



PUBLIC SAFETY INTERIM BUDGET COMMITTEE

67th Montana Legislature

SENATE MEMBERS

David Howard
Ryan Lynch
Ryan Osmundson

HOUSE MEMBERS

Emma Kerr-Carpenter
Bill Mercer
Fiona Nave
Kerri Seekins-Crowe

COMMITTEE STAFF

Catherine Duncan - Legislative Fiscal Analyst
Katya Grover - Secretary
Christine Hultin - OBPP Staffer
Kris Wilkinson - Fiscal Analyst

MINUTES LOG

September 15, 2021

Room 335

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:

Rep. Bill Mercer, Chair (R)
Sen. David Howard, Vice Chair (R)
Rep. Emma Kerr-Carpenter (D)
Sen. Ryan Lynch (D)
Rep. Fiona Nave (R)
Sen. Ryan Osmundson (R)
Rep. Kerri Seekins-Crowe (R)

MEMBERS EXCUSED:

MEMBERS ABSENT:

STAFF PRESENT:

Catherine Duncan, Fiscal Analyst
Kris Wilkinson, Fiscal Analyst
Katya Grover, Secretary
Christine Hultin, OBPP Staffer

AGENDA ([Attachment 1](#))

VISITORS' LIST (Attachment 2)

CALL TO ORDER/ROLL CALL

08:30:17 Rep. Bill Mercer-R called the meeting to order at 8:30 AM. The committee secretary took roll.

Introduction by Chair Mercer

08:31:13 Chair Mercer introduced the committee members and staff. Chair Mercer talked about committee organization and its role, as well as discussed the anticipated meeting times, quorum requirements, motions and voting requirements, and public comment procedure. **(Exhibit 1)**

Motion & Vote

- 08:36:53 Rep. Kerr-Carpenter moved that proxy voting be authorized for this Interim Budget Committee and moved that for the exercise of a proxy to be valid, the deputized member must hold a written proxy from the absent member in advance of a vote. Electronic means, such as an email or a text, constitute a valid means of providing a proxy to the deputized member. The motion passed unanimously on a voice vote.
- 08:37:44 Chair Mercer talked about Rep. Seekins-Crowe leaving this Committee to succeed Rep. Patelis. Chair Mercer also reminded the public that shortly Sen. Osmundson will transition into the position of the Budget Director in the Governor's Budget Office.
- 08:39:03 Chair Mercer introduced Cathy Duncan, Fiscal Analyst, Legislative Fiscal Division (LFD), as a new staff member for the Committee.

PUBLIC SERVICE COMMISSION

08:40:30 Chair Mercer opened the section on the Public Service Commission (PSC).

Agency Report and Committee Discussion

- 08:40:37 James Brown, Chairman, Montana PSC, introduced Commissioners and staff and updated the Committee members on the PSC budget.
- 08:48:02 Mr. Brown discussed Memorandum of Understanding between the PSC and the Department of Justice, as well as Memorandum of Understanding between the PSC and State Information Technology Services Division. **(Exhibit 2)**
(Exhibit 3)
- 08:51:16 Mr. Brown reported on the PSC's legal situation with respect to PURPA.
- 08:54:40 Chair Mercer asked Mr. Brown to elaborate on FERC, PURPA, and PSC's outside council needs.
- 08:55:45 Mr. Brown addressed the question.
- 08:59:04 Rep. Nave asked to provide an example of what PURPA would sue over.
- 08:59:21 Mr. Brown addressed the question.
- 09:01:04 Rep. Kerr-Carpenter asked to provide an approximate number for costs for outside counseling.
- 09:01:28 Mr. Brown addressed the question.

Agency Report and Committee Discussion

- 09:02:04 Jennifer Fielder, Commissioner, District 4, Montana Public Service Commission reported on status of the modernization project and improvements of the internal practices. [\(Exhibit 4\)](#) [\(Exhibit 5\)](#)
- 09:26:56 Rep. Nave asked whether the PSC would be able to reduce the number of FTE, which is currently at 40.
- 09:27:26 Ms. Fielder addressed the question.
- 09:28:29 Chair Mercer asked who conducted the audit for the railway inspectors.
- 09:28:57 Ms. Fielder responded to the question.
- 09:28:58 Chair Mercer requested the audit in question to be made available to the committee members. Chair Mercer asked whether the funding for the third auditor would come from the Federal Railway Administration if the Committee were to authorize that FTE.
- 09:29:29 Ms. Fielder addressed the question.
- 09:30:00 Chair Mercer noted that it would be beneficial to understand the split for funding the 2 existing inspectors, as well as to understand whether the federal government has a standard with respect to the amount of audit that should be done based on the track miles.
- 09:30:48 Ms. Fielder responded to Chair Mercer's comments.
- 09:31:15 Chair Mercer reiterated that any additional information on the topic would be useful.
- 09:31:30 Ms. Fielder confirmed that the additional information will be provided to the committee members.

OBPP Comments and Public Comment

- 09:31:41 Chair Mercer invited comments from the Office of Budget and Program Planning (OBPP). There were none. Chair Mercer called for public comment. There was none.

FYE 2021 Financial Report

- 09:33:28 Kris Wilkinson, Fiscal Analyst, LFD, presented the report. [\(Exhibit 6\)](#)
- 09:43:58 Rep. Nave requested to add the date when the data was pulled in the future financial reports.
- 09:44:28 Ms. Wilkinson replied that this information will be provided going forward and elaborated on the date when the data was pulled for the current financial report.

Public Comment (reopened)

- 09:45:00 Chair Mercer reopened public comment for the PSC.
- 09:45:45 Randy Pinocci, Commissioner, District 1, PSC, talked about the stressors in the market and expressed his concerns about funding competitive wages for the employees.
- 09:49:38 Chair Mercer invited public comment online. There was none.
- 09:50:05 Sen. Osmundson commented on challenges highlighted previously and thanked Ms. Fielder for her commitment and work.

Brief Recess

09:51:11 Chair Mercer announced a brief recess.

OFFICE OF PUBLIC DEFENDER

09:57:28 Chair Mercer opened the section on the Office of Public Defender (OPD).

FYE 2021 Financial Report

09:58:18 Ms. Wilkinson presented the report. **(Exhibit 7)**

Agency Report and Committee Discussion

10:04:14 Chair Mercer stated that the Director of the OPD will deliver her report now and stated that the Committee is requesting the OPD to provide supplemental information in the Director's presentation. Chair Mercer stated that after the presentation will have been done, he will make a statement recapping where the matter was at the end of April 2021.

10:04:46 Rhonda Lindquist, Director, OPD, introduced her staff and presented her report.

10:09:50 Brett Schandelson, Development and Operations Bureau Chief, OPD, reported on the most recent performance audit and its findings. Mr. Schandelson also provided context for the unfavorable situation in Billings that is due to shortage of the attorneys in the areas and proposed solutions for resolving this situation. **(Exhibit 8)**

10:16:37 Brian Smith, Public Defender Division Administrator, OPD, continued the presentation about backlog resolution and emphasized the financial challenges faced in Billings in addition to other areas in Montana. **(Exhibit 9)**

10:22:10 Ms. Lindquist elaborated further on the financial challenges that the OPD is experiencing in Billings and pointed out that based on one of the findings by the audit, attorneys in this area are paid the lowest payrate in the entire state. Ms. Lindquist also discussed the ways that the agency is working to resolve this financial problem.

Agency Report and Committee Discussion

10:28:19 Chair Mercer asked Ms. Lindquist to address items 2 and 3 on the agenda addressing points about cases not assigned to judicial districts outside of the 13th Judicial District and HB 693 (2021) reporting requirements in Sections 2(1) and 2(2).

10:28:50 Ms. Lindquist addressed the aforementioned agenda items.

10:29:01 Ms. Wilkinson pointed out that the documents pertaining to the issue under discussion are available on the Committee's webpage.

10:29:19 Chair Mercer asked Ms. Lindquist to go over those documents.

10:29:50 Ms. Lindquist elaborated further on HB 693 (2021) reporting requirements in Sections 2(1) and 2(2). **(Exhibit 10)**

10:34:31 Chair Mercer asked for a further update for the agenda item 2: cases not assigned to judicial districts outside of the 13th Judicial District.

10:34:53 Ms. Lindquist rereferred this question to Mr. Schandelson. Mr. Schandelson provided the update on the matter.

10:35:35 Chair Mercer requested a district by district and court by court report to be provided to the committee during this meeting as it would be beneficial to have this information today.

10:36:11 Christine Hultin, Budget Analyst, Office of Budget and Program Planning (OBPP), offered to print out this information once it is compiled by Mr. Schandelson.

10:36:20 Chair Mercer commented on the data that was used in putting together the budget and work that the committee put into analyzing the data.

10:43:22 Chair Mercer asked Ms. Lindquist whether it was a Billings-specific problem and if so, whether this particular problem could be resolved in a satisfactory fashion.

10:44:05 Ms. Lindquist addressed the question.

10:45:19 Mr. Smith elaborated further on the same question.

10:47:26 Chair Mercer asked about the length of time that cases remain unassigned.

10:48:55 Mr. Smith responded to the question.

10:50:54 Chair Mercer asked for clarification on a case going through 8 attorneys in order to staff it.

10:51:04 Mr. Smith responded to the question.

10:51:56 Chair Mercer said that he will follow up on that question at a later time to allow other committee members to ask their questions.

10:52:11 Rep. Kerr-Carpenter asked Ms. Lindquist to voice some of the solutions that might exist.

10:52:32 Ms. Lindquist addressed the question and elaborated on short-term and long-term solutions.

10:53:20 Rep. Kerr-Carpenter asked whether the short-term solutions referred to those solutions that would help resolve the issue for two-three months.

10:53:42 Ms. Lindquist responded to the question.

10:54:33 Chair Mercer asked to elaborate on why it would work better to hire FTE vs. contractors.

10:55:30 Travis Tilleman, Human Resources Administrator, OPD, addressed the question.

10:56:01 Chair Mercer asked whether the idea that a candidate could live elsewhere but travel to Billings for work has been expressly stated in the position descriptions.

10:56:40 Mr. Tilleman responded to the question.

10:57:03 Chair Mercer expressed hope that there would be people who live in other cities in Montana willing to take Billings cases.

10:57:30 Chair Mercer asked whether what Ms. Lindquist thought that by moving funding from the contract side to the employee side, there would be candidates willing to work in Billings if they didn't live in Billings but could work there.

10:57:43 Mr. Tilleman addressed the question.

10:57:51 Mr. Tilleman addressed Chair Mercer's comment.

10:58:02 Rep. Kerr-Carpenter asked about percentage of the public defenders in Montana who will be retiring in the next five years.

10:58:19 Mr. Tilleman responded to the question.

10:58:36 Rep. Kerr-Carpenter asked to clarify whether the current workforce primarily consists of lawyers for whom these are their first jobs after graduating and who would be likely to move on to other jobs in the field.

10:58:48 Mr. Tilleman responded to the question.

10:59:23 Sen. Lynched asked about the number of positions of public defenders currently open in Billings.

10:59:42 Mr. Tilleman responded to the question.

11:00:20 Sen. Lynch asked whether the upcoming new attorneys who successfully pass the bar would alleviate the current issue with the backlog.

11:00:36 Mr. Tilleman responded to the question.

11:00:51 Sen. Lynch asked about the number of attorneys in the Yellowstone county.

11:01:15 Mr. Tilleman responded to the question.

11:01:26 Vice Chair Howard asked Ms. Lindquist whether there is anything in the judge's order telling OPD how to run the department.

11:01:49 Ms. Lindquist deferred the question to Mr. Smith. Mr. Smith addressed the question.

11:02:50 Vice Chair Howard referred to the Constitution and noted that the judge only has certain abilities which excludes an ability to make the department run in any specific way.

11:03:20 Mr. Smith addressed Vice Chair Howard's comment.

11:03:44 Sen. Lynch asked Mr. Smith whether the court order that is being discussed is reflective of internal policies of the OPD.

11:04:07 Mr. Smith responded to the question.

11:05:11 Sen. Lynch noted that the way the court order is written is problematic and there needs to be a solution dealing with it.

11:06:30 Chair Mercer provided a comment on the topic in question and noted that stopping criminalizing certain types of behavior cannot stop the crime problem. In his comment, Chair Mercer referred to Exhibit 8.

11:09:13 Mr. Smith addressed comments by Chair Mercer.

11:10:11 Rep. Nave referred to the past Legislative Session and the discussion that took place about the number of people who were disproportionately, in relation to other places in the state, relocated to Billings and asked how much of that was contributing to the problem.

11:10:51 Chair Mercer addressed Rep. Nave's comment.

11:11:23 Mr. Smith also elaborated on Rep. Nave's comment.

11:11:52 Chair Mercer asked Benjamin Halverson, Domestic Violence Prosecutor, Billings, to comment on the numbers of the council in the city of Billings.

11:11:58 Mr. Halverson addressed Chair Mercer's question.

11:12:21 Chair Mercer provided closing comments for discussion of the OPD in its entirety.

Public Comment

11:13:56 Chair Mercer called for public comment.

11:14:09 Chair Mercer invited Josh Butterfly on behalf of inmate advocacy groups. Mr. Butterfly provided public comment on the detention center in Great Falls and issues associated with not having public defenders assigned to those serving in that facility.

11:19:05 Chair Mercer addressed Mr. Butterfly's comment.

11:19:50 Mr. Butterfly provided further comment.

11:20:17 May Simmons, self, Polson, MT, provided public comment about reentry services, shortage of attorneys and encouraged to pay attorneys higher wages.

11:23:57 Chair Mercer asked Ms. Lindquist to provide concluding remarks and address Ms. Simmons' comments.

- 11:24:29 Ms. Lindquist provided concluding remarks and addressed May Simmons' comments.
- 11:25:50 Chair Mercer provided further concluding remarks.
- 11:26:45 Rep. Seekins-Crowe asked whether those attorneys, who lived in other cities but who would be representing their clients in Billings, would be doing so via web-based applications like Zoom or traveling to Billings for representation.
- 11:27:00 Ms. Lindquist responded to the question.

Brief Recess

- 11:27:29 Chair Mercer announced a brief recess.

JUDICIAL BRANCH

- 11:37:05 Chair Mercer opened the section on the Judicial Branch.

FYE 2021 Financial Report

- 11:37:55 Ms. Duncan presented the report. [\(Exhibit 12\)](#)

Agency Report and Committee Discussion

- 11:49:39 Chair Mercer invited Beth McLaughlin, Court Administrator, Office of the Court Administrator, Judicial Branch, to deliver her report.
- 11:50:00 Ms. McLaughlin presented her report.
- 11:59:36 Sen. Lynch requested to collect the data and stats on the exact number of expungements.
- 12:00:03 Rep. Nave asked about the mediation program: how the Judicial Branch would pay for that once the ARPA funds are gone.
- 12:00:41 Ms. McLaughlin responded to the question.
- 12:02:01 Rep. Nave asked when the request for additional funding for the IT project was processed.
- 12:02:39 Ms. McLaughlin responded to the question.
- 12:03:23 Ms. Duncan elaborated further on that question.
- 12:04:00 Rep. Nave referred to page 7 of Exhibit 12 and asked whether the 63.9% increase refers to the internal costs and not to an expenditure to the Judicial Branch.
- 12:04:32 Ms. Duncan addressed the question.
- 12:05:33 Rep. Nave asked to clarify who exactly paid for those costs.
- 12:05:44 Ms. McLaughlin addressed the question.
- 12:06:27 Chair Mercer read part of HB 701 that states "The supreme court shall appoint a judge to determine the expungement or resentencing of marijuana convictions as provided in [section 102]." and asked Ms. McLaughlin to confirm whether it is her opinion that that is not going to happen at the moment.
- 12:07:13 Ms. McLaughlin addressed the question.
- 12:07:45 Chair Mercer expressed his worry that it is mandatory language in the aforementioned section of HB 701.
- 12:08:12 Ms. McLaughlin addressed Chair Mercer's question.
- 12:08:24 Chair Mercer expressed his agreement with Ms. McLaughlin's response.

- 12:08:34 Sen. Lynch referred back to the discussion of the backlog of the mediation and family law and asked whether there was a process in place that could help alleviate some of the OPD's backlog, specifically in the Yellowstone County.
- 12:09:35 Ms. McLaughlin addressed the question.
- 12:10:33 Sen. Lynch said that he believes that there could be some options worked out to resolve the issue that needs to be presented to the Budget Office, as well as the Legislative Branch.

Agency Report and Committee Discussion

- 12:10:54 Ms. McLaughlin continued her report and asked committee members for guidance for language in HB 2. **(Exhibit 13)**
- 12:15:37 Chair Mercer asked to clarify how HB 2 language precludes the Judicial Branch from going forth without following option 3 described on page 1 of Exhibit 13.
- 12:16:16 Ms. McLaughlin addressed the question.
- 12:17:30 Sen. Lynch asked about the minimum qualifications for those professionals who perform assessment.
- 12:18:03 Ms. McLaughlin addressed the question.
- 12:19:40 Sen. Lynch provided a comment on the use of evidence-based tools developed specifically for drug courts, as well as correctional programs.
- 12:20:29 Chair Mercer elaborated further on the point.
- 12:20:51 Ms. McLaughlin responded to Sen. Lynch's and Chair Mercer's comments.
- 12:21:17 Chair Mercer thanked Ms. McLaughlin for providing information to this committee.
- 12:21:41 Sen. Lynch asked about quality control built into the applications for grants for the drug treatment courts.
- 12:22:07 Ms. McLaughlin addressed the question.
- 12:22:57 Sen. Lynch requested a list of drug courts along with the number of offenders in them, as well as the amount that the Judicial Branch is spending on drug courts, to be provided prior to the next meeting of the committee.
- 12:23:12 Ms. McLaughlin responded to Sen. Lynch's request.

Public Comment

- 12:23:27 Chair Mercer called for public comment.
- 12:23:37 Ms. Simmons provided comments in regard to the Judicial Branch.
- 12:24:13 Mr. Butterfly elaborated further.
- 12:24:37 Mr. Butterfly provided comments about HB 701.
- 12:25:03 Chair Mercer addressed Mr. Butterfly's comments.
- 12:25:26 Chair Mercer provided closing comments for the committee discussion of the Judicial Branch.

Lunch Recess

- 12:26:00 The committee recessed for lunch.

DEPARTMENT OF JUSTICE

- 13:01:39 Chair Mercer opened the section on the Department of Justice (DOJ).

FYE 2021 Financial Report

13:02:31 Ms. Duncan presented the report. **(Exhibit 14)**

Agency Report and Committee Discussion

13:08:50 Chair Mercer invited Kris Hansen, Chief Deputy Attorney General, DOJ to deliver her report.

13:09:03 Ms. Hansen introduced the staff and asked what level of detail the committee members would like to hear in the DOJ presentations.

13:10:30 Chair Mercer explained what level of detail would work for this committee meeting.

13:12:17 Ms. Hansen reported on Montana Specifics of the Opioid Settlement. **(Exhibit 15)**

13:15:08 Chair Mercer asked to provide information about how much money DOJ would get in that settlement and the conditions that would accompany that settlement.

13:15:29 Ms. Hansen addressed the questions.

13:17:20 Chair Mercer requested an update to be provided to the committee on this point.

Agency Report and Committee Discussion

13:17:32 Bryan Lockerby, Division of Criminal Investigation Administrator, DOJ, provided a report on fentanyl trafficking investigations. **(Exhibit 16) (Exhibit 17)**

13:27:09 Rep. Nave referred to Exhibit 17 and noted that currently only fully trained paramedics can administer naloxone. Furthermore, Rep. Nave asked whether it has been requested that EMTs would also be able to administer it.

13:28:50 Mr. Lockerby addressed the question.

13:29:52 Rep. Nave asked whether the law enforcement officers have naloxone on their persons and are able to administer it.

13:30:05 Mr. Lockerby addressed the question.

13:30:46 Rep. Nave requested to report on the status of the possible backlog of naloxone at the next committee meeting.

13:30:59 Chair Mercer referred to Exhibit 16 and asked about the trendline with the overdose deaths rate in the last five years nationwide.

13:31:39 Mr. Lockerby addressed the question.

13:32:24 Chair Mercer stated that as of yet, there is no clarity on how much money is coming to the State from Haida, how much money the Board of Crime Control has given to regional task forces, and how Division of Criminal Investigation is interacting with local task forces. Chair Mercer also noted that it is necessary to know whether there is the right number of people investigating cases in the State. Chair Mercer requested to provide that information at the next committee meeting.

13:33:22 Mr. Lockerby responded to the information request.

13:33:40 Vice Chair Howard gave his proxy to Chair Mercer and left the meeting.

Agency Report and Committee Discussion

13:33:49 Ms. Hansen continued her presentation and talked about HB 693 (2021) reporting. **(Exhibit 18)**

13:40:10 Chair Mercer thanked Ms. Hansen for providing the information in the documents that Ms. Hansen distributed presently and noted that the committee members need to carefully study the content.

13:41:22 Rep. Kerr-Carpenter referred to the same documents and asked about the outliers in the data.
13:42:01 Ms. Hansen addressed the question.
13:44:22 Rep. Kerr-Carpenter asked about the administrative rule making process.
13:44:54 Ms. Hansen addressed the question.

Agency Report and Committee Discussion

13:45:10 Chair Mercer moved discussion to the next agenda item: HJ 29 – Request by Legislative Council for the Section D interim subcommittee to undertake this study on Victim Services/Funding (Board of Crime Control).
13:45:19 Ms. Hansen presented on the subject.
13:54:29 Sen. Lynch asked Chair Mercer about a procedural question on bill drafting.
13:55:04 Chair Mercer addressed the question.
13:55:13 Ms. Duncan also addressed Sen. Lynch’s question.
13:56:46 Ms. Hultin elaborated further on Sen. Lynch’s question.
13:57:20 Sen. Osmundson asked to clarify what was missed with respect to appropriation when most of the content of HB 686, after it failed, was transferred to HB 181.
13:57:49 Quinn Holzer, Assistant Director, LFD, addressed the question.
14:00:00 Chair Mercer elaborated further on Sen. Lynch’s question.
14:00:30 Sen. Lynch asked a follow-up question about bill drafting.
14:00:52 Chair Mercer addressed the question.
14:01:15 Ms. Hansen corrected herself and said that the study (HJ 29) has not been presented in the LFC and that she intended to present it in the Human Services Committee but decided to start in this committee since it is a budget committee.
14:02:06 Chair Mercer responded to Ms. Hansen’s statement.

Agency Report and Committee Discussion

14:02:52 Nate Thomas, Operations/Budget Analyst, DOJ, continued the DOJ presentation and talked about language funding, 2021 version of HB 2.
14:04:41 Chair Mercer asked to clarify the point.
14:04:51 Ms. Hansen reiterated Mr. Thomas’ presentation.
14:06:40 Chair Mercer asked Ms. Duncan and Ms. Hultin to provide further elaboration.
14:06:49 Ms. Duncan provided an explanation of where and when the error took place.
14:07:31 Ms. Hultin added to the explanation.
14:08:13 Ms. Hansen also elaborated further.
14:08:40 Chair Mercer confirmed with Ms. Hansen that the point that’s been discussed is not an issue that needs the immediate attention of the committee but is simply brought to the attention of the committee for the 2023 Legislative Session.
14:08:58 Rep. Kerr-Carpenter requested the LFD to flag that error.
14:09:55 Rep. Nave suggested that Ms. Hultin send something in the nature of change request to those who maintain the software program so that the same issue does not come up again.
14:10:15 Ms. Hultin addressed the comment.
14:10:36 Sen. Lynch referred to the Boulder campus and asked about the \$2.0 million shortage in maintenance.

14:11:00 Ms. Hansen addressed the question.

Agency Report and Committee Discussion

14:11:29 Natalia Bowser, Bureau Chief, Crime Control Bureau, reported on HB 2 Personal Services Issue.

14:19:19 Rep. Kerr-Carpenter elaborated on why it was requested that this committee has been asked to assist with the issue outlined by Ms. Bowser.

14:20:18 Rep. Kerr-Carpenter also addressed Rep. Nave's question.

14:20:50 Rep. Nave asked what the outcome would be if this committee were to do the study on the Funding of Victim Service since Interim Budget Committees cannot write legislation.

14:21:09 Chair Mercer addressed the question.

14:21:59 Chair Mercer stated that he wanted to make sure that the scope of the work that the Interim Budget Committees would be doing would not encroach on the work of other legislative committees. Chair Mercer elaborated further and stated that he would not want to set a precedent for this committee to undertake studies as the one under discussion. Chair Mercer concluded by saying that he is willing to make an exception.

14:24:15 Rep. Nave suggested that the Law and Justice Committee should undertake this study and have some of the committee members from this Public Safety Interim Budget Committee participate.

14:24:52 Chair Mercer responded to Rep. Nave's suggestion.

14:25:03 Sen. Osmundson provided further comment on whether this committee should undertake the study.

Public Comment

14:25:44 Chair Mercer called for public comment.

14:26:22 Mr. Halverson emphasized in his comment that the intervening funds are worth of putting up.

14:28:36 Kelsen Young, Executive Director, Montana Coalition Against Domestic and Sexual Violence, urged the committee to take on the study on Victim Services and Funding (HJ 29).

14:33:54 Mr. Butterfly provided his comment on the need of the funding.

14:36:26 Ms. May Simmons provided her comment.

Further Committee Discussion

14:38:40 Chair Mercer asked about the discretionary money coming from the federal government.

14:39:25 Ms. Bowser responded to the question.

14:40:08 Chair Mercer pointed out that the committee members should decide whether this committee will do this study and that the committee needs to understand the full range of the money coming from the federal government.

14:41:16 Ms. Bowser responded to the point made by Chair Mercer about the funding coming from the federal government.

14:41:34 Rep. Kerr-Carpenter requested Ms. Bowser to distribute previous interim studies to the committee members.

14:42:01 Chair Mercer asked Ms. Duncan whether the LFD has sufficient staff resources to support this study if the committee decides to pursue it.

14:42:26 Mr. Holzer addressed the question.

14:43:12 Chair Mercer asked for clarification.
14:43:24 Mr. Holzer provided clarification.
14:43:56 Chair Mercer asked committee members if there is a motion on the floor.

Motion

14:44:05 Rep. Kerr-Carpenter moved that the committee undertakes the study on Victim Services and Funding.

Committee Discussion on the Motion

14:44:23 Sen. Osmundson noted that he will not be serving on the committee much longer and stated that he will follow the lead from Chair Mercer on this motion.
14:44:35 Chair Mercer stated that he will support the motion. Furthermore, Chair Mercer emphasized that this is an exception and that he does not intend for the committee to undertake any more studies of this nature as they do not fall under the responsibility of Interim Budget Committees.

Vote

14:45:23 The motion passed unanimously on a voice vote.

Brief Recess

14:45:35 Chair Mercer announced a brief recess.

DEPARTMENT OF CORRECTIONS

15:03:21 Chair Mercer opened the section on the Department of Corrections (DOC).

FYE 2021 Financial Report

15:03:37 Ms. Duncan presented the report. **(Exhibit 19)**

15:05:39 Chair Mercer invited Brian Gootkin, Director, DOC, to deliver his report.

Agency Report and Committee Discussion

15:07:19 Mr. Gootkin referred to John Daugherty, Central Services Chief, DOC. Mr. Daugherty presented report on Justice Reinvestment data update. **(Exhibit 20)**
15:18:07 Rep. Nave referred to Exhibit 20 and asked about the correctional checklist measures: how the non-numeric values get assigned numbers.
15:18:58 Mr. Daugherty responded to the question.
15:20:18 Rep. Nave asked about the timeline of how those measures were accomplished.
15:20:28 Mr. Daugherty responded to the question.
15:20:47 Rep. Nave asked about the difference between a returned offender and returned inmate.
15:21:17 Mr. Daugherty addressed the question.
15:22:05 Rep. Nave asked about the difference between the conditional release and alternative convictions.
15:22:30 Mr. Daugherty addressed the question.
15:23:03 Rep. Nave asked about data and how it is recorded.
15:23:38 Mr. Daugherty addressed the question.

15:26:00 Rep. Nave asked a further question about recording data: for what length of time an offender is considered a new offender.
15:26:23 Mr. Daugherty addressed the question.
15:26:54 Chair Mercer also addressed Rep. Nave's questions and said that there will be a Montana-specific report on a forward going basis starting in approximately a year.
15:28:15 Rep. Nave thanked Chair Mercer for the information.
15:28:45 Chair Mercer noted that the data that Mr. Daugherty was using in his presentation is located on the committee's webpage under the title of 'DOC Data Tracking.' ([Exhibit 21](#))
15:29:31 Mr. Holzer pointed out that the data available in the document does not include the entire data that was provided by the DOC and that the full spreadsheet can be readily made available to the committee members.
15:30:30 Ms. Duncan explained how to get to the document on the committee's webpage.

Agency Report and Committee Discussion

15:33:27 Mr. Gootkin reported on the DOC reorganization.
15:40:55 Chair Mercer asked who would be providing report on HB 693.
15:41:27 Mr. Gootkin redirected the question to Cynthia Wolken, Deputy Director, DOC. Ms. Wolken said that this report will be presented at the next committee meeting.
15:41:49 Chair Mercer opened the committee discussion on the reorganization.
15:42:05 Chair Mercer asked whether a memo to the LFC showing that the director had authorized the reorganization is available to the committee members.
15:42:49 Ms. Hultin addressed the question.
15:43:17 Chair Mercer asked whether no FTE was shifted within the department.
15:43:29 Ms. Hultin addressed the question.
15:44:02 Chair Mercer requested a memo or summary explaining the DOC reorganization.
15:44:32 Ms. Hultin responded to the request.
15:44:52 Chair Mercer noted that there should be a document containing a proposal for the DOC reorganization.
15:45:00 Ms. Hultin addressed the comment.

Agency Report and Committee Discussion

15:45:17 Chair Mercer opened the discussion on the potential of the State Prison employee strike.
15:45:26 Mr. Gootkin reported on this topic.
15:46:04 Chair Mercer referred to a vacant FTE and asked Mr. Gootkin to elaborate on plans to lower that FTE.
15:46:57 Mr. Gootkin addressed the question.
15:47:48 Jim Salmonsens, Montana State Prison Warden, provided further elaboration on the question.
15:49:10 Rep. Kerr-Carpenter asked whether the Department had budgetary flexibility to fix the issue within the current bargaining session.
15:49:35 Mr. Gootkin addressed her question.

Agency Report and Committee Discussion

- 15:49:58 Chair Mercer opened the discussion on the core civic water supply problems update.
- 15:50:15 Peter Bludworth, Crossroads Correctional Center Warden, provided an update on this issue.
- 16:00:57 Chair Mercer said that he was hoping that across the DOC and at the Shelby correctional facility there would be a feeling that there are ways to learn from the recent experience.
- 16:01:30 Mr. Bludworth elaborated further on his report.

Public Comment

- 16:03:10 Chair Mercer called for public comment.
- 16:03:34 Ms. Simmons provided public comment on this section.
- 16:08:04 Chair Mercer invited any other public comment.
- 16:08:38 Mr. Butterfly also provided public comment on this section.
- 16:16:31 Chair Mercer thanked Mr. Gootkin for his participation.

OFFICE OF PUBLIC DEFENDER

Further Committee Discussion of the OPD Backlog Resolution

- 16:17:00 Chair Mercer reopened discussion on the OPD issue, specifically in the Yellowstone County. Chair Mercer expressed his recommendation that any attempt to provide a short-term solution should concentrate on Billings and the immediate surrounding area as opposed to trying to come up with global solutions.
- 16:18:49 Rep. Seekins-Crowe asked whether ARPA funds were available to help with this problem.
- 16:19:27 Chair Mercer addressed this question.
- 16:19:41 Ms. Hultin also addressed the question.
- 16:20:38 Chair Mercer asked Ms. Hultin about the funds available within the appropriation and what could be done with those funds.
- 16:21:55 Ms. Hultin addressed the question.
- 16:23:17 Rep. Kerr-Carpenter commented on the issue and said that all possible solutions should be tried. Furthermore, Rep. Kerr-Carpenter noted that the committee should look for long-term solutions.
- 16:24:24 Ms. Hultin elaborated on the possible long-term solutions.
- 16:25:25 Chair Mercer responded to Ms. Hulin's remarks.
- 16:25:48 Ms. Hultin elaborated further on the possible solutions.
- 16:26:08 Chair Mercer noted that there is an acute issue in the Billings area. Chair Mercer pointed out that implementing a long-term solution will take time and commented on immediate solutions such as hiring contractors.
- 16:27:32 Ms. Hultin referred to the Audit find that FTE are more efficient and cheaper than contractors.
- 16:27:43 Rep. Nave made a suggestion regarding dealing with prison populations.
- 16:28:47 Chair Mercer addressed Rep. Nave's comment.
- 16:29:39 Rep. Seekins-Crowe asked to clarify whether FTE would be financially more viable.

16:30:03 Ms. Hultin addressed the question.
16:30:24 Chair Mercer asked Mr. Schandelson to elaborate the DOC covering traveling expenses to those living outside Billings but undertaking cases in Billings.
16:30:42 Mr. Schandelson responded to the question.
16:31:44 Chair Mercer asked about a loan forgiveness program.
16:32:15 Mr. Schandelson responded to the question.
16:33:15 Chair Mercer commented on the loan forgiveness programs and other programs that might already be available.
16:34:20 Sen. Lynch agreed with Chair Mercer's sentiment that there are immediate backlog issues that need to be dealt with. Sen. Lynch also proposed a possible long-term solution where an attorney would be compensated based on the number of hours that any specific issue should typically take. Sen. Lynch noted, however, that there needs to be good case data in order for this solution to work.
16:36:44 Chair Mercer provided closing comments.

CRIMINAL JUSTICE SYSTEM DATA DISCUSSION

16:37:09 Rachel Weiss, Research Analyst, Legislative Services Division, reported on HJ 31: Study of Criminal Justice System Data in Montana.
16:37:54 Chair Mercer asked to confirm that the Law and Justice Interim Committee (LJIC) had referred the study to this committee.
16:38:09 Ms. Weiss addressed the question and resumed her presentation.

Committee Discussion

16:42:51 Chair Mercer opened the discussion to the questions from the committee.
16:43:00 Rep. Kerr-Carpenter asked whether the LJIC had discussions about how to keep some of the local entities that are in charge of criminal justice informed about the study.
16:43:19 Ms. Weiss addressed the question.
16:44:43 Chair Mercer asked about the victim study.
16:45:55 Ms. Weiss addressed the question.
16:46:45 Chair Mercer commented that one of the biggest challenges with this study is getting a clear understanding of what is going to be considered criminal justice data as it can become overly complicated.

Public Comment

16:48:22 Chair Mercer called for public comment on the criminal justice system data discussion.
16:48:33 Mr. Schandelson elaborated on criminal justice data.
16:53:24 Sen. Lynch responded to Mr. Schandelson's explanations and noted that there needs to be data framework: standards, data fidelity, and requirements for entering data into data exchange system as right now every department enters data differently.
16:53:51 Mr. Schandelson followed up on Sen. Lynch's comment.
16:55:47 Chair Mercer put a request for Mr. Schandelson to look at peer OPDs nationwide and see if there is any state that has successfully resolved the issue with consistent data standards.
16:56:22 Mr. Schandelson responded to Chair Mercer's comment and request.

**PUBLIC COMMENT ON ANY TOPIC BEFORE THE SECTION D INTERIM BUDGET
SUBCOMMITTEE**

- 16:57:20 Chair Mercer opened public comment on any topic within the purview of the committee.
- 16:57:32 Ms. Simmons provided public comment.
- 16:59:03 Chair Mercer thanked the committee members, staff, and participants.
- 17:00:16 Chair Mercer concluded the meeting. The meeting adjourned.

ADJOURNMENT

Adjournment: 17:00:55