



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

March 21, 2022
Room 137
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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Please contact the Legislative Services Division at 406-444-3064 for more information.

MEMBERS PRESENT:

Sen. John Esp, Acting Presiding Officer (R)
Rep. Laurie Bishop (D)
Rep. Sherry Essmann (R)
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:

Sen. Jen Gross (D)
Rep. Donavon Hawk (D)

MEMBERS ABSENT:

STAFF PRESENT:

Julianne Burkhardt, Attorney

Bethany McDowell, Secretary
Rachel Weiss, Research Analyst

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

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

COMMITTEE ACTION

CALL TO ORDER/ROLL CALL

08:00:21 Sen. John Esp-R called the meeting to order at 8:00 AM. The committee secretary took roll. Sen. Gross and Rep. Hawk were excused and left their proxies with Rep. Bishop. [\(Attachment 3\)](#)

SB 303 STUDY OF INMATE TELECOMMUNICATIONS COST AND CONTRACTS

08:04:29 Travis Brown, Research Analyst, gave a presentation on the SB 303 study. Mr. Brown introduced the panelists participating in the stakeholder presentation. [\(Exhibit 1\)](#)

Committee Questions/Discussion

08:20:06 Sen. McGillvray asked Mr. Brown if he looked at legislation that went to the county level.
08:20:12 Sen. Regier asked Mr. Brown if entertainment on the tablets is restricted.
08:20:33 Rep. Usher asked Mr. Brown when the new state contract was signed.
08:20:57 Rep. Usher asked Mr. Brown when Ms. Gilbertson's association got him the information that he presented.
08:21:44 Sen. Webber asked Mr. Brown whether there were only eight states that legislated on this topic.
08:22:21 Sen. Esp asked Mr. Brown about the dollar figures on the monthly facility chart. (See exhibit 1, Document 8)

Stakeholder Panel

08:23:30 Stephen Raher, General Counsel for the Prison Policy Initiative, gave a presentation on inmate telecommunications and recidivism. [\(Exhibit 2\)](#)
08:33:55 Craig Storer, Director of Marketing at NCIC Inmate Communications, and Bill Pope, President at NCIC Inmate Communications, gave a presentation on inmate communications and their company's role as an inmate phone provider. [\(Exhibit 3\)](#)
08:43:35 John Daugherty, Chief Executive of the Central Services Division at the Montana Department of Corrections (MDOC), gave a description on the contracts that the MDOC is involved with and the requirements surrounding those contracts.
08:54:39 Undersheriff Sam Bofto, Yellowstone County, gave a presentation on inmate access to communication as well as the benefits of inmate communication. [\(Exhibit 4\)](#)
09:02:54 Commander Eric Rykal, Jail Commander at Jefferson County Detention Center, gave a presentation on inmate funds gathered by phone rates at Jefferson County Detention Center and the items and services available to the inmates because of those funds.

09:10:27 Janee Webber, Montana Council on Judicial Accountability, gave a presentation on insights from other states regarding solutions to phone rates and services. (Exhibit 5)

Committee Questions/Discussion

09:22:43 Rep. Regier asked Mr. Daugherty to describe the security surrounding an inmate making a call.

09:24:19 Rep. Regier asked Mr. Daugherty if every call is recorded.

09:24:34 Sen. Regier asked Mr. Pope about tablet costs.

09:25:49 Sen. Regier asked about hearing/visually impaired inmates and how the tablet/phone usage works for them.

09:26:49 Sen. Regier followed by asking about the cost of those services for hearing/visually impaired.

09:27:12 Sen. Regier asked Ms. Webber if, according to her research, access to the phones is easy.

09:29:20 Sen. Regier asked Ms. Webber about access to the tablets and if they are beneficial for the inmates.

09:30:45 Sen. Regier asked Mr. Daugherty about first-come, first-served access to the phones, and if the inmates lose their place in line if they have to step out to use the restroom.

09:31:58 Rep. Essmann asked Mr. Daugherty whether the MDOC monitors the activity on the tablets in the same way they monitor the phones.

09:33:14 Rep. Essmann asked Mr. Daugherty about which apps are available to the inmates.

09:34:10 Sen. McGillvray asked Mr. Daugherty about the number of phones available to inmates and whether the MDOC has evaluated the number of phone-to-lower calling rate cost-benefit.

09:36:13 Sen. McGillvray asked for his question to be answered at a later date.

09:36:56 Sen. McGillvray asked Lois Tucke, Minnesota Department of Corrections, about the fees for phone services that went over 5 cents/minute.

09:39:08 Sen. McGillvray asked Mr. Pope about his opinion on cutting commissions and its effect on the county where the facility is located.

09:41:28 Sen. McGillvray asked Undersheriff Bofto whether he believes more time on phones, with additional phones, would generate more revenue for the facility.

09:42:45 Sen. Webber asked Undersheriff Bofto to confirm the difference between the revenue amount and expenditures amount. (See exhibit 5)

09:44:50 Rep. Bishop asked Mr. Daugherty what costs would look like if the MDOC were able to separate the cost of the call from the cost of security of the call.

09:46:36 Rep. Bishop asked Mr. Pope the same question and if he believed it was a reasonable request to include in his contracts.

09:47:32 Rep. Bishop asked Mr. Pope about the direct cost of the call separated from additional fees.

09:49:48 Rep. Bishop asked Mr. Raher what difference it would make on inmate costs to separate security expenses from phone call fees.

09:51:15 Sen. Lynch asked Undersheriff Bofto about the public safety mill levies passed in Billings and whether that affected Yellowstone County and his facility.

09:52:43 Sen. Lynch asked Undersheriff Bofto if he had considered piggy backing off the state contract for telecommunication services.

09:53:23 Sen. Lynch asked Mr. Pope about the facilities that he has contracts with and if there are benefits in working with smaller facilities.
09:54:40 Sen. Lynch asked Mr. Pope if his company takes a reduced commission when they use a reseller.
09:55:38 Sen. Lynch asked Mr. Pope if he had seen any states or counties that are experiencing benefits from his type of contracts.

Public Comment on SB 303 Study

09:57:01 Brian Thompson, Montana Sheriffs Peace Officer Association
09:59:28 Bart Crabtree, Montana State Council on Judicial Accountability
10:00:27 Richard Shreves, Helena
10:03:27 Barbara Calahan, Helena
10:09:08 May Simmons, Polson
10:12:30 Bianca Tylek, Worth Rises
10:17:36 Randall Knowles, Great Falls

BREAK

10:20:59 Reconvened at 10:30:02.

HJ 4 STUDY OF CRIMINAL COMMITMENT PROCESS

Strategies and Best Practices in Competency to Stand Trial Processes

10:31:30 Hallie Fader-Towe, Behavioral Health Program Director for Council of State Governments Justice Center (CSG Justice Center), and Sheila Tillman, Senior Policy Analyst at CSG Justice Center, gave a presentation on mental competency of defendants to stand trial. ([Exhibit 6](#))

Committee Questions/Discussion

10:50:48 Sen. Esp asked Ms. Fader-Towe to elaborate on one of the slides from her presentation. (see exhibit 6)
10:51:47 Rep. Usher clarified the presentation as inclusive of every individual involved in the criminal justice system.

Perspectives and Timely Access to Treatment for Defendants

10:52:58 Dr. Bowman Smelko, PsyD ABPP, gave a presentation on the history and statistics related to the insanity defense in Montana. ([Exhibit 7](#))
11:03:05 Dr. Virginia Hill, Forensic Psychiatrist, gave a presentation on the state's forensic statutes. ([Exhibit 8](#))

Committ Questions

11:14:42 Sen. Regier asked Dr. Hill about the number of patients in her testimony who were hospitalized in 1955. (See exhibit 8) Sen. Regier asked Dr. Hill about her opinion regarding changing legislative language referencing the process of treating and evaluating mentally ill individuals.
11:16:57 Rep. Usher asked Dr. Hill about the time it takes for a person to achieve competency to be able to stand trial. Rep. Usher followed by asking about qualifications for diversion programs for people who have committed non-serious crimes.
11:21:18 Rep. Usher asked Dr. Hill for a copy of the study she referred to. ([Exhibit 9](#))

11:21:57 Rep. Essmann asked Dr. Hill if she had a recommendation for a location for a new facility and how many beds she would recommend for that facility.
11:25:02 Rep. Essmann asked Dr. Hill about recruiting for the hospital.
11:27:21 Sen. Webber asked Dr. Hill about the information data system mentioned in Dr. Hill's testimony. (See exhibit 9)
11:29:12 Sen. McGillvray asked Dr. Hill about marijuana use and its association with mental illness.

Public Comment on HJ 4 Study

11:31:41 Mark Kuntz, Mental Health Advocacy for Montanans ([Exhibit 10](#))
11:34:06 Dr. Gary Mihelish, Helena
11:42:30 Brian Thompson, Sheriffs and Peace Officers Association and
County Attorneys Association
11:43:46 May Simmons, Lake County
11:49:07 Randall Knowles, Great Falls

LUNCH

11:52:16 Reconvened at 13:04:46

AGENCY OVERSIGHT

Montana Department of Corrections (MDOC)

MWP Presentation

13:05:53 Deputy Director Cynthia Wolken, MDOC, gave a presentation on the Montana Women's Prison (MWP) that included education services, goals, and program and facility updates. ([Exhibit 11](#))
13:10:26 Warden Jennie Hanson, MWP, continued the presentation on the MWP. (See exhibit 11)
13:21:48 Gayle Butler, Montana Correctional Enterprises (MCE) Director at MWP MDOC, continued the presentation by providing information about educational and vocational opportunities at the facility. (See exhibit 11)
13:31:44 Ms. Wolken continued the presentation on educational and vocational opportunities, challenges, and goals for the MWP. (see exhibit 11)
13:35:06 Warden Hansen continued the presentation by providing information about goals intended to improve opportunities for the inmates.

Committee Questions/Discussion

13:37:07 Sen. Webber asked Warden Hansen about the mental health services provided by the prison.
13:38:24 Sen. Webber asked Warden Hansen whether there are inmates who stay longer than 11 months.
13:39:27 Sen. Webber asked Warden Hansen how many women have died while they were incarcerated at the MWP.
13:40:18 Sen. Webber asked Warden Hansen if the facility had a program that tracks the recidivism rate.
13:41:19 Warden Hansen deferred the question to Ms. Wolken.
13:42:01 Sen. Webber asked Ms. Wolken if they tracked recidivism based on race.
13:43:06 Sen. Webber asked Ms. Wolken if the MDOC staff at MWP would like to present their information to the State-Tribal Relations Committee.

13:43:11 Rep. Usher asked Warden Hansen the percentage of families that participate in family days at the prison.

13:44:14 Rep. Usher asked Warden Hansen the percentage of inmates whose families have to travel to Billings to visit the facility.

13:45:22 Rep. Bishop asked Ms. Butler if the inmates are able to leverage their skills gained in educational and vocational programs to work in society. Rep. Bishop also asked if the inmates are tracked in their vocational endeavors.

13:46:37 Rep. Bishop asked if Ms. Butler could make the information available to the committee.

13:47:13 Sen. McGillvray asked Ms. Butler how she defines recidivism and how they track it.

13:48:27 Rep. Bishop asked the panel to describe in detail their plans to update the facility.

13:50:01 Rep. Usher asked the panel whether Yellowstone County will expand and take over the MWP.

13:50:48 Rep. Usher asked the panel for their opinions on relocating the prison.

13:51:50 Sen. Esp asked about someone that Ms. Wolken mentioned who could provide more information on current costs.

13:52:37 Russ Katherman, Architecture and Engineering at the Department of Administration, responded to Sen. Esp by describing the plans and costs for building new and renovating expansions at the MWP.

13:55:20 Rep. Bishop asked Mr. Katherman about the accommodations that the new facility would make for additional growth.

13:56:00 Mr. Katherman clarified the projected need for the facility.

13:57:47 Sen. Esp asked Mr. Katherman what the estimated timeframe for completing this project would be.

13:58:49 Rep. Bishop asked about the current facility's ability to meet needs as well as the future buildings' abilities to meet future needs.

14:00:49 Mr. Katherman gave Rep. Bishop the estimated date for the completion of the strategic plan.

14:01:19 Rep. Usher asked Warden Hansen if the Family Tree Center is the only organization that volunteers at the prison.

14:01:35 Warden Hansen responded to Rep. Usher by clarifying that Family Tree Center is under contract with the prison and is not a volunteer organization, but there are several other volunteer organizations that provide services for the inmates at the prison.

14:02:14 Rep. Usher asked Warden Hansen how many volunteer hours the prison has in a year.

14:02:51 Rep. Usher asked Ms. Wolken how the volunteer hours compare to the ones at the men's prison.

14:03:33 Ms. Wolken responded to Rep. Usher by stating that the hours are very different for various reasons including location and interests.

AGENCY OVERSIGHT CONTINUED

Director's Update

14:05:39 Brian Gootkin, Director at Montana Department of Corrections, presented an update on the Department of Correction's plans for Montana facilities and employees at the prisons.

Committee Questions/Discussion

14:12:19 Rep. Usher asked for an update on the 3.5 treatment programs.

14:13:26 Rep. Usher asked Director Gootkin if he had an estimate on the final number on the 3.5 programs.

14:14:09 Sen. Esp asked Director Gootkin if there was a movement to reduce the program to a lower number. Sen. Esp followed by asking if the programs were available to different parts of the prison population.

14:14:32 Director Gootkin deferred Sen. Esp's question to Ms. Wolken.

14:15:04 Rep. Usher asked Director Gootkin if he planned on doing assessments closer to release instead of when the inmates first arrived at the prison.

14:15:38 Rep. Usher asked about the conditional releases in the state and how many inmates are currently out on conditional release.

14:16:01 Director Gootkin deferred the question to Ms. Wolken

14:16:18 Ms. Wolken said she would give him that information on Wednesday at the Criminal Justice Oversight Council meeting. ([Exhibit 12](#))

14:16:25 Sen. McGillvray asked for an update on staffing at the facility.

14:16:57 Sen. Lynch asked Director Gootkin for the date when the union will decide on whether to ratify the department's proposal.

14:17:32 Sen. Regier asked Director Gootkin about employee pay negotiations for correctional officers in the proposal.

Public Comment

14:19:02 Richard Shreves, Helena

14:25:06 Aaron Meaders, employee at Montana State Prison and president of the prison employees' union

14:28:42 Josh Butterfly, Helena ([Exhibit 13](#))

14:33:02 Erin McGowan, Montana Community Corrections Association (MCCA)

14:36:19 May Simmons, Lake County

14:39:58 Steve Cape, Coalition for Safety and Justice

14:44:59 Randall Knowles, Great Falls

14:47:19 Clemenre Arciga, Gold Creek

Committee Questions/Discussion

14:50:23 Sen. Regier asked Mr. Meaders what the reasons are for the correctional officers leaving the job after short period of work.

14:51:14 Mr. Meaders responded to Sen. Regier by stating that there are a variety of factors including pay and treatment of employees.

14:52:56 Rep. Usher asked Ms. McGowan to expand on the financial situation between the MCCA partners and ARPA funds.

14:54:05 Ms. McGowan answered Rep. Usher by describing the ARPA fund negotiations with her agency and the MDOC.

14:57:18 Sen. Esp asked Director Gootkin to present any parting thoughts to the committee.

BREAK

14:58:09 Reconvened at 15:14:13

HJ 31 STUDY OF CRIMINAL JUSTICE SYSTEM DATA

15:14:33 Quinn Holzer, Legislative Fiscal Division (LFD), gave an update from LFD. ([Exhibit 14](#))

Committee Questions/Discussion

15:22:40 Sen. McGillvray asked Mr. Holzer about the involvement and level of focus regarding federal funds in the LFD model.

15:23:56 Rep. Bishop asked Mr. Holzer if the LFD is able to analyze policy data and where it intersects with fiscal data regarding community service in the criminal justice system.

15:27:01 Rep. Bishop followed by asking Mr. Holzer about local data sets.

15:28:26 Rep. Usher asked Mr. Holzer and LFD to create a data set.

ADMINISTRATIVE RULE REVIEW

15:31:38 Julianne Burkhardt, Staff Attorney, discussed administrative rules with the committee. ([Exhibit 15](#))

Committee Questions/Discussion

15:34:38 Rep. Bishop asked Ms. Burkhardt about the Montana Interventions and Incentives Grid (or MIIG) and to clarify what it is.

15:36:01 Sen. Esp asked Ms. Burkhardt if the administrative rule review required any action on the committee's part.

Public Comment on any topic within the committee's jurisdiction

15:36:44 Josh Butterfly, Helena

15:39:07 Randall Knowles, Great Falls

Committee Questions/Discussion

15:41:47 Sen. Esp asked Ms. Burkhardt to look into the availability of the MIIG for the public.

15:42:08 Ms. Burkhardt explained Mr. Knowles' comment and said she would clarify the information.

Public Comment on any topic within the committee's jurisdiction

15:42:26 May Simmons, Polson

SB 303 Telecommunications Study

15:44:50 Ms. Weiss presented an additional public comment to the committee. ([Exhibit 16](#))

Motion

15:45:46 Rep. Usher moved to begin a bill draft for counties to begin piggy backing off the state contract within a certain timeframe.

Discussion on the Motion

15:46:12 Sen. Lynch agreed with Rep. Usher's motion and cautioned on stepping on any existing contracts.
15:46:41 Sen. Regier commented on the benefit of consistency across the state.

Vote

15:47:06 Motion carried with a unanimous voice vote, with Rep. Hawk and Sen. Gross voting by proxy. (See attachment 3)

Committee Questions/Discussion

15:48:05 Sen. Esp asked the committee if they wanted to see a draft on another bill.
15:48:11 Rep. Bishop commented on getting some feedback on HB 547.

Motion

15:48:26 Rep. Bishop moved to go forward with HB 587. (see exhibit 10)

Discussion on the Motion

15:49:29 Sen. Regier asked Rep. Bishop to clarify her motion. Sen. Regier followed by suggesting that the committee make the language in the bill more specific.
15:49:56 Rep. Bishop stated that she would like to move forward with the entire bill.
15:51:18 Rep. Usher stated that he would like to focus on one specific page of the bill rather than the whole bill.
15:53:09 Sen. Esp commented on his hesitancy to have the entire bill drafted.
15:54:06 Rep. Bishop withdrew her motion to give the committee time to consider other paths forward.
15:56:21 Rep. Essmann stated that she would like to consider the bill further before she made a decision on moving forward with it.
15:57:00 Sen. Esp stated that the committee will take time to look through the bill before moving forward.

Committee Questions/Discussion

15:57:19 Sen. Esp asked the committee if there was anything more that they wanted to look towards before the next meeting.
15:57:28 Sen. McGillvray stated that he would like the committee to look forward to his request for Mr. Brown that he made earlier about more phones and lower fees equaling higher revenue.
15:58:27 Ms. Weiss asked to clarify whether the bill should state that counties are "required" or "allowed" to piggy-back.
15:58:56 Sen. Lynch stated that the bill should say "allow" rather than "require," but require a cap.
15:59:31 Sen. Regier stated that the bill could include the language "if possible."
15:59:41 Rep. Usher clarified the state contract already contains the distinction of a cap at 10 cents. Rep. Usher clarified that the bill should contain language that clarifies allowance, not a requirement.
16:00:19 Rep. Usher asked about the bills from the other states and requested that the committee take the time to read over it for tomorrow's meeting. (see Mar. 22, 2022 exhibit 2)

16:00:50 Ms. Weiss stated that further discussion on data collection is scheduled for March 22 as well as in May.
16:01:58 Sen. Esp discussed the Sheriffs and Peace Officers Association document. (See exhibit 1, Document 5)
16:02:25 Rep. Usher gave further clarification on the Gallatin County inmate welfare budget.
16:03:08 Rep. Usher commented on the flag outside of the capitol being flown at half-staff for the late Rep. Fleming.

RECESS

16:04:19 Recessed until March 22, 2022, at 8:00 a.m.

ADJOURNMENT

16:04:39 Sen. Esp adjourned the meeting at 4:04pm.

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