



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--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

May 14, 2018
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. MARY CAFERRO, Chair
REP. DENNIS LENZ, Vice Chair

SEN. FREDERICK (ERIC) MOORE (*by phone*)
SEN. ALBERT OLSZEWSKI
SEN. DIANE SANDS

REP. KATHY KELKER

COMMITTEE MEMBERS EXCUSED

REP. JON KNOKEY
REP. GORDON PIERSON

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 additional research for its House Joint Resolution 24 study of community services for adults with developmental disabilities, heard an update on the medical marijuana program, and received information on the economic impact of Medicaid expansion in Montana.

The committee requested that several HJR 24-related bills be drafted for review and public comment in June. The bills would:

- require use of a nationally recognized assessment tool known as the Supports Intensity Scale in determining the level of support a developmentally disabled individual needs;
- create a regional crisis response program based on the model developed in New Mexico;
- index DD provider rates to the Consumer Price Index and raise direct-care worker wages by 75 cents an hour every six months;
- direct the Department of Public Health and Human Services to review regulatory and administrative requirements to eliminate unnecessary duplication, oversight, and inconsistencies where possible; and
- increase flexibility in use of funding by requiring DPHHS to use a base daily or monthly rate for some services and by placing unspent general fund appropriated to match federal Medicaid funding for DD services into a special revenue account that could be used for a variety of purposes.

The committee also asked for a bill draft to eliminate the advisory committee created under the Medicaid expansion law.

The committee decided to make its June meeting a two-day meeting; members will meet June 21-22 in Helena.

CALL TO ORDER AND ROLL CALL

00:00:02 Sen. Mary Caferro called the meeting to order at 8:09 a.m. The committee secretary called roll. Rep. Gordon Pierson and Rep. Jon Knokey were excused. Sen. Eric Moore participated by phone. ([Attachment 3](#))

REPORTS FROM COMMITTEE MEMBERS

Child Abuse Neglect and Review Commission - Sen. Eric Moore

00:01:22 Sen. Moore reported that the Child Abuse Neglect and Review Commission will be meeting in Helena on May 21 and 22, 2018. The commission had an organizational meeting a couple of months ago where the goals and objectives were outlined.

Committee Questions

00:01:50 Sen. Caferro asked Sen. Moore to explain what the commission is about.
00:02:02 Sen. Moore gave background information on the Child Abuse Neglect and Review Commission.

- 00:03:15 Sen. Caferro asked if the commission looked only at the children who died who were in the child protective services system.
- 00:03:45 Rep. Kelker asked about the role of the child protective services system, if they were contacted and what part did they play in that particular case.
- 00:04:49 Sen. Caferro commented on the importance of looking at the global number of child deaths.

Recent Conferences and Meetings

Forum by Developmental Disability Providers - Rep. Kelker

- 00:06:02 Rep. Kelker reported on a forum that was put on by developmental disability providers in Billings.

Youth Suicide Prevention Meeting - Sen. Caferro

- 00:07:11 Sen. Caferro reported on a meeting on youth suicide prevention.

AGENCY OVERSIGHT: STAFF REPORTS

Administrative Rule Review - Alexis Sandru, Committee Attorney

- 00:08:20 Ms. Sandru ([Exhibit 1](#))

Montana Developmental Center Client Status - Sue O'Connell, Committee Researcher

- 00:09:53 Ms. O'Connell ([Exhibit 2](#))

Committee Questions

- 00:11:39 Sen. Caferro asked Ms. O'Connell about any information on how those people who have been placed are doing.

AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Director's Update - DPHHS Director Sheila Hogan

- 00:12:26 Director Hogan provided updates on:
- 00:12:55
- The targeted case management contract for developmental disability services
 - 00:13:55 • Transition for clients and staff resulting from the closure of Helena Industries
 - 00:15:01 • Substance abuse and misuse in Montana, federal grants to combat the opioid crisis, and the development of "Addressing Substance Abuse Disorder in Montana" plan
 - 00:17:12 • Aligning Medicaid and block grant programs for substance use disorders with the American Society of Addiction Medicine (ASAM)
 - 00:18:45 • Data the committee had requested ([Exhibit 3](#)) ([Exhibit 4](#))
 - 00:19:48 • The hiring of a new Child and Family Services Division administrator and deputy administrator.
 - 00:20:03 • Update on the First Years Initiative.

Committee Questions of Director Hogan

- 00:22:15 Sen. Sands said she would like more information about the grants that were issued for the opioid crisis.
- 00:22:55 Rep. Kelker asked about the transitions of clients due to the closure of Helena Industries.
- 00:25:07 Sen. Caferro asked for the names of the providers who stepped up to help with

- clients of Helena Industries.
- 00:25:56 Rebecca de Camara, Administrator for the Developmental Services Division, discussed who the providers were that took clients previously served by Helena Industries.
- 00:27:26 Rep. Lenz asked about the Child and Family Services Division home visitors program.
- 00:31:05 Sen. Sands asked about the issue of the waiting list for developmental disability services relative to children with autism.
- 00:31:46 Sen. Sands said she would like an update on Medicaid participants who are not receiving dental services.
- 00:34:49 Sen. Caferro asked if federally qualified health centers provide dentures.
- 00:35:40 Sen. Caferro asked about the home visiting program.
- 00:39:42 Erica Johnston, Operations Services Branch Manager, DPHHS, presented a document providing information requested by the committee on the 17-7-140, MCA, budget reductions the governor made when a general fund budget deficit was anticipated. **(Exhibit 4)**
- 00:42:47 Ms. Johnston provided a document with updated statistics on the Child and Family Services Division caseloads. **(Exhibit 3)**
- 00:43:10 Sen. Caferro asked about the level of money in the medical marijuana state special revenue account.
- 00:44:13 Sen. Caferro asked about the letter regarding the 2.99% reduction in year 1 and what that will look like in year 2 of the biennium.
- 00:44:37 Ms. Johnston explained that the 2.99% reduction was for 6 months but the department does not currently plan to increase provider rates in the next fiscal year. However, she said the department is evaluating the budget situation before making a final decision.
- 00:45:40 Sen. Sands asked about decisions that the department has made in asking for supplemental appropriations for some services and not for other services.
- 00:48:02 Sen. Olszewski asked Director Hogan about the supplemental the department has requested for 2018 expenditures.
- 00:50:28 Sen. Sands discussed building the infrastructure of community services and asked about the department's budget for the next biennium.
- 00:55:37 Rep. Kelker asked about the department's effort on Medicaid services and restoring some of the targeted case management that is not a required Medicaid service.
- 00:57:52 Rep. Lenz asked what the supplemental is being used for. Director Hogan referred Rep. Lenz's question to Ms. Johnston.
- 01:00:27 Jamie Palagi, Administrator of the Human and Community Services Division, reported on the STARS Preschool Program. **(Exhibit 5)**

Committee Questions

- 01:02:31 Sen. Sands commented on the STARS program in Lolo, Montana.
- 01:03:48 Sen. Caferro commented on requests for information from the department.

AGENCY OVERSIGHT: MONTANA MEDICAL MARIJUANA ACT

Overview of Activity to Date - Sue O'Connell

01:05:00 Ms. O'Connell did not give a report but referred the committee to the briefing papers: Registry Statistics ([Exhibit 6](#)), Recent Developments ([Exhibit 7](#))

Draft Letter on Rules Objection - Alexis Sandru

01:05:10 Ms. Sandru ([Exhibit 8](#))

DPHHS Medical Marijuana Update - Erica Johnston, Manager, DPHHS Operations Services Branch

01:08:52 Ms. Johnston

Committee Questions of Ms. Johnston

01:14:35 Sen. Caferro asked if there are plans for proposed legislation to change the statute regarding how the money in the state special revenue account can be used, and whether there is a point at which the balance will be high enough to warrant a reduction in fees for the providers.

01:16:09 Rep. Kelker asked how Montana's standard is compared to other medical marijuana states.

Public Comment on Medical Marijuana Act Implementation

01:17:15 Douglas Felt, Uncle Buck's, commented on reducing the size of the canopy from 50 square feet to 14 square feet per cardholder for larger providers.

01:23:22 Kate Cholewa, Montana Cannabis Industry Association, commented on the issue of overproduction and licensing.

01:31:34 Ryan Cahill, representing himself, agreed with the Montana Cannabis Industry Association that the licensing needs to change.

01:33:14 Dennis Small, provider and patient, commented on the rules proposed by the department.

Break (reconvened at 10:00 a.m.)

HJR 24 STUDY: DD SERVICES FOR ADULTS

Update on Agency-Provider Talks

Rebecca de Camara, Administrator, DPHHS Developmental Services Division
Josh Kendrick, Chief Executive Officer, Opportunity Resources, Inc.

01:51:44 Ms. de Camara

01:55:37 Mr. Kendrick

Committee Questions

01:57:10 Rep. Kelker asked Mr. Kendrick about the congregate billing and the daily rates that would allow the providers to spend the money in a care plan.

01:59:00 Rep. Lenz asked if Mr. Kendrick has found any resolutions regarding transportation.

01:59:57 Sen. Sands asked Mr. Kendrick to describe the four transportation-related issues.

Budgeting for the Developmental Disabled Services - Marie Matthews, Manager, DPHHS Medicaid and Health Services Branch

02:02:24 Ms. Matthews

Committee Questions of Ms. Matthews

02:13:03 Rep. Kelker asked about the reasons the department doesn't allow unused money from one person's cost plan to be used for another person who has a need for additional services.

02:26:56 Sen. Caferro asked about the growing waiting list for services and the people who are on the waiver that cannot access 100% of their cost plan, how overages fit into the reason for asking for supplemental, the department's definition of supplemental and if the supplemental include transfers out of senior long-term care.

02:32:34 Sen. Caferro said that Quinn Holzer, Fiscal Analyst for the Legislative Fiscal Division, was in the audience and would be available to answer questions on Medicaid.

Options for Committee Consideration - Sue O'Connell, Committee Researcher

02:34:20 Ms. O'Connell discussed the briefing papers.

Direct-Care Worker Wages

02:34:40 Ms. O'Connell ([Exhibit 9](#))

Committee Questions

02:42:43 Rep. Kelker asked if Ms. O'Connell looked at health care benefits in any of the options.

Crisis Services

02:43:28 Ms. O'Connell ([Exhibit 10](#))

Assessment Tools

02:49:26 Ms. O'Connell ([Exhibit 11](#))

Flexibility in Funding

02:52:19 Ms. O'Connell ([Exhibit 12](#))

Public Comment on the HJR 24 Study

02:56:56 Diane Reidelbach, Director, Job Connection, Inc.

03:05:20 Jean Morgan, WestMont

03:11:32 Rose Hughes, Executive Director, Montana Association of Community Disability Services

03:19:17 Fran Sadowski, Executive Director, Missoula Developmental Service Corp.

03:25:17 Josh Kendrick, Chief Executive Officer, Opportunity Resources, Inc.

03:26:27 Eve Franklin, Montana Association of Community Disability Services

03:29:25 Beth Brenneman, Disability Rights Montana, distributed information on the

Montana Developmental Center Abuse and Neglect data for 2018. [\(Exhibit 13\)](#)

Lunch (reconvened at 1:23 p.m.)

AGENCY OVERSIGHT: MEDICAID EXPANSION

Economic Impact of Medicaid Expansion in Montana - Bryce Ward, Director, Health Care Research, University of Montana Bureau of Business and Economic Analysis

05:14:47 Mr. Ward [\(Exhibit 14\)](#)

Committee Questions of Mr. Ward

- 05:42:30 Sen. Olszewski asked about correlating the reduction in crime with what actually happened in Montana.
- 05:43:15 Sen. Olszewski asked about revenue coming into the state.
- 05:48:32 Rep. Kelker asked about uncompensated care, population health and improvement, and the national data on states that have expanded Medicaid.
- 05:57:58 Sen. Caferro asked about the employment data being connected to the HELP-Link workforce development program.
- 06:00:46 Sen. Caferro asked about other states that had seen a reduction in crime and how that is connected to Medicaid expansion.
- 06:01:39 Sen. Olszewski asked about the number of people that HELP-Link has provided a job to.
- 06:06:33 Sen. Sands asked Mr. Ward to address the issue of what Montana could anticipate based on trends elsewhere.
- 06:08:35 Sen. Sands asked about the impact to the federally qualified health centers.

Potential Items for Committee Consideration - Sue O'Connell

06:10:57 Ms. O'Connell [\(Exhibit 15\)](#)

Committee Questions

06:14:05 Sen. Olszewski asked about the initiative and the statutory funding it contains.

Public Comment on Medicaid Expansion

06:15:30 Brent Mead, CEO, Montana Policy Institute, said the institute questions Mr. Ward's conclusion that Medicaid expansion pays for itself based on the institute's analysis of payroll data.

GENERAL PUBLIC COMMENT on any non-agenda topic in the committee's jurisdiction

- 06:22:43 Raye Newmeyer commented on the Child and Family Services Division and the trauma caused by removing children from families.
- 06:23:28 Beth Brenneman, Disability Rights Montana, commented on the Working Interdisciplinary Network of Guardianship Stakeholder (WINGS) group created by legislation from last interim's committee.
- 06:25:39 Katie Spaid, Senior Director, Consumer Direct Care Network, commented the effect of the budget reductions on the organization's services and distributed information on the Consumer Direct Care Network. [\(Exhibit 16\)](#)
- 06:29:08 Keith Newmeyer said the Department of Public Health and Human Services has a history of poor service to veterans.

- 06:32:14 Matt Furlong, Montana Child Protection Alliance, requested that the committee consider giving teeth to the Child and Family Ombudsman.
- 06:33:26 Nicole Tucker, Clinical Director, Consumer Direct Care Network, commented on the impact that the Medicaid rate changes have had on youth case management.

Break (reconvened at 3:03 p.m.)

WORK SESSION
HJR 24 Study

Sen. Moore participated in the meeting by phone.

- 06:54:56 Rep. Kelker discussed eliminating the MONA as an assessment tool and looking at the New Mexico model of crisis services.
- 06:59:59 Sen. Sands discussed the fact that the MONA does not have support and the committee should make a proposal that staff draft legislation for the adoption of the Supports Intensity Scale.
- 07:03:05 Ms. O'Connell said it would be helpful to her if the committee looks at the questions at the back of the briefing paper.

Motion

- 07:03:55 Sen. Sands moved that staff draft a bill for the use of the Supports Intensity Scale by the department.

Committee Discussion

- 07:04:28 Rep. Kelker said that the questions posed by Ms. O'Connell are helpful.
- 07:05:21 Sen. Sands wanted to know if the committee should ask the department to work with staff on recommendations for who should be assessed and the timeline for assessment.

Vote

- 07:06:07 The motion passed unanimously on a voice vote with Rep. Pierson and Rep. Knokey voting by proxy and Sen. Moore voting by phone.

Options for Crisis Services

Motion

- 07:06:38 Rep. Kelker moved that staff draft a bill for a crisis response program based on the New Mexico model.

Committee Discussion

- 07:07:12 Rep. Lenz said that the committee should look at a pilot project before making a major change.
- 07:07:35 Rep. Kelker discussed the New Mexico model.
- 07:08:59 Sen. Sands said that the problem with the current model is the funding.
- 07:11:32 Sen. Caferro suggested allowing the program to be a public-private partnership.

Vote

- 07:11:45 The motion passed unanimously by voice vote with Rep. Pierson and Rep. Knokey voting by proxy and Sen. Moore voting by phone.

Worker wages

- 07:12:13 Rep. Kelker said that the committee needs to talk about the concern when the Legislature allocates money for increases in rates and then that money is needed somewhere else.
- 07:15:13 Sen. Olszewski said that the increase in worker wages should be tied to the wage increase for state employees.
- 07:16:17 Sen. Sands said that it would be wise to propose a bill that requires an inflationary way to deal with this.
- 07:16:49 Sen. Olszewski said that a cost of living adjustment needs to be considered.
- 07:17:35 Sen. Sands asked if Sen. Olszewski wants to move for a bill draft that all Medicaid workers receive increases similar to state employees.
- 07:17:54 Sen. Olszewski said that the cuts made in the special session should not become the base for fiscal years 2020 and 2021.
- 07:22:14 Sen. Sands moved that staff draft a bill that requires the department to index provider rate increases.
- 07:22:58 Ms. O'Connell asked about the index to be used.

Motion

- 07:26:02 Sen. Sands moved to require the Department of Public Health and Human Services to index provider rate increases to the Consumer Price Index.

Amended Motion

- 07:26:15 Sen. Caferro amended the motion to include the wage increase that was in House Bill 638 from the 2017 Regular Session.

Vote

- 07:26:48 The motion passed unanimously by voice vote with Rep. Knokey and Rep. Pierson voting by proxy and Sen. Moore voting by phone.
- 07:27:30 Rep. Kelker commented on Rep. Lenz's reference to Rep. Knokey's bill that would have required Medicaid funds to be spent on Medicaid services, which she said goes with the flexibility in the funding piece that the committee needs to discuss.
- 07:29:46 Ms. O'Connell said that if the committee wanted to have a bill draft that puts the unspent general fund match into a special revenue account, the bill could create parameters for what the money could be used for.

Flexibility in Funding

- 07:32:21 Rep. Kelker said that from what she has heard, the committee could pursue suggestions for flexibility in the cost plan in another session.
- 07:33:04 Sen. Caferro discussed language that looks at changing the rate structure.
- 07:37:35 Sen. Caferro discussed the document prepared by the Montana Association of Community Disability Services. ([Exhibit 17](#))

Motion

- 07:37:50 Sen. Caferro moved that staff draft a bill that includes a daily/monthly rate that could be enhanced for specific services that an individual might need in the cost plan and with the unexpended money placed in a special revenue account to be used for specific purposes.

Vote

07:40:59 The motion passed unanimously by voice vote with Rep. Knokey and Rep. Pierson voting by proxy, and Sen. Moore voting by phone.

Direction to Staff

07:41:30 Sen. Sands discussed the Montana Association of Community Disability Services document. [\(Exhibit 17\)](#)

Motion

07:41:40 Sen. Sands moved that staff draft a bill directing the Department of Public Health and Human Services to review any regulatory and administrative burden not required by the federal government to determine the cost/benefit of continuing to impose the regulation, to review oversight and monitoring processes to identify and remove duplication, and to set out a process for systematic review that includes providers and stakeholders.

Vote

07:43:07 The motion passed unanimously by voice vote with Rep. Pierson and Rep. Knokey voting by proxy, and Sen. Moore voting by phone.

Medicaid Expansion**Motion**

07:43:49 Sen. Olszewski moved to remove the statutory funding status of the Medicaid expansion if the sunset is removed.

Committee Discussion

07:44:05 Sen. Sands asked if the inclusion of the HELP-Link programs is related to it.
07:44:16 Sen. Olszewski said he is only talking about the statutory funding status because it would set a dangerous precedent of working around the Legislature's appropriations authority.
07:44:51 Sen. Sands asked if a similar approach to funding services has been used before.
07:45:15 Ms. O'Connell said the actual appropriation of money falls to the Legislature during session. The Medicaid expansion bill in 2015 created a statutory appropriation, so the money needed to fund the program is appropriated automatically and doesn't have to be in House Bill 2.
07:46:24 Rep. Kelker said she is uncomfortable with Sen. Olszewski's motion because she is not sure of the legal ramifications.
07:47:03 Ms. O'Connell said that the constitution gives the power to appropriate only to the Legislative Branch.
07:47:29 Rep. Kelker asked Sen. Olszewski to clarify the effect of his motion.
07:47:59 Sen. Olszewski said that if the sunset is removed, the bill would remove the statutory funding status and the funds must be appropriated in House Bill 2.
07:49:45 Sen. Caferro asked what the effective date of the initiative is.
07:51:03 Rep. Kelker said that she would be in favor of having more information on the statutory funding status.
07:51:40 Sen. Olszewski said that his motion is just asking for draft legislation.
07:51:55 Ms. Sandru said the effective date of Initiative 185 is June 1, 2019.
07:52:55 Sen. Caferro said the Legislature meets before the initiative goes into effect, so

the full Legislature could act on the appropriation.

Roll Call Vote

07:53:07 The motion failed on a tie vote, 4-4, with Rep. Knokey and Rep. Pierson voting by proxy. **(Attachment 4)**

Motion

07:54:43 Sen. Olszewski moved to make participation in HELP-Link mandatory with work requirements for Medicaid expansion if the sunset is removed.

Committee Discussion

07:54:45 Sen. Olszewski discussed the New Hampshire model for work requirements.

07:55:42 Rep. Kelker asked if he would be adding the community service aspect that some of the states are using in addition to the work.

07:56:18 Sen. Caferro asked how New Hampshire paid for the work component.

07:56:30 Sen. Olszewski said that the work requirement is just a requirement and is not something that is funded.

Roll Call Vote

07:58:12 The motion failed on a tie vote, 4-4, with Rep. Knokey and Rep. Pierson voting by proxy. **(Attachment 5)**

07:59:47 Sen. Sands asked about the 12-member Medicaid expansion oversight committee.

Motion

08:00:40 Sen. Sands moved that staff draft a bill to discontinue the oversight committee for the HELP Act.

Vote

08:01:02 The motion passed unanimously by voice vote with Rep. Knokey and Rep. Pierson voting by proxy and Sen. Moore voting by phone.

Other Assigned Studies

No discussion.

Next meeting dates

08:01:57 The committee members discussed the dates for the June meeting. Sen. Caferro suggested meeting on June 21 and 22 and possibly changing the September meeting to a one-day meeting.

08:03:17 Sen. Sands suggested that the committee bring forward other proposals for bills at the June meetings and have an update on the Alzheimer's dementia study.

08:04:16 Ms. O'Connell went over possible topics for the June meetings.

08:06:19 Rep. Lenz asked about pursuing the draft objection to the medical marijuana rules.

08:06:43 Ms. Sandru said that because the rules have already been adopted, there is no deadline for filing an objection.

Motion

08:07:29 Sen. Sands moved that the committee not pursue an objection to the rules.

Vote

08:08:03 The motion passed by general consensus of the committee.

08:08:40 Sen. Moore said that he would like to have an update on the participation level in the HELP-Link program and also an update on the enrollment in the Medicaid expansion as a percentage of the population in Montana and other expansion states.

08:09:23 Rep. Kelker added that she would like to know what the average income is.

08:10:05 Sen. Olszewski said that he wanted to include CHIP in that enrollment number.

ADJOURNMENT

08:10:39 Sen. Caferro adjourned the meeting at 4:20 p.m.

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