

THE DISABILITY COALITION
Advocating for People with Disabilities of All Types

**DISABILITY ISSUES IN THE 2021 LEGISLATURE
STATUS REPORT #1**

Jim Jackson, Coalition Chair
January 25, 2021

(See page 5 for a list of abbreviations, including legislative committees, used in this report.)

Committee hearings:

Monday morning: HSEIC hearing on HB 4 (Civil Rights Act)

Monday afternoon: SHPAC hearing on SB 9 (Special Olympics), SB 33 (early detection of CP), and SB 47 (extra funding for GCD programs).

Wednesday afternoon: SFC hearing on budgets for Dept. of Health, Human Services Dept.

Leadership changes include a surprise. The opening day session of the Senate this past week brought confirmation of some anticipated leadership changes along with at least one major surprise. As expected, Mimi Stewart was elected the new Senate president pro tem, effectively giving her the power to appoint the chairs of the chamber's standing committees. She surprised many observers (and probably some of her Senate colleagues) by appointing George Muñoz of Gallup as the new chair of the powerful Senate Finance Committee. With the Democratic caucus as a whole shifting significantly to the progressive side, the appointment of arguably the most conservative member of the caucus to this key position must have caused a few shock waves. It also means that the "money" committees (Senate Finance and House Appropriations) in both chambers are now chaired by legislators from Gallup.

Other Senate changes: Benny Shendo now chairs a new Tax, Business and Transportation Committee (replacing the former Corporations and Transportation Committee), Shannon Pinto is the chair of the Indian, Rural and Cultural Affairs Committee, and Daniel Ivey-Soto is chair of the Rules Committee. Linda Lopez is the new majority whip. On the Republican side, a somewhat more adversarial or partisan orientation is expected, with Greg Baca of Belen replacing Stuart Ingle as minority leader and Craig Brandt succeeding Bill Payne as minority whip.

In the House, Brian Egolf remains the speaker and both parties are keeping their previous leadership teams in place. Only one of the committee chairs is new: Angelica Rubio now chairs the Transportation, Public Works and Capital Improvements Committee, succeeding Patricio Ruiloba, who did not return to the House this year.

Now you see 'em, now you don't. The House and Senate both convened on opening day last Tuesday to conduct some basic business, including the introduction of bills (136 in the House, 132 in the



Advisory member

Senate), and then recessed. The House comes back today (Jan. 25) for more bill introductions and to act on additional changes to their rules for conducting business during the pandemic. The Senate has already adopted new rules for operations in the pandemic and won't reconvene until next Monday (Feb. 1). In the meantime, both chambers are beginning to hold committee hearings through Zoom.

Public participation. The current rules for providing public comment on bills being heard in legislative committees are different for the two chambers of the Legislature and may change further. As always, it's up to the chair of each committee to determine specifics such as how much time to allow for comment, how many people will be allowed to speak and for how long, etc.

House committees are allowing members of the public to join the Zoom meetings; links are embedded in the committee schedule and individual committee agendas. In order to participate, you must have a Zoom account; if you don't have one yet, you can sign up for free at <https://zoom.us/join>. When the chair asks for public comment, you can use the "raise hand" function to indicate that you'd like to speak. As usual with Zoom, one can phone in to a meeting as well, though it's not clear how callers can indicate that they want to provide comment.

On the Senate side, the public is not routinely offered the opportunity to join the Zoom. A person who's interested in commenting on a bill must send an email to the committee staff well in advance of the meeting (several hours ahead or even the day before), providing contact and other information; instructions for providing comment will then be sent via email. Information on how to make a request to comment is given in the committee agendas. Not all committees appear to be offering opportunities to comment and so far there's no apparent provision for how a person without internet access can call in to hear the proceedings and offer comment.

Committee agendas are available through the legislative website (nmlegis.gov) under the "What's Happening" tab on the legislative homepage. Committee meetings are 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.

Bills and Memorials Introduced or Expected in the 2020 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 18th. Memorials can be introduced at any time.

State Budget

HB 2 General Appropriations Act. Rep. Patty Lundstrom. HAFC. *For information about the current budget outlook and recommendations from the governor and the interim Legislative Finance Committee, see the earlier Preview report.*

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. HHC/HSEIC

SB 128 Suicide prevention, response and treatment. Sen. Bill O’Neill. This comprehensive bill would require in-patient and out-patient 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 arrange risk assessments for anyone seen in an emergency room who appears to be suicidal, and provide counseling and arrange follow-up services as needed. 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

SB 119 Interstate compact on psychology. Sen. Jerry Ortiz y Pino. Allows for the temporary practice of psychology in New Mexico by someone appropriately licensed in another state, and the same opportunity for those licensed here. 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. SHPAC/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. SHPAC/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. HSEIC/HJC. *HSEIC hearing scheduled for Monday, Jan. 25*

Criminal Matters

SB 69 Crimes against children. Sen. Linda Lopez. Increases the existing penalty for crimes against children when the child has a disability. SHPAC/SJC/SFC

Other expected legislation:

- A bill authorizing children and incapacitated adults to forgo pre-trial interviews or arrange for limited and less confrontational interviews.

Developmental Disabilities

- **SB 9** Special Olympics. Sen. Peter Wirth. Appropriates \$300,000 to the Department of Tourism to support Special Olympics. SHPAC/SFC. *SHPAC hearing scheduled for Jan. 25.*
- **SB 33** Early detection of cerebral palsy. Sen. Greg Schmedes. Appropriates \$200,000 to the Department of Health to fund training and technical assistance to health care workers to promote early detection of cerebral palsy (CP) in young children. SHPAC/SFC. *SHPAC hearing scheduled for Jan. 25*

Other expected legislation:

- Pay increase pass-through. Sen. Liz Stefanics. A bill to require that 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.
- A bill to update provisions of state law applying to the Developmental Disabilities Planning Council to align with current federal law provisions. In keeping with the intended alignment, the bill changes the name of the agency to the Developmental Disabilities Council.

Education/Special Education

HB 93 Limiting suspension/expulsion. Rep. Ray Lara. Requires school districts to adopt disciplinary policies that provide that suspension or expulsion only be used as a last resort following the exhaustion of 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. HEC/HSEIC

Other expected legislation:

- A bill that would prohibit the use of seclusion in public schools, strengthen requirements for schools to report to parents and to the state Public Education Department any and all incidents of the use of restraints on students, and require training of school staff on alternatives to restraint.
- A bill to create and fund an Ombudsman to assist families in resolving problems in obtaining appropriate special education services for their children.
- A bill to increase the amount of funding provided to school districts to serve children in special education, raise the organizational profile of Special Education within the Public Education Department, and assure that the program be staffed with persons with relevant expertise.

Employment

Expected legislation:

- Minimum wage for employees with disabilities. Rep. Joanne Ferrary. This bill 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.

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 and recommend changes in NM law to allow and support it. HHHC/HAFC.

Other expected legislation:

- A bill to require that individuals who are paid to provide guardianship services to more than two persons unrelated to the individual (“professional guardians”) be licensed, and to designate the Office of Guardianship at the DD Planning Council as the licensing entity.
- Civil protections and penalties. Sen. Katy Duhigg. A bill that would impose civil penalties for financial exploitation of vulnerable adults, and allow financial institutions to delay transactions that appear to be exploitative or fraudulent.

- A separate bill that would impose criminal penalties for financial exploitation of vulnerable adults.

Health Care

- **HB 47** Aid in dying. Rep. Debbie Armstrong. Authorizes prescriptions to be issued by a qualified health care provider that an individual with a terminal illness 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. HHC/HJC
- **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. HHC/HTRC
- **SB 60** Physical therapy interstate compact. Sen. Siah Correa Hemphill. Would commit New Mexico to an interstate compact such that a licensed PT in good standing in another state could practice in New Mexico, and vice versa for PTs licensed in New Mexico. SHPAC/SJC.

Other expected legislation:

- A bill to create a state oversight board that would have the authority to review and approve (or disapprove or limit) major price increases for prescription medications.
- A bill that 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.

Independent Living/Community Services

SB 47 AT and home modifications. Sen. Jerry Ortiz y Pino. Appropriates \$300,000 to the Governor’s Commission on Disability to provide assistive technology and home modification services. SHPAC/SFC. *SHPAC hearing scheduled for Jan. 25*

Miscellaneous

HB 20 Paid sick leave. Rep. Christine Chandler. Requires most employers in NM to provide sick leave to their employees, and allow such leave to be used for purposes including caring for a family member with a physical or mental illness or health condition. Similar but not identical to HB 37. HLVMC/HJC

HB 37 Paid sick leave. Rep. Angelica Rubio. Requires most employers in NM to provide sick leave to their employees, and allow such leave to be used for purposes including caring for a family member with a physical or mental illness or health condition. HLVMC/HJC

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. HCEDC/HJC

Other expected legislation:

- A bill to change the confidentiality provisions of the state Mental Health/Developmental Disabilities Code to allow for limited data sharing related to children, for research purposes only. The data would not be publicly available.

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
PED	Public Education Department