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IPA Lobbyist Report | End of Session Review

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Iowa Psychological Association

Lobbyist Report
End of Session | May 3, 2017

SESSION ENDS AFTER ALL-NIGHT MARATHON

The Iowa Legislature finished its work for the year after a sleep-deprived final week that only ended after legislative leaders decided to pull an all-nighter, working through the night and adjourning finally at 7:15 am on Saturday morning (April 22).

If you were listening into the debate, you may have wondered why things were quiet. While inside the House and Senate chambers was quiet, the halls of the Capitol were filled with lobbyists scurrying around trying to get a last minute deal on two remaining issues - medical cannabis and water quality. As one Senator who probably would not like to be named said, "it's down to weed and water."

The frantic end seemed appropriate for this legislative session, as new leaders in the Senate took a no-holds-barred approach to implementing their backlog of legislative issues. They had their bills ready to go, and they wasted no time in running them. Every week was busy - the normal "hurry up and wait" cycle broken. Even the normally quick House had trouble keeping pace with their swift Senate colleagues. *To recap, legislators sent bills to the Governor that:*

- Legalize fireworks.
- Allow guns to be carried at the Capitol (with a permit).
- Allow children of *any age* to use a handgun (with parental supervision).
- Allow those threatened to stand their ground and use a gun for defense.
- Expand the use of the medical cannabis oil (cannabidiol) - but not the plant.
- Allow in-state production and distribution of the cannabidiol.
- Defund Planned Parenthood.
- Ban all non-emergency abortions after 20 weeks (even for fetal abnormality).
- Limit worker's compensation paid out for on-the-job injuries.
- Cap noneconomic damages in medical malpractice claims at $250,000.
- Stop five counties from raising the minimum wage in their area.
- Limit public employee union collective bargaining power.
- Require voters to show an ID before voting.
- Cut back time allowed for early voting by 11 days.
- Allow police to stop you for texting while driving ($30 ticket).
- Allow the terminally ill to try investigational treatments not yet FDA-approved.
- Allow doctors to refer patients with Lyme's disease to alternative treatments.
- Require newborn testing for congenital cytomegalovirus (CMV).
- Require insurance plans pay for applied behavior analysis (ABA) for autism.
- Require hospitals and MHIs use/update the psychiatric bed tracking system.
- Allow mental health professionals (not just doctors) to do commitments.
- Set guidelines for insurers using RX "fail first" policies and allow override.
- Stabilize funding for regional mental health/disability services.
- Request interim committee on telehealth, and another on opioid epidemic.
- Allow HCBS waiver reports to include checkboxes (rather than all narrative).
- End the PA-MD board rules standoff with a status quo compromise.
- Allow dental hygienists to do patient education without dentist supervision.

That's just a snapshot of the bills passed this year. A quick review of some things you were watching:

- No action to suspend professional licensure (the Governor recommended eliminating state licensure of mental health counselors, social workers, massage therapists, barbers, and more).

- No changes to the state's Certificate of Need process (not even an exception for psychiatric inpatient beds).

- Legislation prohibiting health professionals from asking about a patient's gun ownership got no traction.

- Genetic counselors didn't get their licensure this year, but $200,000 was dedicated to creating a master's program in Applied Behavior Analysis at Drake University.

- No policies adopted to counter the "opioid epidemic," but there is an interim study to look at actions the state should take.

- After a lot of discussion, legislators refused to legalize medical cannabis for a broad group of conditions. Instead, the bill passed allows the use of low-THC (less than 3%) cannabis oil. It can be produced by two manufacturers in the state, and then distributed through five dispensaries. The conditions covered include: cancer (with pain, nausea, severe wasting), MS, seizures, AIDS/HIV, Crohn's Disease, ALS, Parkinson's Disease, untreatable pain, and any terminal illness (with pain, nausea, severe wasting). "Untreatable pain" is defined as pain where cause cannot be removed, and all other options have been exhausted (that is, they were tried but without adequate result or with intolerable side effects). The Board of Medicine would be charged with making decisions about adding other conditions, but THC limits could not be lifted unless approved by the Iowa Legislature.

BUDGETS HIGHLIGHTS

There is no other way to say it - the budget this year is painful. The Legislature was faced early with the challenge of closing one of the biggest revenue gaps in recent history, making mid-year adjustments to the tune of a quarter billion dollars ($118 million in early session deappropriations, then $131 million borrowed from the Economic Emergency Fund, aka the "rainy day fund"). Fearing another year of falling revenues, lawmakers decided to continue their budget austerity and passed a fiscal year (FY) 2018 budget that spends $14 million *less* than the adjusted FY17 budget.

But the budget cutting was compounded by the need to provide additional funding for education ($40 million), add funds to pay for more State Patrol officers, pay for correctional salaries, and begin the process of paying back the borrowed "rainy day funds" ($20 million). So spending had to be further reduced to accommodate the increases in those areas.

Many departments said their budgets are at all-time lows; they had little choice but to drastically cut staff and programs. Entire programs bit the dust this year, like the Leopold Center for Sustainable Agriculture. And the pain isn't over. Many departments (including Public Health) were given flexibility to manage additional cuts and determine if other programming needs to be eliminated. IDPH has nearly $2 million more in cuts to make.

The result is a bare bones budget with a lot of cuts, and a lot of pain to spread around. Some people say it's a "reset" year, where agencies are forced to return to the basics and look strategically at areas to rebuild in the future. As a wise friend said to me, "Sometimes you measure success by what you didn't lose." By that measure, IPA was successful, with no additional cuts to the psychology post-doctoral internship program ($48,069). The 4% reduction (from $50,000) occurred in the deappropriation bill that passed earlier in session.

The Health/Human Services Budget (HF 653) makes the following changes:

- Eliminates the organizational structure of the **Iowa Collaborative Safety Net Provider Network** ($153,129) and cut funding for the specialty care network managed by Polk County Medical Society in half ($105,492 reduction). Maintained level funding for:
    - Free Clinics ($334,870)
    - Rural Health Clinics ($25,000)
    - SafeNet RX/Iowa Prescription Drug Corporation ($521,863)
    - Iowa Coalition Against Sexual Assault ($48,069)

- Allocates 12% less for **health workforce programs:**
    - Eliminates the Nurse Educator Loan Forgiveness Program and the Rural Iowa ARNP & PA Loan Program ($80,852) and cuts PRIMECARRE ($85,000).

    - Replaces the eliminated programs with a new "Health Care Related Loan Program." The new, more flexible program is funded with $200,000 - which is $165,852 less than what was available through the programs above.

- Suspends the **psychiatric residency program (**$2 million) for one year; it is a pay-go system so no current residents will be impacted.

- Eliminates the **Cherokee MHI mental health workforce training program** ($8,000) and the **University of Iowa primary care model for mental health treatment** ($78,309).

- Eliminates the **Direct Care Worker Advisory Council** ($87,169) and Direct Care Worker scholarships ($72,104), but funds the Iowa Caregivers Association at 92% of its current level ($16,831 cut).

- Eliminates funding for the **childhood obesity initiative** ($111,995) and **child vision screening** ($17,000).

- Cuts funding for **cervical cancer screening** in half ($100,000) but increases funding for **Melanoma clinical trials** ($50,000).

- Cuts funding for **tobacco cessation** by 25% ($1 million).

- Eliminates the **Office of Minority & Multicultural Health** ($74,389), cuts funding for **RefugeeRISE** Americorps program by $100,000 (leaving $200,000), and eliminates funding for **Viral Hepatitis Education, Treatment, and Prevention Program** ($114,029).

- Cuts **vocational rehabilitation** funding by $116,958 - because this is matched with federal dollars the actual cut totals almost $550,000. These are funds that help Iowans with disabilities get or keep a job.

- No change in funding for the **medical cannabidiol administration** - but $22,000 won't be enough for the Department of Public Health to manage the newly expanded program.

- Increases **Medicaid** funding by only 1%, but includes **$35 million of "cost containment"** measures that will make changes in the way providers get reimbursed, which could impact access to services. These changes include:

    - Eliminating some consultation codes physicians use ($500,000).
    - Increasing use of pharmaceutical drug rebates ($1.2M).
    - Reducing reimbursement significantly for services performed in a hospital that are more appropriately done in a medical clinic ($2M)
    - Reducing anesthesiologist reimbursement to Medicare rate ($3.1M).
    - Paying primary care providers at normal rate, not the federally-required enhanced rate that expired several years ago ($5M).

  - Limiting the extra payment to providers for people who are eligible for both Medicaid and Medicare to the Medicaid rate (called "cross over claims" - saving $7.7M by limiting reimbursement to Medicaid level).
  - Changing hospital reimbursement for high-cost outlier cases ($10M).
  - Limiting payment for some services that were incurred prior to applying for Medicaid ($4.3M).
  - Finding another $1,908,857 in "performance improvement" savings.

- Cuts the **Medicaid pharmacy dispensing fee** by $1.70 (setting new reimbursement rate at $10.92 per prescription).

- Funds **hawk-I** children's health insurance program at expected level of need ($8.5 million).

- Scoops unspent **child welfare decategorization** funds that are used locally to address the needs of at-risk youth ($2 million).

- Funds the new state-funded **Family Planning Program** ($3,838,880), and suspends the family planning waiver that has cost the state $482,035 annually to operate. DHS is allowed to use up to $200,000 of this new appropriation for administration. The program is to:
  - Maintain current eligibility requirements.
  - Maintain program benefits and reimbursement
  - Distribute funds so that access is maintained throughout the state.
  - Prohibit any abortion provider from participating.
  - Allow emergency rule-making.

The budget bill also makes several policy changes:

- Requires DHS to review the use of **step therapy protocols** and override exceptions in Medicaid (and allows DHS to implement protocols consistent with HF 233 - which applies to private insurance plans - if it would improve quality of life and increase efficiencies).

- Directs the **Medicaid Drug Utilization Review Committee** & the **Pharmaceutical and Therapeutics Committee** to consult with experts in drugs, biological products, and rare diseases when making decisions on access to drugs and biological products for rare diseases.

- Requires DHS to explore opportunities with the **National Accuracy Clearinghouse** to verify eligibility for participation in various public programs (Medicaid, Family Investment Program, Supplemental Nutrition Assistance Program).

- Requires DHS to issue RFPs for **children's well-being collaboratives,** outlined in the children's mental health study report (they are to include broad-based representation of providers that include those that do prevention, early intervention, and mental health services).

- Requires MHIs and hospitals with inpatient psychiatric beds to update the **psychiatric bed tracking system** twice a day. Also requires beds to be categorized by adult, child, and geriatric, and notations to be made if they are gender-specific.

- Requires DHS to discontinue the current **HCBS service provider cost settlement methodology** and begin using tiered rates for providers of supported community living, day habilitation, and adult day services. Also reformats reports so there are **checkboxes for documentation** used by psychologists, ARNPs, CMHCs, HCBS habilitation service providers, behavioral health intervention, case management, HCBS services, and community-based

neurobehavioral rehabilitation residential services and intermittent services (effective upon enactment and emergency rules allowed).

Rep. Dave Heaton (R-Mt. Pleasant) was asked during debate about mysterious language in the budget bill this year that prohibits licensed or certified medical practitioners and clinical students or residents from performing pelvic examinations on an anesthetized patient without prior written consent. Rep. Mark Smith (D-Marshalltown) asked why this was needed, since it would be in accordance with current practice guidelines and professional ethics.

Rep. Heaton indicated he too had the same questions, and said it came from the Senate, adding that "I went over there and asked, what the hell is going on here?" Turns out it was something Senate Majority Leader Bill Dix read about in the news - there was an incident in another state and he didn't want it to happen here.

What the hell is going on here? might just be the appropriate tag line for the entire 2017 session.

INTERIM COMMITTEES 2017

Legislators requested several interim committees this year, but the final decision is made by the Legislative Council's Studies Committee. They will meet in June to determine which studies to authorize (they cost money so they may limit it to legislator-only participation or ignore the request altogether). Some that were requested include:

- **Telehealth Parity Interim Committee** to examine issues of parity for private insurance and state employee health plans (not Medicaid). The group to look at reimbursement parity, benefits of telehealth service utilization, impact on access, potential impact on economic development, and obstacles including broadband access. The group includes legislators, agency staff, Signal Center for Health Innovation, Iowa Hospital Association, medical clinics, Iowa Medical Society, Iowa Health Care Association, Iowa Federation of Insurance, AARP, MH/DS region, and a telecommunications provider. A report with recommendations is due 12/15/17. (HF 653)

- **Opioid Epidemic Evaluation Interim** to develop a response to the opioid epidemic, including development of protocols and practices for prescribing and treatment options. The committee requested will be limited to legislators, but they are to receive input from professional licensing boards that oversee professionals that prescribe controlled substances, public safety/law enforcement agencies, corrections, medical examiner, medical providers, insurers, addiction treatment centers, Iowa prescription abuse reduction task force, and Iowa substance abuse information center. Report and recommendations are due 11/15/17. (HF 653)

- **Regional MH/DS/SA Work Groups** were authorized in SF 504, directing each mental health and disability services (MH/DS) region to convene a work group to discuss strategies to provide services to individuals with complex mental health/disability/substance use needs. The work group is to include mental health providers, managed care organizations, substance abuse providers, crisis service providers, advocacy organizations, judicial system, law enforcement, hospitals, and others that provide services to this population. Report on local strategies and costs for implementation is due 10/16/17.

- **Statewide MH/DS/SA Work Group** was also authorized in SF 504, to convene a similar group as the work groups (including both DHS & DPH) to develop a

statewide approach to this population. Their report is to summarize regional approaches, and develop recommendations by 12/3/17.

GOOD SESSION FOR MENTAL HEALTH (comparatively)

Wins are tough to come by this year - but this one is definitely a win. It's not the win advocates for mental health wanted, but it certainly moves the dial. While we were not able to get a fix (yet) to internship/resident reimbursement, lawmakers passed legislation to:

Rep. Kevin Koester talks about mental health funding in the House Lobby Lounge during the early morning hours of the session close-down.

- Require hospitals with inpatient psychiatric beds and state Mental Health Institutes (MHIs) to use the **psychiatric bed tracking system**, and update it at least twice daily. In addition, they must identify the available beds by adult, youth, or geriatric, and if the beds are only available to one gender. This system allows law enforcement to quickly locate beds, so they spend less time transporting people across the state only to be turned away when a bed is no longer available.

- Allow mental health professionals (including psychologists) to perform **commitment-related evaluations and reports**, something only psychiatrists and other physicians are permitted to do. The Iowa Hospital Association pushed for this legislation, finding that many rural hospitals have beds available but not the physicians needed to handle commitments (but they often have PAs or ARNPs or other mental health professionals who possess that expertise).

- Merges several loan/grant programs that recruit specific professional groups into a single **"Health-Related Workforce Loan Program"** to provide forgivable loans to any health professional (but cuts the overall pot of money available by $165,000). So this is a mixed bag - better flexibility to address workforce needs year to year, but less money to do so. Of course, IPA's internship program was level-funded as well, and kept separate.

- Stabilizes funding for **regionally-delivered mental health and disability services (MH/DS).** The Legislature didn't do as counties had asked - just allow them to levy up to $47.28 per capita to pay for services locally - but they did work out a compromise that addresses some (but not all) of the Farm Bureau's concerns. Rep. Ken Rizer (R-Linn) and Sen. Randy Feenstra (R-Sioux) worked out a final compromise (SF 504) that will:

- **Allow regions to begin levying a per capita rate**. To come up with this new rate, the region would take its current dollar cap, and divide it by the total population. While this new rate is still based on 1995 budgets, it will now shift with population. If a region grows in population, their budgets can grow as well. Click here for a chart showing impacts to each region.

- **Set new limits on fund reserves.** Because of the timing of property tax payments, counties need to have enough money in the bank to get through the first three months of their fiscal year (July-September). That is why they are allowed to keep 25% of their budget in reserve. This bill changes that - smaller regions (less than 100,000 population) can still keep that amount in reserve, but regoins with more population are now limited to 20%.

- **Force regions to spend down large reserves.** Some regions were able to build up large fund balances, but most have a plan to spend those down. In many areas, it takes time to roll out a new service. Regions compare it to buying a house; you have to save money until you have enough for the downpayment. The bill gives regions four years to spend down excess reserves (that is - funds over that allowed 25% or 20%), as long as its spent on planned core or core plus services. Excess funds remaining after four years must be used before more taxes can be collected (so mandatory lowering of property taxes by the amount the region is over its reserve limit).

The MH/DS regional funding plan works works for most regions, and may even work for them permanently. Two regions are not fixed by this, and needed an extra patch to make it work. To address this, the bill will:

- **Require Broadlawns to give Polk County $6.3 million each year for three years.** Broadlawns is a taxpayer-supported hospital and has built up a large reserve, but they are using that money to expand access and any remaining funds will be gone soon with changes happening nationally with health care reform and locally with the health insurance market. Polk will need a permanent fix after this - they are only allowed to levy $30.87 per capita under this bill, but their budget is $44.47 per capita (thus the $6.3 million gap).

- **Direct Scott County to work with DHS to come up with a plan, and in the meantime use their fund balance to get through the next two years.** Scott County is currently levying only $19.22, while the rest of the Eastern Iowa Region is levying the max (most at $47.28). This helps a little by allowing all of the counties in the region to levy $30.78 (including Scott) - but the region still comes up $3 million short.

- **Hold an interim committee during the summer of 2018 to see how things are going, and make recommendations to fix any "outlier" regions.** Legislators are hoping that this fix will take care of most regions, but they know there will be a few regions that need a special fix. They also acknowledge that these special fixes may be different for each region. They will review the current situation in 2018, and come back into session in 2019 to make any adjustments needed.

While this is more of a patch than a fix, counties and advocates supported the compromise because it gives them more stability than they've had before, and may very well fix things for most of the state. Only time will tell, but the good news is that we have time to figure it out.

LOOKING AHEAD AT 2018

Next year legislative leaders say they will take on school choice, pension reform, and income tax restructuring. We know water quality will get a second look but don't discount some of the other issues on the "inactive" list in the Bill Tracker won't come back to haunt us. There is also the potential for things like telehealth to emerge, after the interim study reviews the issue and makes recommendations.

The budget will be the toughest hill to climb next year, maybe even tougher than this year if Iowa's economic forecast doesn't improve. Early this year, lawmakers cut $119 million out of the state budget, but it wasn't enough. They came back and borrowed $131 million from the state's rainy day fund to fill in the growing gap, but say they want to pay that back over two years. So the budget just passed by the Legislature spends $14 million less than current adjusted spending, plus pays back $20 million of that $131 million loan. That means next year (FY19), lawmakers want to pay back the remaining $111 million - before spending a dime on any other programs. Tough times ahead, and an election year means they'll be ready to get done quickly.

To see a list of "inactive" bills that will become eligible for debate again in 2018 - click here.

BILL TRACKER

Legislators introduced 1,653 bills this year - but only 174 were sent to the Governor for a signature. The Governor still has (as of this writing) 67 bills waiting for a signature, including most of the budget bills.

The Governor now has until May 22 to review and take action on bills. With policy bills, his options are to sign them into law, or veto them. With spending bills, the Governor has the added option of using a "line item veto" to strike out sections of appropriations bills. We update the bill tracker on the day he signs bills - and we will send out a final list of signed bills after May 22.

- Click here to see all the bills passed by the Legislature.
- Click here to check on bills of interest to IPA.

Your Advocacy Toolbox

IPA Bill Tracker

Local Legislative Forums

- Find & Contact Your Legislator
- Legislative Committee Listings
- Track Legislation (instantly updated)
- Listen or Watch to Debate (live)
- House & Senate Calendars (Weekly & Daily)
- 2017 Legislative Session Calendar

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BUDGETS HIGHLIGHTS

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