



Children, Families, Health, and Human Services Interim Committee

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65th Montana Legislature

SENATE MEMBERS

MARY CAFERRO--Chair
FREDERICK (ERIC) MOORE
ALBERT OLSZEWSKI
DIANE SANDS

HOUSE MEMBERS

DENNIS LENZ--Vice Chair
KATHY KELKER
JON KNOKEY
GORDON PIERSON

COMMITTEE STAFF

SUE O'CONNELL, Lead Staff
ALEXIS SANDRU, Staff Attorney
FONG HOM, Secretary

MINUTES LOG

June 22, 2018
Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. MARY CAFERRO, Chair
REP. DENNIS LENZ, Vice Chair

SEN. FREDERICK (ERIC) MOORE
SEN. ALBERT OLSZEWSKI
SEN. DIANE SANDS

REP. KATHY KELKER
REP. GORDON PIERSON

COMMITTEE MEMBERS EXCUSED

REP. JON KNOKEY

STAFF PRESENT

SUE O'CONNELL, Lead Staff
ALEXIS SANDRU, Staff Attorney
FONG HOM, Secretary

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

RECONVENE AND ROLL CALL

00:00:08 Sen. Caferro reconvened the meeting at 9:17 a.m. The secretary called roll. Rep. Knokey was excused. ([Attachment 3](#))

Medicaid Expansion

LCCF10: Eliminate the HELP Act Oversight Committee

00:01:21 Sen. Caferro gave an overview of LCCF10.

00:01:36 Sen. Sands said that she supports LCCF10.

00:01:37 Sen. Moore asked Ms. O'Connell if the data on enrollee participation in the HELP-Link workforce development program comes from the oversight committee.

Motion

00:02:09 Rep. Kelker moved that LCCF10 proceed as a committee bill.

Committee Discussion

00:02:26 Sen. Sands asked Ms. O'Connell about moving LCCF10 forward as is or amending it.

00:02:57 Ms. O'Connell asked what the committee's intent of LCCF10 is going forward.

Vote

00:03:16 The motion passed unanimously by voice vote, with Rep. Knokey voting aye by proxy.

HJR 24 Study: DD Services for Adults

LCCF01: Using the SIS Assessment Tool

00:05:00 Rep. Kelker suggested making changes to LCCF01 and proposed that the committee discuss the bill in September.

00:09:23 Sen. Olszewski said that he will not support LCCF01 as a committee bill.

00:13:48 Sen. Sands wanted clarification on the purpose of LCCF01, what would it cost to use the Supports Intensity Scale (SIS) assessment tool, and why the requirement would be put in statute rather than rule.

00:15:32 Rep. Kelker commented on the need to have an assessment tool that provides results that can be used.

00:18:37 Sen. Sands noted that people are receiving an assessment through the MONA now.

00:19:48 Sen. Moore asked if LCCF10 will be discussed at the September meeting and what the objectives are regarding LCCF01 through LCCF05.

00:20:34 Sen. Caferro said she would like to discuss all bill drafts, give direction to staff, and continue the discussion in September when the committee knows more about the state's financial situation.

Motion

00:21:04 Sen. Sands moved to carry LCCF01 forward to the September meeting.

Committee Discussion

00:22:07 Sen. Moore said that if the motion passed, LCCF01 would still require an affirmative vote in September to proceed as a committee bill.

Vote

00:22:23 The motion passed unanimously by voice vote, with Rep. Knokey voting aye by proxy.

00:23:08 Ms. O'Connell said that she would work with Rep. Kelker on any potential changes to the bill.

00:23:36 Rep. Kelker suggested a tiered assessment structure.

LCCF02: Provider Rates and Direct-Care Worker Wages

00:24:41 Ms. O'Connell asked if LCCF02 should be split into separate bills, one dealing with inflationary increases and the other dealing with the direct-care worker wage increase.

Motion

00:29:04 Sen. Sands moved to separate LCCF02 into two bills to deal with inflationary increases and direct-care worker wage increases and to move the bills forward for discussion at the September meeting.

Vote

00:29:41 The motion passed unanimously by voice vote.

LCCF03: Daily Rates and Grant Program

00:30:39 Sen. Caferro gave an overview of LCCF03.

00:31:07 Sen. Olszewski asked Ms. O'Connell about the Medicaid waiver regarding daily rates and hourly rates.

00:31:33 Ms. O'Connell gave a brief history of the waiver's role in funding developmental disabilities services.

00:32:41 Sen. Olszewski asked if the bill would have to ask for a waiver change.

00:32:56 Sen. Caferro said that the hourly rate is not a federal requirement.

00:33:22 Sen. Moore asked Ms. O'Connell if LCCF03 is a candidate to be split into two bills.

00:33:57 Rep. Kelker said both concepts are important. She has no trouble splitting them into two bills as long as they receive equal consideration.

Motion

00:35:04 Sen. Sands moved to split LCCF03 into two bill drafts, to deal with daily or monthly rates and to create the grant program, and to move both bill drafts forward.

Committee Discussion

00:35:41 Sen. Moore asked about section 1 of LCCF03.

00:35:45 Ms. O'Connell said sections 1, 2, 3, 4, and 5 would be in the grant program bill. Sections 6 and 7 would be put in the daily or monthly rates bill.

00:36:09 The committee discussed using the word "shall" versus using the word "may".

Vote

00:37:47 The motion passed unanimously by voice vote.

LCCF04: Crisis Response System

- 00:38:15 Rep. Kelker commented on the New Mexico model.
- 00:42:16 Sen. Sands commented on the section in LCCF04 that would redirect existing behavioral consultation team resources.
- 00:43:08 Rep. Lenz asked Rep. Kelker to explain what section 4 would replace.
- 00:44:42 Sen. Sands commented on the fact the New Mexico model allows teams to include law enforcement.
- 00:46:00 Sen. Olszewski asked about putting mental health crisis into LCCF04.
- 00:48:14 Rep. Lenz asked Rep. Kelker about an option for funding.
- 00:50:18 Ms. O'Connell explained funding options 1 and 2 and asked for direction as to which approach the committee wanted to use.

Motion

- 00:54:08 Sen. Sands moved to proceed with LCCF04 and to make revisions that would be discussed further at the September meeting.

Vote

- 00:56:27 The motion passed unanimously by voice vote, with Rep. Knokey voting aye by proxy.

LCCF05: Regulatory Review

- 00:57:08 Rep. Kelker discussed the purpose of LCCF05.
- 00:59:03 Sen. Sands asked how LCCF05 would be carried out and said she would like to hear from the Department of Public Health and Human Services (DPHHS) on how it would conduct the review.
- 01:00:58 Rep. Kelker suggested prioritizing the community-based program regulations as a first area of review and letting DPHHS figure out if there were other areas that need review.
- 01:02:01 Sen. Olszewski said that he likes the idea of regulatory review but the bill may not be necessary.

Motion

- 01:03:23 Rep. Kelker moved that LCCF05 move forward and recommended that staff narrow the focus to issues that pertain to community-based services and their operations.

Committee Discussion

- 01:03:56 Sen. Olszewski said the bill's intent could be accomplished through other means and he will oppose the motion.
- 01:04:20 Rep. Kelker said the June 21 report on the ongoing DPHHS provider discussions showed that DPHHS is doing an excellent job in working with the providers and the bill would create an opportunity for that work to continue and to be reported on.
- 01:05:01 Rep. Lenz said that he will also oppose the motion.

Vote

- 01:05:43 The motion passed 5-3, with Rep. Pierson, Rep. Kelker, Sen. Moore, Sen. Caferro, and Sen. Sands voting yes, and Sen. Olszewski and Rep. Lenz voting no. Rep. Knokey voted no by proxy.

AGENCY OVERSIGHT: STARS PRESCHOOL GRANT PROGRAM

Siri Smillie, Education Policy Advisor to Governor Bullock
Jamie Palagi, Administrator, DPHHS Human and Community Services Division

01:10:21 Ms. Smillie ([Exhibit 27](#))
01:17:45 Ms. Palagi ([Exhibit 27](#))

HEALTH AND HUMAN SERVICES OVERSIGHT: UPDATE ON ALZHEIMER'S/DEMENTIA ACTIVITIES

Overview of 2015-2016 Interim Study - Sue O'Connell

01:30:33 Ms. O'Connell

Update on HB 24: Financial Protections for Vulnerable Adults

Bill Warden, National Association of Insurance and Financial Advisors
Dan Sullivan, Sullivan Financial Group, Helena

01:33:04 Mr. Warden
01:36:45 Mr. Sullivan

Montana Alzheimer's Work Group Update - Miranda Meunier

01:43:08 Ms. Meunier

Committee Questions

01:52:13 Sen. Olszewski asked if the work group has looked at possible solutions.

Update on WINGS Group - Sarah McClain, Director, State Law Library

01:54:29 Ms. McClain discussed the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) efforts to date.

Committee Questions

02:02:12 Sen. Sands asked why the WINGS program was not included in the judicial budget and whether that meant that Ms. McClain would not continue her work on the WINGS program.

Public Comment on Alzheimer's/Dementia Activities

02:03:36 Rose Hughes, Executive Director, Montana Health Care Association
02:07:44 Mike Batista, Director, Montana AARP

AGENCY OVERSIGHT: CHILD AND FAMILY SERVICES DIVISION UPDATE

Laura Smith, DPHHS Deputy Director

02:09:36 Ms. Smith distributed the following documents: News release regarding the First Years Initiative ([Exhibit 28](#)) and information on the Billings' ECHO project ([Exhibit 29](#)).

Committee Questions

02:19:33 Rep. Kelker asked about the Pew Charitable Trust Study.

02:20:47 Sen. Sands asked if DPHHS is involved with the county health departments.
02:25:18 Rep. Kelker asked about sending positive messages to help people know about what is being done with the resources that the state has.
02:29:31 Sen. Sands asked Sen. Moore to comment on the child mortality data.
02:29:56 Sen. Moore said that there is not much that he can relay due to confidentiality issues. He reported that the Commission has met twice and is in the process of reviewing cases.

PUBLIC COMMENT on any non-agenda topic within the committee's jurisdiction

02:30:51 Jennifer Owen, Executive Director, Explorers Academy, commented on the STARS preschool grant program. **(Exhibit 30)**
02:36:58 Cherise Jennings, Lewistown, commented on the STARS program.
02:40:42 Mike Mahoney, Executive Director, Family Outreach, thanked the committee for the work that the committee has done.

02:42:22 Sen. Sands distributed a letter from Sharon DiBrito, Assistant Director, Lolo Preschool & Childcare, regarding the STARS program. **(Exhibit 31)**

02:43:48 **Lunch** (reconvened at 1:00 p.m.)

AGENCY OVERSIGHT: DPHHS UPDATE

Sheila Hogan, Director

Director Hogan discussed:

03:43:02 The Montana Achieving a Better Life Experience (ABLE) Act
03:43:48 Introduction of new staff: Marti Vining, Child and Family Services Administrator, and Nikki Grossberg, Deputy Administrator
03:44:58 Boundaries Spanning Leadership Workshop
03:46:18 Future strategic planning sessions for child and family services with each of the three branches of the agency

Committee Questions

03:48:00 Rep. Pierson asked when the medical marijuana rules will be implemented. His question was deferred to Erica Johnston.
03:48:23 Erica Johnston, Operation Services Branch Manager, DPHHS
03:49:18 Rep. Pierson asked what the testing laboratories were doing because the rules that they have to follow are not yet in place. Rep. Pierson also asked if those rules are being enforced.
03:50:15 Sen. Sands asked Director Hogan about the budget restoration. Her question was deferred to Dan Villa.
03:51:39 Dan Villa, State Budget Director, discussed the three components of Sen. Sands' question: 1) what revenues are coming in and how much is going back; 2) how much of the revenue is one-time only versus ongoing; and 3) the advice Director Hogan and Director Villa will be giving to the governor after conversations with the providers and families have been held.
03:54:35 Sen. Sands asked about the committee's role in the process and when the committee would have the information.
03:55:18 Director Villa said that the restoration will be August 15 and any rules that will be

- developed will come to the committee through the normal rulemaking and statutory processes.
- 03:56:28 Sen. Sands asked about hearings on the decisions regarding restoration and when they will occur.
- 03:56:50 Director Villa said that both he and Director Hogan are interested in having conversations with the providers and the clients.

Public Comment on DPHHS' Update

- 03:58:05 Eve Franklin, former legislator, commented on the role of lobbyists in assisting the groups they represent.
- 04:00:07 Mike Mahoney, Family Outreach, gave his understanding of the intent of the Executive Branch on the restoration of the budget.
- 04:01:40 Rose Hughes, Executive Director, Montana Health Care Association, echoed Ms. Franklin's comments and raised concerns about the timeline outlined by Budget Director Villa.
- 04:05:20 Patrick Maddison commented on seeking clarity about continuing the 3% Medicaid provider rate cut into the next fiscal year.

COMMITTEE WORK SESSION

Other Assigned Studies: HJR 20 and HJR 17 Final Reports

- 04:07:42 Ms. O'Connell asked if there were any changes to the HJR 17 and the HJR 20 final reports and whether the committee wanted to take another look at the two reports in September before the committee approves them.

Motion

- 04:09:43 Rep. Kelker moved to approve the final report for the HJR 17 study of prescription drug pricing and the HJR 20 study of health care price transparency.

Vote

- 04:10:08 The motion passed unanimously by voice vote with Sen. Moore, Sen. Olszewski, and Rep. Knokey voting aye by proxy.

Oversight Activities

- 04:10:27 Ms. O'Connell discussed agenda items for the September meeting.
- 04:12:14 Sen. Sands commented on revenue certification and the restoration of funds. She proposed to have a one-day work session in the first week of August for public comment and input on how any funds restored to the DPHHS budget should be used.
- 04:14:20 Sen. Caferro asked Ms. Sandru if the restoration of the cuts warrants emergency rules.
- 04:14:38 Ms. Sandru discussed the statutory standards for emergency rules and for rulemaking authority for laws that are not yet effective.
- 04:16:52 The committee discussed the rulemaking process and how the public could be involved in decisions related to the restoration of funding for DPHHS.
- 04:31:40 Ms. O'Connell said that Senate Bill 9 doesn't say that the Budget Office has to restore the cuts that were made. It simply allocates money back to the department if revenues are certified to have hit a certain level by August 15. It will be up to DPHHS, the Budget Office, and the Governor's Office to determine where they will put the money.

- 04:33:34 Rep. Lenz commented on the effectiveness of people's input into the restoration process.
- 04:39:12 Sen. Caferro said that she would work with Sen. Sands on the question of an additional meeting and report back to the committee.
- 04:39:20 Sen. Caferro asked if the committee wanted a letter to DPHHS seeking clarity on the 2.99% versus the 1.49% provider rate cut.
- 04:42:29 Rep. Lenz said that he would support a letter to that effect.

Motion

- 04:42:50 Sen. Sands moved for a letter from the committee to the Department of Public Health and Human Services asking for clarity on the basis for continuing the rate cut at 2.99% rather than 1.49%.

Vote

- 04:43:08 The motion passed unanimously by voice vote with Sen. Moore, Sen. Olszewski, and Rep. Knokey voting aye by proxy.

Additional Materials for September on Study Topics or Medicaid Expansion

- 04:43:20 Ms. O'Connell discussed agenda items for the September meeting.
- 04:44:49 Sen. Caferro commented that a peer support specialist bill should be an agency bill from the Department of Labor and Industry.
- 04:45:01 Sen. Sands commented on having a discussion before deciding on the rate issue.
- 04:45:37 Rep. Kelker commented on the 340B prescription drug program.
- 04:46:37 Ms. O'Connell commented on the budget for future meetings.
- 04:47:06 Sen. Sands commented that the committee may need more information on the administrative rules for the medical marijuana program.
- 04:47:26 Sen. Caferro said that should be put on the agenda unless the matter is resolved before September. She also said she would like another budget status report from DPHHS as well as a report on autism services for children covered by Medicaid and CHIP.
- 04:49:02 The committee discussed starting times for the September meeting.

ADJOURNMENT

- 04:50:01 Sen. Caferro adjourned the meeting at 2:07 p.m.