Committee Hearings This Week

Today:
- SJC hearing on HB 85 (boarding home registration and oversight), SB 252 (aid in dying)
- HBIC hearing on SB 411 (concerning the telephone surcharges that fund the deaf relay service)
- HTRC hearing on SB 69 (accessibility parking placards for agencies transporting individuals with disabilities)

Tuesday:
- HSIVC hearing on SB 84 (adding members to the Behavioral Health Collaborative)

Crunch time – the final week. This year’s regular session of the Legislature ends at noon this Saturday, March 18. Bill sponsors are scrambling to make sure their bills are heard, while committees struggle to keep up with the workload. House and Senate floor sessions will continue to go late into the evening as bills and memorials that have made it through those committees are debated and voted on.

Limitation on solitary confinement clears House. A proposal that would generally prohibit solitary confinement in jails and prisons of persons with serious mental disability, as well as juveniles and pregnant women, was approved by the House on Saturday night on a 38-22 vote after debate lasting an hour and a half. The measure is a substitute version of the original bill and was crafted by a group of key stakeholders, including DRNM and The Disability Coalition. The prohibition would not apply to the first five days of incarceration (except for juveniles), and solitary confinement would still be allowed in certain circumstances for up to 48 hours. The bill now heads to the Senate.

Near the finish line. A few important disability-related bills have now made it almost all the way through the legislative process. HB 75, prohibiting seclusion and restraint of public school students except in emergencies, awaits a final vote in the Senate and the House’s agreement to a minor amendment added on the Senate side. SB 38, requiring information to be provided to student athletes about concussion and brain injury, had its final committee hearing Sunday and is expected to be voted on by the House later this week.
Still within striking distance. HB 85, requiring registration of board and care facilities, is expected to be heard in the Senate Judiciary Committee today. If approved, it needs a final Senate vote and then House approval of Senate amendments. HB 98, providing a mechanism for blind voters to cast an absentee ballot independently, has now been amended to include a variety of other changes to the election code. The revised bill needs to be scheduled for a hearing in SJC and then a final vote in the Senate. HB 244, revised to focus on exemptions to “step therapy” requirements, has been approved by the Senate Corporations Committee but faces an additional Senate Finance Committee hearing before a possible vote in the Senate. SB 217, providing due process protections for Medicaid providers who may be accused of fraud, was approved by the House Health and Human Services Committee on Sunday but has to clear House Judiciary in order to have a chance for a final vote in the House.

SB 411, extending the surcharge that supports the deaf relay system to Voice over Internet Protocol (VoIP) and other communication technologies, will be heard today in the House Business and Industry Committee but then has to clear House Judiciary before it could be voted on by the full House.

Senate adopts revised budget, revenue plan. The Senate has adopted its revised version of the state budget (HB 2) for the coming year in conjunction with a revenue package (HB 202) needed to balance the budget and build up the state’s cash reserves. In its latest form, HB 2 authorizes spending $6.093 billion, an increase of only $22.6 million (less than one half percent) over current spending levels. The Senate added about $16 million for various educational projects but reduced total spending on general public education through the funding formula by $12 million. It also added an additional $26 million for Medicaid, contingent on passage of HB 202.

HB 202 would raise an estimated $363 million by providing for state taxes to be paid on internet sales, raising the excise tax on automobile purchases, increasing the tax on gasoline, raising the fee for annual permits issued to commercial trucks travelling across the state, eliminating a tax exemption for non-profit hospitals, and a few other measures. Of the funding raised by this bill in the coming year, $156 million will provide the additional state income needed to cover the spending level authorized in this year’s state budget bill. Without that additional revenue, state agency budgets would have to be cut again, as they were a year ago and again during the special session last fall. HB 202 also provides $126 million to increase the state’s reserves, $55 million for repairs of state and local roads, and $26 million for the Medicaid budget.

The House will need to approve the Senate changes in order for the bills to go to the governor, who could approve them, veto them in their entirety, or line item veto specific provisions. If the House disagrees with the Senate amendments, a conference committee will be appointed to seek a compromise agreement.

Bills and Memorials in the 2017 Session

This list is grouped by disability or subject matter and shows the bill number, sponsor, a description of the bill and the current committee assignments or action taken on the bill or memorial. See page 9 for a list of abbreviations, including legislative committees, used in this report.

The FY 2018 State Budget
HB 2 General Appropriation Act of 2017. Rep. Patricia Lundstrom. This is the bill that sets state spending levels for the coming year for all state agencies. The version that passed the House was modified by the Senate Finance Committee and approved by the Senate, as noted above. With respect
to the programs and agencies of interest to the disability community, the only notable change is the
tentative addition of $26 million to the Medicaid program. That funding is contingent on the revenue
package passing so that more state funding becomes available for that purpose. Other state agencies
are facing “flat” budgets or even small reductions in funding. Without additional revenue through HB
202 or other measures, a new budget would have to be crafted that would impose budget cuts across
the board. Passed the House 37-32 on a party-line vote; passed the Senate 33-8 with bipartisan
support; awaiting concurrence of the House with the Senate amendments or appointment of a
conference committee if the House does not concur.

Autism Services
  law to remove the age limits and dollar caps on insurance coverage of occupational, physical and
  speech/language therapies and applied behavioral analysis for persons with autism. Those
  limitations are currently barred by the Affordable Care Act but remain in New Mexico’s statutes;
  removing them makes state law consistent with federal law and preserves these protections in the
  event the ACA is repealed. Similarly, the bill provides that any co-pays or deductibles for these
  services must be consistent with similar charges for physical health care services, as required by
  the ACA’s provisions mandating parity in coverage of physical and mental health care. Passed
  HHHC, pending in HCPAC.
- **HB 403** Medicaid-funded Autism Services. Rep. Liz Thomson. Mandates Medicaid coverage of
  autism services without age or annual cost limitations and without co-pays. Passed the House 45-
  13; awaiting Senate committee assignments.
- **HM 51** Autism Task Force. Rep. Liz Thomson. Calls on the UNM Center for Development and
  Disability to convene a task force to develop recommendations to better serve older youth and
  adults with autism, with a focus on developing funding mechanisms and in-state facilities and
  resources. Identical to SM 79, below. **Passed.**
- **SM 79** Autism Task Force. Sen. Linda Lopez. Identical to HM 51, above. SRC/SPAC. Passed
  SRC and SPAC, awaiting final Senate vote.

Behavioral Health/Mental Health
- **HB 136** Rapid Re-housing. Rep. Tomás Salazar. Appropriates $2 million to provide services and
  supports to homeless persons to help them obtain and maintain permanent housing. Tabled in
  HAFC.
  rebuttable presumption that professional firefighters who are newly diagnosed with post-traumatic
  stress disorder are eligible for worker’s compensation health care. The original bill included “other
  mental health disorders” but that provision has been deleted from the bill. Passed House 54-14;
  passed SCORC and SJC, awaiting final Senate vote.
- **HB 306** Interventions for Non-Violent Offenders. Rep. Sheryl Williams Stapleton. Directs HSD,
  subject to funding available, to address the behavioral health needs of non-violent adult and
  juvenile offenders and connect them with resources such as housing and medical assistance, in
  order to reduce recidivism. Passed the House 62-0; SJC/SFC.
  a program serving Grant, Luna and Hidalgo Counties to provide support services to persons with
  mental illness in the criminal justice system in order to promote successful re-integration into the
  community and reduce recidivism. Passed HHHC; tabled in HAFC.
- **SB 83** Carve Out Behavioral Health. Sen. Jerry Ortiz y Pino. Prohibits HSD from providing Medicaid-funded behavioral health services through any managed care program. Moved out of SPAC “without recommendation”; the bill is now in SFC and not expected to move forward.

- **SB 84** Add Members to BH Collaborative. Sen. Jerry Ortiz y Pino. Adds representatives of the behavioral health provider association, the New Mexico Association of Counties and the Municipal League to the state Behavioral Health Purchasing Collaborative. As amended, the bill also calls for the members of the Behavioral Health Planning Council to be appointed by the Collaborative rather than the governor. Passed Senate 37-0; passed HHHC, *HSIVC hearing on Tuesday 3/14*.

- **SB 90** Changing Requirements for Prescribing Psychologists. Sen. Mary Kay Papen. Expands the pool of medical professionals who can supervise psychologists who are going through training to become authorized to prescribe medications. The bill also makes some technical changes to the law allowing trained psychologists to prescribe medications. Revised version passed Senate 37-0; passed HHHC, awaiting final House vote.

- **SB 273** Housing and Support Services. Sen. Howie Morales. Appropriates $2.5 million to HSD to provide and housing and support services to persons with behavioral health disabilities who are homeless or at risk of homelessness. Passed SPAC; the bill is now in SFC and not expected to move forward.

**Brain Injury**

- **SB 38** Student Athlete Training. Sen. Bill Soules. Requires schools to provide information to their student athletes about concussions and the need to protect against potential brain damage. Passed the Senate 31-7; passed HEC and HHHC, awaiting final House vote.

**Caregivers - Professional and Family/Volunteer**

- **HB 86** Use of Sick Leave to Provide Care. Rep. Debbie Armstrong. Requires private employers to allow employees with accumulated sick leave to use that leave to provide caregiving to family members in need of such assistance. Passed the House 47-18; passed SPAC, pending in SJC.

- **SM 1** Recognizing Family Caregivers. Sen. Bill O’Neill. Recognizes the contributions of caregivers and calls for support of measures to assist or compensate them for their services. *Passed*.

- **SJM 6** Issues Affecting Direct Care Workers. Sen. Jerry Ortiz y Pino. Calls for a task force to review and make recommendations regarding issues affecting direct care workers, including implementation of federal protections under the Fair Labor Standards Act and promoting a stable and adequate workforce to meet the needs of growing populations of seniors and persons with disabilities in New Mexico. Passed the Senate 32-4; passed HHHC, awaiting final House vote.

**Criminal Justice**

- **HB 72** Reinstate the Death Penalty. Rep. Monica Youngblood. Re-establishes the death penalty in New Mexico for the murder of police officers or children. The bill provides for some exceptions for persons with intellectual disabilities or mental illness though concerns remain regarding those provisions. HCPAC/HJC/HAFPC. Heard and tabled in HCPAC.

- **HB 175** Limiting Solitary Confinement. Rep. Moe Maestas. Prohibits the use of solitary confinement in jails or prisons for children, pregnant women, and persons with serious mental illness or intellectual disabilities with functional impairments. The prohibitions on pregnant women and persons with mental disability does not apply in the first five days of confinement, and 48 hours of solitary confinement is still allowable in certain circumstances. The provisions related to mental disability are effective July 1, 2018. Passed the House 38-22; awaiting Senate committee assignments.
- **HB 242** Limiting Solitary Confinement. Rep. Liz Thomson. Identical to the original version of HB 175, above, and SB 185, below. This bill is not being pursued by the sponsor, in favor of HB 175.
- **HB 346** Exemption for Mental Illness. Rep. Angelica Rubio. Exempts persons with severe mental illness from prosecution for the crime of assault on a health care worker. Passed HHHC; the bill is now in HJC and not expected to move forward.
- **SB 185** Limiting Solitary Confinement. Sen. Mary Kay Papen. Identical to the original version of HB 175 and HB 242, above. Passed SPAC without recommendation; the bill is now in SJC and not expected to move forward.

**Developmental Disabilities**
- **SJM 2** Rett Syndrome. Sen. Michael Padilla. Calls on the Department of Health to include Rett Syndrome as a qualifying condition to be eligible for the DD waiver program. Passed the Senate 35-0; passed HHHC, awaiting final House vote.

**Education/Higher Education**
- **HB 187** Funding for ENMU Special Services Program. Rep. Bob Wooley. Appropriates $219,500 for the Special Services program at Eastern New Mexico University, which supports college students at ENMU with developmental disabilities. Passed HEC, tabled in HAFC. The current version of HB 2 appears to require the Department of Health to use an unspecified amount of DD funds to help support this program.
- **SB 188** Lottery Scholarship Eligibility. Sen. Liz Stefanics. Makes students with disabilities who had to attend an out-of-state high school in order to receive an appropriate education eligible for lottery scholarships to New Mexico universities. Passed the Senate 38-0; passed HHHC and HAFC, awaiting final vote in the House.
- **SB 397** Support Services for Students with Disabilities. Sen. Linda Lopez. Requires schools to take a variety of steps to address the needs of students with disabilities affecting their behavior: adoption of “school support plans”; adoption of policies requiring that, after a first offense of violating school codes of conduct and prior to making any referral to juvenile justice or law enforcement, the school screen the child for adverse childhood experiences and develop a plan of preventive and support services for the child; and adoption of policies prohibiting seclusion and restraint except in emergencies. SEC/SJC. Heard in SEC, but no action taken and no further action likely.
- **SB 399** Training School Staff re Special Needs Students. Sen. Linda Lopez. Appropriates $250,000 to PED to train all teachers, educational aides and other school staff on how to work effectively with students with special needs. Passed SEC, tabled in SFC.

**Employment**
- **HB 327** Eliminate Sub-Minimum Wages. Rep. Joanne Ferrary. As amended, this bill repeals the provision in state law allowing rehabilitation agencies to pay less than the minimum wage to workers with disabilities, effective July 1, 2020. Federal law permits those reduced wages but allows states to bar them, as this bill would do. Only three agencies in the state pay less than the minimum wage. Passed HHHC, but then referred to HJC and unlikely to be heard in time to progress further in this session.
HM 93 Facilitate Transition Away from Sub-minimum Wages. Rep. Joanne Ferrary. Calls on the DD Planning Council to convene a group to make recommendations that facilitate transition to compliance with minimum wage requirements for employees with disabilities and that identify any disability population group that should be exempted from a minimum wage. Passed HHHC, awaiting final vote in the House.

Healthcare/Medicaid

HB 87 Department of Health Diabetes Committee. Rep. Debbie Armstrong. Directs DOH to convene an inter-agency committee to identify goals and benchmarks to reduce the incidence of diabetes, improve diabetes care, and control complications of the condition. Passed the House 67-0; passed SPAC, pending in SFC.

HB 112 Limiting Changes to Insurance Policy Drug Coverage. Rep. Bobby Gonzales. Under this bill, insurance companies could not increase co-pays for a covered drug, drop a drug from their formulary, or impose a new requirement for prior authorization after the beginning of the annual period of the policy coverage. Insurers would have to provide at least 90 days notice before the beginning of a plan year if such changes are proposed for that plan year. Identical to SB 291, below. Revised version passed HHHC; pending in HJC.

HB 244 Step Therapy. Rep. Liz Thomson. Clarifies the process that health insurers must follow in implementing a “step therapy” protocol for services or medications, and requires granting of exceptions in numerous situations. Step therapy requires an individual to try common or lower cost prescription drugs or medical treatments first and show that they don’t work before use of a more expensive drug or treatment is allowed. Identical to SB 179, below. Passed the House 35-30; heard and amended in SCORC, pending in SFC.

HB 389 Medical Equipment Sole-Source Contracts. Rep. Rebecca Dow. Requires health care insurers that cover durable medical equipment to contract with any company offering such equipment and to reimburse all DME providers at the same rates. Identical to SB 190, below. Passed HHHC, pending in HSIVC.

SB 177 Medical Marijuana Changes. Sen. Cisco McSorley. Creates presumptive eligibility for the medical marijuana program for persons with chronic, debilitating health conditions, and extends the length of time for which a certification of eligibility is valid. Passed the Senate 29-11; passed HHHC, pending in HJC.

SB 179 Step Therapy. Sen. Liz Stefanics. Identical to HB 244, above. Passed SPAC and SCORC, but a new referral has sent the bill to SFC and it is not likely to go further.

SB 190 Equal Treatment for All DME Providers. Sen. Mary Kay Papen. Identical to HB 389, above. Passed SPAC, pending in SJC and further action unlikely.

SB 291 Limiting Changes to Insurance Policy Drug Coverage. Sen. Liz Stefanics. Identical to HB 112, above. SPAC/SJC. The bill was heard but not acted on in SPAC and is not expected to move forward.

Self-Determination and Protective Services

HB 146 Financial Exploitation of Vulnerable Adults. Rep. Yvette Herrell. Makes financial exploitation of a vulnerable adult a misdemeanor or felony crime, depending on the severity of the case. Failure to use the adult’s available resources for needed support and maintenance, resulting in neglect, is included as a crime. HHHC/HJC/HAFC. Passed HHHC and revised version passed HJC; pending in HAFC.

HB 171 Aid in Dying. Rep. Debbie Armstrong. This bill enacts the End of Life Options Act, which would allow physicians to prescribe a lethal dose of medication that a competent adult with a terminal illness could use. Passed HHHC; a revised version, which includes additional
procedural protections for persons known or believed to have mental illness or developmental disabilities, has been heard and debated at length in HJC but a final committee vote has not yet been taken. Further action on this bill appears unlikely.

- **HB 326** Financial Exploitation of Vulnerable Adults. Rep. Sarah Maestas Barnes. Requires those involved in buying or selling securities to notify Adult Protective Services and the Securities Division of the state Regulation and Licensing Department if they suspect that someone is engaged in financial exploitation of a senior citizen or an incapacitated adult. The bill also authorizes a broker or investment adviser to delay payments out of an account belonging to an elder or incapacitated adult when financial exploitation is suspected, pending a review by the state agencies. Passed HBIC; revised version passed HJC and is awaiting final House vote.

- **SB 171** Limiting Referrals by LTC Ombudsman. Sen. Gay Kernan. Prohibits the Long-Term Care Ombudsman from referring suspected cases of abuse or neglect to Adult Protective Services without consent from the resident or the resident’s surrogate decision-maker in most circumstances. The bill is intended to assure compliance with recent changes to the federal Older Americans Act. Revised version passed Senate 39-0; passed HHHC, pending in HJC.

- **SB 252** Aid in Dying. Sen. Liz Stefanics. The original version of this bill was identical to the original version of HB 171, above. Passed SPAC, and the bill has now been revised to incorporate most of the revisions that were made to HB 171, including stronger protections for persons who may have mental illness or developmental disabilities. *SJC hearing expected today (3/13).*

**Service Provider Issues**

- **HB 85** Licensure and Oversight of Board and Care Facilities. Rep. Debbie Armstrong. Makes clear that boarding homes that provide personal assistance to their residents, including assistance with taking or managing prescription drugs, must register with DOH. The original version of the bill had required these facilities to be licensed by DOH, but this has been changed to a more limited registration process. Facilities will be subject to visitation by the Long-Term Care Ombudsman, and the Attorney General would be authorized to investigate complaints of abuse, neglect or financial exploitation of residents, which would be criminal offenses. Passed the House 65-0; passed SPAC, *SJC hearing scheduled for today (3/13).*

- **HB 132** Accessibility Logo on Specialty License Plates. Rep. Sarah Maestas Barnes. 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. Passed the House 66-0; passed SCORC and SPAC, awaiting final Senate vote.

- **HB 433** Move DVR to Workforce Solutions. Rep. Candy Ezzell. Transfers the Division of Vocational Rehabilitation from the Public Education Department to the Workforce Solutions Department. The Commission for the Blind, which is also a vocational rehabilitation agency, is not included in the transfer; the bill provides for a later determination of the appropriate location for the state Independent Living program. Passed the House 61-0; SRC.

- **SB 69** License Plates for Disability Agencies. Sen. Sander Rue. Allows agencies providing services to persons with disabilities to obtain accessibility license plates for their agency-owned vehicles as long as those vehicles are used primarily to transport individuals with disabilities. Passed the Senate 37-0; passed HTPWC, *HTRC hearing scheduled for today (3/13).*

- **SB 187** Licensure and Oversight of Board and Care Facilities. Sen. Mary Kay Papen. Identical to the original version of HB 85, above, and does not include the amendments made to the House version. Passed SPAC, and heard in SJC. Further action unlikely as HB 85 proceeds.

- **SB 217** Due Process Protections for Medicaid Providers. Sen. Mary Kay Papen. Provides due process protections for Medicaid providers who are suspected of fraud, and clarifies the definition of fraud. This bill is in response to HSD’s actions in 2013 that put many long-time behavioral
health provider agencies out of business; all of those providers have since been exonerated of fraud by the Attorney General. Passed the Senate 31-9; passed HHHC, pending in HJC.

Voting rights

- **HB 98** Paper Ballot for Blind Voters. Rep. Tomás Salazar. Requires the Secretary of State to establish procedures for a blind or visually impaired voter to complete a paper ballot either at a polling place or by absentee ballot. Such a process is typically available now at polling places but not for absentee voting. Extensive amendments have been added to this bill that address other changes to the state election code. The original version of the bill passed the House 66-0; the amended version has passed SRC, and is now pending in SJC.

Other Disability Issues

- **HB 222** Increase Adoption Tax Credit. Rep. Alonzo Baldonado. Increases the state tax credit for families that adopt a special needs child from $1,000 to $1,500. Passed HHHHC, tabled in HTRC.
- **HB 283** Automobile Communication/Disability Registry. Rep. Liz Thomson. Authorizes the Motor Vehicle Division to maintain a registry of persons whose documented disability may affect a driver’s or passenger’s ability to communicate with or respond appropriately to a law enforcement officer. The registry would be based only on information provided voluntarily through the regular process of registering a vehicle; it would be available to law enforcement agencies but not subject to public disclosure. HBIC/HTRC
- **SB 411** Extending Assessment Base for Relay Funding. Sen. Nancy Rodriguez. Provides that the surcharge on telephone service, which funds the relay service for persons with hearing impairments, is extended to Voice Over Internet Protocol and other arrangements that are based on newer technologies rather than traditional telephone service. Funding for the relay service has been decreasing as businesses and consumers have switched to these new technologies. Passed the Senate 38-0; HBIC/HJC. *HBIC hearing scheduled for Monday 3/13.*

### 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](https://www.nmlegis.gov/Members/Find_My_Legislator).

From this page, choose “Search by Name, District or 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 “Go”.
- Scroll down to find a picture of your Representative or Senator.
- Click on his or her name to get contact information.
- 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.

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!

**Policy and Legislative Action Network (PLAN)**: Join your friends and colleagues in working to promote favorable action on issues of concern to people with disabilities and their families. Become
part of the PLAN! We'll let you know when there are opportunities to speak out on bills in the Legislature and other key issues, and give you background info and talking points; you show the power of the disability community by following up with calls or emails to public officials. Sign up with DRNM's project coordinator, Katie Gordon, at KGordon@drnm.org.

**ABBREVIATIONS USED IN THIS REPORT**

**Legislative Committees**

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<tr>
<th>Abbreviation</th>
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<tr>
<td>HAFC</td>
<td>House Appropriations and Finance Committee</td>
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<td>HCPAC</td>
<td>House Consumer and Public Affairs Committee</td>
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<td>HEC</td>
<td>House Education Committee</td>
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<td>HHHC</td>
<td>House Health and Human Services Committee</td>
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<td>House Judiciary Committee</td>
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<td>HLEDC</td>
<td>House Labor and Economic Development Committee</td>
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<td>HLELC</td>
<td>House Local Government, Elections, Land Grants and Cultural Affairs Committee</td>
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<td>HSIVC</td>
<td>House State Government, Indian and Veterans Affairs Committee</td>
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<td>House Transportation and Public Works Committee</td>
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<td>House Taxation and Revenue Committee</td>
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<td>Senate Judiciary Committee</td>
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<td>SPAC</td>
<td>Senate Public Affairs Committee</td>
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<tr>
<td>LFC</td>
<td>Legislative Finance Committee (joint House-Senate committee that meets during the interim between legislative sessions)</td>
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**State Agencies**

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<td>DDPC</td>
<td>Developmental Disabilities Planning Council</td>
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<td>DOH</td>
<td>Department of Health</td>
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<td>GCD</td>
<td>Governor’s Commission on Disability</td>
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<td>HSD</td>
<td>Human Services Department</td>
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<td>PED</td>
<td>Public Education Department</td>
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