



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
Frank Fleming
Donavon Hawk
Emma Kerr-Carpenter
Amy Regier
Barry Usher

COMMITTEE STAFF

Julianne Burkhardt - Attorney
Daniel Collins - Secretary
Rachel Weiss - Research Analyst

MINUTES LOG

January 19, 2022
Room 317/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 IN PERSON:

Sen. John Esp (R)
Rep. Laurie Bishop (D)
Rep. Emma Kerr-Carpenter (D)
Sen. Ryan Lynch (D)
Sen. Keith Regier (R)
Rep. Amy Regier (R)
Rep. Barry Usher (R)

MEMBERS PRESENT VIA ZOOM:

Rep. Frank Fleming (R)
Sen. Jen Gross (D)
Sen. Susan Webber (D)
Sen. Tom McGillvray (R)

MEMBERS EXCUSED:

Rep. Donavon Hawk (D)

STAFF PRESENT:

Rachel Weiss, Research Analyst
Julianne Burkhardt, Attorney
Fong Hom, Secretary

AGENDA (Attachment 1)

VISITORS' LIST (Attachment 2)

COMMITTEE ACTION

CALL TO ORDER/ROLL CALL

08:31:50 Sen. John Esp called the meeting to order at 8:31 a.m. The committee secretary called roll. Rep. Hawk was excused and left his proxy with Rep. Kerr-Carpenter. (Attachment 3)

08:33:22 Sen. Esp gave opening remarks.

UPDATE FROM JUDICIAL BRANCH/DISCUSSION OF COURT DATA AND FULL COURT

08:34:30 Beth McLaughlin, Court Administrator, gave an update on pending civil cases. (Exhibit 1) Ms. McLaughlin discussed the marijuana expungement cases in HB 701 and provided an update on the data. (Exhibit 2)

Questions from the Committee

08:45:27 Sen. Regier asked about the percentage of civil cases going down and where in statute does it say that litigants who file a civil case have three years in which to serve the other party.

08:47:09 Rep. Bishop asked about a report on the mediation pilot.

08:48:22 Sen. Esp asked if civil cases that are pending in smaller rural districts is a cultural thing or a workload issue.

08:49:48 Ms. McLaughlin gave a presentation on the Judicial Branch IT Strategic Plan (Exhibit 3), a presentation on the primary court case management systems for both the limited courts and the district courts, a presentation on the eFiling System, the data exchange system, and the upgrade to Full Court Enterprise.

Questions from the Committee

09:17:18 Sen. Esp asked about using data to make or adjust policy decisions.

09:19:11 Sen. Esp asked about the ability to track individuals who are coming back into the system.

09:22:52 Sen. Esp asked about the use of MANS number.

09:23:18 Sen. Regier asked if the court stores its data with the rest of the state agencies.

09:26:19 Sen. McGillvray asked about the Court using the State Information Technology Services Department rather than doing all of the IT themselves.

09:27:47 Rep. Bishop asked for a timeline for when the courts expect to transition to the updated management system.

09:35:23 Rep. Usher asked about the server in Miles City and if the Court is using the cloud.

09:37:19 Rep. Fleming asked if any information that is stored on the servers or in the cloud confidential, and who pays the costs for the exchange of data.

09:43:25 Rep. Kerr-Carpenter requested that Ms. McLaughlin work with the committee to come up with proposed statutory changes to allow access to information from sealed cases.

COMMITTEE ISSUE: Update on HB 92 -- Establish compensation program for wrongfully convicted individuals

09:50:59 Rachel Weiss, Research Analyst, gave an overview of HB 92. [\(Exhibit 4\)](#)

Questions from the Committee

09:56:28 Sen. Regier said the state has been sued for wrongful conviction in the past. He asked about those settlements and how does that compare to HB 92.

Public Comment

None.

SENATE BILL 303 STUDY OF INMATE TELECOMMUNICATIONS CONTRACTS AND COSTS

Update from Staff, review of reports

09:58:39 Ms. Weiss gave a presentation on the SB 303 Study of Inmate Telecommunications Contracts and Costs materials. [\(Exhibit 5\)](#)

Questions from the Committee

10:05:21 Rep. Kerr-Carpenter asked for a summary of the deliverables from the study.

10:07:45 Sen. Regier asked for more information on the Inmate Welfare Fund.

10:09:26 Sen. McGillvray said he would like to have more information on the spreadsheets regarding the percentage of commission given to the counties.

Public Comment on the SB 303 Study

10:12:25 May Simmons

10:16:36 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association

10:19:22 Richard Shreves, Helena

10:20:44 Ms. Weiss said that additional information of the SB 303 study will be provided to the committee before its March meeting.

ADMINISTRATIVE RULE REVIEW

10:21:41 Julianne Burkhardt, Committee Attorney, gave a presentation on administrative rule activity. [\(Exhibit 6\)](#)

Additional Public Comment on the SB 303 Study

10:23:26 Janee Weber

BREAK (reconvened at 10:40 a.m.)

HOUSE JOINT 4 STUDY OF CRIMINAL COMMITMENT PROCESS

Overview

10:41:27 Ms. Burkhardt gave an overview of the HJ 4 Study, the criminal commitment process. [\(Exhibit 7\)](#)

Panel Discussion

11:05:16 Judge Mike Menahan, First Judicial District Court

11:14:40 Dr. Bowman Smelko, Psychologist [\(Exhibit 8\)](#)

11:26:35 Dr. David Klajic
 11:33:32 Mandi Gould, Billings Managing Attorney, Office of State Public Defender
 11:38:37 Josh Racki, Cascade County Attorney
 11:48:14 Chad Parker, Deputy Chief Legal Counsel, Department of Public Health and Human Services (DPHHS)
 11:57:03 Emily Lott, Forensic Mental Health Facility, Montana State Hospital, DPHHS

Questions from the Committee

12:03:55 Rep. Bishop asked about the challenges for people with developmental disabilities vs. people with mental illness.
 12:04:51 Mr. Parker responded.
 12:07:10 Rep. Bishop asked about the challenges evaluating individuals within the 60-day period.
 12:08:01 Ms. Lott responded.
 12:08:59 Rep. Bishop asked if there is some intermediary that gets people out of a place where they are decompensating while awaiting an appropriate evaluation.
 12:09:48 Mr. Parker responded.
 12:11:20 Dr. Klajic responded.
 12:12:40 Sen. Esp asked Judge Menahan about accountability, for example medication compliance, and if that is easier to do through a criminal process rather than through a civil process.
 12:15:50 Rep. Usher asked about if the financial burden lies with the county or with the state.
 12:16:59 Mr. Parker responded.

Public Comment

12:17:29 Matt Kuntz, Executive Director, NAMI Montana
 12:21:04 May Simmons

LUNCH (reconvened at 1:45 p.m.)

AGENCY OVERSIGHT: DEPARTMENT OF CORRECTIONS

13:46:17 Brian Gootkin, Director of Department of Corrections, gave an update on the activities of the Department of Corrections. ([Exhibit 9](#))
 13:48:42 Natalie Smitham, Chief Financial Officer (See Exhibit 9)
 13:53:09 Jim Salmonsens, Warden of Montana State Prison (See Exhibit 9)

Questions from the Committee

14:01:45 Sen. Esp asked Director Gootkin about the authority within his budget to grant a raises.
 14:02:48 Sen. McGillvray asked about the open positions for 30 correctional officers and what numbers are needed to secure the safety for the inmates and the staff. He also asked about staffing reviews.
 14:07:39 Warden Salmonsens responded.
 14:08:37 Sen. McGillvray asked what is needed from the Legislature or the governor to address the critical needs of the Department of Corrections.
 14:09:08 Director Gootkin responded.

14:11:04 Sen. Esp asked Director Gootkin if he or the governor has considered using the National Guard to help cover some of the positions in order to free up correctional officers for other things.

14:11:20 Sen. Regier asked Ms. Smitham about the \$1/hour pay increase and if that is based on the current staffing.

14:11:56 Rep. Usher asked how many correctional officers is the DOC lacking.

14:13:06 Director Gootkin and Ms. Smitham responded.

14:13:15 Rep. Usher asked if the \$1/hour increase will attract people to work in a dangerous environment.

14:13:36 Director Gootkin responded.

14:14:10 Sen. Esp asked Director Gootkin if he thought it would be worthwhile to have a discussion with the governor to look at using the National Guard or temporary employees to provide a safe environment for staff or to free up staff to do other things.

14:16:13 Rep. Mercer asked Director Gootkin about the inability to hire people in the past and wondered what is happening in this fiscal year in terms of attrition as compared to hiring.

14:18:19 Director Gootkin and Warden Salmonsens responded.

14:19:40 Rep. Mercer asked Director Gootkin several questions about why staff is leaving.

14:22:45 Rep. Mercer asked Director Gootkin about the capacity of 1,600 at Deer Lodge.

14:25:42 Rep. Mercer asked for written materials to help the committee to understand how the inmate census varies and how that is met given the various staffing levels.

14:26:18 Sen. Esp said that he is interested in the 10-year trend, the number of staff there each year as compared to the number of inmates.

14:27:14 Sen. Lynch asked if Director Gootkin could break down the mandatory number of posts vs. the recreational posting, what posts have been closed, and which ones are day posts and which ones are 24/7 posts.

14:30:35 Sen. McGillvray asked for a breakdown of the number of staff sergeants, captains, lieutenants, correctional officers and the staffing level for this year and past years.

Public Comment

14:31:44 Aaron Meaders, employee at Montana State Prison

14:38:04 May Simmons

14:41:20 Rep. Mercer asked for a table or chart that would show what the vacant correctional officer numbers were across the system, not just at Deer Lodge, so we can get an update on the data on where we are currently as opposed to where it was at the end of the fiscal year.

HOUSE JOINT 31 STUDY OF CRIMINAL JUSTICE SYSTEM DATA

14:42:48 Mr. Weiss gave a presentation on the HJ31 Study of Criminal Justice System Data. **(Exhibit 10)**

Questions from the Committee

15:04:13 Rep. Bishop said, looking at the draft for HJ 31, how much of this forward-facing data might become available with the Full Court upgrade.

15:05:08 Sen. Lynch suggested that the language in the Florida model of the HJ 311 be sent to agencies to have discussions about what is important and why it is important to each respective agencies.

15:06:05 Ms. Weiss said she could draft language of the Idaho and Arizona bills into draft bills for the committee.

15:06:35 Rep. Kerr-Carpenter said she would like both of those bills drafted.

15:08:14 Sen. Lynch commented on drafting a letter to explain what this committee is doing and suggested getting some feedback.

15:09:57 Rep. Kerr-Carpenter asked what kind of resource outlay will be necessary, what kind of timelines are reasonable to expect, and is this a 2-year or a 10-year project to get all our counties and cities moving in the same direction.

Public Comment

15:11:11 Nannette Gilbertson, Montana Sheriffs and Peace Officers Association

15:15:18 Josh Racki, Montana County Attorney Association

HJ 4 Study Presentation (continued)

15:17:07 Ms. Burkhardt discussed the comments made by Mr. Racki on juvenile aspects.

15:21:41 Rep. Bishop asked if there is a faster path to acquittal through the criminal system by assessing how quickly that process happens in terms of being able to connect that person to a facility that might be more appropriate.

15:22:44 Ms. Burkhardt responded.

BREAK (reconvene at 3:36. p.m.)

WORK SESSION

Staff review of planned items for March meeting

15:41:28 Ms. Weiss reviewed the work plan meeting chart. ([Exhibit 11](#))

15:45:08 Sen. Regier asked for an update on the administrative rules for Senate Bill 39.

SB 303 Telecommunications Study

15:46:49 Sen. McGillvray asked Ms. Weiss who would be on the panel for the SB 303 Study.

15:48:22 Ms. Weiss responded.

15:50:54 Rep. Kerr-Carpenter asked Ms. Burkhardt about local procurement laws regarding contracts and specifically if local municipalities could band together to get better rates.

15:51:21 Sen. Lynch mentioned a cooperative purchasing where counties can piggyback on state contracts.

HJ 4 Study

15:53:24 Rep. Bishop said she would like more discussion on the HJ 4 study.

15:54:45 Rep. Bishop asked about an emergency plan for a prison facility that is understaffed.

HJ 31 Study

15:56:44 Rep. Fleming said would like to poll the committee on topics to discuss regarding the HJ 31 study.

- 16:04:11 Ms. Weiss asked if the committee wanted her to work with Rep. Fleming to come up with a list of topics related to the HJ 31 study.
- 16:05:46 Rep. Bishop said a poll might be premature based on the next steps of getting feedback on bill drafts that are more structured around figuring where data integration can land and what kind of staffing is required.

ELECTION OF OFFICERS

Motion

- 16:07:17 Rep. Bishop moved that Rep. Kerr-Carpenter be appointed as Presiding Officer of the Law and Justice Interim Committee.

Roll Call Vote

- 16:12:10 The motion failed on a tie vote, 6-6, with Senators McGillvray, Keith Regier, and Esp, and Representatives Amy Regier and Usher voting no, and Rep. Fleming voted no by proxy. Sen. Gross and Representatives Bishop and Kerr-Carpenter voting yes, and Senators Lynch and Webber, and Rep. Hawk voted yes by proxy.

ADJOURNMENT

- 16:13:07 Sen. Esp adjourned the meeting at 4:12 p.m.

[List](#) of follow-up information provided after the January 19, 2022 meeting.