



# Law and Justice Interim Committee

## 57th Montana Legislature

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### SENATE MEMBERS

AL BISHOP  
STEVE DOHERTY  
DUANE GRIMES  
DAN HARRINGTON  
JERRY O'NEIL  
GERALD PEASE

### HOUSE MEMBERS

TIM CALLAHAN  
GILDA CLANCY  
GAIL GUTSCHE  
JEFF LASZLOFFY  
JIM SHOCKLEY  
FRANK SMITH

### COMMITTEE STAFF

DAVE BOHYER, RESEARCH DIRECTOR  
VALENCIA LANE, STAFF ATTORNEY  
LOIS O'CONNOR, SECRETARY

August 2, 2001

## MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

### COMMITTEE MEMBERS PRESENT

Sen. Steve Doherty, Acting Presiding Officer  
Rep. Gail Gutshe  
Sen. Al Bishop  
Sen. Duane Grimes  
Sen. Dan Harrington  
Sen. Gerald Pease  
Rep. Tim Callahan  
Rep. Gilda Clancy  
Rep. Jeff Laszloffy  
Rep. Frank Smith

### COMMITTEE MEMBERS ABSENT

Sen. Jerry O'Neil  
Rep. Jim Shockley

### STAFF PRESENT

Dave Bohyer, Research Director  
Valencia Lane, Staff Attorney  
Susan Fox, Research Analyst  
Cecile M. Tropila, Secretary

### VISITORS

Agenda, Attachment #1  
Visitor Log-In Sheet, Attachment #2

## CALL TO ORDER AND ROLL CALL

The meeting was called to order by Sen. Steve Doherty at 9:00 a.m. The roll call was taken and Sen. Jerry O'Neil and Rep. Jim Shockley were absent.

## COMMITTEE RESPONSIBILITIES/PROPOSED WORK PLAN

**Dave Bohyer, Research Director, Legislative Services Division**, presented the Statutory Duties, Responsibilities and Authority of the Law and Justice Interim Committee (**EXHIBIT #1**). He reviewed selected legislation from the 57th session. He gave an overview of HB 124 and SB 176, focusing on district court funding. A Section-by-Section Summary of SB 176 was handed out (**EXHIBIT #2**). Mr. Bohyer went through the sections.

## ASSOCIATION OF COUNTIES

**Gordon Morris, Executive Director, Montana Association of Counties**, expanded upon the components of SB 176 and pointed out the transition period. He summarized the district court expenses to be assumed by the state listed from page eight.

**Judy Paynter, Administrator Tax Policy, Montana Department of Revenue**, explained the implementation of work needing to be done in regards to the implementation of HB124. She characterized the staff's duties and the work involved as "tremendous". She talked about adjustments made and how it would affect the growth allocations and mentioned that seventeen state agencies are involved with implementing the bill.

## QUESTIONS

**Sen. Harrington** asked how the money would fall back on the counties from the funding involved. **Gordon Morris** referred to the list of expenses to be assumed by the state under the bill. He felt comfortable with the amount of revenue appropriated and state assumption.

**Sen. Doherty** asked if the district court's reimbursements were behind due to the technology. **Judy Paynter** said they were only behind in process of reimbursements to the courts.

**Sen. Doherty** asked if there was an appropriate level of staffing. **Judy Paynter** answered the levels of funding were worked out with the district courts and budget office.

**Sen. Harrington** asked about the reduction in funding or FTE from the state. **Gordon Morris** said there was no decrease in FTEs and added they did not look at RIFs. **Judy Paynter** felt concern and pressure with adding staff at the Supreme Court level due to the efficiency of work performed and deadlines.

## DEPARTMENT OF CORRECTIONS

**Bill Slaughter, Director, Department of Corrections**, commented on the perceptions of leaving people in the corrections system. He referred to a case dealing with inmates within the

system and how calculations should be made as to the time frame an inmate stays in the system. He mentioned awarding inmates "good time" credits without exception and he reflected upon parole eligibility. He summarized the Department was heading in the direction of allowing inmates 'good time credit' where it is needed.

## **OVERVIEW OF LEGISLATION**

**Valencia Lane, Staff Attorney, Legislative Services Division**, handed out a summary of 2001 Criminal Justice legislation (**EXHIBIT #3**) and a summary of 2001 Family law Legislation (**EXHIBIT #4**). She reviewed SB 386 and HB 146, expressing the pilot program and the placement of youth. She mentioned funding and the formula needed for allocations.

**Susan Fox, Research Analyst, Legislative Services Division**, reported on the study of SJR 14 (1999-00 interim; criminal sentencing) and the accomplishments made. She briefly discussed HJR 39 (2001) mentioning cross references being included within Title 45, MCA. She expressed that the criminal penalties for some offenses were inconsistent within the criminal sentencing code. She commented on the criminal sentencing statutes to be examined under HJR 39 and offered a history of sentencing policies. She felt a database offering information on criminal justices would be a goal for the studies. She explained judicial redistricting and emphasized there was no subcommittee until September 2002. She commented on the challenges and opportunities implied by the number of district court judges up for election or reelection over the next four years.

## **QUESTIONS**

**Sen. Grimes** asked what the "ranking" meant. **Susan Fox** said there were 22 interim studies requested or required by legislation passed in 2001. The "ranking" corresponds to the interim study poll conducted following the adjournment of the 57th legislature. **Sen. Grimes** commented on the folder [that resulted from the study done under SJR14 (1990-00)] being used within the Senate Judiciary Committee extensively.

**Sen. Grimes** asked if the HJR39 study would involve the penalties and misdemeanors. **Susan Fox** said felonies were researched under SJR14, but that and she offered a definition of misdemeanor punishments for information purposes.

**Rep. Gutshe** asked about the integration of data. **Susan Fox** mentioned pilot projects within counties, the integration of data involved, and that work is on-going.

**Sen. Doherty** commented on the useful information offered to the Sen. Judiciary Committee as a result of the SJR14 (1999) study. He mentioned researching the data before executive action was taken on bills.

**Sen. Grimes** added the code should have a sense of balance to be applied. He said research on misdemeanors would be valuable in assisting with the disparity of applications.

**Sen. Doherty** referred to term limits and wondered if the judges would be assigned [under any judicial redistricting] on a rotating basis. **Susan Fox** said the statutes were amended during the

legislative session and agreed judges would be assigned on a rotating basis.

## **ATTORNEY GENERAL**

**Mike McGrath, Attorney General**, mentioned issues involving the review of initiative and referendum petitions. He gave an overview of the referendums being worked on and litigation it produces. He commented on the status of the accounting and reporting system for gambling control - the dial-up system.

## **QUESTIONS**

**Sen. Doherty** asked about the request for new bids for the dial-up system. **Mike McGrath** said it was not done yet and the department was looking at doing the work in-house.

**Sen. Grimes** asked what process could be done. **Mike McGrath** explained the reasons for not receiving bids and the technology now available to be used.

**Sen. Harrington** asked why the legislative guidelines were not accomplished. **Mike McGrath** said it was a difficult company to deal with. He mentioned the protocols and the effects it would have on the process.

**Rep. Laszloffy** asked what was unique for Montana. **Mike McGrath** felt the industry was developing software to be more accessible. Montana was in early and useable software had not been developed; it now has been.

**Rep. Gutsche** asked how long it would take for the dial-up to take effect. **Mike McGrath** answered it would be a matter of weeks.

**Rep. Gutsche** asked about the components of the dial-up system. **Mike McGrath** explained what it would involve, basically a server in each gambling establishment and equipment and software in Helena that would be used to dial-up the information.

**Sen. Harrington** referred to the referendum on HB474 (2001) and asked what further litigation may be perceived. **Mike McGrath** offered a review of the process.

**Sen. Grimes** asked how the committee would be viewed by the Department of Justice. **Mike McGrath** explained the rules and evaluations performed. He felt the committee would have responsibilities for monitoring the department.

## **COURT ADMINISTRATION**

**Lisa Smith, Acting Court Administrator, Supreme Court**, reflected upon the district court reimbursement program. She mentioned the time frames involved and how the staff had worked backwards towards the deadline. She stated her confidence that the work that needed to be done would, in fact, be completed on time.

**Ted Clack, Court Services Coordinator, Supreme Court**, reviewed the Judicial Education

System Project. He gave a background of the project and the training of the educators. He felt there needed to be an update with the current structure.

## **QUESTIONS**

**Sen. Grimes** asked if the program was to advise on self-help issues. **Ted Clack** informed the members of what was involved from other states and the structures being utilized.

**Sen. Doherty** asked Mr. Clack to comment on the national judicial college in Reno, NV. **Ted Clack** explained district court judges and judges for courts of limited jurisdiction attend this college. He added the college was useful with instruction.

**Sen. Doherty** asked who would pay for a judge to attend this college. **Ted Clack** answered it was within the portion of the court's budget. **Lisa Smith** explained the major expense of the college being travel to and from Reno. She said there was a certain amount allocated in the budget for training.

**Sen. Doherty** asked if judges would be required to obtain continuing education. **Ted Clack** answered yes, it was 15 hours per year.

**Sen. Doherty** asked if the costs were shared between the counties and the state. **Lisa Smith** explained the assumption of costs under SB176 (2001) and how the state would be responsible for district court judge's training, travel and salary.

**Rep. Clancy** asked what the estimate of the program would cost. **Ted Clack** did not have an estimate yet.

**Rep. Smith** wondered if it was cheaper to teach locally instead of sending the judges off to training. **Ted Clack** agreed and explained the training program utilizing local resources.

**Rep. Smith** asked why Montana would be the last state for a training program. **Ted Clack** said that he could not answer.

## **MONTANA SUPREME COURT**

**Justice Jim Rice, Montana Supreme Court**, commented on the role of the judiciary and explained administrative issues. He went over issues with increased involvement and the effects of the caseloads. He handed out Caseload Statistics (**EXHIBIT #5**) and information regarding the Supreme Court Caseload Statistics of 1972 to 2002 (**EXHIBIT #6**). He gave an overview of the handouts and explained the disposition of cases. He mentioned the concerns of the court with these caseloads.

## **QUESTIONS**

**Sen. Grimes** asked if there were plans to research the issue of an intermediate appeals court or

family law court. **Jim Rice** said it would continue to be a topic of discussion.

**Rep. Laszloffy** asked for statistical comparisons between cases filed and population increases. **Jim Rice** explained the limitations of the software and the potential benefit of additional resources.

**Rep. Laszloffy** asked why changes in the number of caseloads was happening. **Jim Rice** said he could not explain but speculated that different areas of law were involved. He mentioned the increase in the number of cases at the local level.

**Sen. Bishop** commented on the court cases involved from the late 1970s and the move into the justice building.

**Sen. Doherty** asked about the change in the number of family law cases. **Jim Rice** felt the new software installed would offer information on these case loads.

### **MEMBER ISSUES**

- **Sen. Jerry O'Neil's** letter was handed out (**EXHIBIT # 7**)

**Sen. Bishop** felt the committee should wait until **Sen. O'Neil** was present to discuss the letter and issues addressed. **Sen. Doherty** agreed to hold the letter until **Sen. O'Neil** would be present.

- **Sen. Doherty** discussed a letter, dealing with incarceration, from a lady in Billings, MT. He felt this type of letter/request was an issue that the Committee could discuss -- not the merits of the request, but whether or not the Committee should be a forum for such pleas. **Rep. Lazsloffy** asked if a person had been sentenced from the information in the letter. **Sen. Doherty** explained the allegations. **Valencia Lane** explained the definitions of a person kept in prison and not being granted parole.

**Sen. Grimes** mentioned another letter that he had received referring to certain rules and laws being applied. He suggested to the committee the issue of not restricting a citizen's rights.

**Rep. Callahan** asked about correspondence to the letter that **Sen. Doherty** had brought forward. **Sen. Doherty** said the Department of Corrections was involved and would correspond. He said he believed that the Committee should not be involved at this time.

**Rep. Lazsloffy** wondered if the person contacted their own representative in regard to the issue. **Rep. Smith** felt the letter offered unanswered questions.

- **Rep. Gutshe** handed out a Criminal Justice Information Integration brochure (**EXHIBIT #8**).

**Wilbur Rehmann, Department of Justice**, explained the brochure and invited participation to the conference.

- **Rep. Gutsche** mentioned a resolution for a study of women in prison. She felt more information was needed on this issue.

**Rep. Clancy** asked what the purpose of the study would be. **Rep. Gutsche** explained training and services to women (compared to men) in prison since they were the primary care givers for children.

**Sen. Doherty** asked about the statistics. **Sen. Grimes** said the information offered dealt with the women's ages.

**Rep. Laszloffy** felt there should be information with respect to elderly prison inmates also. **Valencia Lane** stated there was a survey of women in prisons taken by the staff for the interim study under SJR14 (1999).

**Rep. Smith** wanted to see what training done by the department in pre-release centers and detention centers.

### **DISCUSSION OF MEETING SCHEDULES**

A Proposed Meeting Schedule and Synopsis of Anticipated LJIC Meetings was handed out (**EXHIBIT #9**).

**Dave Bohyer** commented on the amount of work the committee had to do and the resources of the staff.

**Rep. Laszloffy** asked if there was a mandate of how to address all the issues within the time frame offered. **Dave Bohyer** explained statutory duties and responsibilities, what was assigned to the Committee for the interim, and that there was a fixed resource for accomplishing these items.

**Rep. Laszloffy** asked what the budget would allow. **Dave Bohyer** stated that the budget could allow 5 or 6 meetings, but the limiting factor was staff resources.

**Rep. Clancy** felt there was a time period gap for discussion of the study plan. **Sen. Doherty** reflected upon the staff availability. **Dave Bohyer** explained the expenses incurred during meetings and offered the proposed work schedule.

**Sen. Harrington** suggested having an October meeting. **Rep. Gutsche** proposed an alternate of not scheduling an October meeting, but receiving the work plan and being prepared for the December scheduled meeting. **Rep. Callahan** felt reviewing the material for December was reasonable.

**Motion:** **Rep. Laszloffy** moved to have a meeting in September or October.

**Discussion:** **Dave Bohyer** suggested selecting an exact date instead of coordinating the schedule by phone. **Sen. Bishop** wondered if it would be a one-day meeting or a two-day meeting.

**Vote: Carried 10-1** with **Sen. Grimes** voting no. Agreement to schedule an October 12, 2001 meeting.

**Motion/Vote: Rep. Callahan** moved to adopt the proposed meeting dates and the motion carried unanimously.

### **ELECTION OF OFFICERS**

**Sen. Doherty** explained the rotation of the chair of interim committees. **Sen. Harrington** felt it was an important asset to be on the interim committee.

**Motion/Vote: Sen. Grimes** nominated Rep. Gutsche as presiding officer, **Sen. Harrington** seconded the motion. Motion carried unanimously.

**Motion/Vote: Sen. Bishop** nominated Sen. Grimes as vice presiding officer. **Sen. Doherty** seconded. Motion carried unanimously. **Rep. Shockley's** proxy vote was faxed in and handed to the committee (**EXHIBIT #10**).

### **MISCELLANEOUS**

**Rep. Gutsche** updated the committee on Rep. Shockley's condition.

**Dave Bohyer** went over claim forms and expenses and Legislative Council policy for approving legislator's claims.

### **ADJOURNMENT**

The meeting was adjourned at 3:10 p.m.