



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

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

### 65th Montana Legislature

#### SENATE MEMBERS

MARY CAFERRO  
FREDERICK ( ERIC ) MOORE  
ALBERT OLSZEWSKI  
DIANE SANDS

#### HOUSE MEMBERS

KATHY KELKER  
JON KNOKEY  
DENNIS LENZ  
GORDON PIERSON

#### COMMITTEE STAFF

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

# MINUTES LOG

June 29, 2017  
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.

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

### COMMITTEE MEMBERS PRESENT

SEN. MARY CAFERRO  
SEN. FREDERICK (ERIC) MOORE  
SEN. DIANE SANDS

REP. KATHY KELKER  
REP. JON KNOKEY  
REP. DENNIS LENZ  
REP. GORDON PIERSON

### COMMITTEE MEMBERS EXCUSED

SEN. ALBERT OLSZEWSKI

### STAFF PRESENT

SUE O'CONNELL, Lead Staff  
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:

- devote the largest amounts of their meeting time -- a combined 51 percent -- to general monitoring of Department of Public Health and Human Services activities and the expansion of the state Medicaid program in advance of the scheduled 2019 sunset of the law allowing for expansion;
- spend 23 percent of their time on the House Joint Resolution 24 study of services for adults with developmental disabilities;
- devote about 7 percent of their time to the House Joint Resolution 17 study of prescription drug pricing, unless preliminary information indicates the state may have a large role to play in that area;
- spend up to 7 percent of their time monitoring implementation of changes to the state's medical marijuana program; and
- create a 16-member subcommittee to carry out the bulk of the HJR 20 study of transparency in health care pricing. The subcommittee will include two Committee members, two members of the Economic Affairs Interim Committee, and 12 stakeholders, including a representative who is a privately insured individual. The subcommittee will meet throughout the interim in conjunction with the Committee's regularly scheduled meetings.

Members also elected Sen. Mary Caferro, D-Helena, as presiding officer and Rep. Dennis Lenz, R-Billings, as vice presiding officer.

### CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Mary Caferro called the meeting to order at 9:43 a.m. The secretary called roll. Rep. Knokey and Sen. Olszewski were excused. ([Attachment 3](#))

### INTRODUCTION OF MEMBERS AND STAFF

00:02:05 The committee members and staff introduced themselves.

### ADMINISTRATIVE MATTERS - Sue O'Connell, Committee Researcher

Ms. O'Connell discussed:

- 00:07:26 Staff roles and responsibilities
- 00:07:56 Legislative Guidelines for Interim Committees ([Exhibit 1](#))
- 00:09:53 Committee Budget/Travel Claims
- 00:11:04 Health and Human Services Acronyms ([Exhibit 2](#))
- 00:11:19 Eligibility for Public Assistance Programs ([Exhibit 3](#))
- 00:11:29 Summary of 2017 Health and Human Services Legislation ([Exhibit 4](#))
- 00:11:45 Summary of Federal Affordable Care Act Replacement Bills ([Exhibit 5](#))
- 00:12:19 Summary of HB 639/SB261 ([Exhibit 6](#))
- 00:15:42 Sen. Caferro thanked Ms. O'Connell for the meeting documents that the committee members received by mail before the meeting.

## **DRAFT INTERIM WORK PLAN AND STUDY ASSIGNMENTS**

00:16:09 Ms. O'Connell ([Exhibit 7](#))

### **Questions of Ms. O'Connell**

00:23:37 Rep. Kelker asked if it would be possible to ask for a written document from the list of topics and not necessarily taking it up as a topic in the committee.

00:24:14 Sen. Caferro and Sen. Sands discussed the requirement imposed by HB 142 (2011) to review Department of Public Health and Human Services advisory councils and statutory reports.

### **CFHHS Interim Studies: Assignments and Tasks**

00:26:43 Ms. O'Connell ([Exhibit 8](#))

### **HJR 20 Subcommittee Proposal - Rep. Kelker, HJR 20 Sponsor**

00:30:50 Sen. Caferro provided brief background on House Joint Resolution 20.

00:31:36 Rep. Kelker ([Exhibit 9](#))

### **Discussion**

00:42:32 Sen. Sands discussed the potential impact of federal legislation on the subcommittee work. She also asked about payment of the expenses of nonlegislator members on the subcommittee.

00:44:52 Sen. Caferro discussed the availability of funds in the Legislative Council's Emerging Issues budget.

00:47:11 Sen. Caferro discussed Exhibit 9, the deadline for appointments of voting members.

### **Public Comment on the work plan and study assignments**

00:49:07 Kris Hansen, Chief Legal Counsel, State Auditor's Office

00:54:51 Marilyn Bartlett, Administrator, Health Care and Benefits Division, Department of Administration

00:56:54 Kelly Jepson, Consumer Direct Care Network

00:58:02 Fran Sadowski, Missoula Developmental Service Corporation

00:59:22 Eve Franklin, Montana Association of Community Disability Services and Montana Optometric Association

01:00:30 Gary Lusin, physical therapist, business owner and consumer, distributed "The consumer's Voice - a Health Care Forum" ([Exhibit 10](#)) and a "Summary of the Consumer Health Care Forum" ([Exhibit 11](#)).

01:03:25 John Doran, Blue Cross Blue Shield Montana

01:04:59 Dick Brown, President, Montana Hospital Association

01:06:00 Jennifer Hensley, PacificSource Health Plans

01:08:32 Ken Brown, Opportunity Resources

01:12:40 Jean Branscum, Montana Medical Association

01:15:21 Sen. Jen Gross, Senate District 25

01:16:44 Claudia Clifford, AARP Montana

01:18:06 Alan Hall, Vice President, General Counsel, Allegiance Benefit Plan Management

01:19:22 Marti Wangen, Montana Podiatric Medical Association and Montana Psychological Association

## **AGENCY OVERSIGHT: STAFF PRESENTATIONS AND REQUIRED REPORTS**

### **Administrative Rule Review - Alexis Sandru, Committee Attorney**

Ms. Sandru gave a presentation on:

- 01:21:12 Overview of Administrative Rulemaking and Rule Review ([Exhibit 12](#))
- 01:27:09 Administrative Rule Report for June Meeting ([Exhibit 13](#)) and Administrative Rule Report -- MAR Issue 12 ([Exhibit 14](#))

### **Montana Medical Marijuana Act Monitoring**

Ms. O'Connell discussed:

- 01:31:03 recent changes to the medical marijuana law ([Exhibit 15](#)); registry
- 01:33:06 statistics ([Exhibit 16](#)); and
- 01:34:57 complaints filed with the Board of Medical Examiners ([Exhibit 17](#)).

### **Montana Developmental Center Closure**

- 01:35:35 Ms. O'Connell ([Exhibit 18](#))

## **PUBLIC COMMENT ON ANY OTHER ITEM WITHIN THE COMMITTEE'S JURISDICTION**

- 01:37:17 Beth Brennehan, Disability Rights Montana, commented on the importance of spending time on rule review, agency oversight, and the closure of the Montana Developmental Center.
- 01:39:19 Rose Hughes, Montana Healthcare Association, discussed concerns related to potential rules involving cuts to nursing home reimbursement rates. ([Exhibit 19](#))
- 01:44:15 Travis Hoffman, Montana Centers for Independent Living, raised concerns about whether potential cuts to funding for independent living programs would violate state laws. ([Exhibit 20](#))
- 01:51:02 Bob Olsen, Montana Hospital Association, commented on potential cuts to nursing home reimbursements.
- 01:55:17 Kelly Jepson, Consumer Direct Care Network, questioned the proposed Medicaid reimbursement cuts.
- 01:56:41 Eve Franklin, Montana Association of Community Disability Services, discussed potential cuts in rates for services to developmentally disabled children.
- 01:59:59 **Lunch** (reconvened at 1:03 p.m.)
- 03:21:09 *Rep. Knokey arrived at 1:20 p.m.*

## **AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES -**

### **Sheila Hogan, Director**

Ms. Hogan discussed:

- 03:23:10 the use of new funding for implementing the Protect Montana Kids Commission legislation;
- 03:23:57 the use of new funding for suicide prevention; and
- 03:24:35 the new Tribal Health Improvement Program ([Exhibit 21](#)).

### **Questions of Ms. Hogan**

- 03:33:58 Sen. Sands thanked Ms. Hogan for the Tribal Health Improvement Program effort.
- 03:36:36 Sen. Moore asked about rulemaking on nursing home provider rates.

03:37:33 Rep. Kelker asked about concerns regarding funding for services to children with developmental disabilities.

**COMMITTEE WORK SESSION**  
**Committee Discussion and Action**

**Proxy Voting Procedures**

03:40:31 Rep. Kelker discussed the issue of proxy voting and recommended that proxies be in writing or e-mailed to staff.

03:40:45 It was the general consensus of the committee to allow proxy voting and to require that proxies be in writing.

03:41:24 *Sen. Caferro recessed the meeting until 1:47 p.m.*

**HJR 20 Subcommittee**

Motion

04:04:44 Rep. Kelker moved for the creation of an HJR 20 subcommittee.

Discussion

04:05:14 Sen. Sands discussed involvement of the various groups that have knowledge of and work in this area. She supported forming a subcommittee.

04:06:04 Rep. Knokey said this subcommittee will be essential because there are a lot of questions to be answered.

Vote

04:06:35 The motion passed unanimously by voice vote with Sen. Olszewski voting aye by proxy.

Motion

04:07:20 Sen. Moore moved that a subcommittee on HJR 20 be formed from the list of members that he distributed to the committee and that the members of the subcommittee all have voting privileges. **(Exhibit 22)**

Vote

04:08:34 The motion passed unanimously by voice vote with Sen. Olszewski voting aye by proxy.

**Draft Interim Work Plan**

House Joint Resolution 20 Study

04:09:36 Sen. Caferro discussed the meeting schedule of the HJR 20 subcommittee.

04:09:41 Rep. Kelker clarified the work plan column titled "special guests".

04:10:39 Sen. Sands asked about paying the travel expenses for other CFHHS members who might want to attend the HJR 20 subcommittee meetings.

04:11:09 Sen. Caferro said funds are available.

04:12:11 Rep. Kelker asked committee members to provide her with suggestions of people who might have expertise to share with the subcommittee.

4:13:24 Sen. Moore asked how the appointment of the CFHHS members to the HJR 20 subcommittee will be handled.

04:14:37 Sen. Sands asked about the amount of time the full committee should allocate to the HJR 20 Study.

- 04:15:25 Rep. Kelker discussed the process for bringing the subcommittee's recommendations to the full committee.
- 04:15:58 Sen. Sands asked Ms. O'Connell about HJR 20 time allocation.
- 04:17:16 Rep. Knokey asked if the voice of rural Montana will be heard.
- 04:17:37 Rep. Kelker said she is committed to having the subcommittee understand health care and how it is delivered in rural Montana.

House Joint Resolution 17 Study

- 04:19:26 Sen. Caferro discussed the time allocation chart on page 8 of the draft work plan.
- 04:20:18 Rep. Kelker discussed the difficulty of doing the HJR 20 subcommittee along with the HJR 17 Study.
- 04:21:22 Sen. Sands said she would be interested in hearing from the insurance commissioner about the work that that office has done on the topic.
- 04:22:02 Sen. Moore commented on changes at the federal level and what the fiscal and policy impacts would be on the state.
- 04:23:01 Rep. Lenz discussed scheduling the committee's final meeting closer to the September 15, 2018, deadline.
- 04:24:01 Sen. Caferro discussed not committing a lot of time to the HJR 17 study because of other workload issues and the need to save time for emerging issues.
- 04:24:46 Ms. O'Connell discussed the list of tasks in HJR 17 on page 3 of the Study Assignments and Tasks and asked the committee to specify the tasks to undertake and whether they want to focus on the studies one at a time or receive information on all of them over the interim.
- 04:25:45 Sen. Moore discussed moving forward with all studies at the same time.
- 04:26:36 Sen. Sands discussed receiving reports from the insurance commissioner as a first step..
- 04:28:42 Rep. Kelker asked how other states manage costs.
- 04:29:53 Sen. Caferro discussed starting with a panel comprised of representatives from the Auditor's Office, the State Employee Health Plan, and Medicaid.

House Joint Resolution 24 Study

- 04:31:44 Sen. Moore said that the HJR 24 Study will be affected by the revenue stream and is worth 2.5 days.
- 04:32:13 Rep. Kelker discussed spending time on provider rates and employment of appropriate staff.
- 04:33:29 Sen. Sands discussed money as the underlying issue and said the study is a high priority.
- 04:34:23 Sen. Caferro discussed the options for each study found on page 10 of the work plan.
- 04:35:28 Rep. Knokey asked if this committee is trying to solve the issue of provider rates.
- 04:36:17 Sen. Caferro said that it is the responsibility of the committee to use taxpayer money on people who need services.

**Statutory Oversight**

Administrative Rule Review

- 04:38:29 Sen. Sands said she would like more time spent on rule review and suggested moving that topic to a different time on the agenda. She also asked Ms. Sandru to compile the rule review in a way that gives the committee enough time to deal

- with the content and to respond to it.
- 04:41:26 Ms. Sandru discussed what was done last interim and asked for clarification of the information the committee wants to receive in advance of and at the meetings.
- 04:42:30 Sen. Sands said that she would like to spend more time in committee and to work with the chair to decide which issues rise to the level that the committee should be having a discussion about.
- 04:43:37 Sen. Caferro said that significant involvement would be 2.75 hours for Administrative Rule Review.

#### Agency Monitoring

- 04:44:22 Rep. Kelker said it would be helpful to have time at each meeting when the committee could ask representatives from DPHHS to respond to questions.
- 04:45:55 Rep. Knokey said that the committee should follow up on the issue of child protective services.
- 04:46:31 Sen. Moore recommended the maximum of 17.5 hours to agency monitoring.
- 04:47:13 Ms. O'Connell discussed the need to know what agenda items or topics should be included in future meetings for planning purposes.
- 04:47:57 Sen. Moore said that he would like an update from Child Protective Services at every meeting.
- 04:48:17 Sen. Caferro clarified her understanding of what the agency monitoring would include.
- 04:49:02 Rep. Kelker said that what she would like to receive an update of the number of kids in foster care, the number of kids that have been removed, if there have been any fatalities from Child Protective Services.
- 04:50:33 Sen. Caferro said the committee appears to agree that the 17.5 hours is needed for agency monitoring. Agency legislation review is .5 hours.

#### Medical Marijuana Act Monitoring

- 04:51:41 Sen. Sands discussed the rulemaking authority relative to the medical marijuana monitoring. She would like to hear what the department is doing in implementing the requirements of the law.
- 04:52:21 Ms. O'Connell said that rulemaking could be extensive and noted that the committee had just been notified of some emergency rules.
- 04:52:34 Ms. Sandru distributed and discussed a document, "Notice of the filing of emergency rules". ([Exhibit 23](#))
- 04:54:09 Sen. Moore said he would like to hear from other states about any correlation between legalized marijuana, medical marijuana, and use of other drugs, such as methamphetamine or opioids.

#### House Bill 142 Review

- 04:54:53 Sen. Sands suggested that no time be spent on HB 142 review.

#### Emerging Issues

- 04:55:31 Sen. Sands discussed devoting time to the Health and Economic Livelihood Partnership (HELP) Act that expanded the Medicaid program.
- 04:56:07 Rep. Kelker discussed the importance of discussing health care.
- 04:56:59 Rep. Knokey commented on the HELP Act and said he would like to hear more

about job placement and job training.

04:58:09 Sen. Sands discussed looking at what Congress is going to do regarding Medicaid issues.

04:58:55 The committee discussed the number of hours that have been allotted and the number of hours left.

04:59:30 Sen. Sands commented on working with the department on other issues that are not health care issues.

05:00:22 Rep. Kelker suggested that the committee ask for a presentation on the workforce elements of the HELP Act.

05:02:14 Rep. Knokey discussed his interest in learning more about the demographics of Medicaid enrollees.

05:04:15 Sen. Caferro commented on the 16 hours devoted to studying the HELP Act and allotting any remaining time to emerging issues.

05:04:38 Rep. Lenz asked about time allotted to the three study resolutions.

05:07:14 There was a discussion regarding how many hours should be given to the prescription drug study and Medicaid expansion.

05:08:08 Rep. Lenz discussed extending the final meeting date closer to the September 15 deadline.

05:10:14 Sen. Caferro requested that members check their schedule for a September 2018 meeting date and let Ms. O'Connell know of their availability.

05:11:16 Sen. Sands discussed the possibility of receiving notices of other meetings that committee members might be attending that might be helpful to the work being done by this committee.

05:12:09 Sen. Moore discussed having a committee meeting at a location outside of Helena.

### **ELECTION OF OFFICERS**

05:13:27 Sen. Sands nominated Sen. Caferro as presiding officer.

05:13:55 Sen. Moore moved that the nominations cease and that Sen. Caferro be elected presiding officer by acclamation. The motion passed 7-0 by voice vote.

05:14:19 Sen. Moore nominated Rep. Lenz as vice presiding officer.

05:14:44 Sen. Sand moved that nominations cease and that Rep. Lenz be elected as vice presiding officer by acclamation.

05:15:07 Sen. Sands discussed committee members' attendance at national meetings and bringing back to the committee any materials of interest from those meetings.

### **ADJOURNMENT**

05:15:44 Sen. Caferro adjourned the meeting at 2:58 p.m.