



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

September 13, 2018
Room 102, 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.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

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 (*by phone*)
SEN. ALBERT OLSZEWSKI
SEN. DIANE SANDS

REP. KATHY KELKER (*by phone*)
REP. GORDON PIERSON

COMMITTEE MEMBERS EXCUSED

REP. JON KNOKEY

STAFF PRESENT

SUE O'CONNELL, Lead Staff
FONG HOM, Secretary

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

COMMITTEE ACTIONS

At its final meeting of the interim, the committee approved several bill drafts related to its study of community services for adults with developmental disabilities. The committee agreed to introduce the following bills as committee bills in the 2019 legislative session:

- LCCF01, requiring the use of standardized tools to assess the support needs of people with developmental disabilities;
- LCCF2a, requiring the executive budget to include an inflationary increase for providers of community-based developmental disabilities services so the Legislature can decide whether to appropriate the money needed to fund the increase;
- LCCF2b, appropriating money to increase wages by up to \$3 an hour over the next two fiscal years for direct-care workers in the community developmental disabilities system;
- LCCF3a, requiring funds appropriated for community developmental disabilities services to be used only on those services or, if unspent, on a grant program for providers;
- LCCF3b, requiring the Department of Public Health and Human Services to reimburse residential habilitation services on a daily or monthly, rather than hourly, basis;
- LCCF4b, creating a tiered program of crisis response services using new and existing funding; and
- LCCF05, requiring a review of administrative rules, policies, and procedures related to community services.

The committee also:

- authorized the early drafting and pre-introduction of five DPHHS legislative proposals;
- received an explanation of the way in which DPHHS will use more than \$30 million that was restored to the agency's budget as a result of Senate Bill 9 from the November 2017 special session;
- heard updates on the implementation of the medical marijuana program and the status of autism services for children served by the Medicaid and Healthy Montana Kids Plan; and
- received several reports that DPHHS is required by law to provide to the committee, including reports on efforts to prevent and reduce the occurrence of suicide and child abuse and neglect.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Caferro called the meeting to order at 10:34 p.m. The secretary called roll. Rep. Knokey was excused. [\(Attachment 3\)](#)

HJR 24 STUDY: DD SERVICES FOR ADULTS

Update on Agency-Provider Talks

00:01:32 Rebecca de Camara, Administrator, Developmental Services Division,
Department of Public Health and Human Services

00:05:15 Josh Kendrick, Chief Executive Officer, Opportunity Resources, Inc.

Committee discussion

00:08:03 Rep. Kelker asked about the parameters of the new claims system replacing the Medicaid Management Information System (MMIS).

00:08:32 Ms. de Camara said she would send the committee more information on the new system.
00:09:32 Sen. Caferro asked about care management in the new system..
00:12:33 Marie Matthews, Medicaid and Health Services Branch Manager, DPHHS, explained the Montana Program for Automating and Transforming Healthcare (MPATH). She said that MPATH is the overall project for replacing the current Medicaid claims processing system.

Bill Drafts and Staff Briefing Papers - Sue O'Connell, Research Analyst

00:16:47 Ms. O'Connell (**Exhibit 1**)

LCCF01: Use of Standardized Assessment Tools

00:17:36 Ms. O'Connell (**Exhibit 2**)

LCCF2a: Inflationary Increase for Provider Rates

00:19:38 Ms. O'Connell (**Exhibit 3**)

LCCF2b: Direct-Care Worker Wages

00:20:43 Ms. O'Connell (**Exhibit 4**)

LCCF3a: Grant Program for Community Services

00:23:07 Ms. O'Connell (**Exhibit 5**)

LCCF3b: Daily Rates for Certain Services

00:24:39 Ms. O'Connell (**Exhibit 6**)

LCCF4a: Crisis Response Services -- Existing Funding

00:25:59 Ms. O'Connell (**Exhibit 7**)

LCCF4b: Crisis Response Services -- New Funding

00:26:25 Ms. O'Connell (**Exhibit 8**)

LCCF05: Review of Rules, Policies, and Procedures

00:28:40 Ms. O'Connell (**Exhibit 9**)

Final Report: Conclusions and Recommendations - Sue O'Connell

00:29:55 Ms. O'Connell discussed the proposed conclusions and recommendations of the final report on the HJR 24 Study.

Committee questions on LCCF01

00:30:45 Rep. Reiker said that she want to make it clear that the evaluation is intended to be multidisciplinary.

00:35:15 Rep. Lenz said that under section 1(a), the second sentence does say that the Department of Public Health and Human Services shall conduct the assessment using a multidisciplinary approach.

Committee questions on LCCF2a

None

Committee questions on LCCF2b

- 00:38:11 Sen. Sands asked if LCCF2b would go directly to Appropriations and how the money will flow.
- 00:39:00 Sen. Caferro said that in the past, it would go to the policy committee first, but being that it is an appropriations bill, it would be in the House and go to the Human Services to the floor and then down to Appropriations, so yes, it would be in Appropriations. The other things is that the analysis done by Ms. O'Connell says that direct care workers were receiving \$1.50 an hour raise...currently we don't know that for sure.

Committee questions on LCCF3a

- 00:40:23 Rep. Kelker commented on the bill.
- 00:40:39 Sen. Caferro said that she is not sure how the people who self-direct their care will fit into the crisis bill.

Committee questions on LCCF3b

- 00:41:45 Sen. Caferro asked if the bill requires DPHHS to amend the Medicaid state plan.
- 00:41:55 Ms. O'Connell referred Sen. Caferro to page 3, section 2.

Committee questions on LCCF4a

- 00:42:30 Rep. Kelker asked about the terminology for crisis services providers.
- 00:43:37 Ms. O'Connell
- 00:44:07 *Rep. Pierson arrived at 11:17 a.m.*
- 00:44:40 Sen. Caferro suggested clarifying the requirements for crisis service providers.
- 00:44:57 Rep. Kelker discussed the need for requiring the use of applied behavioral analysis.
- 00:46:11 Rep. Kelker said that the briefing paper provided some great points to think about. She noted that the New Mexico program started small and grew over the years, which could be a reasonable approach for Montana.

Committee questions on LCCF4b

None

Committee questions on LCCF05

None

Public Comment on the HJR 24 Study

- 00:48:41 Alicia Smith, Bozeman
- 00:49:38 Mike Mahoney, Executive Director, Family Outreach, and Board Member of Montana Association of Community Disability Services (MACDS)
- 01:01:04 Patrick Maddison, Chief Executive Officer, Little Bitterroot Services, Plains; Achievements, Libby; Ravalli Services, Hamilton; and Flathead Industries, Kalispell
- 01:05:42 Diane Reidelbach, Director, Job Connection, Billings

01:10:50 Fran Sadowski, Executive Director, Missoula Developmental Service Corporation, Missoula
01:15:52 Jean Morgan, WestMont, Helena
01:21:15 Beth Breneman, Disability Rights Montana
01:22:48 Brooke Bartholomew, Executive Director, Developmental Educational Assistance Program

LUNCH (reconvened at 1:03 p.m.)

AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES LEGISLATION

Purpose and Process of Committee Review - Sue O'Connell

02:29:36 Ms. O'Connell ([Exhibit 10](#))

02:30:41 Sen. Sands explained the purpose and the process of reviewing agency legislation.

DPHHS Legislative Proposals - Sheila Hogan, Director

02:31:34 Director Hogan ([Exhibit 11](#))

Committee questions of Director Hogan

02:33:34 Sen. Sands asked about the Child Care Act proposal.

02:34:38 Rep. Kelker asked about emergency access to the treatment act. Rep. Kelker's question was deferred to Rep. Pierson.

02:36:40 Rep. Pierson explained the difference in testing for methamphetamine and for alcohol.

02:36:55 Rep. Kelker asked Rep. Pierson if it was unusual for a health care professional in the emergency room to test for meth or for alcohol and then refer that patient to another professional for treatment.

02:38:24 Rep. Pierson asked Director Hogan if having enough rehabilitation facilities would increase the number of people getting referrals in a timely manner.

02:39:35 Sen. Olszewski asked if this should be considered an emergency access, although it is not an emergency.

02:40:49 Sen. Olszewski commented on the possible unintended consequences, if it is only physicians in the emergency room who can make a referral because people who want to get into a substance abuse facility may be told to "go to the emergency room". That could increase the cost to the state because the emergency room is an expensive point of access.

02:41:32 Rep. Pierson asked if a primary care provider will be able to do referrals.

02:42:44 Sen. Sands asked about the proposed legislation on protection for vulnerable adults.

Motion/Vote

02:45:24 Sen. Sands moved to approved the Department of Public Health and Human Services' proposed bills. The motion passed unanimously by voice vote with Rep. Knokey voting aye by proxy and Sen. Moore not present.

AGENCY OVERSIGHT: DPHHS BUDGET AND FUNDING RESTORATION

Erica Johnston, DPHHS Operations Services Branch Manager
Jon Arnold, Legislative Fiscal Division

02:46:33 Erica Johnston (**Exhibit 12**)

Committee questions of Ms. Johnston

- 02:55:33 Rep. Kelker discussed the Department of Public Health and Human Services' Senate Bill 9 Restoration Plan.
- 02:56:23 Sen. Sands said that she would like to hear how the Department has used the budget crisis as an opportunity to restructure how it does business.
- 02:58:02 Sen. Caferro and Ms. Johnston discussed the funding in House Bill 638 and the pay raise for direct care workers.
- 03:04:51 Sen. Caferro asked Ms. Johnston if the Department has any plans on what to do with services that were cut and not restored.
- 03:10:01 Sen. Caferro asked for clarification on "increased value-based care for hospitals". The question was deferred to Marie Matthews, state Medicaid director.
- 03:11:15 Sen. Caferro asked about the percent of services that are being restored, and also asked for a report from the Department on the reductions and the cost plan for the Big Sky Waiver.
- 03:14:53 Ms. O'Connell distributed Ms. Johnston's document "Additional Budget Reduction Information" to the committee. (**Exhibit 13**)
- 03:15:44 Jon Arnold, Legislative Fiscal Division, discussed the Fiscal 2018 expenditures for DPHHS.

Committee questions of Mr. Arnold

- 03:18:43 Sen. Caferro asked about the \$4.3 million that was transferred to the Montana State Hospital, the \$13.9 million for child protective services, and the funding for the Vocational Rehabilitation program.

Public Comment on DPHHS Budget Matters

- 03:22:08 Brooke Bartholomew, Executive Director, Developmental Educational Assistance Program
- 03:27:06 Diane Reidelbach, Job Connection
- 03:28:15 Joel Peden, Montana Independent Living Project
- 03:39:35 Rose Hughes, Executive Director, Montana Healthcare Association

AGENCY OVERSIGHT: CHILD PROTECTIVE SERVICES

Child and Family Services Division Update - Laura Smith, Deputy Director

Caseload Report

03:47:09 Ms. Smith reported on the caseload of the Child and Family Services.

Strategic Plan for Reducing Child Abuse and Neglect (HB 517)

03:51:05 Ms. Smith ([Exhibit 14](#))

Child Abuse and Neglect Review Commission Report (HB 303)

03:52:24 Ms. Smith

Family First Prevention Services Act

03:54:00 Ms. Smith

Committee questions

03:56:17 Sen. Sands asked about the issue of tribal consultation.

04:03:47 Ms. O'Connell relayed that Sen. Moore would like to know about the stabilization of children in care.

04:05:39 Sen. Sands asked how that number of children in care compares percentage-wise to surrounding states.

04:06:04 Rep. Kelker asked about the home visiting efforts and whether any of those efforts are on reservations.

04:08:29 Ms. Smith said that she will send Rep. Kelker information on home visiting programs on reservations.

04:09:23 Sen. Sands asked if the Department knows about the five children who died and asked what the Department is doing about it.

04:12:46 Sen. Sands discussed opioids and women giving birth to addicted babies. Given the high instances of those problems on reservations, she asked if the Department's home visiting programs are focused on that issue and whether there are treatment modalities or facilities to deal with a drug addicted mother and a baby.

Pew Results First-Child Protective Study

Josh Poulette, Legislative Fiscal Division (by phone)

Nick Dantzer, Pew Charitable Trusts (by phone)

04:27:33 Josh Poulette ([Exhibit 15](#))

Public Comment on Child Protective Services

04:46:57 Brooke Bartholomew, Executive Director, Developmental Educational Assistance Program

BREAK (reconvened at 3:31 p.m.)

AGENCY OVERSIGHT: MONTANA MEDICAL MARIJUANA ACT

Members of the Revenue and Transportation Interim Committee joined the Committee for the medical marijuana presentations.

Registry Statistics - Sue O'Connell

04:58:17 Ms. O'Connell ([Exhibit 16](#))

DPHHS UPDATE - Erica Johnston, Operations Services Branch Manager

- 04:59:12 Ms. Johnston introduced Darci Wiebe, Program Bureau Chief, Medical Marijuana Program. Ms. Johnston gave an update of the following:
- 04:59:52 The process of applying for a Medical Marijuana Card;
- 05:02:19 The implementation of the licensing system for the seed to sale tracking;
- 05:03:49 DPHHS receipt of physician complaints in terms of physicians meeting with people and issuing referrals to the system; and
- 05:04:25 DPHHS' biennial report on unannounced inspections of dispensaries, cultivation sites, chemical manufacturing sites, and labs.
- 05:11:19 Darci Wiebe gave a presentation on the Marijuana Enforcement Tracking Reporting & Compliance System (METRC). ([Exhibit 17](#))

Committee questions

- 05:19:26 Sen. Caferro asked Ms. Wiebe about the testing labs, the inspections of the labs, the value of lab testing for patients' safety, and incentives for organic products.
- 05:23:00 Rep. Jacobson, Presiding Officer, Revenue and Transportation Interim Committee, asked Ms. Wiebe about licensing a provider who has multiple buildings, products being tested multiple times, and the costs of multiple testings.
- 05:26:51 Sen. Sands asked Ms. Johnston about any changes in statute that DPHHS might consider.

Public Comment on Medical Marijuana Act Implementation

- 05:30:08 Barbara Turner, Libby
- 05:35:07 Kate Cholewa, Montana Cannabis Information Association
- 05:48:11 Kendra Shaw, Billings
- 05:50:21 Tayln Lang
- 05:56:18 Doug Felt, Billings
- 06:07:07 Dr. Keith Erwin, Fidelity Diagnostic Lab, Missoula
- 06:08:33 Terry Lucky, Fat Hippie, Seeley Lake

GENERAL PUBLIC COMMENT

- 06:11:10 Nick Aemisegger, attorney, commented on child welfare and trying to keep children safe and in the home.
- 06:22:49 Ms. O'Connell distributed the Legislative Finance Committee's "Medicaid Monitoring Report and Montana HELP Act Medicaid Expansion Report" ([Exhibit 18](#)) and a data sheet, "DPHHS Restorations by Subclass" ([Exhibit 19](#)) to the committee members.

RECESS

- 06:23:46 Sen. Caferro recessed the meeting at 4:58 p.m. to reconvene at 8 a.m. on September 14, 2018.