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**Children, Families, Health, and Human Services (CFHHS) Interim  
Committee**

June 15, 1999  
12:30 p.m.

Hoff-Kavanaugh Rooms  
Carroll College  
Helena, Montana

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Exhibits and tapes are on file in the offices of the Legislative Services Division.

**COMMITTEE MEMBERS PRESENT**

Senator Dale Berry  
Senator Eve Franklin  
Senator Bob Keenan  
Senator Mignon Waterman  
Representative Bob Lawson  
Representative Trudi Schmidt  
Representative Loren Soft  
Representative Carolyn Squires

**STAFF PRESENT**

Susan Byorth Fox, Research Analyst  
David Niss, Attorney

### **VISITORS PRESENT**

Laurie Ekanger, Director, Department of Public Health and Human Services (DPHHS)  
Chuck Hunter, Administrator, Child and Family Services Division, DPHHS

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

Senator Eve Franklin, co-ranking senior Senator, called the meeting to order. Roll was noted and Senator Bob Keenan assumed the chair,

### **ELECTION OF OFFICERS**

Senator Bob Keenan opened the nomination for presiding officer. Senator Eve Franklin nominated Senator Mignon Waterman. No other nominations were offered.

Representative Lawson moved that the nomination cease and that Senator Waterman be elected by acclamation. Motion passed unanimously.

Senator Mignon Waterman assumed the chair and opened the nominations for vice presiding officer. Representative Bob Lawson nominated Representative Loren Soft. No other nominations were offered. Senator Eve Franklin moved that nominations be closed and Representative Loren Soft be unanimously elected. The motion passed unanimously.

### **INTRODUCTION OF STAFF**

Senator Mignon Waterman introduced Susan Byorth Fox as the Committee's research analyst and David Niss as the Committee's attorney. They are located at the Federal Building in Helena for the interim. Susan Fox asked that the Committee members correct any information on the Committee and staff contact list (Exhibit #1) and return it to her.

### **HJ 35 MENTAL HEALTH STUDY**

Susan Fox updated the Committee on the Legislative Finance Committee and the issue of the House Joint Resolution No. 35 mental health study. The Legislative Finance Committee (LFC) was scheduled to meet on Thursday, June 17. Their agenda included a report from the Department of Public Health and Human Services (DPHHS) on mental health managed care and the LFC would consider a staff study plan for a subcommittee on mental health managed care as provided for in HJR 35. The staff study plans include approximately 6 meetings, half of which would be paired with LFC meetings and half with CFHHS meetings.

Senator Waterman stated that the HJR 35 Subcommittee would be officially a subcommittee of the Legislative Finance Committee with membership from the Legislative Finance Committee, this interim Committee, and the Legislative Audit Committee. It will serve as the single oversight committee for mental health to coordinate HJR 35, LFC, CFHHS, and the liaison with the DPHHS Mental Health Advisory Committee.

Representative Squires inquired as to how to have additional members involved. Her concern was in regard to having membership that would serve beyond the next round of term limits and to enable carrying experience beyond next session.

Senator Keenan understood that Representative Beverly Barnhart would be serving for the Audit Committee, Senators Swysgood and Franklin from the Finance Committee and others for a total of eight. Senator Waterman wanted the LFC subcommittee members to serve as the CFHHS subcommittee and report back to the CFHHS Committee and she encouraged members to participate in the meetings that would be scheduled to be held in conjunction with the CFHHS meetings.

#### **ADOPTION OF INTERIM SCHEDULE**

Senator Mignon Waterman raised the agenda item of a proposed interim meeting schedule (Exhibit #2). The Revenue and Taxation Committee had changed their

February meeting to the 18th which conflicted with the proposed schedule. The Committee adopted the interim committee schedule with a tentative new date for February of the 25th, as long as it did not conflict with any other committee (there were no conflicts).

### **COMMITTEE ADMINISTRATIVE RULE RESPONSIBILITIES**

David Niss updated the Committee on administrative rule review responsibilities. Senate Bill No. 11, which reorganized the interim structure, and transferred the former Administrative Code Committee duties to each interim committee. The CFHHS Interim Committee will review the rulemaking of the DPHHS. The Legislative Services Division legal staff review of rulemaking proposal or adoption notices remains the same in method, timing, purpose, and review of legality as it did for the Administrative Code Committee. The legal staff review is triggered by the submission of the notice to the Secretary of State by a state agency. After a public hearing is held (if any) and public comments are considered, a notice of adoption of the rule is published and the rule becomes effective. The purpose of the review is to determine whether legislative intent was met; statements of intent are no longer drafted and the agency is left to determine legislative intent by the language of the statute, which may or may not include a statement of purpose, in speaking to the prime sponsor, and from other public comments. The legal staff only reviews the proposed rule and the statutes and the review will catch legal errors, but will not judge the merit of the idea or other possible interpretations of intent by individual legislators.

David Niss requested input from the Committee members about the extent to which Committee members want to be involved in rule review in order that the staff could support them. Areas that the Committee could choose to involve themselves include subscriptions to the Montana Administrative Register, or receipt of a listing or full copies of the notices of proposed or adopted rules.

Representative Carolyn Squires offered her experience as a former member of the Administrative Code Committee of receiving the Montana Administrative Register and believed it to be too much information. She did appreciate being on the mailing list of the DPHHS for rules in areas she was interested. In addition, each legislator who was the primary sponsor of a bill will now receive a notice of rulemaking regarding their bill. Representative Squires wanted to be placed on the DPHHS mailing list for rule notices in her areas of interest.

Dave Niss clarified that the Montana Administrative Register (M.A.R.) includes only the notices of proposed and adopted rules for all agencies and that the Administrative Rules of Montana (A.R.M.) contains all of the rules. The subscription is for the Montana Administrative Register.

Representative Trudi Schmidt agreed that receiving too much information is not desirable. Senator Waterman directed the members attention to the printout from the DPHHS website (Exhibit #3) and reminded the Committee members of their access to the listing and the entire notice on the DPHHS Internet website. Representative Loren Soft appreciated the offer of a prescreening by staff resulting in a short synopsis of proposed rules with option to request more information where necessary. Senator Waterman asked the Committee members if they would wish to receive the listing from the website and, at David Niss' discretion, a further synopsis of rules that he thinks may be of interest to the Committee.

Representative Squires expressed a concern that the Committee understand its role in being able to file a complaint regarding the DPHHS' interpretation of a rule if it is necessary and reminded the Committee members that they needed to be aware of the various rules. Senator Franklin requested a more in-depth discussion of this at the next meeting and Senator Waterman agreed that it would be considered in the future. Susan Fox directed the Committee members' attention to three documents on administrative rulemaking review in the Committee members' packet (Exhibits # 4, 5,

6) for consideration prior to the next Committee meeting. Senator Waterman asked Representative Squires to make suggestions on what needs to be discussed at the next meeting about rulemaking review.

### **OVERVIEW RESPONSIBILITIES**

Susan Fox reviewed a document (Exhibit #7) on possible topics that was derived from the DPHHS structure, the 1999 Legislative issues, House Bill No. 2 issues, and interested persons concerns that are available for possible monitoring and review over the interim. Senator Waterman also directed the Committee's attention to Representative Mercer's letter regarding department overviews (Exhibit #8). It was her desire that the first meeting include an overview of the DPHHS, but not the standard presentation of everything. Her desire is to focus on several broad issues instead of a review and report of everything. The broader topics that she had noted were: welfare and low-income services, current welfare rolls, TANF population, sanctions, child support, outreach, eligibility, the demographics of aging and long-term care, prevention, the ICC (Interagency Coordinating Committee), tobacco settlement, children's services, and mental health. She posed questions to the Committee regarding how to most effectively address these issues and how to arrange the August 20 meeting.

Senator Franklin asked that the department presentation be according to mission statement and activities they are involved in instead of a structural overview of the department. Representative Carolyn Squires was not interested in the virtual department pavilion presentation. Representative Soft was concerned about the specific issue of the tobacco settlement and zeroing in on proposed legislation for the tobacco settlement and what could be done with the money. And he is also concerned in regards to oversight of the Challenge Program that was funded by the tobacco settlement funds. Representative Schmidt is concerned regarding TANF excess funds and FAIM. Senator Waterman stated that Hank Hudson was reviewing

programs and it was possible that the Committee could sponsor legislation for next session.

Senator Waterman reiterated Project Challenge, tobacco issues, and broad overview by mission of the DPHHS and that out of the department's broad perspective we could focus on specific issues. She also referred to excerpts from SB 11 on the Committee's duties and responsibilities (Exhibit #9). Senator Waterman encouraged the Committee to look over the information and make recommendations on how to best organize time over the interim. It would be possible to get written overview on other topics, but the Committee needs to prioritize its broader issues and focus on them.

Senator Waterman asked if the Committee had any questions for Laurie Ekanger and Chuck Hunter from DPHHS who were present. Senator Keenan would like information regarding the DPHHS website forum for questions and answers in regards to a Representative Cobb amendment that was removed from House Bill No. 2. Laurie Ekanger stated that she would followup on it as the DPHHS has e-mail messages and an opportunity to send information and receive responses, but she believes that Representative Cobb may have been more interested in a "chat room" type environment and she would call him and followup.

Director Ekanger shared that she wanted to have a good presentation for the Committee and received the message about "not too long or boring" and the DPHHS was counting on the Committee to provide feedback and be the legislative eyes and ears for them. She appreciated their focus on major issues in which to do work but that the department had a number of reports and studies that will be sent to the Committee for which they would like to receive feedback. Senator Waterman asked that each Committee member receive the department newsletter and the mental health bulletin.



**ADJOURNMENT**

The Committee adjourned approximately 1:30 p.m. The next meeting will be August 20, 1999.

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