



## **LAW AND JUSTICE INTERIM COMMITTEE**

### **68th Montana Legislature**

#### **SENATE MEMBERS**

John Esp  
Jen Gross  
Ryan Lynch  
Tom McGillvray  
Keith Regier  
Susan Webber

#### **HOUSE MEMBERS**

Laurie Bishop  
Sherry Essmann  
Donavon Hawk  
Emma Kerr-Carpenter  
Amy Regier  
Barry Usher

#### **COMMITTEE STAFF**

Julianne Burkhardt - Attorney  
Bethany McDowell James - Secretary  
Rachel Weiss - Research Analyst

## **MINUTES LOG**

August 29, 2022  
Room 137/ Zoom  
Helena, Montana

Please note: This document is a Minutes Log and provides annotation 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 recording 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 the 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 <https://leg.mt.gov>. From the home page, select the "Committees" drop down menu at the top, then select Administrative or Interim, and the appropriate committee. The written minutes log can be located by expanding the accordion menu for the date of the meeting. Links to the audio/video files can be located by selecting the Video/Audio button on the same page, then the "past/current recordings" button. From there, use the calendar to select the date of the meeting you wish to view/listen to. The written Minutes Log, along with links to 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.

#### **MEMBERS PRESENT:**

Sen. John Esp (R)  
Rep. Laurie Bishop, Acting Presiding Officer (D)  
Rep. Sherry Essmann (R)  
Sen. Jen Gross (D)  
Rep. Donavon Hawk (D)  
Rep. Emma Kerr-Carpenter (D)  
Sen. Ryan Lynch (D)  
Sen. Tom McGillvray (R)  
Rep. Amy Regier (R)  
Sen. Keith Regier (R)  
Rep. Barry Usher (R)  
Sen. Susan Webber (D)

#### **MEMBERS EXCUSED:**

Sen. John Esp (joined meeting at 2:43pm)

#### **MEMBERS ABSENT:**

#### **STAFF PRESENT:**

Julianne Burkhardt, Attorney

Bethany McDowell James,  
Secretary  
Rachel Weiss, Research Analyst

**AGENDA** ([Attachment 1](#))

**VISITORS' LIST** ([Attachment 2](#))

**COMMITTEE ACTION**

**CALL TO ORDER/ROLL CALL**

13:00:06 Rep. Laurie Bishop called the meeting to order at 1:00 PM. The committee secretary took roll.

**OPENING REMARKS**

13:01:26 Introduction to Legislative Services Division (LSD) Executive Director, Jerry Howe.

**SB 303 STUDY OF INMATE TELECOMMUNICATIONS COSTS AND CONTRACTS**

**Review of Inmate Welfare Fund (IWF) and Performance Audit – Angus McIver, Legislative Auditor**

13:04:50 Mr. McIver ([Exhibit 1](#))

**Committee Questions/Discussion**

13:22:03 Sen. McGillvray asked Brian Gootkin, Director of Department of Corrections (DOC), about misappropriated funds and refunding the IWF.  
13:22:37 Sen. Regier asked Mr. McIver about the differences between appropriate and inappropriate IWF expenses.  
13:24:41 Sen. Webber asked Mr. McIver for examples of "other" expenses within the performance audit. (See exhibit 1)

**Public Comment on the IWF Performance Audit**

13:26:29 May Simmons, Polson  
13:28:23 Clemente Arciga, Self  
13:30:46 Edie Shreeves, Self  
13:33:20 Josh Butterfly, Prayer Warriors Tribal Council  
13:35:52 Brian Gootkin, DOC

**Review of Draft Legislation (SB303-1) and Final Report - Travis Brown, LSD Research Analyst**

13:36:56 Mr. Brown ([Exhibit 2](#) and [Exhibit 2.1](#))

**Committee Questions/Discussion**

13:39:43 Sen. McGillvray asked Mr. Brown about changing the effective date on the bill draft. (See exhibit 2)  
13:40:18 Sen. Webber asked Mr. Brown about advantages to changing the effective date on the bill draft. (See exhibit 2)

13:41:17 Sen. Webber asked Mr. Brown for clarification on an effective date for the bill draft. (See exhibit 2)

13:41:41 Sen. Regier asked Director Gootkin for comments on the SB 303-1 bill draft. (See exhibit 2)

13:42:55 JohnDaugherty, DOC Central Services Chief, responded to Sen. Regier by stating his comments on SB 303-1.

13:43:17 Sen. Lynch asked Mr. Brown about current contractual limitations affecting DOC involvement in SB 303-1. (See exhibit 2) He followed by asking Mr. Daugherty about negotiations with DOC's current provider.

13:45:29 Rep. Bishop clarified additional changes to SB 303-1. (See exhibit 2)

### **MOTION**

13:46:05 Sen. McGillvray moved to eliminate section 8 in SB 303-1 and add a new effective date of May 1, 2024.

### **VOTE**

13:46:56 Motion carried unanimously by voice vote. Sen. Esp voted by proxy.

### **MOTION**

13:47:44 Rep. Bishop moved to approve SB 303-1 with amendments.

### **VOTE**

13:47:53 Motion carried unanimously by voice vote. Sen. Esp voted by proxy.

### **MOTION**

13:48:53 Sen. Regier moved to approve the final report on SB 303. (See exhibit 2.1)

### **VOTE**

13:49:11 Motion carried unanimously by voice vote. Sen. Esp voted by proxy.

## **AGENCY OVERSIGHT**

### **Department of Corrections**

13:49:57 Cynthia Wolken, DOC Deputy Director

13:50:25 Deputy Director Wolken reviewed legislative proposals from the DOC. ([Exhibit 3](#))

13:52:44 Natalie Smitham, DOC Chief Financial Officer, further reviewed the proposed legislation. (See exhibit 3)

13:54:29 Jim Anderson, DOC Public Safety Chief, clarified DOC legislative proposals. (See exhibit 3)

### **Committee Questions/Discussion**

13:58:54 Sen. Gross asked Deputy Director Wolken about the proposed changes regarding the swearing-in of peace officers and its effect on the investigations processes.

14:00:02 Director Gootkin responded to Sen. Gross's question.

14:00:37 Sen. Regier asked Deputy Director Wolken about the current 30-day timeline for presentence investigation reports (PSIs).

14:01:40 Sen. Webber asked Dir. Wolken about the proposed statute related to peace officers. (See exhibit 3)

14:03:23 Sen. Webber asked Chief Anderson about the number of criminal investigators at DOC.  
14:04:17 Sen. Lynch asked about the proposed changes to PSI deadline. (See exhibit 3)  
14:05:25 Sen. Lynch asked Deputy Director Wolken about impacts on employee benefits.

#### **Public Comment on Proposed Legislation from DOC**

14:05:53 May Simmons, Polson  
14:07:30 Kasey Hugs, Missoula  
14:09:52 Clemente Arciga, Self  
14:11:02 Edie Shreeves, Self  
14:12:15 Josh Butterfly, Prayer Warriors Tribal Council

#### **Committee Questions/Discussion**

14:14:41 Sen. Gross clarified the process for agency requested bill drafts.

#### **MOTION**

14:15:32 Sen. Gross moved to approve DOC proposed legislation. (See exhibit 3)

#### **VOTE**

14:15:45 Motion carried unanimously by voice vote. Sen. Esp voted by proxy. Rep. Kerr-Carpenter voted by proxy.

#### **Committee Questions/Discussion**

14:16:18 Sen. McGillvray asked about the bill drafting process.

#### **Public Comment on SB 303-1 Draft Legislation**

14:18:17 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association

#### **HJ 40 STUDY OF JUDICIAL STANDARDS COMMISSION**

#### **Review of Study Summary – Rachel Weiss, LSD Research Analyst**

14:19:37 Ms. Weiss ([Exhibit 4](#))

#### **Committee Questions/Discussion**

14:20:35 Sen. McGillvray asked about additions to the HJ 40 draft study summary. (See exhibit 4)  
14:22:52 Rep. Usher commented on Sen. McGillvray's suggestions for proposed changes.  
14:23:30 Sen. Gross commented on Sen. McGillvray's suggestions for proposed changes.  
14:24:20 Rep. Bishop asked Ms. Weiss for her thoughts on the comments.  
14:25:36 Sen. Regier asked about bringing forward an amendment to HJ 40.

#### **Public Comment on HJ 40 Study and Draft Legislation**

14:26:17 Josh Butterfly, Prayer Warriors Tribal Council  
14:28:43 May Simmons, Polson

#### **Committee Questions/Discussion**

14:29:51 Rep. Bishop commented on including a performance audit with the HJ 40 study summary. (See exhibit 4)

### **MOTION**

14:30:51 Sen. Regier moved to approve adding judicial complaint resolution data to the HJ 40 study summary. (See exhibit 4)

### **VOTE**

14:31:41 Carried 9 - 3 by voice vote with Rep. Bishop, Rep. Hawk, Rep. Kerr-Carpenter, voting no.  
Rep. Kerr-Carpenter voted by proxy

### **MOTION**

14:32:52 Sen. Regier moved to approve the study summary as amended. (See exhibit 4)

### **VOTE**

14:33:11 Motion carried unanimously by voice vote. Sen. Esp voted by proxy. Rep. Kerr-Carpenter voted by proxy.

### **ADMINISTRATIVE RULE REVIEW - Julianne Burkhardt, LSD Attorney**

14:34:05 Ms. Burkhardt ([Exhibit 5](#))

### **Public Comment on the Administrative Rule Review**

14:35:13 May Simmons, Polson

### **HJ 4 STUDY OF CRIMINAL COMMITMENT PROCESS**

### **Review of Draft Legislation and Study Summary - Rachel Weiss, LSD Research Analyst**

14:37:56 Ms. Weiss ([Exhibit 6](#) and [Exhibit 6.1](#))

### **Public Comment on the HJ 4 Study and Draft Legislation**

14:39:11 None

### **Committee Questions/Discussion**

14:39:27 Rep. Bishop asked the committee for a sponsor for the HJ 4-1 draft bill. (See exhibit 6)

14:39:45 Sen. Gross commented on current issues with the state hospital.

14:40:27 Rep. Bishop assigned Sen. Gross to sponsor HJ 4-1 draft bill. (See exhibit 6)

### **MOTION**

14:41:37 Sen. Regier moved to approve HJ 4 study summary. (See exhibit 6.1)

### **VOTE**

14:41:59 Motion carried unanimously by voice vote. Sen. Esp voted by proxy. Rep. Kerr-Carpenter voted by proxy.

### **RECESS**

14:43:03 Reconvened at 3:15pm.  
14:43:04 Sen. Esp joined the meeting.

### **AGENCY OVERSIGHT continued**

#### **Department of Justice**

15:17:30 Dana Toole, DOJ Special Services Bureau Chief reviewed the Missing Indigenous Persons Review Commission report. ([Exhibit 7](#))  
15:21:36 Anne Dormady, Crime Information Bureau Chief at Montana Division of Criminal Investigation reviewed the HB 693 report. ([Exhibit 8](#))

#### **Committee Questions/Discussion**

15:23:40 Sen. Esp asked Ms. Weiss where the report can be found online. (See exhibit 8)  
15:25:26 Alan Doane, DOJ legislative liaison, requested proposed legislation for DOJ.

#### **MOTION**

15:25:31 Rep. Usher moved to approve DOJ requested legislation.  
15:26:14 Rep. Usher temporarily withdrew his motion to allow for public comment.

#### **Public Comment on DOJ Proposed Legislation and MIP and HB 693 Reports**

15:26:49 Josh Butterfly, Prayer Warriors Tribal Council

#### **MOTION**

15:29:27 Rep. Usher moved to approve DOJ requested legislation.

#### **VOTE**

15:29:35 Motion carried unanimously by voice vote. All LJIC members were present for the vote.

### **CRIMINAL JUSTICE OVERSIGHT COUNCIL – Review of Bill Draft Authorization Requests – Scott Twito, CJOC member and Yellowstone County Attorney**

15:30:20 Mr. Twito presented CJOC draft legislation to the committee. ([Exhibit 9](#))

#### **Committee Questions/Discussion**

15:35:35 Sen. McGillvray asked Mr. Twito about CJOC-4. (See exhibit 9)  
15:37:10 Sen. McGillvray asked Mr. Twito about the contents of CJOC's draft bills.  
15:38:29 Sen. Webber commented on CJOC-5. (See exhibit 9)  
15:40:03 Sen. Webber asked Mr. Twito about different levels of felony.  
15:40:31 Rep. Essmann asked Mr. Twito about CJOC-2. (See exhibit 9)

#### **Public Comment on CJOC Bill Draft Authorization**

15:42:40 May Simmons, Polson  
15:46:10 Amy Sings In The Timber, Montana Innocence Project, Missoula  
15:51:00 Kasey Hugs, Missoula

15:53:45 Clemente Arciga, Self  
15:55:43 Nicole Gomez, Montana Women Vote, Missoula  
15:58:13 Randall Knowles, Great Falls  
15:59:32 Edie Shreeves, Self  
16:00:50 Thomas Jodoin, Montana League of Cities and Towns  
16:02:12 Josh Butterfly, Prayer Warriors Tribal Council

**Committee Questions/Discussion**

16:04:08 Rep. Usher commented on the process of authorizing bill drafts.

**MOTION**

16:04:48 Rep. Usher moved to approve the proposed legislation from CJOC. (See exhibit 9)

**VOTE**

16:04:55 Motion carried unanimously by a voice vote. All LJIC members were present during the vote.

**REVIEW OF LJIC-1 DRAFT LEGISLATION – Rachel Weiss, LSD Research Analyst**

16:05:54 Ms. Weiss ([Exhibit 10](#))

**Committee Questions/Discussion**

16:13:12 Sen. Regier asked Ms. Weiss about local government related Office of State Public Defender (OPD) cases.  
16:13:44 Rep. Usher responded to Sen. Regier's question.  
16:14:05 Sen. Lynch responded to Sen. Regier's question.  
16:14:42 Ms. Weiss explained the required action from the committee.

**MOTION**

16:15:16 Rep. Usher moved to adopt LJIC-1 as a committee bill.

**Discussion on the Motion**

16:15:41 Sen. McGillvray asked the committee about LJIC-1 background information. (See exhibit 10)  
16:16:06 Sen. Lynch responded to Sen. McGillvray's question.  
16:16:43 Rep. Usher temporarily withdrew his motion.

**Public Comment on LJIC-1 Draft Legislation**

16:17:22 Ben Halverson, Billings ([Exhibit 11](#))  
16:21:01 Thomas Jodoin, Montana League of Cities and Towns

**Committee Questions/Discussion**

16:23:55 Sen. McGillvray commented on LJIC-1. (See exhibit 10)

**MOTION**

16:24:41 Rep. Usher moved to adopt LJIC-1 as a committee bill.

**Discussion on the Motion**

16:25:42 Sen. Esp commented on state ownership of OPD.  
16:26:57 Sen. Lynch commented on Sen. Esp's and Rep. Usher's statements.  
16:27:41 Sen. Gross commented on Sen. McGillvray's statement.

### **VOTE**

16:28:07 Carried 8 - 4 by voice vote with Rep. Essmann, Sen. Gross, Sen. McGillvray, Sen. Webber, voting no.  
16:29:15 Sen. Lynch was assigned to carry LJIC-1 draft legislation.

### **HJ 31 STUDY OF CRIMINAL JUSTICE SYSTEM DATA – Review of Draft Legislation – Rachel Weiss, LSD Research Analyst**

16:30:10 Ms. Weiss discussed HJ 31-4 and the HJ 31 study summary. ([Exhibit 12](#) and [Exhibit 13](#))  
16:34:09 Sen. Lynch explained the changes that were made to the bill draft. (See exhibit 12)  
16:34:47 Rep. Usher requested HJ 31-4 be a committee bill. (See exhibit 12)  
16:36:24 Ms. Weiss reviewed the language in the bill draft. (See exhibit 12)

### **Summary of Justice Counts Materials - Rachel Weiss, LSD Research Analyst**

16:37:32 Ms. Weiss ([Exhibit 14](#))

### **Committee Questions/Discussion**

16:41:21 Rep. Bishop commented on HJ 31-4 and potential ways to encourage participation.  
16:41:53 Rep. Usher stated HJ 31-4 is an ongoing project. (See exhibit 12)  
16:42:59 Sen. Lynch responded to Rep. Usher's comment.

### **Public Comment on the agenda item**

16:43:54 Natalia Bowser, Montana Board of Crime Control ([Exhibit 15](#))

### **MOTION**

16:46:00 Rep. Usher moved to adopt HJ 31-4 with Ms. Bowser's proposed change.

### **VOTE**

16:47:12 Motion carried unanimously by voice vote. All LJIC members were present for the vote.  
16:47:32 Rep. Usher was assigned to carry HJ 31-4. (See exhibit 12)

### **MOTION**

16:47:53 Rep. Usher moved to request a resolution supporting Justice Counts and to send a letter to criminal justice system stakeholders encouraging them to become involved with Justice Counts.

### **Discussion on the Motion**

16:49:00 Ms. Weiss requested clarification on the motion.



16:49:41 Sen. Lynch responded to Ms. Weiss.

**VOTE**

16:49:58 Motion carried unanimously by voice vote. All LJIC members were present for the vote.

**MOTION**

16:50:21 Sen. Regier moved to approve the HJ 31 study summary. (See exhibit 13)

**VOTE**

16:50:43 Motion carried unanimously by voice vote. All LJIC members were present during the vote.

**ECONOMIC AFFAIRS INTERIM COMMITTEE REQUEST FOR LJIC "CLEAN UP BILL" RELATED TO HB 701 AND SB 365**

**Review of EAIC Materials - Rachel Weiss, LSD Research Analyst**

16:51:21 Ms. Weiss ([Exhibit 16](#))

**Committee Questions/Discussion**

16:54:09 Sen. Regier asked Ms. Weiss about the EAIC request. He followed by asking if the EAIC bill request could be included in the code commissioner's "clean-up bill."

16:54:52 Ms. Burkhardt responded to Sen. Regier's question.

16:55:08 Sen. Regier asked Ms. Burkhardt for clarification.

16:56:36 Sen. Esp commented on the EAIC bill request.

**MOTION**

16:57:19 Rep. Usher moved to approve the EAIC bill request as an LJIC committee bill, with Sen. Regier assigned as the carrier.

16:57:25 Rep. Bishop resisted the motion.

**Public Comment on EAIC Bill Request**

16:58:09 May Simmons, Polson

16:59:42 Josh Butterfly, Prayer Warriors Tribal Council

**Committee Questions/Discussion**

17:02:30 Ms. Weiss commented on the bill requests from EAIC.

17:03:56 Sen. Regier asked Ms. Weiss for clarification.

17:04:31 Ms. Burkhardt responded to Sen. Regier's question.

**MOTION**

17:06:03 Rep. Usher moved to approve the EAIC bill request as an LJIC committee bill. (See exhibit 16)

**VOTE**

17:06:56 Motion carried unanimously by a voice vote. All LJIC members were present during the vote.

17:07:21 Sen. Regier was assigned to carry the bill. (See exhibit 16)

**Public Comment on any topic within LJIC's jurisdiction but not on the agenda**

17:09:39 Edie Shreeves, Self

17:10:43 Josh Butterfly, Prayer Warriors Tribal Council

17:13:12 May Simmons, Polson

17:18:09 Randall Knowles, Great Falls

17:19:32 Kasey Hugs, Missoula

**CLOSING COMMENTS**

17:25:46 Sen. Esp

**ADJOURNMENT**

17:28:15 Rep. Bishop adjourned the meeting at 5:28:15 pm.