

MINUTES

MONTANA SENATE 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Scott Sales, on January 16, 2015 at 9:00 A.M., in Room 303
Capitol

ROLL CALL

Members Present:

Sen. Scott Sales, Chair (R)
Sen. Jennifer Fielder, Vice Chair (R)
Sen. Robyn Driscoll (D)
Sen. Jedediah Hinkle (R)
Sen. Douglas (Doug) Kary (R)
Sen. Cliff Larsen (D)
Sen. Mary McNally (D)
Sen. Mary Sheehy Moe (D)
Sen. Diane Sands (D)
Sen. Nels Swandal (R)
Sen. Chas Vincent (R)

Members Excused: Sen. Kris Hansen (R)

Members Absent: None

Staff Present: Julianne Burkhardt, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 59, 1/12/2015; SB 61, 1/12/2015; SB 90, 1/12/2015
SB 26-Do Pass, SB 50-Do Pass as Amended,
SB 60-Do Pass as Amended, SB 67-Do Pass, SB 93-Do Pass
as Amended, SB 101-Do Pass as Amended, SB 109-Do Pass as
Amended

HEARING ON SB 90**Opening Statement by Sponsor:**

00:00:16 Sen. Nels Swandal (R), SD 30, opened the hearing on SB 90, Revise penalties eliminating jail time for certain misdemeanors.

Proponents' Testimony:

00:03:31 Bill Hooks, chief public defender, Office of State Public Defender (OPD), State of Montana

00:14:11 Niki Zupanic, public policy director, American Civil Liberties Union (ACLU)

Opponents' Testimony:

00:17:53 Mark Murphy, Montana County Attorneys Association (MCAA)

00:21:08 Sen. Vincent

00:21:25 Mr. Murphy, MCCA

00:21:54 Chairman Sales

00:22:18 Sen. Fielder

00:22:24 Mr. Murphy

00:28:56 Chairman Sales

00:29:06 Mr. Murphy

00:33:03 Marty Lambert, Gallatin County attorney, Bozeman, Montana

Informational Testimony:

None

Questions from Committee Members and Responses:

00:36:56 Sen. Hinkle

00:37:27 Sen. Swandal

00:37:56 Sen. Vincent

00:38:25 Sen. Swandal

[EXHIBIT\(jus10a01\)](#)

00:39:34 Sen. McNally

00:39:58 Sen. Swandal

00:41:56 Sen. Sands

00:42:13 Mr. Murphy

Closing by Sponsor:

00:43:02 Sen. Swandal

HEARING ON SB 61

Opening Statement by Sponsor:

00:44:08 Sen. Robyn Driscoll (D), SD 25, opened the hearing on SB 61, Clarify courts' punitive authority.

Proponents' Testimony:

00:45:48 Fritz Gillespie, chairman, Public Defender Commission, Office of State Public Defender (OPD), State of Montana
00:48:17 Niki Zupanic, public policy director, American Civil Liberties Union (ACLU)
00:49:09 Mark Murphy, Montana County Attorneys Association (MCAA)

Opponents' Testimony:

00:51:08 Mary (Marty) Phippen, Montana Magistrates Association (MMA)

Informational Testimony:

None

Questions from Committee Members and Responses:

00:51:58 Sen. Sands
00:52:17 Sen. Driscoll
00:52:27 Mr. Gillespie, OPD

Closing by Sponsor:

00:55:56 Sen. Driscoll

HEARING ON SB 59

Opening Statement by Sponsor:

00:56:34 Sen. Robyn Driscoll (D), SD 25, opened the hearing on SB 59, Clarify the court's consideration of the eligibility process.

Proponents' Testimony:

00:58:23 Bill Hooks, chief public defender, Office of the State Public Defender (OPD), State of Montana

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

01:03:59 Sen. Sands
01:04:26 Mr. Hooks, OPD

Closing by Sponsor:

01:06:53 Sen. Driscoll

01:07:36 Recess
01:19:10 Reconvene

01:19:21 Chairman Sales

EXECUTIVE ACTION ON SB 26

01:19:35 **Motion:** Sen. Swandal moved that **SB 26 DO PASS.**

Discussion:

01:19:52 Sen. Sands
01:20:21 Sen. Fielder
01:20:47 Sen. Swandal

01:21:50 **Vote:** Motion carried unanimously by voice vote. Sen. Hansen voted by proxy.

EXECUTIVE ACTION ON SB 50

01:22:18 **Motion:** Sen. Fielder moved that **SB 50 DO PASS.**

01:22:34 **Motion:** Sen. Fielder moved that **SB 50 BE AMENDED.**
EXHIBIT(jus10a02)

01:23:42 **Motion:** Sen. Fielder moved that **SB 50 BE AMENDED BY SEGREGATING #4 FROM REST OF AMENDMENT AND TO CONSIDER SECTIONS # 1,2,3,5,6.**

01:26:03 **Vote:** Motion carried unanimously to **AMEND SB 50 WITH SECTIONS # 1,2,3,5,6** by voice vote. Sen. Hansen voted by proxy.

01:26:29 **Motion:** Sen. Fielder moved that **SB 50 DO PASS AS AMENDED.**

01:26:41 **Motion:** Sen. Hinkle moved that **SB 50 BE AMENDED WITH THE SEGREGATED SECTION #4.**

Discussion:

01:28:03 Sen. Moe
01:29:17 Sen. Driscoll
01:29:42 Sen. Hinkle
01:30:07 Sen. Driscoll
01:30:46 Sen. Vincent

01:31:21 **Vote:** Motion failed unanimously by roll call vote to **AMEND SB 50 WITH SEGREGATED SECTION #4**. Sen. Hansen voted by proxy.

01:33:11 **Motion:** Sen. Swandal moved that **SB 50 BE AMENDED. EXHIBIT(jus10a03)**

Discussion:

01:34:21 Sen. Fielder
01:34:30 Julianne Burkhardt, Legislative Services Division (LSD)
01:35:11 Sen. Moe
01:35:56 Sen. Driscoll
01:36:12 Sen. Vincent
01:36:50 Sen. Swandal
01:38:01 Sen. Hinkle

01:38:23 **Vote:** Motion failed 1-11 by roll call vote with Sen. Swandal voting aye. Sen. Hansen voted by proxy.

01:39:44 **Vote:** Motion that **SB 50 DO PASS AS AMENDED** carried unanimously by roll call vote. Sen. Hansen voted by proxy.

EXECUTIVE ACTION ON SB 60

01:40:40 **Motion:** Sen. Driscoll moved that **SB 60 DO PASS**.

01:40:46 **Motion:** Sen. Driscoll moved that **SB 60 BE AMENDED. EXHIBIT(jus10a04)**

Discussion:

01:41:33 Ms. Burkhardt, Legislative Services Division (LSD)
01:45:38 Sen. Swandal
01:45:55 Sen. Sands

01:46:24 **Vote:** Motion carried unanimously by roll call vote. Sen. Hansen voted by proxy.

01:46:59 **Motion:** Sen. Driscoll moved that **SB 60 DO PASS AS AMENDED**.

Discussion:

01:47:08 Sen. Hinkle

01:47:28 Sen. Driscoll
01:47:39 Ms. Burkhardt, LSD

01:48:24 **Vote:** Motion carried unanimously by roll call vote. Sen. Hansen voted by proxy.

EXECUTIVE ACTION ON SB 67

01:49:22 **Motion:** Sen. Larsen moved that **SB 67 DO PASS.**

Discussion:

01:49:55 Sen. Fielder
01:50:29 Sen. Vincent
01:51:25 Chairman Sales
01:52:09 Sen. Sands
01:52:48 Sen. Larsen
01:53:42 Sen. Fielder
01:54:05 Sen. Kary
01:54:27 Julianne Burkhardt, Legislative Services Division (LSD)
01:54:39 Sen. Kary
01:55:01 Sen. Larsen
01:55:19 Jon Bennion, assistant attorney general, Department of Justice (DOJ)
01:56:35 Sen. Kary
01:56:51 Mr. Bennion, DOJ
01:57:09 Sen. Fielder
01:57:31 Mr. Bennion
01:59:30 Sen. Hinkle
01:59:47 Mr. Bennion
02:00:05 Sen. Vincent

02:01:09 **Vote:** Motion carried 7-5 by roll call vote with Sen. Fielder, Sen. Hansen, Sen. Kary, Sen. Sales and Sen. Vincent voting no. Sen. Hansen voted by proxy.

EXECUTIVE ACTION ON SB 68

02:02:04 **Motion:** Sen. Sands moved that **SB 68 DO PASS.**

Discussion:

02:02:23 Sen. Swandal
02:02:53 Chairman Sales **POSTPONED EXECUTIVE ACTION ON SB 68.**

EXECUTIVE ACTION ON SB 93

02:03:18 **Motion:** Sen. Swandal moved that **SB 93 DO PASS.**

Discussion:

02:05:21 Sen. Vincent
02:05:37 Julianne Burkhardt, Legislative Services Division (LSD)

02:05:51 **Motion/Vote:** Sen. Swandal moved that **SB 93 BE AMENDED**. Motion carried unanimously by voice vote. Sen. Hansen voted by proxy.

[EXHIBIT\(jus10a05\)](#)

02:07:05 **Motion:** Sen. Swandal moved that **SB 93 DO PASS AS AMENDED**.

Discussion:

02:09:20 Sen. Hinkle
02:10:12 Chairman Sales
02:10:50 Sen. Sands
02:11:32 Sen. Vincent

02:12:42 **Vote:** Motion carried 7-5 by roll call vote with Sen. Hinkle, Sen. Kary, Sen. Sales, Sen. Sands and Sen. Vincent voting no. Sen. Hansen voted by proxy.

EXECUTIVE ACTION ON SB 101

02:13:50 **Motion:** Sen. Driscoll moved that **SB 101 DO PASS**.

02:14:38 **Motion:** Sen. Driscoll moved that **SB 101 BE AMENDED**.
[EXHIBIT\(jus10a06\)](#)

Discussion:

02:16:02 Sen. Fielder
02:16:29 **Vote:** Motion carried 11-1 by voice vote with Sen. Kary voting no. Sen. Hansen voted by proxy.
02:16:52 **Motion/Vote:** Sen. Driscoll moved that **SB 101 DO PASS AS AMENDED**. Motion carried 8-4 by voice vote with Sen. Fielder, Sen. Hansen, Sen. Hinkle and Sen. Kary voting no. Sen. Hansen voted by proxy.

EXECUTIVE ACTION ON SB 109

02:18:28 **Motion:** Sen. Swandal moved that **SB 109 DO PASS**.

02:19:30 **Motion/Vote:** Sen. Swandal moved that **SB 109 BE AMENDED**. Motion carried unanimously by voice vote. Sen. Hansen voted by proxy.
[EXHIBIT\(jus10a07\)](#)

02:20:13 **Motion:** Sen. Swandal moved that **SB 109 DO PASS AS AMENDED**.

Discussion:

02:20:20 Sen. Vincent
02:20:40 Sen. Swandal
02:21:59 Sen. Sands
02:22:19 Sen. Swandal

02:22:48 Chairman Sales

02:23:00 Sen. Swandal

02:24:09 **Vote:** Motion carried unanimously by voice vote. Sen. Hansen voted by proxy.

Committee Business:

02:24:23 Sen. Vincent

02:25:43 Chairman Sales

ADJOURNMENT

Adjournment: 11:28 A.M.

Pam Schindler, Secretary

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Additional Documents:

EXHIBIT([jus10aad.pdf](#))