



Children, Families, Health, and Human Services Interim Committee

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64th Montana Legislature

SENATE MEMBERS

MARY CAFERRO--Vice Chair
FREDERICK (ERIC) MOORE
DIANE SANDS
ROGER WEBB

HOUSE MEMBERS

RON EHLLI--Chair
JESSICA KARJALA
ALBERT OLSZEWSKI
GORDON PIERSON

COMMITTEE STAFF

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

MINUTES LOG

August 25-26, 2016
Room 137, Capitol Building
Helena, Montana

August 25, 2016

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

REP. RON EHLLI, Chair
SEN. MARY CAFERRO, Vice Chair

SEN. DIANE SANDS
SEN. ROGER WEBB

REP. JESSICA KARJALA
REP. ALBERT OLSZEWSKI
REP. GORDON PIERSON

COMMITTEE MEMBERS EXCUSED

SEN. FREDERICK (ERIC) MOORE

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, revised, and approved four bill drafts related to the Senate Joint Resolution 22 study of guardianship laws and Alzheimer's disease. The following bills were approved for introduction in the 2017 legislative session:

- LCCF02, creating financial protections for vulnerable individuals;
- LCCF4a, appropriating \$1.5 million to the Department of Public Health and Human Services to allocate to area agencies on aging for services to individuals with Alzheimer's disease or other dementias;
- LCCF6a, to increase the number of Medicaid home and community-based waiver slots and increase reimbursement rates for assisted living facilities and memory care; and
- LCCF7b, to create a working interdisciplinary network of guardianship stakeholders (WINGS) and establish a grant program for public guardianship services.

The committee decided against pursuing LCCF8a, to require guardians and conservators to report suspected financial exploitation of their wards to DPHHS.

The committee also:

- reviewed and approved recommendations related to the Senate Bill 418 study of legislative mental health investments;
- reviewed and suggested no changes to the draft final report of committee activities;
- approved four DPHHS legislative proposals for early drafting and preintroduction in the 2017 Legislature; and
- heard that committee members who had offered to draft legislation for the House Bill 422 study of children's mental health outcomes were unable to develop proposals that they felt would garner executive branch support. Children's mental health providers involved in the study also suggested that the committee terminate the study with no further action because of a lack of executive branch support.

CALL TO ORDER AND ROLL CALL/OVERVIEW OF AGENDA

00:00:03 Rep. Ehli called the meeting to order at 9:04 a.m. The secretary called roll. Sen. Moore was excused. ([Attachment 3](#))

SENATE BILL 418 STUDY: LEGISLATIVE MENTAL HEALTH INVESTMENTS

Introduction - Sue O'Connell, Committee Staff

00:01:59 Ms. O'Connell

Department of Public Health and Human Services Update

Glenda Oldenburg, Administrator, DPHHS Addictive and Mental Disorders Division
Zoe Barnard, Chief, DPHHS Children's Mental Health Bureau

DPHHS Addictive and Mental Disorders Division Update

00:03:11 Glenda Oldenburg (**Exhibit 1**)

Committee Questions regarding House Bill 33

- 00:04:52 Rep. Ehli asked about the two counties that had contracts with DPHHS and did not complete their projects.
- 00:09:58 Sen. Caferro asked about the people trained in crisis intervention for Butte/Silver Bow County, the significant amounts of unspent funds on the table, the statement "revert to general fund", and what is meant by "carry it forward".
- 00:16:39 Rep. Ehli commented on the successes of House Bill 33 and House Bill 34.

Committee Questions on House Bill 35

- 00:19:26 Rep. Ehli discussed short-term voluntary services.
- 00:21:20 Sen. Sands asked about new money and one-time only money and whether the governor's proposed budget will include those funds.
- 00:25:06 Rep. Ehli congratulated Ms. Oldenburg on her upcoming retirement.

DPHHS Children's Mental Health Bureau Update

00:25:58 Zoe Barnard (**Exhibit 2**)

Committee Questions of Ms. Barnard

- 00:30:47 Rep. Karjala asked why it appears that teenage girls are disproportionately represented in crisis services.
- 00:32:28 Sen. Caferro asked what Ms. Barnard was referring to when she said "more" kids are in crisis.
- 00:34:48 Sen. Sands asked if there have been any discussions with the tribes about a proposal to fund a project that is focused on suicide and other mental health issues with native youths.

HB 47: Youth Crisis Diversion Grants

Amie Havner, Project Coordinator, Yellowstone Youth Crisis Network Project
Sheila Smith, Director, Stillwater Therapeutic Services
Geoffrey Birnbaum, Executive Director, Youth Homes Inc.

- 00:41:14 Amie Havner (**Exhibit 3**)
- 00:46:07 Sheila Smith
- 00:56:56 Geoffrey Birnbaum (**Exhibit 4**)

Committee Questions of panelists

- 01:07:20 Rep. Ehli asked the panelists why the crisis diversion program should continue.
- 01:19:22 Sen. Sands urged the panelists to pay attention when collecting data to the juvenile offender system or the diversion of young people who are in trouble and need help before they end up in the juvenile correctional system and how they interact with the juvenile justice system.

- 01:21:03 Sen. Caferro asked Mr. Birnbaum if he has met with school administrators and school counselors.
- 01:28:11 Sen. Sands asked about the collection of data regarding diversion of youth from the correction systems and the out-of-state placements.
- 1:31:19 Sen. Sands asked the panelists how the system is interfacing with crisis services for suicide prevention.

Draft Final Report on SB418 Study - Sue O'Connell, Research Analyst

- 01:34:13 Ms. O'Connell ([Exhibit 5](#))

Committee Questions

- 01:37:37 Rep. Ehli asked Rep. Olszewski about the Legislature supporting increased funding for medical residency programs.
- 01:40:20 Sen. Sands discussed provider shortages in the mental health area.

Public Comment on the SB 418 Study

- 01:41:58 Dr. Gary Mihelish, advocate for the mentally ill
- 01:48:14 Matt Kuntz, Executive Director, NAMI Montana
- 01:55:06 Erin McGowan, Montana Children's Initiative
- 01:58:54 Aimee Grmoljez, Billings Clinic ([Exhibit 6](#))
- 02:01:32 Mike Foster, Catholic Hospitals of Montana
- 02:04:44 Kathy McGowan, Community Mental Health Centers
- 02:12:19 Beth Breneman, Disability Rights Montana

AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Protect Montana Kids Commission - Bob Runkel, Manager, DPHHS Economic Security Services Branch

- 02:17:31 Mr. Runkel ([Exhibit 7](#)) ([Exhibit 8](#)) ([Exhibit 9](#)).

Committee Questions of Mr. Runkel

- 02:34:23 Rep. Karjala asked about what the Protect Montana Kids committee has determined to be the underlying causes behind the foster care crisis and children's protective services.
- 02:41:10 Rep. Olszewski asked about Mr. Runkel's comment on the threatening nature of child protective services and whether his comments were based on the fact that the Department is dealing with families that are under stress or because social workers having the ability to remove a child from a family on their own.
- 02:44:45 Rep. Ehli asked about the audit that found deficiencies in child protective services. He also referenced the governor's letter to Director Opper about the commission's recommendations and said that that doesn't do anyone any favors. ([Exhibit 10](#))
- 02:48:50 Rep. Karjala asked Mr. Runkel how Montana caseloads compare to national averages and how Montana's spending compares to other states.

HB 612: Court Diversion Pilot Project - Beth McLaughlin, Supreme Court Administrator

- 02:53:39 Ms. McLaughlin ([Exhibit 11](#))

Committee Questions of Ms. McLaughlin

03:03:35 Rep. Karjala asked about the caseload in Yellowstone County and the return on investment in terms of the work that is being done there.

Office of American Indian Health - Mary Lynne Billy-Old Coyote, Director

03:08:22 Ms. Billy-Old Coyote ([Exhibit 12](#))

Committee Questions of Ms. Billy-Old Coyote

03:19:06 Rep. Ehli asked about the research data and the collection of that data.

LUNCH (reconvened at 1:28 p.m.)

HEALTH AND HUMAN SERVICES MONITORING: PATIENT-CENTERED MEDICAL HOMES

Introduction - Sue O'Connell

04:25:10 Ms. O'Connell

Patient-Centered Medical Homes Report - Bruce Ward, Ph.D., Director, Health Care Research Program, UM Bureau of Business and Economic Research (by phone)

04:27:19 Dr. Ward ([Exhibit 13](#))

Committee Questions of Dr. Ward

04:48:52 Rep. Olszewski asked if the patient-centered medical homes pilot project is working, based on the data to date.

04:53:39 Sen. Caferro asked if the providers will see benefits in the program and what differences providers see in their practices with the patient-centered medical homes program.

04:57:19 Rep. Ehli asked when the Legislature will have some meaningful conclusions to evaluate.

05:00:13 Rep. Olszewski noted that he is a practicing physician and surgeon who advocates for the patient-centered medical home model. He asked that Dr. Ward come up with some data points to look at so that there can be good data in two to five years.

Public Comment on the PCMH Report

05:03:08 Dr. Rob Stenger, Family Physician, Missoula

05:06:06 Stacy Anderson, Montana Primary Care Association

05:09:20 Janice Gomersall, Family Physician, Missoula

05:13:04 Dr. Gary Mihelish, self

SENATE JOINT RESOLUTION 22 STUDY: GUARDIANSHIP/ALZHEIMER'S DISEASE

LCCF02: Financial Protections for Vulnerable Adults

05:15:40 Ms. O'Connell ([Exhibit 14](#))

Panel Discussion

Bill Warden, National Association of Insurance and Financial Advisors (NAIFA)
Lynne Egan, Deputy Securities Commissioner

05:17:19 Mr. Warden
05:23:39 Ms. Egan

Committee Questions

05:26:50 Rep. Karjala asked Ms. Egan about adding language that would include adults age 60 years and/or an incapacitated person to protect those who may be vulnerable to predatory types of investments.

05:28:11 Sen. Caferro asked Ms. Egan about the title of the bill that talks about requiring that records be provided to law enforcement and to DPHHS.

05:30:01 Sen. Caferro asked Ms. Egan who is required to report to the State Auditor's Office and why some cases would stay with the auditor and some go to DPHHS.

05:40:07 Sen. Webb asked Ms. Egan what would keep the state auditor from handing off cases to a local prosecuting attorney.

05:41:36 Mike Hagenlock, Adult Protective Services Bureau Chief, responded to Sen. Webb's question.

05:45:17 Rep. Ehli asked Ms. Egan about the immunity provided in the bill for investment people who have challenged the exploitation of the vulnerable person.

05:47:47 Sen. Caferro asked Ms. Egan if NAIFA would support the bill if reporting was mandatory.

05:48:35 Sen. Webb asked Mr. Warden about a letter from Mr. Belair regarding a period of at least 10 days on freezing disbursements.

05:48:50 Ms. Egan and Mr. Warden responded to Sen. Webb's question.

Review of LCCF4a, LCCF6a, LCCF7b, and LCCF8a

Overview of Revisions - Sue O'Connell

05:51:11 LCCF4a ([Exhibit 15](#))
05:52:51 LCCF6a ([Exhibit 16](#))

Committee Questions on LCCF6a

05:57:48 Rep. Ehli asked how the requirement for additional slots would interact with the appropriation in the bill.

05:58:14 Ms. O'Connell said that the appropriation was calculated using the average rates that DPHHS uses for both the basic waiver slots and the assisted living slots.

05:58:47 LCCF7b ([Exhibit 17](#))

Committee Questions on LCCF7b

06:02:11 Sen. Webb asked about capping the WINGS group at nine members.

06:03:40 Sen. Webb asked about the number of times the group would meet and whether members "may" or "shall" be reimbursed for travel.

06:04:06 Sen. Webb asked how a person would obtain legal services to petition the court for guardianship.

06:05:13 LCCF8a ([Exhibit 18](#))

Committee Questions on LCCF8a

06:06:24 Rep. Ehli asked if the issue raised in the bill is a separate issue that needs to be brought forward.

- 06:06:44 Ms. O'Connell explained the difference between LCCF8a and other bills the committee was considering.
- 06:07:45 Ms. O'Connell discussed the preambles for LCCF4a and LCCF6a and appropriations contained in LCCF4a, LCCF6a, and LCCF7b.
- 06:10:08 Ms. O'Connell discussed the guidelines for assignment of sponsors of bills with appropriations.

Waiver Slots and Waiting Lists - Kelly Williams, Administrator, DPHHS Senior and Long-Term Care Division

06:12:49 Ms. Williams ([Exhibit 19](#))

Committee Questions of Ms. Williams

- 06:17:33 Sen. Sands asked about prioritizing waiver slots.
- 06:19:33 Rep. Olszewski asked whether any of the people on the waiting list were from out of state.
- 06:19:59 Rep. Ehli asked about the budget for 50 new slots.
- 06:20:14 Rep. Ehli asked about the amount of time people spend on the waiting list.

Public Comment on the SJR 22 Study

- 06:21:54 Claudia Clifford, AARP Montana ([Exhibit 20](#)) ([Exhibit 21](#))
- 06:24:19 Lynn Mallowney, Alzheimer's Association - Montana Chapter
- 06:26:53 Casey Blumenthal, Montana Hospital Association
- 06:28:00 Rose Hughes, Executive Director, Montana Healthcare Association
- 06:35:19 Matt Kuntz, NAMI Montana
- 06:36:22 Beth Breneman, Disability Right Montana
- 06:37:03 Robin Holman, Home and Community-Based Services for Spectrum

HOUSE BILL 422 STUDY: CHILDREN'S MENTAL HEALTH OUTCOMES

Status Update - Sue O'Connell

06:38:50 Ms. O'Connell

Children's Mental Health Provider Work Group Update - Jim FitzGerald, Intermountain

06:39:50 Mr. FitzGerald

Public Comment on the HB 422 Study

- 06:43:53 Matt Kuntz, NAMI Montana
- 06:45:53 Erin McGowan, Montana Children's Initiative

AGENCY OVERSIGHT: STAFF REPORTS

Administrative Rule Review - Julie Johnson, Committee Attorney

06:47:55 Ms. Johnson ([Exhibit 22](#))

Senate Bill 411: Montana Developmental Center Closure - Sue O'Connell

06:48:48 Ms. O'Connell ([Exhibit 23](#))

Senate Bill 423: Montana Marijuana Act - Sue O'Connell

06:51:53 Ms. O'Connell (**Exhibit 24**)

06:55:51 Ms. O'Connell presented the report from the Board of Medical Examiners. (**Exhibit 25**)

DRAFT FINAL REPORT OF COMMITTEE ACTIVITIES

06:56:45 Ms. O'Connell (**Exhibit 26**)

PUBLIC COMMENT ON ANY OTHER TOPIC IN THE COMMITTEE'S JURISDICTION

None.

COMMITTEE WORK SESSION

SB 418 Study

07:01:13 Ms. O'Connell directed the committee to the recommendations on page 13 of the draft final report related to the SB 418 Study. The committee is in agreement with the language and that no additional items need to be included.

SJR 22 Study

07:02:55 Rep. Ehli said that he supports leaving LCCF02 as is.

07:03:50 Rep. Olszewski said he wants a bill that is strong and will work.

Motion

07:05:42 Rep. Olszewski moved to amend LCCF02 to remove mandatory reporting and to make reporting voluntary.

Discussion on Motion

07:06:00 Sen. Sands said she prefers to keep the mandatory reporting in the bill and will not support the motion.

07:06:22 Sen. Webb said that the bill needs to be as strong as it can.

Vote

07:07:03 The motion failed 2-5 on a voice vote with Sen. Sands, Rep. Karjala, Rep. Pierson, Rep. Ehli, and Sen. Webb voting no, and Sen. Caferro and Rep. Olszewski voting yes.

LCCF02

07:07:55 Ms. O'Connell said if the committee amended the title of the bill to make it permissive, that may be changing the intent of the bill and would be outside the scope of the title.

07:08:38 Sen. Sands asked if the committee wanted to leave reporting with the Department of Public Health and Human Services or specify that it goes to the Adult Protective Services Bureau.

07:08:58 Ms. Sandru said that the Section 4 of the bill is the section that provides for the reports and that section requires broker/dealers or investment advisors to report certain documentation to law enforcement or DPHHS as part of a referral to either of those entities.

07:10:22 Sen. Webb asked what would keep an individual who was pilfered from going

07:12:22 directly to the County Attorney or to other authorities other than DPHHS?
Rep. Ehli asked about the definition of "vulnerable person" on page 26 of the bill.
07:13:33 Sen. Caferro discussed amending LCCF02 to include subsection (d) and the
definition for mental disorder and referred the committee to 53-21-102(9)(a).
(Exhibit 27)

Motion

07:14:05 Sen. Caferro moved to amend LCCF02 to include the definition of mental illness
and the definition of vulnerable person.

Discussion on the Motion

07:14:10 Rep. Ehli asked if Sen. Caferro wanted to include that as part of the bill and then
clean up "b".
07:14:20 Sen. Caferro discussed the definition of vulnerable person on the last page of
the bill and the definition of mental disorder (53-21-102(9)(a)).

Vote

07:16:23 The motion passed unanimously by voice vote.

LCCF4a

07:18:52 Rep. Ehli discussed new Section 1 regarding the services that area agencies
would have to provide.
07:19:49 Rep. Olszewski asked if the area agencies on aging provide these services and
what the budget for those activities is.

Motion

07:22:51 Rep. Ehli moved to forward LCCF4a as a committee bill.

Discussion on the Motion

07:23:37 Ms. O'Connell asked if the committee wanted to add language to the bill to
indicate whether it is a one-time only appropriation or should be built into the
base budget, and whether any funds should revert.
07:23:42 Rep. Olszewski said that his thoughts would be to fund it for at least two
bienniums, sunset it for re-evaluation, and have any unused funds revert back to
the general fund.

Motion

07:23:43 Rep. Olszewski moved to fund LCCF4a over a period of three bienniums and
require any unused money to revert back to the general fund.

Discussion on the Motion

07:25:08 Sen. Caferro asked about the reversion provision.
07:26:17 Ms. O'Connell said she would like to talk with the Fiscal Division on how that
language might be crafted and a sunset date for a bill that's only an
appropriation bill.
07:27:12 Sen. Webb asked if there was a way to specify that the funding actually be set
up in a separate accounting procedure.
07:27:38 Ms. O'Connell discussed approaches for tracking the funds.

Vote

07:28:36 The motion passed unanimously by voice vote.

LCCF6a

07:29:28 Rep. Olszewski said he looks at this as an advancement on rate increases.
07:30:47 Sen. Caferro said that the point of the bill is to support the continuum of care for people with dementia, beginning within their home, and then second as if a person reaches a point where they can't be cared for in their home, then a place for them to go.
07:33:40 Sen. Webb asked whether additional sideboards were needed to make sure that a portion of those slots are used for Alzheimer's and dementia patients.
07:34:47 Sen. Caferro said DPHHS needs flexibility on deciding how to allocate the slots.
07:36:23 Rep. Ehli referred the committee to page 3, subsection (b)(ii).
07:37:39 Sen. Sands said that the point of this was to address the needs of the Alzheimer's dementia community. She said she likes "d" on page 4.
07:38:16 Sen. Webb said he wants to make sure that there are slots for the individuals in the targeted group.
07:43:15 Ms. O'Connell asked if the committee wanted to be explicit in this draft about whether the money is to be appropriated into future bienniums and whether the committee wanted unspent funds to revert.

Motion

07:43:52 Sen. Caferro moved to add language that the intent of the Legislature is for the funding to continue for both the additional slots and the increase in the rate reimbursements and to not revert unused funds.

Discussion on the Motion

07:44:49 Sen. Caferro discussed the issue of reverting unspent funds.
07:54:24 Sen. Sands discussed the process of moving the proposed bills as committee bills.

Vote

07:55:20 The motion passed unanimously by voice vote.

LCCF7b

Motion/Vote

07:56:25 Sen. Sands moved to forward LCCF7b as drafted as a committee bill. The motion passed unanimously by voice vote.

LCCF8a

07:57:17 Sen. Sands asked about subsection (g)(i).
07:58:01 Rep. Ehli discussed his concerns about mandatory reporting for guardians and conservators.
07:58:36 Rep. Karjala suggested changing the word "may" to "shall" in subsection (g)(i).
07:59:23 Rep. Pierson discussed changing the wording in the title and throughout the bill.
08:01:18 Rep. Ehli said the intention behind this bill was to make sure that those guardians and conservators will notify DPHHS, rather than making reporting optional.
08:01:51 Sen. Sands asked why the reporting of exploitation should not be mandatory.

08:02:37 Rep. Karjala said that trustees have fiduciary responsibilities to maintain the principal amounts in investments and that people who serve as guardians are responsible for the well-being of their wards.
08:04:32 Rep. Ehli said that he is opposed to the bill
08:07:03 Ms. Sandru discussed the definition of mandatory reporting.
08:10:06 Rep. Karjala suggested that the bill focus on people who are acting in the capacity of a trustee.

Motion

08:11:30 Sen. Sands made a motion that LCCF8a as drafted not be forwarded as a committee bill.

Roll Call Vote

08:13:45 The motion passed on a roll call vote, 4-3. ([Attachment 4](#))

RECESS

08:14:09 Rep. Ehli recessed the meeting at 5:18 p.m., to reconvene at 8:30 a.m. on Friday, August 26, 2016.

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