

THE DISABILITY COALITION  
*Advocating for People with Disabilities of All Types*

**DISABILITY ISSUES IN THE 2021 LEGISLATURE  
STATUS REPORT #4**

Jim Jackson, Coalition Chair  
February 14, 2021

*(See page 8 for a list of abbreviations, including legislative committees, used in this report.)*

**Coming Events:** Tuesday, Feb 16, 11:00 to 12:30 – DRAD Legislative Update

The next Disability Rights Awareness Days (DRAD) webinar happens tomorrow! Tune in for highlights of the session as we approach the half-way point on Thursday. And get an update on the status of some of the key disability bills being considered this session. Register for this event at the DRAD website at [www.arcnm.org/drad-2021/](http://www.arcnm.org/drad-2021/) (look for the link to the February 16 webinar in the orange box at the top of the page) and we'll send you the link to join the webinar.

**Committee hearings:**

*Monday morning: HHHC – HB 203 Health Security board*

*HEC – HB 213 Special education fund for parents, HB 222 Special education ombud, HB 266  
Special education licensure*

*HSEIC – HB 234 Guardianship licensure*

*Monday afternoon: SHPAC – SB 191 BH consortium for planning; SB 190 State DD Act amendments  
also on agenda but likely to be rolled over to Wednesday*

*Wednesday morning: HSEIC – HB 125 Behavioral health practitioners*

**Accelerando – picking up the pace.** 60-day sessions usually start at a slow pace, and then pick up steam well into the second half when committees begin to meet on weekends. At least in the House, the pace has picked up earlier than usual. This past Saturday, **nine** committees held hearings on bills – which is probably a record for any session and even more noteworthy that it happened before getting to the mid-point. In addition to the 18 bills already passed by the House, another 18 are set for debate and final votes at the next House floor session on Tuesday, including the high-profile civil rights bill and the repeal of the criminal penalty for abortions. More bills may be added as a result of all those Saturday hearings, such as the end-of-life options bill that passed HJC that day.

On the Senate side, it's a different story. Only 6 bills have been passed by the Senate, and so far only one bill is on the floor calendar for this Wednesday. A few more may be added before then, but many bills have not yet been scheduled for their second committee hearing, and most have not even been heard in their first committee.

**Half-way point in sight.** This Thursday marks the mid-point of this year's session, which is the deadline for most bill introductions. And within a week or so, HB 2 (the state budget bill) should be wrapped up and ready to be acted on by HAFC and brought to the House floor for adoption.



Advisory member

**Public input/viewing information.** Committee agendas are available through the legislative website (nmlegis.gov) under the “What’s Happening” tab on the legislative homepage. These agendas include information about how the public can provide comment on bills being heard in the committee. Committee meetings are also being webcast for viewing by people who don’t wish to provide comment and therefore don’t need to be part of the Zoom meeting; find them under the “Webcast” tab.

Reminder: Senate committees require you to alert the committee by email well in advance of the meeting if you want to provide public comment on a bill. House committees don’t ask you to sign up in advance but you have to have a Zoom account in order to join the meeting; sign up for free at <https://zoom.us/freesignup/>.

### **Bills and Memorials Introduced in the 2021 Session**

This list is grouped by specific disability or subject matter and shows the bill number, sponsor, a description of the bill, the current committee assignments and action taken on the bill or memorial. The 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 18<sup>th</sup>. Memorials can be introduced at any time.

Note: Due to the pandemic, both the House and the Senate are holding less frequent floor sessions than they do in normal times, when they meet almost daily. This means that information on the legislative website, including the daily bill locator, may not reflect committee action on a bill until long after it occurs, because committee “reports” reflecting actions taken on a bill must be accepted by the full chamber before they become part of the official record. That in turn means that this status report may not capture all committee action on some bills.

#### **State Budget**

**HB 2** General Appropriations Act. Rep. Patty Lundstrom. HAFC. Both HAFC and the Senate Finance Committee continue to hold hearings on all state agencies and considering the budget recommendations from the Legislative Finance Committee and from the governor. HAFC, which initially develops the budget bill, is following its usual process of temporarily accepting the lower of the two recommendations for each agency. The committee is likely to decide on their final recommendations on funding levels within a week. The Joint Rules of the Legislature call for the House to take action on the budget bill no later than next Tuesday and pass it on to the Senate.

#### **Behavioral Health**

**HB 125** Behavioral health practice and oversight. Rep. Day Hochman-Vigil. Modifies some of the licensure requirements for psychologists and therapists, such as extending the period of temporary New Mexico licensure for those licensed in another state and practicing here during a health care emergency. Passed HHHC, pending in HSEIC. *HSEIC hearing scheduled for Wednesday, Feb. 17.*

**HB 151** BH consortium for planning. Rep. Karen Bash. Calls for the establishment of a large “Bridges Across New Mexico” consortium of politicians, architects, business people and social service agencies to consider the need for additional residential facilities for mental health and substance abuse treatment, and for transitional and longer term housing. It would also develop a drug prevention program for students and review DWI laws and penalties. Same as SB 191, below. HHHC/HAFC.

**HB 178** Counseling and therapy practice extension. Rep. D. Wonda Johnson. Extends the board that oversees these practitioners for another six years (to 2027) and makes a few technical changes to the current authorizing statute. Unless extended, the board will terminate this July 1. Passed HHHC, pending in HSEIC.

**HB 202** Child welfare improvements. Rep. Meredith Dixon. Calls for amending the Behavioral Health Purchasing Collaborative’s state behavioral health plan to include specific provisions for children and youth in CYFD custody, and a process for HSD and CYFD to work together to provide trauma-informed services and supports to those children and youth. Prohibits (except in “extraordinary circumstances”) placement of children in hotels or motels, state offices or out-of-state facilities. Children who are placed out of their home could not be moved more than three times within 1,000 days (about 3 years); upon a third change, additional planning for the child would have to occur.

HHHC/HJC

**HB 215** BH screening, intervention and referral. Rep. Day Hochman Vigil. Calls on HSD to provide Medicaid coverage for screening, brief intervention and referral for treatment (SBIRT) for persons who appear to have a substance abuse disorder or certain mental health conditions identified by HSD.

HHHC/HJC

**SB 119** Interstate compact on psychology. Sen. Jerry Ortiz y Pino. Allows someone appropriately licensed in another state to practice temporarily in New Mexico, and the same opportunity for those licensed here to practice in other states. Passed SHPAC, pending in SJC.

**SB 128** Suicide prevention, response and treatment. Sen. Bill O’Neill. This comprehensive bill would require inpatient and outpatient mental health facilities to conduct suicide risk assessments on all new patients, and provide counseling and facilitate follow-up for those at risk; hospitals would have to do this for anyone seen in an emergency room who appears to be suicidal. A suicide response coordinator in each county, appointed by the state, would dispatch a counselor to any emergency scene involving a person believed to be suicidal. All health insurance plans regulated by the state would be required to provide coverage for all services mandated by the bill. SHPAC/SJC. *Bill heard and held over in SHPAC pending preparation of amendments.*

**SB 191** BH consortium for planning. Se. Linda Lopez. Same as HB 151, above. SHPAC/SFC. *SHPAC hearing scheduled for Monday, Feb. 15.*

**SB 285** Emergency transport for MH evaluation. Sen. Daniel Ivey-Soto. Under current law, police officers have the authority to detain and transport persons with a mental disability to an evaluation facility if they are suicidal or presenting a danger to themselves or others due to their disability. This bill would allow a police officer in such circumstances to have an EMT or other emergency medical responder transport the individual for the evaluation. SHPAC/SJC.

### Brain Injury

**SB 65** Brain injury study. Sen. Jerry Ortiz y Pino. Appropriates \$150,000 to the Department of Health to collect data, review existing services, and recommend steps to improve and expand services to persons with brain injuries. Passed SHPAC, pending in SFC

**SB 109** Brain injury services. Sen. Jerry Ortiz y Pino. Appropriates \$500,000 to the brain injury fund to support services for persons with brain injuries. Passed SHPAC, pending in SFC

### Civil Rights

**HB 4** Civil Rights Act. Rep. Georgene Louis. Allows an individual to sue any state or local public agency, including a school district, if it deprives the individual of rights granted under the state constitution. The defense of qualified immunity would be eliminated, and a successful litigant would be entitled to attorney’s fees. Passed HSEIC and HJC, awaiting House vote.

**HB 192** Human Rights Act Amendments. Rep. Brittney Barreras. 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. An amendment to the bill deletes outdated references in the current statute to “mental or physical handicap” and replace them with “mental or physical disability”. Passed HLLC, pending in HSEIC.

### Criminal Matters

**HB 143** Crime victim interviews. Rep. Meredith Dixon. Authorizes children and incapacitated adults to refuse pre-trial interviews by defense attorneys in criminal cases or arrange for limited interviews conducted by a law enforcement officer rather than counsel for a defendant. Passed HCPAC, pending in HJC.

**SB 69** Crimes against children with disabilities. Sen. Linda Lopez. This bill would increase the penalties for abandonment or abuse of a child if the child has a disability, making abandonment a 4<sup>th</sup> degree felony rather than a misdemeanor; where the abandonment results in death or great bodily harm, it would be a 1<sup>st</sup> degree rather than 2<sup>nd</sup> degree felony. Passed SHPAC, pending in SJC, then referred to SFC.

### Developmental Disabilities

**SB 9** Special Olympics. Sen. Peter Wirth. Appropriates \$300,000 to the Department of Tourism to support Special Olympics. Passed SHPAC, pending in SFC.

**SB 33** Early detection of cerebral palsy. Sen. Greg Schmedes. Appropriates \$200,000 to the Early Childhood Education and Care Department to fund training and technical assistance to health care workers to promote early detection of cerebral palsy (CP) in young children. Passed SHPAC, pending in SFC.

**SB 190** Revise DDPC provisions in NM law. Sen. Siah Correa Hemphill. Updates provisions of state law applying to the DDPC to align with current federal law provisions. These changes involve the membership of the Council and its duties. In keeping with the intended alignment, the bill changes the name of the agency to the Developmental Disabilities Council. SHPAC/SJC. *SHPAC hearing scheduled for Monday, Feb. 15, but likely to be rolled over to Wednesday.*

**SB 342** Pay increase pass-through. Sen. Liz Stefanics. Requires at least 70% of any rate increases provided by the Legislature for services that are provided by direct care workers in the DD waiver programs be passed on to increase worker compensation, and that provider agencies report how they spent the new funding so that compliance can be tracked. Includes some basic data reporting about the direct care workforce employed by DD waiver provider agencies to inform policymaking in this area. SHPAC/SFC.

### Education/Special Education

**HB 93** Limiting suspension/expulsion. Rep. Ray Lara. Requires school districts to adopt disciplinary policies that provide that suspension or expulsion be used only as a last resort following use of alternative interventions and upon a determination that suspension or expulsion is the only safe response. Although the bill addresses behaviors that may be attributed to homelessness, adverse childhood experiences, or similar causes, its provisions would apply to suspension or expulsion of students with disabilities as well. Passed HEC and HSEIC, awaiting House vote.

**HB 213** Special ed fund for parent use. Rep. Candie Sweetser. This bill would require school districts to set aside a portion of the funds they are generating during the current school year based on special education enrollment, and allow parents to get reimbursements from those funds if they have had to pay other providers for services in a child's Individualized Educational Plan (IEP) that were not provided by the school. HEC/HAFC. *HEC hearing scheduled for Monday, Feb. 15.*

**HB 222** Special education ombud. Rep. Liz Thomson. Creates the Office of the Special Education Ombud within the DD Planning Council and appropriates \$295,000 to the Council for its operation. The Ombud program would investigate and resolve problems experienced by parents and students in obtaining appropriate special education services and assist in protecting the educational rights of students and parents. The Ombud would also identify systemic concerns and recommend solutions, review and comment on proposed changes to laws and policies, and provide an annual report on its

activities and recommendations. Same as SB 346, below. HEC/HAFC. *HEC hearing scheduled for Monday, Feb. 15.*

**HB 237** School for the Deaf and public schools. Rep. Antonio Maestas. This bill authorizes the NM School for the Deaf to provide services to deaf or hard-of-hearing students who attend public school, and prohibits NMSD from charging public schools when NMSD staff participate in IEP meetings or evaluations of public school students. It creates a “Deaf Coordinator” position within the Public Education Department, and enacts a “bill of rights” for deaf or hard-of-hearing children. HHHC/HEC.

**HB 266** Special education licensure. Rep. Natalie Figueroa. This bill affects persons who have been licensed as special education teachers based on “alternative” criteria related to their previous professional experience and education. It would impose some additional requirements for relevant training, mentoring, etc. in order to maintain licensure. HHHC/HSEIC. *HEC hearing scheduled for Monday, Feb. 15.*

**SB 233** Student Bill of Rights. Sen. Linda Lopez. Establishes a very wide variety of rights for students in public schools, such as the right to be free from discrimination based on disability, the right to have teachers and other school personnel follow IEPs and Section 504 plans, and to access available mental health services. There is no mechanism in the bill to enforce these rights. SEC/SJC. *Heard and tabled in SEC.*

**SB 289** Special Education Act. Sen. Linda Lopez. The bill enacts the “Special Education Act”, which establishes Special Education as a division within PED and has its staff report to a deputy secretary within PED. It strengthens and broadens the role of this division, including monitoring, training and technical assistance etc. It would move some existing provisions of state law regarding special education into the new act. It also appropriates \$1 million to the PED to provide training to school employees on working with and meeting the needs of special education students. SEC/SFC.

**SB 319.** Seclusion/restraints in schools. Sen. Linda Lopez. This bill would prohibit the use of seclusion in public schools; make it clearer that restraint is to be used on a student only as a last resort in emergency situations; strengthen requirements for schools to report promptly to parents any use of restraint; require annual reports to the Public Education Department detailing all incidents of the use of restraints on students; require opportunity for public input into school policies on use of restraints; and require training of at least some school staff on alternatives to restraint and safe methods of restraint. SEC/SJC.

**SB 346** Special education ombud. Sen. Linda Lopez. Creates the Office of the Special Education Ombud within the DD Planning Council and appropriates \$295,000 to the Council for its operation. Same as HB 222, above. SEC/SJC/SFC.

#### Employment of people with disabilities

**HB 110** Minimum wage changes. Rep. Patricia Roybal Caballero. There are a number of categories of employees that are currently exempted from the state’s minimum wage law, and this bill would eliminate nearly all of these exemptions and gradually raise the state minimum wage to \$15 per hour in 2024. It also would repeal the existing but unused provision of state law that provides for an exemption allowing non-profit agencies and other businesses to pay employees with disabilities less than the state minimum wage, based on their productivity compared to employees without disabilities. HLVMC/HCEDC. Passed HLVMC, pending in HCEDC.

**HB 214** Repeal of sub-minimum wages. Rep. Joanne Ferrary. Repeals the existing but unused provision of state law that provides for an exemption allowing non-profit agencies and other businesses to pay employees with disabilities less than the state minimum wage, based on their productivity compared to employees without disabilities. HHHC/HLVMC.

**SB 354** Create VR Commission to replace DVR. Sen. Linda Lopez. This bill would take the Division of Vocational Rehabilitation (DVR) out of the PED and establish it as an office under a new independent commission – the same organizational structure as the Commission for the Blind, which is

New Mexico's other federally-funded vocational rehabilitation program. The new commission, which would oversee the program, would be a 6-person board appointed by the governor. All the employees and resources of the current DVR would be transferred to the new agency. SRC/SJC.

#### Guardianship and protective arrangements

**HB 94** Supported decision-making task force. Rep. Joanne Ferrary. Appropriates \$35,000 to the DD Planning Council to create a task force to study supported decision-making as an alternative to guardianship and recommend changes in NM law to allow and support it. Passed HHHC, pending in HAFC.

**SB 189** Financial exploitation protections and penalties. Sen. Katy Duhigg. Calls on financial institutions to report suspected financial exploitation of vulnerable adults and allows them to delay transactions that appear to be exploitative or fraudulent. Allows adults who have been the victim of financial exploitation to obtain relief through the courts, including recovery of the funds in question and, in some cases punitive damages. STBTC/SJC.

**SB 221** Criminal penalties for financial exploitation. Sen. Michael Padilla. Makes it a crime for a person, whether in a fiduciary relationship or not, 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 a second degree felony. SHPAC/SJC/SFC.

**HB 234** Guardianship licensure. Rep. Marian Matthews. Requires that professional guardians and conservators (individuals who are paid to provide these services to more than two persons not related to the individual) be licensed, and designates the Office of Guardianship at the DDPC as the licensing entity. Licensees would have to be certified by an authorized state or national organization. The Council would be authorized to investigate complaints against these guardians and conservators and suspend or revoke their license if appropriate. The bill also updates various provisions of law applicable to the Office of Guardianship, and appropriates \$285,000 to the Council to fulfill these new duties. HSEIC/HAFC. *HSEIC hearing scheduled for Monday, Feb. 15.*

#### Health Care

**HB 47** End-of-life options. Rep. Debbie Armstrong. Authorizes prescriptions to be issued by a qualified health care provider that an individual with a terminal illness who is expected to die within six months could self-administer that would bring about the person's death. For persons who have a current diagnosis or recent history of mental illness or intellectual disability, or appear to have such a disability, an evaluation would be required by a health care professional with appropriate expertise to determine if the person has capacity to provide voluntary, informed consent. Same as SB 308, below. Passed HHHC and HJC, awaiting House vote.

**HB 122** Health care affordability fund. Rep. Debbie Armstrong. Creates a health care affordability fund and imposes an additional state tax on health insurance premiums to provide revenue for the fund. The fund would be used to expand access to health care coverage for low-income New Mexicans. Passed HHHC and HTRC, awaiting House vote.

**HB 154** Prescription drug affordability board. Rep. Angelica Rubio. Creates a state oversight board that would have the authority to review and approve (or disapprove or limit) major price increases for prescription medications. Passed HHHC, pending in HSEIC.

**HB 203** Health Security Act planning board. Rep. Debbie Armstrong. Creates a board that would be charged with developing a plan over the next two years to provide health coverage, including behavioral health services but excluding long-term care, for all New Mexicans (except those with job-based coverage that is not subject to state regulation). Appropriates \$600,000 to the Office of the Superintendent of Insurance to cover the cost of the board, staff and other support. HHHC/HAFC. *HHHC hearing scheduled for Monday, Feb. 15.*

**HB 210** A/SLP Interstate compact. Rep. Brittney Barreras. Would commit New Mexico to an interstate compact so that a licensed audiologist or speech/language pathologist (SLP) in good standing in another state could practice in New Mexico, and vice versa for audiologists and SLPs licensed in New Mexico. HHC/HSEIC. *HHC hearing likely on Wednesday, Feb. 17.*

**HB 272** Easy enrollment for health coverage. Rep. Liz Thomson. Would facilitate enrollment into Medicaid or the Health Insurance Exchange based on a person voluntarily agreeing to have information in state tax returns shared with the state agencies running those health coverage programs so they can be made aware of coverage options that may be available to them. HHC/HTRC.

**SB 60** Physical therapy interstate compact. Sen. Siah Correa Hemphill. Would commit New Mexico to an interstate compact so that a licensed PT in good standing in another state could practice in New Mexico, and vice versa for PTs licensed in New Mexico. Passed SHPAC, pending in SJC.

**SB 308** End-of-life options. Sen. Liz Stefanics. Same as HB 47, above. SHPAC/SJC.

**SM 6** Long-term care task force. Sen. Carrie Hamblen. Requests that ALTSD establish a task force to look at ways of ensuring that nursing homes are better prepared in the future to deal with public health emergencies. The task force is also asked to look at encouraging placements in the community rather than in nursing homes; and improving staffing, physical plant issues, and resident quality of care, SRC/SHPAC.

#### Independent Living/Community Services

**HB 223** Voluntary 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.

HTPWC/HJC

**SB 47** AT and home modifications. Sen. Jerry Ortiz y Pino. Appropriates \$300,000 to the Governor's Commission on Disability to increase their ability to provide assistive technology and home modification services. SHPAC/SFC. Passed SHPAC, pending in SFC

**SB 299** Accessibility logo on specialty license plates. Sen. Mark Moores. Allows auto owners with a disability to obtain a specialty license plate of their choice that would also feature the logo that allows for parking in designated accessible parking spaces. STBTC/SFC.

**SB 322** Zoning accommodations. Sen. Gregg Schmedes. Requires local zoning authorities to permit a second small home on a residential lot, even in an area zoned for only one home per lot, if the second home is for the residence and care of a family member with disabilities. SHPAC/STBTC.

#### Paid Sick Leave

**HB 20** Paid sick leave. Rep. Christine Chandler. Requires most employers in NM to provide sick leave to their employees and allow the leave to be used for purposes including caring for a family member with a physical or mental illness or health condition. A new version that incorporates some provisions from HB 37, below, and changes some details in the bill was adopted in HLVMC; now pending in HJC.

**HB 37** Paid sick leave. Rep. Angelica Rubio. Required most employers in NM to provide sick leave to their employees, and allow that leave to be used for purposes including caring for a family member with a physical or mental illness or health condition. Identical to SB 198, below. *This bill has been combined into a new version of HB 20, above.*

**HB 38** Paid family and medical leave. Rep. Christine Chandler. Creates a program funded by employers and employees that would provide paid leave for employees needing to take time off work to care for a newborn or for a family member with a disability. Passed HCEDC, pending in HJC.

**SB 198** Paid sick leave. Sen. Linda Lopez. Identical to the original version of HB 37, above.  
STBTC/SJC

Miscellaneous

**HB 174** Increase tax exemptions. Rep. Phelps Anderson. Would double the current exemption from state income tax for persons who are over 65 or blind from \$8,000 to \$16,000 of income. Passed HHC, pending in HTRC.

**HB 253** Confidentiality exception for research. Rep. Day Hochman Vigil. Changes the confidentiality provisions of the state Mental Health/Developmental Disabilities Code to allow for limited data-sharing related to children, for approved research purposes only. The data would not be publicly available. HHC/HJC.

**ABBREVIATIONS USED IN THIS REPORT**

Legislature and Committees

HB	House Bill
HAFC	House Appropriations and Finance Committee
HCEDC	House Commerce and Economic Development Committee
HCPAC	House Consumer and Public Affairs Committee
HEC	House Education Committee
HHHC	House Health and Human Services Committee
HJC	House Judiciary Committee
HLVMC	House Labor, Veterans, and Military Affairs
HLLC	House Local Government, Land Grants and Cultural Affairs Committee
HSEIC	House State Government, Elections and Indian Affairs Committee
HTPWC	House Transportation and Public Works Committee
HTRC	House Taxation and Revenue Committee

SB	Senate Bill
SEC	Senate Education Committee
SFC	Senate Finance Committee
SIEC	Senate Indian, Rural and Cultural Affairs 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
CYFD	Children, Youth and Families Department
DDPC	Developmental Disabilities Planning Council
DoH	Department of Health
DVR	Division of Vocational Rehabilitation (within PED)
GCD	Governor's Commission on Disabilities
HSD	Human Services Department
NMCB	New Mexico Commission for the Blind
NMCDHH	New Mexico Commission for the Deaf and Hard of Hearing
PED	Public Education Department

Other

IEP	Individualized Education Program
-----	----------------------------------