

THE DISABILITY COALITION
Advocating for People with Disabilities of All Types

DISABILITY ISSUES IN THE 2023 LEGISLATURE
STATUS REPORT #3
February 6, 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:

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

Committee hearings: Mon. Feb. 6:

HJC: HB 40 MVD nontraditional communication registry

SEC: SB 148 Community college peer counseling; SB 149 Grad school tuition waivers

Tues. Feb. 7:

HCPAC: HB 73 Insurance coverage of biomarker testing (rolled over from Saturday)

HLVMC: HB 186 Disabled veteran tax exemption

Be there for Roundhouse Day! For the first time in three years, the disability community will be able to gather in person at the Capitol for Disability Rights Awareness Day. Join us on Wednesday for a gathering in the Rotunda from 11:00 to noon, browse the exhibit tables from 8:00 to 2:00, meet with legislators, and watch the Legislature in action.

Gung-ho House. The House continued its expedited pace in the legislative session's third week, with four committees meeting over the weekend. And two bills have already completed their journey through House committee hearings, been passed by the full House, and moved on to the Senate. So far, Senate committees have not begun weekend meetings and no bills have passed the full Senate. (This doesn't include the so-called "feed bill" that funds legislative operations and is routinely passed by both chambers at the beginning of each session.)

Moving along. A number of bills included in this report have been approved by the first committee they were referred to and moved along to the second. And a few have passed through the required committee referrals in their first chamber and are awaiting votes by the full House or Senate. This includes HB 75, mandating that out-of-pocket costs for chiropractic services be no more than those for primary care services; HB 131, requiring improved insurance coverage of prosthetics and orthotics; and SB 71, barring discrimination based on disability in allocating organ transplants.

Several new bills of interest to the disability community. A number of bills relevant to people with disabilities were introduced this week, including:



- SB 273 and HB 260, substantially increasing access to mental health and substance use disorder services,
- HB 284, implementing the governor’s plan to improve special education services,
- HB 288, requiring closed captioning on televisions in the public areas of places of public accommodation, and
- SB 310, broadening access to crisis triage centers for people experiencing behavioral health crises.

For more information on these bills, see the listing of bills by topic later in this report.

And a Medicaid surprise. In a startling piece of non-legislative news, the Human Services Department canceled its move to select new managed care organizations (MCOs) for Medicaid when it becomes “Turquoise Care” in 2024. The department had issued its Request for Proposals and a model contract for the MCOs last fall and said it intended to announce the selections in mid-January 2023. But on January 30, HSD announced that it was canceling the procurement and would have the current MCOs continue in place until a new RFP process resulted in new selections. The stated reason for the cancelation was that both the HSD secretary and the Medicaid director have recently resigned and their replacements should have a chance to shape the MCO selection process.

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 is continuing to review budget proposals for state agencies and will adopt a recommended budget next week for presentation to the full House for action. Once HAFC approves the bill, this report will track 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

HB 260 Expanding access to behavioral health services. Rep. Dayan Hochman-Vigil. Same as SB 273, below.

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. Heard in SHPAC and held over for possible amendments; then referred to SJC.

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 SFC.

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. *Scheduled to be heard in SEC today.*

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. *Scheduled to be heard in SEC today.*

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.

SB 273 Expanding access to behavioral health services. Sen. Martin Hickey. Requires health insurance policies to cover all behavioral health services (including family and marriage counseling) that are required under “generally recognized standards of care” as set by national professional associations for psychiatrists, psychologists, social workers and others, or by relevant federal agencies. It also prohibits insurance companies from imposing quantitative or non-quantitative limitations on behavioral health coverage (such as co-pays, prior authorization, etc) that are stricter than limitations on medical/surgical treatments or procedures. These provisions are expected to significantly expand access to behavioral health services. STBTC/SFC.

SB 310 Crisis triage centers. Sen. Gerald Ortiz y Pino. Defines crisis triage centers in law (as licensed facilities providing residential or non-residential stabilization of a behavioral health crisis) and authorizes those centers to accept voluntary or involuntary admissions. These provisions would allow police officers to take individuals to the centers, rather than to an emergency room or jail, for mental status assessments. The bill also loosens a requirement in existing law that people be treated at the closest suitable treatment facility, providing instead that treatment be provided at a facility “close to” the individual’s residence. SHPAC/SJC

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 bill would not affect fines imposed for the underlying offense.) 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.

SM 30 Brain injury study. Sen. Gerald Ortiz y Pino. Requests that GCD study the feasibility of requiring health insurance coverage for the full range of services needed by persons with brain injuries, and establishing a registry to track the incidence of brain injury and the effectiveness of treatments. The results of the study are to be reported to LHHS and LFC by November 1. No funding is provided for the study. SRC/SHPAC.

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, heard in HJC but held over for discussion of possible amendments. *Scheduled for second hearing in HJC today.*

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. *Scheduled to be heard in HLVMC on Tuesday.*

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

HB 288 Closed captioning act. Rep. Cynthia Borrego. Requires any public accommodation (such as hotels, restaurants, retail stores, health care facilities, etc.) that has a television on in a public area to activate closed captioning on the TV, with a few minor exceptions. The bill authorizes the Attorney General to enforce the requirement, and authorizes a fine for non-compliance up to \$250 for a first offense and \$500 for subsequent offenses. HHHC/HJC

HB 290 ALS funding. Rep. Art De La Cruz. Appropriates \$500,000 to the Department of Health to support individuals living with Amyotrophic Lateral Sclerosis (ALS) and their caregivers. Same as SB 261, below. HHHC/HAFC.

SB 261 ALS funding. Sen. Antonio Maestas. Same as HB 290, above. SHPAC/SFC.

SB 277 Increasing tax credit for special needs adoptions. Sen. David Gallegos. Increases the tax credit for adoption of a special needs child from \$1,000 to \$1,500 per year and requires TRD to report on the number of people claiming the credit, the cost of the credit, and other factors, to allow evaluation of the credit program. STBTC/SFC

SB 300 Disabled veteran property tax. Sen. Harold Pope. Clarifies that if a disabled veteran or surviving spouse buys and moves into a new house during a year, either the “old” home or the new home can be considered the residence for that tax year. The bill also provides that if the title to the home is in a trust, it can still be treated as tax-exempt if it is the residence of the veteran or surviving spouse. STBTC/SJC.

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

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. The LFC projects that about \$40 million per year in additional state funding will be needed starting in FY2025, which begins on July 1, 2024, to enable the state to serve all eligible applicants without a waiting list.

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 with further referral to HAFC.

HB 127 Educational assistant salary increase. Rep. Susan Herrera. Raises the minimum salary for educational assistants, who are commonly used in special education, from \$12,000 per year (an amount first implemented in the 2004-2005 school year) to \$25,000. The statutory amount is well below the state’s current minimum wage. Passed HCEDC, pending in HEC with further referral to HAFC.

HB 285 Office of Special Education. Rep. Liz Thomson. Creates the Office of Special Education within PED, to be led by an individual (appointed by the governor) who would report directly to the PED Secretary. The bill gives the Office a variety of responsibilities, including assuring compliance with state and federal laws related to special education, and providing training and policy guidance for those working with students with disabilities, including school boards and school administrators. The Office would be charged with monitoring how school districts spend state and federal funds provided for special education, and would be authorized to “take actions to ensure appropriate spending as needed.” The Office would develop an annual plan for special education policies, programs and standards, and provide an annual report to PED, the governor, and the LESC. HEC/HGEIC

SB 283 Reducing suspensions/expulsions. Sen. Harold Pope. This bill prohibits the expulsion of a child from a child care center (if subsidized by the state), or from a publicly-funded school if the child is not yet in third grade, unless the child has falsely initiated a fire alarm. It similarly prohibits out-of-school suspensions for such children unless the child has willfully caused, attempted or

threatened serious bodily injury to another person, in which case the suspension cannot exceed three days. In addition, the bill requires child care centers and publicly funded schools to maintain and report data concerning the number and demographic profile of children *of any age* who have been suspended or expelled from school each year. SEC/SJC

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 with further referral to SFC.

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. Passed SHPAC, pending in SJC with further referral to SFC.

SB 119 Financial exploitation of vulnerable adults – civil remedy. Sen. Katy Duhigg. Allows lawsuits against someone who has financially exploited a vulnerable adult. Passed SHPAC, pending in SJC.

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. *Expected to be heard in HCPAC on Tues., Feb. 7.*

HB 75 Insurance coverage of chiropractic services. Rep. Day Hochman-Vigil. Provides that as of Jan. 1, 2024, copays or coinsurance for chiropractic services may be no more than those for primary care services. Passed HHHC and HCPAC, awaiting House vote.

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 and HHHC, awaiting House vote.

HB 264 Study Medicaid managed care. Rep. Eleanor Chavez. Appropriates \$250,000 to LCS to contract for an analysis of the fiscal viability of Medicaid managed care and to develop methods to make the managed care system more transparent. HHHC/HAFC

HB 272 Allow chiropractors to clear student athletes. Rep. Natalie Figueroa. Current law requires student athletes who have sustained a brain injury to be held out of athletic activities for at least 10 days; they can then return to participation if they have no symptoms of a brain injury and have a written release from a healthcare professional. This bill would add chiropractors to the list of healthcare professionals who can provide such a release. HHHC/HGEIC

HB 293 Study healthcare cost drivers. Rep. Christine Trujillo. Appropriates \$400,000 to LCS to contract for a study of the factors causing increases in healthcare costs, the methods other states and countries have used to control such costs, and the feasibility of applying such methods in New Mexico. Results of the study are to be reported to LHHS and LFC. Same as SB 290, below. HHHC/HAFC.

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 and STBTC, awaiting Senate vote.

SB 255 Medicaid mileage reimbursements. Sen. Gay Kernan. Requires HSD to develop and implement mileage reimbursements to entities that travel to patient homes for the purpose of performing environmental modifications or for delivering durable medical equipment. The bill would also require mileage reimbursement for ambulance services. SHPAC/SFC.

SB 290 Study healthcare cost drivers. Sen. Gerald Ortiz y Pino. Same as HB 293, above. SRC/SFC

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

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.

SB 284 Special Olympics license plate. Sen. Linda Lopez. Authorizes MVD to issue special license plates celebrating Special Olympics. The special plate would cost \$10 in addition to the standard vehicle registration fee. STBTC/SFC

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
LCS	Legislative Council Service
LFC	Legislative Finance Committee (interim committee)
LHHS	Legislative Health and Human Services Committee (interim 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
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
MVD	Motor Vehicle Division (within TRD)

PED	Public Education Department
TRD	Taxation and Revenue Department
Other:	
ARPA	American Rescue Plan Act