



## Children, Families, Health, and Human Services Interim Committee

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### 62nd Montana Legislature

#### SENATE MEMBERS

MARY CAFERRO  
CHRISTINE KAUFMANN  
JASON PRIEST  
ART WITTICH

#### HOUSE MEMBERS

LIZ BANGERTER  
PAT NOONAN  
CAROLYN PEASE-LOPEZ  
DON ROBERTS

#### COMMITTEE STAFF

SUE O'CONNELL, Lead Staff  
JULIANNE BURKHARDT, Staff Attorney  
FONG HOM, Secretary

# MINUTES

June 20, 2011

Room 137, Capitol Building  
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

#### **COMMITTEE MEMBERS PRESENT**

SEN. MARY CAFERRO  
SEN. CHRISTINE KAUFMANN  
SEN. JASON PRIEST  
SEN. ART WITTICH

REP. LIZ BANGERTER  
REP. PAT NOONAN  
REP. DON ROBERTS

#### **COMMITTEE MEMBERS EXCUSED**

REP. CAROLYN PEASE-LOPEZ

#### **STAFF PRESENT**

SUE O'CONNELL, Lead Staff  
JULIANNE BURKHARDT, Staff Attorney  
FONG HOM, Secretary

#### **Visitors**

Agenda, [Attachment 1](#)  
Visitors' list, [Attachment 2](#)

## **COMMITTEE ACTION**

- The committee voted to change the time allocation to the work plan: 20% allocated to each of the two studies, 20% to the oversight, 20% to Medicaid, 16% to SB 423, and 4% to HB 142.

## **CALL TO ORDER AND ROLL CALL**

- 00:00:03 Sen. Kaufmann, Acting Presiding Officer, called the meeting to order at 9:13 a.m. The committee secretary called roll. Rep. Pease-Lopez was excused.
- 00:01:49 Members of the committee, committee staff, and staff from the Legislative Fiscal Division gave a brief introduction of themselves.

## **AGENDA**

### **ADMINISTRATIVE MATTERS**

- 00:07:50 Sue O'Connell, Research Analyst, discussed the roles and responsibilities of the staff, the legislative guidelines for interim committees, information on travel claims, and background materials that were provided to the members in their meeting packet.
- 00:12:20 Sen. Kaufmann said that the issue of proxy votes will be taken up when the committee elects its officers.

### **OVERVIEW OF DRAFT INTERIM WORK PLAN**

- 00:12:47 Sue O'Connell, Research Analyst, discussed the committee's draft work plan and meeting schedule ([Exhibit 1](#)).

### **INTERIM STUDIES: ASSIGNMENTS AND DRAFT STUDY PLANS**

- **HJR 8 Study: Childhood Hunger - Sue O'Connell**  
00:25:30 Ms. O'Connell discussed the draft study plan for the House Joint Resolution 8 study ([Exhibit 2](#)).

#### **Committee discussion**

- 00:29:19 Sen. Wittich said that he would like to look at why children are hungry and whether it is a parental issue. He also asked if the committee has latitude to look at things other than the strict parameters of HJR 8.
- 00:31:31 Rep. Roberts suggested exploring community gardens that are available and how they are allocated and how somebody signs up for them.

#### **Public comment**

- 00:32:47 **Rep. Chuck Hunter, House District 79**, commented on the issue of childhood hunger and on the time allocated to the study.
- 00:37:48 **Kristina Davis, Children's Defense Fund**, commented on the issue of food

deserts, because of the distance of travel or the costs of getting to grocery stores.

00:38:05 **Judy Smith** said that one of the things to look at is the impact of when benefits are cut to families, whether it is Temporary Assistance to Needy Families (TANF) or food stamps.

00:39:20 **Minkie Medora, Food Security Council of the Montana Food Bank Network**, talked about communities that stock the Backpack Program that gives food to children on Friday evenings to take home. She also discussed the summer food service program.

00:45:23 **Andree Deligdisch, former board member, Hands Program, Great Falls**, commented on poverty among young children.

#### **Committee questions**

00:43:19 Rep. Roberts asked if Ms. Medora thinks that the funding of \$222 million for the SNAP program will address some of the concerns that she has with the program. Ms. Medora said that a lot of the funding is going to go to the added number of eligible clients. The funding will not give more money to each family to buy food.

00:49:19 Sen. Wittich asked Ms. Medora what the food stamp benefit is on a monthly basis, who is eligible for the card, and if the debit card can be used for purchase of any product in a store or only for certain types of food. Ms. Medora said that the average value for a food stamp benefit is 90 cents per meal per day per person or around \$85 per month. The debit card can only be used for food products, no alcohol.

- **SJR 30: Childhood Trauma - Casey Barrs, Research Analyst**

00:54:36 Mr. Barrs, lead staff for the Senate Joint Resolution 30 study, presented the draft study plan ([Exhibit 3](#)).

#### **Public comment**

01:03:51 **Anita Roessmann, Disability Rights Montana**, suggested that the committee consider working with other agencies and interim committees on the issue of childhood trauma.

01:09:22 **Lora Cowee, Intermountain, Helena**, said the study presents an opportunity to look at redesigning the welfare system, fund preventive programs and track its progress.

01:13:16 **Kristina Davis, Children's Defense Fund**, said that these are the most fundamental issues that need to be addressed for young Montanans.

01:14:11 **Barbara Burton, Executive Director of the Florence Crittenton Home**, urged the committee to look at the early years of child development.

01:16:16 **Minkie Medora** said that the HJR 8 and SJR 30 studies will have a significant impact on the children in the state.

01:18:11 **Rep. Chuck Hunter** said that there is implication in the study to look at the childhood trauma and ACE data as a lens through which budgeting could be done differently for human services in Montana .

**Committee questions**

01:25:15 Rep. Roberts asked Ms. Burton what she is doing to take her message to those in more turbulent situations. Ms. Burton said they are focusing on early intervention and getting kids into healthy relationships.

01:29:18 Sen. Wittich discussed the idea of intervention and asked Mr. Barrs if he would include the idea of that intervention in the study. Mr. Barrs said that would be up to the committee.

- **SB 423: Monitoring Montana Marijuana Act - Sue O'Connell**

01:35:28 Ms. O'Connell gave a brief overview of the changes to the state's medical marijuana law that were made by Senate Bill 423 ([Exhibit 4](#)).

- **Overview of the litigation regarding SB 423 - Julianne Burkhardt, Staff Attorney**

01:36:50 Ms. Burkhardt gave an overview of the litigation regarding SB 423 ([Exhibit 5](#)).

**Committee questions**

01:42:47 Rep. Bangerter requested that staff provide updates on the lawsuit via email instead of waiting until the next meeting for a presentation.

01:43:47 Sen. Priest asked if there has been any discussion about the Law and Justice Interim Committee taking over some of the legal issues. Ms. O'Connell said that SB 423 requires the Children and Families Committee to monitor the Act.

- **Status of the Initiative Referendum to Overturn Law - Sue O'Connell**

01:46:16 Ms. O'Connell discussed the initiative referendum to overturn the law ([Exhibit 6](#)).

**Committee questions**

01:48:37 Sen. Wittich asked about the timeline for the initiative referendum. Ms. O'Connell said signed petitions must be submitted by September 30, and verified by October 28. The referendum attempt fails if the backers do not have the required number of signatures.

01:49:54 Sen. Kaufmann asked if the verification is done by the Secretary of State or the elections offices in the counties. Ms. O'Connell said that verification is done at the county level and reviewed by the Secretary of State's Office.

01:50:31 Sen. Wittich asked about the committee's monitoring obligations. Ms. O'Connell said that the committee will continue to monitor the implementation, and if any issues are identified that need to be addressed, the committee will develop legislation.

**Public comment - none**

## **AGENCY OVERSIGHT: DPHHS OVERVIEW AND ISSUES - Anna Whiting Sorrell, Director**

01:54:39 Ms. Whiting Sorrell reported on the Department's budget, legislation that passed in the 2011 legislative session, the enrollment of the Healthy Montana Kids program, Medicaid caseloads, and the development of a paperless system for the local Offices of Public Assistance.

### **Committee questions**

02:08:32 Sen. Caferro asked about the rule hearing on the Medicaid provider reimbursement rates and if there has been any discussions about not implementing the cut and funding it with a supplemental. Ms. Whiting Sorrell said that the Department cannot create supplementals. The Legislature did not provide funding for provider increases.

02:12:04 Sen. Caferro said she would encourage the Department to discuss the supplemental issue.

02:13:36 Sen. Wittich discussed the Department's proposal for a pilot Medicaid managed care project and asked how much time and expense went into the effort. Ms. Whiting Sorrell said that the Department decided not to pursue the proposal because there was little support from the provider community and from the Legislature. Ms. Whiting Sorrell discussed the working group that met with a number of stakeholders and advocate groups, the actuarial report the Department produced, and the study that was done by Mercer Consulting.

02:23:15 Sen. Kaufmann said that she has seen headlines recently about the impact that provider rate decreases might have on nursing home facilities in the state. She asked what the role of the state is if facilities have to close and what obligations the state has to the elderly who will need services. Ms. Whiting Sorrell said they monitor access at all points and will continue to monitor the numbers.

02:24:50 Sen. Priest asked how the lack of support from the Legislature regarding the managed care proposal was expressed. Ms. Whiting Sorrell said that it was the tenor of the questions that the Department received during the subcommittee hearings, the comments that she heard in the hallways, and the comments she was getting from stakeholders and consumers.

02:25:52 Sen. Priest asked what the Department was doing to contain Medicaid costs in the future. Ms. Whiting Sorrell discussed the Medicaid Part D proposal and the potential savings for prescription drug costs.

02:30:48 Sen. Priest discussed the use of generic drugs in drug formularies and the Department's projections for increased rebates from generic drugs. Ms. Whiting Sorrell said that the Montana Medicaid program uses a formulary program. They would have to do some research to find out what savings if any came as a result of that program.

### **Public comment on DPHHS oversight**

02:33:29 **Kathy McGowan, Community Mental Health Centers**, commented on the

reference made of the public hearing on Medicaid provider rates last week and the 12% to 18% decrease on professional rates.

### **ELECTION OF OFFICERS**

02:37:25 Sen. Jason Priest was elected chair by unanimous voice vote. Sen. Caferro was elected vice chair.

**BREAK FOR LUNCH** - Sen. Priest reconvened the meeting at 1:15 p.m.

### **ADMINISTRATIVE RULE REVIEW - Julianne Burkhardt, Staff Attorney**

04:02:57 Ms. Burkhardt gave an overview of administrative rule review. She also reported on DPHHS' rule activity ([Exhibit 7](#)). Ms. Burkhardt discussed the emergency rules with respect to the Montana Marijuana Act.

**Public comment - None**

### **AGENCY OVERSIGHT: COMMUNITY SERVICES BLOCK GRANT APPLICATION - Jim Nolan, Department of Public Health and Human Services**

04:23:05 Mr. Nolan discussed the community services block grants (CSBG).

#### **Public comment**

04:26:52 **Jim Morton, Executive Director, Human Resource Development Council (HRDC) in Mineral, Ravalli, and Missoula Counties**, talked about several initiatives in his three counties.

04:28:32 **Sheri Boelter, Chief of Development and Planning, District 7 HRDC, Big Horn, Carbon, Stillwater, Sweetgrass, and Yellowstone Counties**, discussed what is contained in a CSBG work plan.

04:30:52 **Jeff Rupp, Director of HRDC, Bozeman**, asked for the committee's support in the application process.

04:32:34 **Karen Thomas, Executive Director of District 4 HRDC, Hill, Liberty and Blaine Counties**, commented on what is funded with the block grants.

04:34:59 **Curt Chisholm, District 8, Rocky Mountain Development Council, Broadwater, Jefferson and Lewis and Clark Counties**, asked the committee to support the application for CSBG funding in the state of Montana.

04:37:46 **Patricia Campbell, Director of Opportunities, Inc., Cascade, Glacier, Toole, Teton, Pondera, and Choteau Counties**, discussed what the block grants do for them.

04:39:49 **Danielle Bundrock, Community Action Partnership of Northwest Montana, Flathead, Lincoln, Lake, and Sanders Counties**, commented on how important CSBG funding is.

#### **Committee questions**

04:43:08 Sen. Kaufmann asked if HRDCs receive state funding and in what proportion. Mr. Nolan said that the CSBG has a \$1.5 million budget that makes up about 15% of an HRDC's budget.

04:45:44 Sen. Wittich asked if a state agency oversees how these funds are spent. Mr. Nolan said that the agencies that contract with the HRDC monitor spending.

04:46:50 Sen. Kaufmann asked Mr. Morton about accountability and who oversees the programs. Mr. Morton said that the contracts with various entities include performance standards.

#### **Public comment**

04:50:29 **Kathy McGowan** said she would like to follow up on her earlier comments about provider rates and noted that the mental health rates that were posted on the Children's Mental Health Bureau website were in error.

04:53:04 **Aimee Grmoljez, Billings Clinic**, said that Medicaid needs a review by the Children and Families Committee in terms of who is costing the state the most money and what does that high-risk population look like.

04:54:51 **Rose Hughes, Executive Director, Montana Health Care Association**, said that the committee should be looking at issues with Medicaid, particularly in the state cuts to provider rates.

04:59:20 **Mike Foster, Catholic Hospitals in Montana**, said the committee should be proactive in dealing with what is happening on the Medicaid front.

#### **Committee questions**

05:02:38 Sen. Wittich asked Ms. McGowan who made the decision to bring the mental health rates down and why was it made. Ms. McGowan said that she is not sure.

05:05:42 Sen. Wittich asked Ms. McGowan what she wanted the committee to do as far as rulemaking is concerned. Ms. McGowan said that the Department should either repost the rates or have another hearing with accurate information.

#### **COMMITTEE WORK SESSION**

05:14:09 Rep. Roberts said that the childhood hunger study should be done with intertribal councils to see what their recommendations would be for tribal situations. He talked about the percentage of time allotted to the studies and how to cut from one, add to another, and find time to study Medicaid.

05:16:11 Ms. O'Connell discussed the timelines of the work plan and what the committee

needed to do if members wanted to reduce the time allotted to the HJR 8 study. She also discussed the impacts of studying Medicaid and paralleling the efforts of the HB 642 committee in its study of Medicaid.

05:18:25 Sen. Kaufmann discussed her interest in studying Medicaid. She said that the committee should be more responsible for proposing a series of questions that they could discuss among themselves and not expect a lot of staff research. She is also concerned about taking away from the two studies assigned to the committee.

05:20:11 Sen. Caferro said that her goal for studying Medicaid is to provide stable and predictable provider reimbursement rates.

05:22:50 Rep. Roberts proposed that the committee consider Medicaid as part of its work plan.

05:23:13 Rep. Noonan said that he would like regular updates on how providers are doing, how they have been able to handle cuts in reimbursement rates, and what types of people are falling through the system so that committee members can be prepared next session.

05:27:15 Sen. Wittich asked Dave Bohyer, lead researcher for HB 642 Select Committee on Efficiency in Government, what issues the committee was looking at. Mr. Bohyer said that the HB 642 committee is looking at energy, technology, health care, and priority budgeting.

### **Break**

05:42:29 Sen. Priest said the committee's scope of duties allows it to look at Medicaid at any level. He said the committee should not duplicate what others are doing, so members should be specific about their goals.

05:47:16 Sen. Wittich suggested that Sen. Caferro and Rep. Noonan, who are members of the HB 642 Committee, ask the chair of that committee if he could see some value in the CFHHS committee doing some of their work because of CFHHS' oversight of the Department. He said that he will talk to Legislative Council and tell them that the CFHHS Committee is the logical committee for oversight of Medicaid.

05:49:02 Sen. Caferro said that the Legislative Council assigns the studies and this committee cannot move a study without Legislative Council's approval. It makes sense that Rep. Noonan and she are on both committees and can act as liaisons between the two committees and be working on the Medicaid issue.

05:50:22 Sen. Kaufmann said she is uncomfortable with taking 1/3 of committee time in the work plan for something that hasn't been assigned to the committee. The committee should not forego its other responsibilities as assigned.

05:53:20 Sen. Priest said it makes sense for the committee to think about a global number

for each major committee assignment. He suggested 30%. He agreed with Sen. Kaufmann that the committee cannot ignore its statutory obligations to do the studies. He asked for a motion so that the committee can discuss the issues.

**Motion by Rep. Roberts**

05:54:53 Rep. Roberts moved to reassess the committee's priorities, allocate 30% of the committee's time reviewing options under Medicaid, and adjust the other committee duties accordingly.

**Discussion on the motion**

05:55:47 Rep. Noonan asked if that meant that the committee would only spend 10% of its time on childhood trauma and not spend any time on HB 142. Until he knows what is to be bumped off the list, he cannot support adding Medicaid to the list.

Ms. O'Connell explained that HB 142 and SB 423 are laws that require some involvement by the committee. HJR 8 and SJR 30 are resolutions. The committee could make adjustments to the amount of time spent on SB 423 and HB 142, but the committee cannot eliminate either of those two activities.

05:57:34 Sen. Priest said that it makes sense to discuss spending 30% of committee time on Medicaid and then discuss further changes to the work plan after a decision is made on Medicaid monitoring.

05:59:27 Sen. Wittich noted that Rep. Roberts mentioned that at least some of the hunger study should be shifted to the State Tribal Relations Committee and asked if some of the SJR 30 work could be shifted to that committee.

06:03:11 Ms. O'Connell said that staff recommended that the Legislative Council assign the SJR 30 study to State Tribal Relations Committee. The Legislative Council decided against that because CFHHS has oversight over children's issues related to mental health and the Council felt it was more appropriate for this committee to have the study.

06:05:58 Rep. Bangerter asked if the State Tribal Relations Committee has any studies assigned to it. Ms. O'Connell said that both the SJR 30 and the HJR 8 studies were specifically assigned to the Children and Families Committee, not to the State Tribal Relations Committee.

06:10:07 Sen. Wittich said the committee should spend 20% of its time on Medicaid, 20% on the HJR 8 study, 20% on the SJR 30 study, 20% on agency oversight, and 20% on SB 423 and HB 142 duties.

06:11:41 Rep. Noonan suggested subtracting 2% from everything across the board to provide 10% for Medicaid.

06:12:22 Sen. Priest said in order to allow 30% of committee time to be spent on Medicaid, remaining time would be allocated as follows: 19% for HJR 8; 16% for SJR 30; 15% for agency oversight; 16% for SB 423; and 4% for HB 142.

06:16:49 Sen. Wittich asked about minimal involvement on the two studies, adding in Medicaid. Ms. O'Connell talked about the work plan's allocation of time reflecting an option that consists of staff research, panel presentations by experts and people involved around the state, and drafting of legislation. Minimal involvement is limited to just staff research and a presentation of a white paper. It would forego experts discussing items related to the study and having panel presentations or suggestions from people involved in programs around the state.

06:22:03 Dave Bohyer, Research Director, discussed the staff resources that are available to each interim committee and Ms. O'Connell's time commitments to the HB 642 Committee. The Legislative Council has indicated that they want the HB 642 Committee to study Medicaid. Mr. Bohyer said that the CFHHS Committee has two studies by law, statutory duties, and six meetings to complete its work. There are other things that need to be taken under consideration by the committee and there are balancing issues to observe. These need to be factored in when you are figuring out which of these you want to do and how much time is needed to do them.

**Substitute motion by Sen. Wittich**

06:27:25 Sen. Wittich made a substitute motion to change the time allocation in the work plan to have 20% allocated to each of the two studies, 20% to agency oversight, 20% to Medicaid, 16% to SB 423, and 4% to HB 142. The motion passed 5-2 with Sen. Caferro, Sen. Priest, Sen. Wittich, Rep. Bangerter, Rep. Roberts voting yes and Rep. Noonan and Sen. Kaufmann, by proxy, voting no. ([Attachment 3](#))

**Discussion on HJR 8 and SJR 30 Studies**

06:31:57 Mr. Barrs said that specific data on the incidents of childhood trauma in Montana would be available in the spring of 2012. He recommended doing the study on childhood hunger in the first half of the interim and the childhood trauma study in the last half.

06:37:54 Sen. Wittich said he is interested in having some discussion on the causation of childhood hunger.

06:39:23 Rep. Roberts discussed issues related to brain trauma.

Mr. Barrs asked if Rep. Roberts was suggesting adding brain injury as an item to the study of childhood trauma.

06:45:20 Sen. Caferro said the childhood hunger study warrants a panel made up of some of the people who spoke.

**Discussion on proposed meeting schedule**

06:45:42 Sen. Priest asked Ms. O'Connell to discuss the proposed meeting dates. Sen. Priest asked the members to look at their calendars, and if there are problems, let Ms. O'Connell know.

Sen. Priest said he would like staff to provide any documents to the committee

members before the meeting date and assume that they will come prepared and ready to work. He would also make that request of any presentations made by the Department and the public.

**Discussion on proposed issues for Medicaid**

06:49:36 Sen. Caferro asked if the committee will start on Medicaid at the next meeting.

06:50:47 Sen. Wittich said he would like the committee to spend time on issues involving privatization of Medicaid and managed care, as well as what other states are doing in their Medicaid programs.

Sen. Priest suggested that the committee's Medicaid oversight also include waivers under Medicaid and to have ongoing block grant discussions.

06:54:16 Ms. O'Connell said she would send out suggestions for Medicaid oversight and create a plan for the members to consider for the rest of the interim.

**ADJOURNMENT**

06:54:52 Sen. Priest adjourned the meeting at 4:07 p.m.

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