Commission for the Blind
CYFD Children, Youth and Families Department
DDC Developmental Disabilities Council
DoH Department of Health
DVR Division of Vocational Rehabilitation (within PED)
ECECD Early Childhood Education and Care Department
GCD Governor's Commission on Disability
HSD Human Services Department
PED Public Education Department

Other:

ARPA American Rescue Plan Act