



LAW AND JUSTICE INTERIM COMMITTEE

67th 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 - Secretary
Rachel Weiss - Research Analyst

MINUTES LOG

June 27, 2022
Capitol Room 317 and 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.

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MEMBERS PRESENT:

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

MEMBERS EXCUSED:

Rep. Sherry Essmann (R)
Rep. Laurie Bishop (D)

MEMBERS ABSENT:

STAFF PRESENT:

Julianne Burkhardt, Attorney
Bethany McDowell, Secretary

Rachel Weiss, Research Analyst

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

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

COMMITTEE ACTION

The committee voted to:

- Authorize drafting of agency bills from the Department of Justice, the Public Safety Officer Standards and Training Council, and the Office of State Public Defender;
- Authorize drafting of a committee bill for the SB 303 study of inmate telecommunications contracts and costs;
- Authorized drafting of a committee bill for the HJ 4 study of the criminal commitment of individuals with mental illness; and
- Draft a letter requesting technical assistance related to Justice Counts.

CALL TO ORDER/ROLL CALL

08:03:00 Sen. John Esp-R called the meeting to order at 8:03 AM. The committee secretary took roll.

Privacy Case Law Review - Julianna Burkhardt, LSD Staff Attorney

08:05:03 Ms. Burkhardt [\(Exhibit 1\)](#)

Committee Questions

08:20:06 Rep. Usher asked about protected information in the public domain.

08:21:11 Rep. Usher asked about aggregated information for individuals prior to a court adjudication of a case.

PANEL: Update on MARA Study and Data Collection/Modeling – Quinn Holzer, Hunter Sczepanski, Cathy Duncan – LFD Staff

08:24:08 Mr. Holzer [\(Exhibit 2\)](#)

Committee Questions

08:32:46 Sen. Esp asked about the graph that Mr. Holzer presented to the committee. (See exhibit 2)

08:34:21 Sen. Esp asked Mr. Holzer to define "secure female" and "youth."

08:34:50 Cathy Duncan, LFD, responded to Sen. Esp's question.

08:36:08 Sen. Lynch asked Mr. Holzer about population modeling in a facilities inventory report from Department of Corrections (DOC).

08:37:27 Sen. McGillvray asked about the MARA model and federal revenues.

08:38:16 Sen. McGillvray asked Mr. Holzer about projecting fiscal data related to federal policy change. He followed by asking about the primary goal for the MARA model.

08:41:25 Sen. Lynch asked Mr. Holzer about the availability of the model for determining costs for the state.

08:42:22 Rep. Usher asked Mr. Holzer about comparing other states' spending under the DOC. He followed by commenting on his and Sen. Lynch's goals for helping prepare MARA for future budgets.

PANEL: Justice Counts Update – Sarah Lee and Vibha Venkatesha, CSG Justice Center

08:45:28 Ms. Lee (Website walkthrough can be viewed in the video recording at 8:46:44)

08:49:54 Ms. Venkatesha

Committee Questions

08:52:42 Sen. Esp asked about agency costs for work sessions.

08:53:33 Sen. Lynch asked about the technology partner for the CSG website.

08:55:20 Sen. Lynch asked the panelists to observe additional presentations.

08:56:01 Sen. Lynch asked about steps for engaging as a Justice Counts state.

08:57:35 Rep. Usher asked about the ability for individual state agencies to be involved.

08:59:40 Rep. Usher asked about the grant process for Justice Counts.

09:00:29 Sen. Esp asked about cross-referencing data from different agencies in the same state.

09:01:34 Sen. Lynch asked about housing for data systems.

09:03:25 Rep. Usher asked the panelists to compile a list of the data housing locations for different states that participate in Justice Counts.

Update on Data Lake Opportunities and Costs - Adam Carpenter, Chief Data Officer at Department of Administration (DOA)

09:03:58 Mr. Carpenter

Committee Questions

09:05:37 Sen. Lynch asked about local workload and costs when adding data to the data lake.

09:07:08 Rep. Usher asked about total costs for criminal data sharing.

09:09:27 Sen. Esp asked about an estimated timeframe for working with local governments in order to gather cost data.

09:09:50 Sen. Lynch asked about to overlap in technology partners and programs.

Review of HJ 31-4 Draft Legislation and Materials

09:13:16 Rep. Usher stated the work that led to the drafting of HJ 31-4. ([Exhibit 3](#))

09:14:54 Rachel Weiss, LSD Research Analyst, discussed HJ 31-4. (See exhibit 3)

Committee Questions on HJ 31-4

09:24:50 Rep. Kerr-Carpenter asked about the title of the council designated in the bill.

09:26:51 Sen. Webber asked Ms. Weiss about the timeframe for setting up a committee after the legislation is passed.

09:29:15 Sen. Regier asked Sen. Lynch and Rep. Usher about changing certain language in the bill draft.

09:31:45 Rep. Hawk asked about the number of current vendors.

09:32:45 Sen. Regier asked Sen. Lynch and Rep. Usher asked about including data update requirements in the draft legislation.

09:37:14 Sen. Regier asked about the other states' models of draft legislation.

09:39:15 Sen. McGillvray asked about access to information on a data dashboard.

09:41:01 Ms. Weiss responded to Sen. Regier's question about ongoing updates of information.

09:43:29 Sen. Esp asked Ms. Burkhardt about privacy concerns addressed in the draft legislation.

09:44:59 Rep. Usher asked the committee about suggestions for the draft legislation.

09:45:31 Rep. Kerr-Carpenter commented on the title of the council outlined in the draft legislation.

09:47:53 Sen. Esp commented on the Sen. Lynch and Rep. Usher's work on the draft legislation.

Break/Recess

09:48:54 Reconvened at 10:06:10

Delegation from Open World hosted by WorldMontana

10:07:51 Delegate & interpreter introduced the Open World delegation to the committee.

PANEL: Discussion with Montana Criminal Justice System Stakeholders

10:09:37 Beth McLaughlin, Supreme Court Administrator, Montana Judicial Branch ([Exhibit 4](#))

10:11:59 Kirk Wagoner, Chief Software Engineer, Department of Justice (DOJ) ([Exhibit 5](#))

10:19:40 Sen. Esp asked Mr. Wagoner to explain vendor agnostic data.

10:20:52 Rep. Usher asked Mr. Wagoner about conversations related to agnostic data with the CDO and CIO.

10:21:20 John Daugherty, Central Services Chief Executive, DOC ([Exhibit 6](#))

10:22:58 Brett Schandelson, Acting Director and Development and Operations Bureau Chief, Office of State Public Defender (OPD) ([Exhibit 7](#))

10:26:08 Sheriff Leo Dutton, Presiding Officer of Board of Crime Control (MBCC) ([Exhibit 8](#))

10:26:44 Sheriff Mike Linder, Yellowstone County ([Exhibit 8.1](#))

10:30:31 Josh Racki, Cascade County Attorney Association

10:33:48 Eric Rykal, Jefferson County Detention Center Commander

10:36:02 Dave Armstrong, CEO Alternatives Inc.

Committee Questions for the stakeholders

10:39:15 Sen. Esp asked Ms. McLaughlin about data collection for the Montana magistrates. ([Exhibit 9](#))

10:41:59 Sen. Esp asked Mr. Wagoner about arrest information in the DOJ system.

10:43:14 Anne Dormady, Crime Information Bureau Chief, DOJ, responded to Sen. Esp's question.

10:43:47 Sen. Regier asked Ms. McLaughlin about judges who have no clerks, as mentioned in the Justice of the Peace response. (See exhibit 9)

10:45:22 Sen. Esp asked Ms. McLaughlin for clarification on district court clerks. He followed by asking about data input at the courts.

10:46:45 Sen. Esp asked Sen. Lynch about data intended to be collected that is outlined in the draft legislation. (See exhibit 3)

10:48:21 Rep. Usher followed-up on Sen. Lynch's response to Sen. Esp.

10:48:58 Rep. Usher asked Mr. Carpenter about the true costs when downloading and using data.

10:50:16 Sen. Lynch commented on granting the council authority to accept data from any entity within the state that might have valuable information.

10:51:29 Mr. Carpenter commented on Rep. Usher's question.

10:51:47 Sen. Esp asked Mr. Carpenter about data needed for the program.

10:53:12 Mr. Schandelson commented on the data program.

10:56:52 Rep. Usher asked Mr. Schandelson about the process of implementing the program in different agencies.

11:01:17 Mr. Carpenter followed-up to Mr. Schandelson's response to Rep. Usher. Mr. Carpenter also commented on the central idea behind data collecting for the agencies.

11:03:07 Mr. Wagoner commented on the current use of a state ID for interface programs.

11:04:32 Sheriff Dutton commented on operational and funding concerns at the local level.

11:07:00 Mr. Carpenter responded to the shared concerns of integrating a program.

11:07:58 Rep. Usher asked the MBCC representatives about how the agency would benefit from better data collection.

11:08:42 Natalia Bowser, Director at MBCC, responded to Rep. Usher.

Public Comment on the HJ 31 Study and Draft Legislation

11:13:57 Brian Thompson, Montana Sheriffs and Peace Officers Association (MSPOA) and Montana County Attorneys Association, Helena ([Exhibit 10](#))

11:17:05 Pam Burinton, Ward Four City Council, Billings

11:20:10 Mark Murphy, Helena

11:27:39 Randall Knowles, Great Falls

11:30:43 Steve Cape, Coalition for Safety and Justice, Billings

11:35:04 May Simmons, Polson

AGENCY OVERSIGHT: AUTHORIZATION OF AGENCY AND JUDICIAL BRANCH BILL DRAFTS

Review of Agency Bill Request Process - Rachel Weiss, LSD Research Analyst

11:38:51 Ms. Weiss ([Exhibit 11](#))

COMMITTEE ACTION

DOH Bill Requests – Alan Doane

11:44:45 Mr. Doane ([Exhibit 12](#))

Committee Questions

11:45:35 Rep. Usher asked Mr. Doane to give a short explanation of the bill requests from the DOJ. (See exhibit 12)

Motion

11:49:22 Rep. Usher moved to authorize the DOJ agency bill requests.

Vote

11:49:42 Motion carried unanimously with a voice vote. Rep. Essmann and Rep. Bishop voted by proxy.

Committee Questions for Mr. Doane

- 11:50:27 Sen. Gross asked about the DOJ proposals. (See exhibit 12)
- 11:52:00 Sen. Webber asked about Missing and Murdered Indigenous Women/People (MMIW/MMIP) inclusions.
- 11:53:00 Sen. Regier asked Ms. Weiss about the priority of agency bills over legislator bills.
- 11:55:51 Sen. McGillvray asked Ms. Weiss about bill processing and priorities.

POST Council Bill Requests – Sheriff Jesse Slaughter, Chairman

- 11:57:01 Sheriff Slaughter ([Exhibit 13](#))

Motion

- 11:59:26 Sen. Lynch moved to authorize POST Council bill requests.

Vote

- 11:59:37 Motion carried unanimously with a voice vote. Reps. Essmann and Bishop voted by proxy.

MBCC Bill Requests – Natalie Bowser, Executive Director

- 12:00:32 Ms. Bowser

OPD Bill Requests – Brett Schandelson

- 12:00:53 Mr. Schandelson ([Exhibit 14](#))

Committee Questions for Mr. Schandelson

- 12:03:29 Sen. Regier asked about delineating between different types of littering.
- 12:04:33 Sen. Lynch asked about charges from local governments that do not have a delineated fine and the OPD's workload.
- 12:06:50 Rep. Usher asked if OPD has discussed any of the requested bills with the County Attorneys Association.
- 12:07:43 Sen. Lynch asked Sen. Esp about a potential bill draft that outlines local catchalls proposed by OPD.

Motion

- 12:09:11 Sen. Lynch moved to authorize OPD bill requests.

Vote

- 12:09:20 Motion carried unanimously with voice vote. Reps. Essmann and Bishop voted by proxy.
- 12:09:33 Sen. Esp

Lunch/Recess

- 12:10:48 Reconvened at 13:30:56

PANEL: AGENCY OVERSIGHT: DEPARTMENT OF CORRECTIONS (DOC) UPDATE – Brian Gootkin, Director; Cynthia Wolken, Deputy Director; Jim Anderson, Public Safety Chief; Natalie Smitham, Chief Financial Officer; Jim Salmonsens, Warden at MSP

13:31:24 Director Gootkin
13:31:47 Ms. Weiss ([Exhibit 15](#)) - letter from Subsection D
13:34:08 Dir. Gootkin ([Exhibit 16](#))
13:36:00 Mr. Anderson (See exhibit 16)
13:42:38 Dir. Gootkin (See exhibit 16)
13:47:14 Dir. Wolken (See exhibit 16)
13:53:48 Ms. Smitham (See exhibit 16)

Committee Questions for DOC Panel

13:54:39 Sen. Regier asked Mr. Anderson about employee work weeks.
13:55:25 Sen. Regier asked Dir. Wolken about individuals involved in the pheasant program.
13:55:46 Sen. Regier asked Dir. Wolken about the GED program.
13:56:28 Sen. Regier asked about incentives for education.
13:58:15 Sen. Regier asked about the number of trades available for individuals.
13:58:54 Rep. Kerr-Carpenter asked Dir. Wolken about the Gianforte Foundation grant. She followed by asking for a cost breakdown for DOC expenses not covered by the grant.
14:00:16 Sen. Webber asked Dir. Gootkin about current DOC staffing.
14:01:25 Sen. Esp asked Dir. Gootkin about additional information regarding DOC employment.
14:02:03 Rep. Usher asked about DOC employment rates.
14:03:04 Rep. Hawk commented on the Montana State Prison (MSP).
14:03:59 Rep. Usher asked about additional vocational training opportunities available to individuals.
14:05:02 Sen. Esp commented on improvement in employment rates.

Public Comment on DOC Update

14:06:39 May Simmons, Polson
14:10:25 Randall Knowles, Great Falls
14:13:52 Steve Cape, Coalition for Safety and Justice, Billings

Break/Recess

14:16:49 Reconvened at 14:27:50

SB 303 STUDY OF INMATE TELECOMMUNICATIONS COSTS AND CONTRACTS – Travis Brown, LSD Research Analyst

14:28:18 Mr. Brown discussed SB 303-1 ([Exhibit 17](#)) and SB 303-2 ([Exhibit 18](#))

Committee Questions for Mr. Brown

14:33:58 Sen. Regier asked about language in SB 303-1. (See exhibit 17)
14:35:20 Sen. McGillvray asked about potential additions to the draft legislation that cover video calls.

14:36:29 Sen. McGillvray commented on the draft legislation and made recommendations regarding rates covered in the draft legislation. (See exhibit 17)

Motion

14:38:43 Rep. Usher moved to adopt Sen. McGillvray's recommendations for SB 303-1. (See exhibit 17)

14:38:55 Rep. Usher withdrew the motion.

Public Comment on the SB 303 Study and Draft Legislation

14:39:23 Bradley Bragg, Lewis and Clark County Detention Center Brian

14:40:31 Thompson, MSPOA, Helena

14:41:01 May Simmons, Polson

14:44:22 Stephen Raher, Prison Policy Initiative, Portland, OR ([Exhibit 19](#))

14:45:38 Randall Knowles, Great Falls

14:47:12 Steve Cape, Coalition of Safety and Justice, Billings

Committee Questions

14:50:03 Sen. McGillvray asked Mr. Raher about the memo that was sent to the committee. (See exhibit 19)

Public Comment on the SB 303 Study and Draft Legislation

14:52:22 Craig Storer, NCIC Inmate Communications, Longview, TX

Committee Questions

14:54:24 Sen. Regier asked Sen. McGillvray about text and email issues potentially being included in the legislation.

14:55:15 Mr. Brown responded to Sen. Regier's question.

14:55:45 Sen. Regier asked Mr. Brown about text rate regulations.

14:56:17 Rep. Usher commented on his earlier motion.

14:56:48 Ms. Weiss clarified the recommended changes made by the committee for SB 303-1. (See exhibit 17)

14:57:34 Rep. Usher further clarified facility regulations on video calls.

14:58:08 Sen. McGillvray asked for clarification on a motion.

Motion

14:58:43 Rep. Usher moved to push SB 303-1 forward with the recommended changes from the committee.

Discussion on the Motion

14:59:12 Sen. McGillvray commented on the audit from the Inmate Welfare Fund.

Vote

15:01:16 Motion carried unanimously with voice vote. Reps. Bishop and Essmann voted by proxy. Sen. Gross was not present during the vote and voted by proxy.

HJ 4 STUDY OF CRIMINAL COMMITMENT PROCESS

15:02:29 Ms. Weiss ([Exhibit 20](#))
15:03:48 Sen. Esp asked about written public comment on HJ 4-1.

Public Comment on the HJ 4 Study and Draft Legislation

15:04:20 None

Motion

15:04:28 Rep. Usher moved to continue forward with HJ 4-1 as it is currently written. (See exhibit 20)

Vote

15:05:00 Motion carried unanimously with voice vote. Reps. Essmann and Bishop voted by proxy. Sens. Gross and Lynch were not present during the vote and voted by proxy.

15:05:41 Ms. Weiss asked about the bill drafts.

ADMINISTRATIVE RULE REVIEW - Ms. Burkhardt

15:07:44 Ms. Burkhardt

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

15:10:07 May Simmons, Polson
15:13:16 Randall Knowles, Great Falls
15:14:39 Angelica Henson, Colville

Break/Recess

15:17:15 Reconvened at 15:37:17

WORK SESSION

Staff Review of Planned Items for August Meeting

Rachel Weiss, LSD Research Analyst

15:39:08 Ms. Weiss
15:40:26 Sen. Lynch asked for additions to the HJ 31-4 draft legislation. He followed by asking about specific language acknowledging agency-owned data.
15:42:13 Sen. Lynch asked about drafting a letter to the Justice Counts program and asking the Executive and Judicial Branches to sign onto the letter.
15:44:04 Rep. Usher clarified the Justice Counts program.

Motion

15:44:35 Sen. Lynch moved for Ms. Weiss to draft a letter addressed to the Justice Counts program and reach out to Executive and Judicial Branches to sign it.

Discussion on the Motion

15:45:24 Rep. Usher commented on a previous discussion with representatives from the Governor's Office, Sen. Lynch, and CSG.

Vote

15:46:29 Motion carried unanimously with voice vote. Sens. McGillvray and Gross were absent during the vote and voted by proxy. Reps. Bishop and Essmann voted by proxy.

Committee Questions/Discussion

15:47:22 Sen. Lynch commented on additional committee bills that were discussed during the meeting with Mr. Schandelson and Ms. Weiss.

15:47:48 Rep. Usher asked Sen. Lynch about local government ordinances.

15:48:42 Sen. Esp commented on cases that are filed in Justice Court.

15:49:15 Sen. Esp asked about inviting a panel that includes Mr. Murphy and an independent attorney to understand perspectives on constitutional questions related to data privacy.

15:50:23 Rep. Usher asked Ms. Weiss about the August meeting. He followed by commenting on Sen. Esp's question.

15:52:00 Sen. Regier stated his agreement with Sen. Esp.

15:52:23 Sen. Lynch commented on the potential discussion.

15:52:59 Sen. Webber stated her agreement with Sen. Esp's recommendation for a discussion.

15:53:31 Ms. Weiss asked about the discussion's specific topics.

15:54:08 Rep. Usher commented on having Ms. Burkhardt and Ms. Weiss find someone with different perspectives.

15:54:45 Ms. Weiss asked about the letter to Justice Courts.

Public Comment on any topic within LJIC's jurisdiction and not on the agenda continued

15:56:11 Denise Johnson, Montana Child Protection Alliance, Billings

Break/Recess

16:02:23 Reconvened at 16:13:58

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

16:14:45 Ally Cable, Center for Judicial Excellence, New York, NY Sarah

16:18:40 Monich

16:22:31 Elizabeth Peterson, Bozeman

16:27:16 Pahl Johnson, Bozeman

16:31:17 David Kesler ([Exhibit 21](#))

ADJOURN

16:39:14 Sen. Esp adjourned the meeting at 16:39:16 (4:39pm).

ADJOURNMENT

Adjournment: 16:39:15