



SENATE SELECT COMMITTEE ON JUDICIAL OVERSIGHT AND REFORM

69th Montana Legislature

SENATE MEMBERS

Mary Ann Dunwell
Janet Ellis
Jason Ellsworth
Daniel Emrich
Steve Fitzpatrick
Chris Friedel
Carl Glimm
Jen Gross
Steve Hinebauch
Tom McGillvray
Wendy McKamey
Shane Morigeau
Mark Noland
Andrea Olsen
Barry Usher

HOUSE MEMBERS

Lyn Hellegaard
Fiona Nave
Sue Vinton

PUBLIC MEMBERS

Andrew Billstein
Joan Mell
Jim Ramlow

COMMITTEE STAFF

Jameson Walker, Attorney
Jolanda Songer, Secretary

MINUTES LOG

September 16, 2024
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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MEMBERS PRESENT:

Sen. Jason Ellsworth, Presiding Officer (R) – Via Zoom
Sen. Barry Usher, Vice Presiding Officer (R)
Rep. Sue Vinton (R)
Sen. Daniel Emrich (R) – Via Zoom
Sen. Chris Friedel (R) – Via Zoom
Sen. Carl Glimm (R) – Via Zoom
Rep. Lyn Hellegaard (R)
Sen. Steve Hinebauch (R)
Sen. Tom McGillvray (R)
Sen. Wendy McKamey (R) – Via Zoom

Sen. Mark Noland (R)
Jim Ramlow, Public Member – Via Zoom
Andrew Billstein, Public Member – Via Zoom

MEMBERS EXCUSED:

Sen. Steve Fitzpatrick (R)
Rep. Fiona Nave (R)
Joan Mell, Public Member

MEMBERS ABSENT:

Sen. Jen Gross (D)
Sen. Shane Morigeau (D)
Sen. Andrea Olsen (D)
Sen. Mary Ann Dunwell (D)
Sen. Janet Ellis (D)

STAFF PRESENT:

Jameson Walker, Attorney
Jolanda Songer, Secretary

AGENDA ([Attachment 1](#))

CALL TO ORDER/ROLL CALL

09:00:53 Presiding Officer Barry Usher called the meeting to order at 9:00 AM. The committee secretary took roll.

PERFORMANCE AUDIT PRESENTATION: ASSESSING ACCOUNTABILITY AND TRANSPARENCY IN THE JUDICIAL COMPLAINT PROCESS (23P-03)

09:02:51 Angus Maciver, Legislative Auditor, Legislative Audit Division (LAD)
09:12:56 Presiding Officer Barry Usher announced the attendance of Rep. Schillinger.
09:13:14 Tina Chamberlain, Associate Management and Program Analyst, LAD
[EXHIBIT 1](#)

Questions from the Committee

09:46:11 House Majority Leader Sue Vinton
09:46:24 Tina Chamberlain, LAD
09:50:29 President Jason Ellsworth
09:50:56 Tina Chamberlain
09:57:10 President Jason Ellsworth
09:58:33 Angus Maciver, LAD
10:02:48 Presiding Officer Barry Usher
10:03:55 Angus Maciver
10:06:41 Tina Chamberlain
10:07:01 President Jason Ellsworth
10:07:12 Tina Chamberlain
10:10:32 Sen. Emrich

10:11:14 Tina Chamberlain
10:13:22 Angus Maciver
10:18:41 President Jason Ellsworth
10:21:20 Joan Mel joined the meeting.
10:21:41 Presiding Officer Barry Usher
10:22:04 President Jason Ellsworth
10:22:35 Jameson Walker, Attorney, Legislative Services Division (LSD)
10:26:50 Sen. Mark Noland
10:27:07 Tina Chamberlain
[EXHIBIT 2](#)
10:34:06 Sen. Mark Noland
10:34:29 Angus Maciver
10:37:44 Sen. Mark Noland
(See Exhibit 2)
10:38:13 Tina Chamberlain
10:39:41 Presiding Officer Barry Usher
10:40:01 President Jason Ellsworth
10:41:25 Tina Chamberlain
10:43:20 Andrew Billstein
10:44:08 Tina Chamberlain
10:46:59 Sen. McGillvray
(See Exhibit 2)
10:47:35 Tina Chamberlain
10:50:04 Sen. Steve Hinebauch
10:50:28 Tina Chamberlain
10:53:23 Joan Mell
(See Exhibit 2)
10:54:31 Tina Chamberlain
11:02:59 Angus Maciver
11:05:58 Presiding Officer Barry Usher
11:06:55 Sen. Tom McGillvray
11:07:16 Tina Chamberlain
11:08:16 Presiding Officer Barry Usher
(See Exhibit 2)
11:09:17 Tina Chamberlain
11:20:24 Joan Mell
11:20:40 Tina Chamberlain
11:24:34 Angus Maciver
11:26:03 President Jason Ellsworth
11:31:10 Presiding Officer Barry Usher

11:31:25 President Jason Ellsworth
11:31:44 Presiding Officer Barry Usher

Public Comment

11:32:55 Bart Crabtree, Montana Citizens Council on Judicial Accountability
11:40:03 Rep. Sue Vinton left the meeting.

11:40:03 **Recessed**

13:30:52 **Reconvened**

13:30:52 Rep. Fiona Nave joined the meeting.

REVIEW AND DISCUSS THE COMMITTEE'S SEPTEMBER 5TH MEETING

13:32:03 Sen. Wendy McKamey joined the meeting via Zoom.
13:31:35 Presiding Officer Barry Usher
13:32:14 Rep. Fiona Nave
13:33:05 Sen. Tom McGillvray
13:34:25 Sen. Steve Hinebauch
13:35:51 Sen. Chris Friedel
13:37:30 Sen. Daniel Emrich
13:39:21 Andrew Billstein
13:40:15 James Ramlow
13:42:11 Sen. Wendy McKamey
13:42:38 Rep. Lyn Hellegaard
13:43:40 Sen. Mark Noland
13:47:57 Presiding Officer Barry Usher
13:50:01 Sen. Wendy McKamey
13:51:18 Sen. Tom McGillvray
13:51:49 Sen. Wendy McKamey
13:53:07 Sen. Daniel Emrich
13:55:31 Presiding Officer Barry Usher
13:55:45 Sen. Steve Hinebauch
13:57:50 Presiding Officer Barry Usher
13:58:34 Sen. Mark Noland
13:59:09 Rep. Fiona Nave
14:00:49 Rep. Lyn Hellegaard

DRAFT LETTER WITH COMMITTEE MEMBER COMMENTS AND RECOMMENDATIONS ON THE JUDICIAL STANDARDS COMMISSION'S PROPOSED RULES (AF 14-0356)

14:01:29 Presiding Officer Barry Usher
[EXHIBIT 3](#)
14:02:26 Julianne Burkhardt, Attorney, LSD
14:02:54 Sen. Tom McGillvray

14:05:32 Sen. Mark Noland
14:07:05 Sen. Tom McGillvray
14:07:50 Presiding Officer Barry Usher
14:09:46 Sen. Tom McGillvray
14:10:38 Julianne Burkhardt, LSD
14:11:12 Presiding Officer Barry Usher
14:11:45 Julianne Burkhardt
14:12:37 Sen. Tom McGillvray
14:14:07 Presiding Officer Barry Usher
14:15:04 Rep. Lyn Hellegaard
14:16:01 Julianne Burkhardt
14:16:45 Presiding Officer Barry Usher
14:18:25 Julianne Burkhardt
14:19:17 Sen. Tom McGillvray
14:20:22 Sen. Steve Hinebauch
14:20:42 Julianne Burkhardt

REVIEW AND DISCUSS LIST OF CURRENT COMMITTEE BILL DRAFT PROPOSALS AND DRAFT LANGUAGE

14:21:31 Presiding Officer Barry Usher
[EXHIBIT 4](#)

PD0052

14:22:31 Sen. Tom McGillvray
[EXHIBIT 5](#)
[EXHIBIT 6](#)

Committee Questions and Discussion

14:25:58 Presiding Officer Barry Usher
(See Exhibit 5)

REVIEW AND DISCUSS LIST OF CURRENT COMMITTEE BILL DRAFT PROPOSALS AND DRAFT LANGUAGE - Continued

14:27:03 Sen. Tom McGillvray
(See Exhibit 5)

Committee Questions and Discussion

14:36:19 Sen. Mark Noland
14:37:10 Julianne Burkhardt
14:38:45 Rep. Lyn Hellegaard
14:39:24 Sen. Tom McGillvray
14:38:33 Andrew Billstein
(See Exhibit 5)
14:40:11 Sen. Tom McGillvray
(See Exhibit 5)
14:43:58 Sen. Daniel Emrich

14:45:34 Presiding Officer Barry Usher
14:46:25 Rep. Lyn Hellegaard
14:46:41 Sen. Tom McGillvray
14:50:12 Sen. Steve Hinebauch
14:50:36 Presiding Officer Barry Usher
14:50:50 Sen. Tom McGillvray
14:51:49 Sen. Mark Noland
14:53:02 Presiding Officer Barry Usher
14:53:16 Sen. Wendy McKamey
14:54:37 Sen. Daniel Emrich
14:55:15 Presiding Officer Barry Usher
14:55:43 Sen. Mark Noland
(See Exhibit 5)
14:56:11 Sen. Tom McGillvray
14:56:55 Sen. Daniel Emrich
14:57:04 Sen. Wendy McKamey

PD0033

14:57:48 Sen. Tom McGillvray
14:58:13 Julie Johnson, LSD
15:00:33 Sen. Tom McGillvray
15:01:02 Sen. Daniel Emrich
15:01:54 Julie Johnson
15:04:59 Sen. Tom McGillvray
15:05:44 Julie Johnson

PD0036

15:06:57 Jameson Walker
15:07:39 Presiding Officer Barry Usher
15:07:47 Jameson Walker
15:12:08 Presiding Officer Barry Usher
15:12:51 Jameson Walker
15:14:34 Sen. Mark Noland
15:15:07 Presiding Officer Barry Usher
15:17:40 Julie Johnson
15:17:45 Presiding Officer Barry Usher
15:18:04 Julie Johnson
[EXHIBIT 7](#)
15:19:44 Rep. Fiona Nave
15:21:12 Presiding Officer Barry Usher
15:21:11 Sen. Daniel Emrich

PD0057_RW

15:22:55 Presiding Officer Barry Usher
[EXHIBIT 8](#)
15:23:17 Rep. Fiona Nave
15:23:41 Presiding Officer Barry Usher

PD0058_RW

15:23:59 Presiding Officer Barry Usher
[EXHIBIT 9](#)
15:24:09 Julie Johnson
15:24:34 Presiding Officer Barry Usher
15:25:13 Sen. Mark Noland
15:25:36 Jameson Walker

HB 355 (2021)

15:26:05 Presiding Officer Barry Usher
15:26:52 Julianne Burkhardt
15:27:46 Sen. Daniel Emrich
15:28:49 Presiding Officer Barry Usher
[EXHIBIT 10](#)
15:29:12 Sen. Lyn Hellegaard
15:30:03 Presiding Officer Barry Usher
15:30:41 Sen. Daniel Emrich
15:32:08 Rep. Lyn Hellegaard
15:32:59 Presiding Officer Barry Usher

LC0059_JB

15:33:41 Sen. Tom McGillvray
15:34:06 Presiding Officer Barry Usher

Potential Other Bills

15:34:14 Presiding Officer Barry Usher
15:35:19 Sen. Tom McGillvray
15:35:51 Sen. Wendy McKamey
15:36:05 Presiding Officer Barry Usher
15:37:50 Sen. Daniel Emrich
15:38:56 Sen. Tom McGillvray
15:39:40 Rep. Fiona Nave
15:40:36 Presiding Officer Barry Usher
15:40:45 Rep. Fiona Nave
15:41:09 Sen. Steve Hinebauch
15:41:37 Presiding Officer Barry Usher
15:41:45 Sen. Tom McGillvray

15:42:03 Presiding Officer Barry Usher
15:43:07 Rep. Fiona Nave
15:43:45 Presiding Officer Barry Usher
15:45:19 Sen. Tom McGillvray
15:45:27 Presiding Officer Barry Usher
15:45:45 Sen. Daniel Emrich
15:47:10 Presiding Officer Barry Usher
15:48:54 Sen. Tom McGillvray
15:49:13 Jameson Walker
15:49:56 Rep. Lyn Hellegaard

Motion

15:50:12 Presiding Officer Barry Usher moved to have the IOLTA, audit the State Bar, and audit the ODC bills drafted for the SJOR Committee.

Discussion on the Motion

15:50:18 Sen. Tom McGillvray

Substitute Motion

15:50:18 Presiding Officer moved to amend the motion to combine the audit the State Bar and audit the ODC as the second bill and added to disconnect JSC from MSC as the third bill.

Vote

15:51:18 Carried unanimously by voice vote.
15:52:05 Sen. Wendy McKamey left the meeting.

Motion

15:52:28 Rep. Fiona Nave moved to draft a bill that moves the JSC away from Supreme Court jurisdiction, including the administratively attached elements.
15:52:53 Jameson Walker

Vote

15:53:15 Carried unanimously by voice vote.

Motion

15:53:37 Rep. Lyn Hellegaard moved to put the definitions discussed into statute.

Discussion on the Motion

15:54:24 Sen. Daniel Emrich
15:54:40 Sen. Tom McGillvray

Vote

15:55:11 Carried unanimously by voice vote.

Committee Questions and Discussion

15:55:34 Jameson Walker

15:56:11 Sen. Tom McGillvray
15:56:31 Jameson Walker referenced MCA 45-7-405.
15:56:58 Joan Mell
15:57:31 Presiding Officer Barry Usher
15:57:38 Joan Mell
15:57:40 **Carrier Assigned:** Rep. Lyn Hellegaard (and Joan Mell)
15:57:40 Presiding Officer Barry Usher
15:58:09 Sen. McKamey rejoined the meeting.

Motion

15:58:38 Sen. Daniel Emrich moved to draft a bill for the separation of powers.

Discussion on the Motion

15:58:57 Sen. Mark Noland
15:59:08 Sen. Tom McGillvray
15:59:12 **Carrier Assigned:** Sen. Daniel Emrich (and Sen. Tom McGillvray)

Vote

15:59:26 Carried unanimously by voice vote.

Committee Questions and Discussion

16:00:01 Joan Mell

Motion

16:00:39 Sen. Mark Noland moved to add to the committee's subpoena, give power to the legislature to put fines in there for non-compliance.

Vote

16:01:17 Carried unanimously by voice vote.

Committee Questions and Discussion

16:01:59 Joan Mell pointed to a case regarding JSC oversight, which she believes is important to SJOR committee.

[EXHIBIT 11](#)

16:03:24 Presiding Officer Barry Usher

16:05:07 Joan Mell

16:05:47 Sen. Chris Friedel

16:06:08 Presiding Officer Barry Usher

PUBLIC COMMENT ON ANY TOPIC UNDER THE COMMITTEE'S JURISDICTION BUT NOT ON THIS AGENDA

16:07:34 Andrew Billstein

[EXHIBIT 12](#)

Motion

16:11:19 Sen. Mark Noland moved to make membership in the State Bar voluntary.

Discussion on the Motion

16:11:56 Sen. Tom McGillvray
16:12:22 Jameson Walker
16:13:32 Presiding Officer Barry Usher
16:13:42 Jameson Walker

Substitute Motion

16:14:01 Sen. Mark Noland amended the motion to make it a referendum to make membership in the State Bar voluntary.

Discussion on the Motion

16:14:19 Presiding Officer Barry Usher
16:14:28 Jameson Walker
16:15:06 Sen. Tom McGillvray
16:15:30 Presiding Officer Barry Usher
16:16:01 Jameson Walker

Vote

16:16:16 Carried unanimously by voice vote.

Questions from the Committee

16:16:28 **Carrier Assigned:** Rep. Mark Noland (Andrew Billstein)
16:17:26 Jameson Walker

ADJOURNMENT

Adjournment: 16:20:42