



Children, Families, Health, and Human Services Interim Committee

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66th Montana Legislature

SENATE MEMBERS

JOHN ESP
MARY MCNALLY
ALBERT OLSZEWSKI
DIANE SANDS

HOUSE MEMBERS

BARBARA BESSETTE
MARY CAFERRO
DENNIS LENZ
FREDERICK (ERIC) MOORE
GORDON PIERSON
TOM WELCH

COMMITTEE STAFF

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

MINUTES LOG

June 27, 2019
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. JOHN ESP
SEN. MARY MCNALLY
SEN. ALBERT OLSZEWSKI
SEN. DIANE SANDS

REP. BARBARA BESSETTE
REP. MARY CAFERRO
REP. DENNIS LENZ
REP. FREDERICK (ERIC) MOORE
REP. GORDON PIERSON
REP. TOM WELCH

COMMITTEE MEMBERS EXCUSED

STAFF PRESENT

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

VISITORS' LIST(Attachment 1)

AGENDA(Attachment 2)

COMMITTEE ACTIONS

The Committee reviewed its study assignments and statutory oversight duties and discussed a draft work plan for the interim. Committee members decided to:

- combine into one study the elements of House Joint Resolutions 48 and 49 and devote almost half of their meeting time to those studies. HJR 48 requested a study of ways to support families involved in the child protective services system, while HJR 49 asked for a study of the role of law enforcement and the courts in that system.
- spend slightly more than 25 percent of their time on the HJR 50 study of the Senior and Long-Term Care Division of the Department of Public Health and Human Services (DPHHS);
- spend a limited amount of time on the HJR 32 study of prenatal drug use and the request to review Senate Bill 202 (2019) implementing the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act;
- allocate time at each meeting for review of rules proposed by DPHHS and to hear updates from DPHHS officials;
- limit other agency monitoring to receiving written reports on many topics on which the agency is required by law to report to the committee; and
- leave about 8 percent of their time to hear from the Legislative Fiscal Division on the status of the DPHHS budget and to participate in other activities being carried out by the Legislative Finance Committee.

Committee members noted that they may revise those time allocations as the interim progresses, if they feel they need to address emerging issues or spend more or less time on any study assignment.

Members also:

- elected Rep. Eric Moore, R-Miles City, as presiding officer and Sen. Diane Sands, D-Missoula, as vice presiding officer;
- voted to allow written proxy votes by absent members; and
- voted to allow a simple majority vote on all motions, rather than to vote by chamber as suggested by the Legislative Council.

CALL TO ORDER AND ROLL CALL

10:01:24 Sen. Sands called the meeting to order at 10:01 a.m. The committee secretary called roll. (Attachment 3)

10:02:37 The committee members and staff gave introductions.

ADMINISTRATIVE MATTERS - Sue O'Connell, Committee Researcher

10:11:20 Ms. O'Connell gave a brief overview on the following:

10:12:23 Staff Roles and Responsibilities

- 10:16:14 Legislative Guidelines for Interim Committees ([Exhibit 1](#))
- 10:18:03 Committee Budget/Travel Claims
- 10:19:02 Health and Human Services Acronyms. ([Exhibit 2](#))
- 10:19:37 Eligibility for Public Assistance Programs. ([Exhibit 3](#))
- 10:20:06 Summary of 2019 Health and Human Services Legislation. ([Exhibit 4](#))

Questions

- 10:20:15 Sen. Sands asked about reimbursement claims when attending multiple legislative committee meetings back to back.
- 10:21:13 Rep. Lenz asked about having an off-site meeting in the future.
- 10:23:05 Rep. Caferro asked how reimbursement claims for staff travel are handled.

DRAFT INTERIM WORK PLAN AND STUDY ASSIGNMENTS - Sue O'Connell

Ms. O'Connell discussed:

- 10:25:06 Overview of Draft Interim Work Plan ([Exhibit 5](#))
- 10:28:13 Rank by Interim Committee Staff Recommendations ([Exhibit 6](#))

- 10:33:40 Ms. O'Connell discussed the letter from the Legislative Finance Committee regarding House Bill 715. ([Exhibit 7](#))

Questions

- 10:36:58 Sen. McNally asked if there were any discussions with other interim committees in coordinating meeting dates.
- 10:38:08 Rep. Moore asked how open meeting laws and public comment requirements apply to conference call meetings.
- 10:38:44 Sen. Olszewski asked if a subcommittee or a working group meeting needs to be noticed.
- 10:40:41 Rep. Lenz discussed the use of a conference call format to hear agency reports.

- 10:45:49 Ms. O'Connell discussed the document "Interim Studies: Assignments and Tasks". ([Exhibit 8](#))

- 10:48:28 Sen. Sands asked about the guardianship study that was done by the Children and Families Interim Committee in the 2015-2016 interim.
- 10:50:46 Rep. Caferro asked about the letter from Sen. Regier regarding Senate Bill 202.
- 10:51:44 Rep. Lenz commented on the Department of Public Health and Human Services plan to expand guardianship roles.

House Bill 715 Study and other LFD Items

- 10:53:06 Quinn Holzer, Operations Manager, Legislative Fiscal Division, informed the committee that the Fiscal Division could provide quarterly financial reports on DPHHS, if the committee is interested in receiving them.
- 10:53:10 Mr. Holzer provided an overview of the document, "Phase 1: HB 715 Stress Testing" ([Exhibit 9](#)), discussed where to send questions regarding Montana's long-term stabilization of state and local finances ([Exhibit 10](#)), and outlined the letter from the Legislative Finance Committee regarding House Bill 715. ([Exhibit 7](#))

Questions

- 10:59:37 Rep. Caferro asked Mr. Holzer to explain stress testing. Mr. Holzer referred the question to Josh Poulette, Legislative Fiscal Division.
- 11:01:39 Rep. Caferro asked if the subject of revenue is included in Mr. Poulette's historical perspective.
- 11:01:56 Rep. Lenz asked if Mr. Poulette is looking at a structure that would enable the budget to take a hit, or is he looking at funding things differently.
- 11:03:20 Sen. Sands asked if the Legislative Fiscal Division is looking at a special revenue account or divisions of the department versus some specific grant.
- 11:04:47 Sen. McNally asked if the Legislative Finance Committee will be communicating its HB 715 timeline with the Children and Families Committee.
- 11:06:34 Rep. Moore asked Mr. Poulette about looking at the federal piece of the budget.
- 11:09:04 Rep. Moore asked if the Legislative Finance Committee is thinking of having subcommittees reviewing various budget sections.
- 11:10:20 Sen. Sands asked Mr. Holzer if stress testing is a national interest where other states are engaging in this process and what has led the Legislative Finance Committee to believe that this is something that the Legislature should be spending its time doing.

Public Comment on the work plan and study assignments

- 11:12:41 Matt Furlong, Montana Child Protection Alliance
- 11:16:20 Denise Johnson, Montana Child Protection Alliance
- 11:23:22 Jackie Jones, Montana County Attorneys Association
- 11:24:45 Adrienne Bombelles, Montana Budget and Policy Center
- 11:26:36 Mary Windecker, Executive Director, Behavioral Health Alliance of Montana
- 11:28:35 Mariah Ramirez, Director, Community Impact for United Way, Lewis and Clark
- 11:30:51 Travis Hoffman, Advocacy Coordinator, Summit Independent Living, Missoula
- 11:35:05 Angela Wathan, Whitefish ([Exhibit 11](#))
- 11:43:21 Ann Geiger, Liberty Place, Inc.
- 11:47:15 Beth Breneman, Disability Rights Montana

- 11:51:04 Jackie Jones, Montana Area Agency on Aging ([Exhibit 12](#))
- 11:52:25 Rose Hughes, Montana Healthcare Association
- 11:55:48 Ms. O'Connell distributed written public comment from Shyla Patera, North Central Independent Living Services, Inc. ([Exhibit 13](#))

AGENCY OVERSIGHT

Administrative Rule Review - Alexis Sandru, Committee Attorney

Alexis Sandru provided an overview of the following documents:

- 11:58:57 Overview of Administrative Rulemaking and Rule Review ([Exhibit 14](#))
- 12:00:56 Administrative Rule Report ([Exhibit 15](#))

Questions

- 12:03:00 Rep. Moore asked who is responsible for looking at the legislative intent in rules.
- 12:06:55 Rep. Caferro said it is the responsibility of the committee to make sure that rulemaking is following the Montana Administrative Procedures Act.

Montana Medical Marijuana Act Monitoring -- Sue O'Connell

Ms. O'Connell gave a presentation on the following:

- 12:09:20 Overview of Changes to the Law ([Exhibit 16](#))
- 12:10:58 Registry Statistics ([Exhibit 17](#))
- 12:12:26 Board of Medical Examiners Report ([Exhibit 18](#))

LUNCH - reconvened at 1:04 p.m.

AGENCY OVERSIGHT

Department of Public Health and Human Services - Laura Smith, DPHHS Deputy Director

Ms. Smith gave an update on:

- 13:04:35 Child and Family Services Division
- 13:11:31 Office of Public Assistance
- 13:14:14 Tribal Visits
- 13:15:21 Early Childhood System Assessment Grant
- 13:16:42 Medicaid Expansion Waiver Amendment and Medicaid Dashboard
- 13:18:56 Suicide Prevention
- 13:20:59 Summit for Foster Care Teens

Questions of Ms. Smith

- 13:23:18 Rep. Pierson asked for an update on the audit that was recently done on the drug registry.
- 13:24:06 Rep. Pierson asked about qualifications for a person seeking Medicaid and who would be the point of contact.

13:24:28 Sen. Olszewski asked about direct-care worker wages.
13:25:57 Sen. Sands asked for an update on rulemaking relating to private alternative adolescent residential programs.
13:29:32 Sen. Sands asked if there was a plan for transferring children out of the Acadia facility when the psychiatric residential treatment facility closes.
13:30:02 Rep. Pierson asked if it is possible for another company to come in and take over the facility.
13:30:51 Rep. Caferro asked if DPHHS is looking at a different strategy for providing services for children that focuses on prevention to avoid institutionalization.
13:32:06 Sen. Sands asked if the state is looking for less restrictive environments for treating children with severe emotional needs.
13:33:13 Sen. McNally asked about a Billings Gazette editorial regarding the impacts of changing the Medicaid Provider Manual and the implication of denying Medicaid coverage for mental health treatment where an individual is also in addiction treatment.
13:34:51 Sen. Esp asked about a rules hearing on Medicaid rates and also asked about child protective services in Park County.
13:36:31 Rep. Caferro clarified with Ms. Smith that a person who is receiving treatment for substance use disorder is not prohibited from also receiving services for their mental illness under the new proposed rules.
13:37:06 Sen. Esp requested that at the next meeting, DPHHS present a report on child protective services in Park County.

PUBLIC COMMENT on any other item within the committee's jurisdiction

13:38:12 Dan Aune, Board President, Mental Health America of Montana, commented on the closure of the Acadia facility.
13:43:08 Mary Windecker, Behavioral Health Alliance of Montana ([Exhibit 19](#))
13:46:32 Angelica Mothka, Clinical Administrator, Winds of Change Mental Health Center, Missoula ([Exhibit 20](#))
13:53:55 Jackie Jones, Montana Association of Community Disability Services ([Exhibit 21](#))
13:59:50 Beth Brennemen, Disability Rights Montana, expressed concerns about the process being used to find new placements for children who are currently served at Acadia, and also commented on psychiatric targeted case management rates.
14:05:49 Travis Hoffman, Montana Centers for Independent Living ([Exhibit 22](#))
14:14:00 Denise Johnson, Montana Child Protection Alliance, commented on the foster care system.

Questions

14:15:41 Rep. Pierson asked Laura Smith about the timeframe on the Acadia closure and if DPHHS will take a more active role in the closure.

COMMITTEE WORK SESSION

14:18:30 Ms. O'Connell

Committee Voting Procedures

- 14:19:27 Sen. Sands asked if the committee wanted to continue to use a simple majority vote or to have House and the Senate members vote separately as recommended by the Legislative Council.
- 14:21:44 Rep. Moore said that he is opposed to the Legislative Council's suggestion for conference committee-style voting. He said he will support voting by a simple majority.
- 14:22:34 Rep. Caferro said that she also supports a simple majority.

Motion

- 14:23:47 Sen. Esp moved to adopt voting by a simple majority except for election of officers, when the committee should vote by a majority of each House.

Substitute Motion

- 14:24:24 Rep. Caferro made a substitute motion for a simple majority vote on all matters.

Roll Call Vote

- 14:24:57 Rep. Caferro's substitute motion passed on a roll call vote, 8-2. ([Attachment 4](#))

Proxy Voting

- 14:26:44 Sen. Olszewski asked for clarification on the election of officers following Rep. Caferro's motion.
- 14:27:39 Rep. Moore said that Rep. Caferro's motion was that all motions pass with a simple majority.
- 14:27:53 Rep. Caferro discussed the issue of proxy votes. She said that if a committee member cannot attend a meeting, that member will send his/her proxy and the vote would still be simple majority.
- 14:28:05 Sen. Sands said that the proxy vote is separate from the issue of whether the committee will accept proxy votes, whether the proxies have to be in written form, and how they will be processed.
- 14:29:21 Ms. O'Connell said that Legislative Council rules require that proxy voting be in writing if they are allowed. The question is whether the committee wants to put additional requirements on proxy voting.
- 14:30:26 Sen. Sands said that a proxy in written form will be counted.
- 14:30:32 Sen. Olszewski said that legislative rules require members of session committees to be present for some votes and asked whether proxies would be allowed for those types of votes in the interim committee.
- 14:30:34 Sen. Sands said that standard rules of the Legislature should apply.

14:30:54 Rep. Moore asked Ms. O'Connell if the rules for those votes are the same as in session and in interim committees. Ms. O'Connell said that the Legislative Council guidelines for interim committees generally default to the Senate rules.

Motion

14:32:06 Sen. Olszewski moved that the committee follow Senate rules for proxy voting.

Discussion

14:33:31 Sen. Olszewski said some types of votes during the session do not allow for proxy voting and he would like something definitive for the interim committee to follow.

14:34:14 Ms. O'Connell discussed page 1 of the Rules, Procedures, and Guidelines for Interim Committees regarding proxy voting.

14:35:01 Sen. Sands said that Senate rules already apply.

Substitution Motion

14:35:04 Sen. Esp made a substitute motion to adopt the rules as suggested by the Legislative Council and to not allow proxy voting.

Roll Call Vote

14:36:00 Sen. Esp's substitute motion failed on a roll call vote, 2-8. ([Attachment 5](#))

Motion

14:37:55 Rep. Moore moved that the 2019-2020 Children, Families, Health, and Human Services Interim Committee allow proxy votes with written authorization from the absent representative or senator.

Roll Call Vote

14:39:32 The motion passed unanimously on a roll call vote, 10-0. ([Attachment 6](#))

STUDY ASSIGNMENTS AND DRAFT WORK PLAN

14:40:09 Ms. O'Connell discussed the draft work plan ([Exhibit 5](#)), and members of the committee also referred to the document, "Worksheet for Allocating Committee Time" for guidance to allocating time to the studies ([Exhibit 23](#)).

14:41:30 Discussion and comments from the committee on the allocation of committee time.

15:00:10 Discussion and comments from the committee regarding allocation of time for the House Bill 715 study being conducted by the Legislative Finance Committee.

15:03:49 Discussion on allocation of time for the House Joint Resolution 50 study of senior and long-term care and the Senate Bill 202 guardianship study.

15:04:50 Ms. O'Connell asked the committee if they would like to review a revised version of the

work plan at the July conference call meeting on the Medicaid waiver application or at the next full CFHHS meeting in September. Sen. Sands said that she would like to see the revised work plan at the July meeting.

Meeting Dates and Locations

- 15:07:32 Ms. O'Connell asked what type of meeting format the committee members preferred for the Medicaid waiver application meeting and said that committee members are available on July 30 or 31 for that meeting.
- 15:09:10 Ms. O'Connell discussed two-day meetings and out-of-town meetings.
- 15:10:29 Sen. Sands suggested a two-day meeting in November. She asked the committee if the rest of the schedule looks okay, and based on the committee members' response, said that the schedule is adopted.
- 15:11:28 Rep. Moore proposed that staff could bring options for a two-day, out-of-town meeting in November.

ELECTION OF OFFICERS

- 15:12:49 Sen. Sands read the rules regarding the election of officers from the Rules, Procedures, and Guidelines for Legislative Interim Committees.

Nominations for Presiding Officer

- 15:13:55 Sen. Olszewski nominated Rep. Lenz as presiding officer.
- 15:14:32 Rep. Welch nominated Rep. Moore as presiding officer.
- 15:15:05 Rep. Lenz spoke on his nomination.
- 15:16:50 Rep. Moore spoke on his nomination.

Roll Call Vote

- 15:16:55 Rep. Moore was elected as presiding officer of the Children, Families, Health, and Human Services on a roll call vote. Seven members voted for Rep. Moore and 3 members for Rep. Lenz. ([Attachment 7](#))

Nomination for Vice Presiding Officer

- 15:21:14 Sen. McNally nominated Sen. Sands as vice presiding officer.
- 15:21:44 Sen. Esp moved to close the nominations.

Vote

- 15:22:03 The committee voted unanimously to close the nominations and to elect Sen. Sands as vice presiding officer.

Other issues

- 15:22:35 Rep. Lenz encouraged the committee to pursue addressing the child protective

services issues.

15:23:21 Sen. Caferro asked about Senate Bill 5, which required DPHHS to work with providers to sort through rules and policies and look for duplication.

15:23:30 Ms. O'Connell said that the legislation itself required DPHHS to come before the committee with its draft plan for carrying out that work.

15:23:33 Sen. Sands discussed the administrative rules issue. The committee members decided to continue receiving rules summaries from Ms. Sandru as has been done in previous interims.

ADJOURNMENT

15:24:55 Sen. Sands adjourned the meeting at 3:25 p.m.

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