

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Ken Peterson, on February 16, 2011 at 8:00 AM, in Room 137
Capitol

ROLL CALL

Members Present:

Rep. Ken Peterson, Chairman (R)
Rep. Krayton Kerns, Vice Chairman (R)
Rep. Liz Bangerter (R)
Rep. Robyn Driscoll (D)
Rep. Kris Hansen (R)
Rep. Bill Harris (R)
Rep. Ellie Boldman Hill (D)
Rep. Cleve J. Loney (R)
Rep. Margaret (Margie) MacDonald (D)
Rep. Jesse O'Hara (R)
Rep. Carolyn Pease-Lopez (D)
Rep. Joe Read (R)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: None

Members Absent: Rep. Diane Sands, Vice Chairman (D)
Rep. David Howard (R)
Rep. Mike Menahan (D)
Rep. Michael (Mike) More (R)
Rep. Keith Regier (R)
Rep. Dan Skattum (R)

Staff Present: Karen Armstrong, Committee Secretary
David Niss, Legislative Branch

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: HB 381, 2/9/2011; HB 448, 2/9/2011; HB 435, 2/9/2011;
HB 436, 2/9/2011

Executive Action: HB 146; HB 240; HB 274; HB 381; HB 435: HB 436; HB 448

00:00:56 Rep. Regier arrived.
00:01:31 Rep. Menahan arrived.
00:01:37 Rep. More arrived.
00:02:01 Rep. Sands arrived.

HEARING ON HB 436**Opening Statement by Sponsor:**

00:01:17 Rep. Steve Fitzpatrick (R), HD 20, opened the hearing on HB 436, Revise homestead laws -- attaches by operation of law.

00:01:32 Rep. Skattum arrived.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:02:13 Rep. Fitzpatrick

HEARING ON HB 435**Opening Statement by Sponsor:**

00:02:23 Rep. Derek Skees (R), HD 4, opened the hearing on HB 435, Limit police firearm seizure.

00:04:31 Chairman Peterson
00:06:14 Rep. Menahan
00:07:36 Chairman Peterson
00:07:45 Rep. Sands
00:07:51 Chairman Peterson
00:08:09 Rep. Sands
00:08:12 Rep. Howard arrived.
00:08:16 Chairman Peterson

Proponents' Testimony:

00:08:29 Gary Marbut, Montana Shooting Sports Association (MSSA), Western Montana Fish and Game Association (WMFGA)

EXHIBIT(juh38a01)

EXHIBIT(juh38a02)

00:16:05 Tim Ravndal, Lewis and Clark Conservative Tea Party Group

00:16:51 Rep. More exited.

00:17:43 Dr. Arthur Evangelista, self

Opponents' Testimony:

00:25:28 Col. Mike Tooley, Chief, Montana Highway Patrol, Department of Justice (DOJ)

00:27:49 Rep. More returned.

00:29:10 Jim Smith, Montana Sheriffs and Peace Officers Association

00:30:44 Mark Muir, Chief of Police, Missoula

00:34:12 Corky Grove, Chief, Great Falls Police Department

00:36:09 Corey Livesay, Helena Police Department

00:38:16 Jason Zander, Helena Police Department, Montana Police Protective Association

00:41:54 Nanette Gilbertson, self

00:43:56 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence

00:44:16 Mark Murphy, Montana Association of Chiefs of Police (MACOP), Montana Police Protective Association (MPPA)

00:45:20 William Duncan, self

Informational Testimony: None

Questions from Committee Members and Responses:

00:46:03 Rep. Driscoll

00:46:25 Mr. Murphy, MACOP and MPPA

00:47:37 Rep. Loney

00:48:02 Chief Grove

00:48:56 Rep. Loney

00:49:23 Rep. Hill

00:51:41 Rep. Skees

00:53:41 Rep. Hill

00:54:31 Rep. Harris

00:55:08 Mr. Murphy

00:56:19 Rep. Harris

00:56:44 Mr. Murphy

00:57:39 Rep. Harris

00:58:07 Mr. Murphy

00:58:30 Rep. Kerns

00:58:58 Mr. Smith, MSPOA

01:00:11 Rep. Kerns

01:00:25 Rep. MacDonald

01:01:23 Mr. Zander

01:02:35 Rep. Hansen

01:04:22 Mr. Smith

01:05:52 Rep. Loney

01:06:42 Dr. Evangelista

01:07:34 Rep. Pease-Lopez exited.

01:07:48 Rep. O'Hara exited.
01:10:59 Rep. Menahan
01:11:06 Chairman Peterson
01:11 18 Rep. Howard exited.
01:11:23 Rep. Loney
01:11:48 Dr. Evangelista
01:12:44 Rep. Menahan
01:12:57 Chairman Peterson
01:13:12 Dr. Evangelista
01:13:26 Rep. Read
01:14:10 Rep. Pease-Lopez returned.
01:14:48 Mr. Marbut, MSSA, WMFGA
01:15:06 Rep. Read
01:16:16 Rep. Skees
01:16:29 Rep. Bangerter
01:16:49 Ms Young
01:17:44 Rep. Howard returned.
01:17:56 Rep. Warburton
01:18:44 Mr. Marbut
01:91:02 Rep. Read exited.
01:19:55 Chairman Peterson
01:21:21 Rep. Warburton
01:21:44 Rep. Driscoll and Rep. Menahan exited.

Closing by Sponsor:

01:21:56 Rep. Skees

01:24:24 Rep. Read returned.
01:24:38 Rep. O'Hara returned.

HEARING ON HB 448

Opening Statement by Sponsor:

01:28:02 Rep. Krayton Kerns (R), HD 58, opened the hearing on HB 448, Enact interstate compact for enforcement of firearms freedom laws.

01:28:12 Rep. Sands exited.
01:29:28 Rep. MacDonald exited.
01:29:45 Rep. O'Hara exited.
01:29:53 Rep. Menahan returned.
01:30:27 Rep. Wagner exited.

Proponents' Testimony:

01:32:10 Gary Marbut, MSSA, WMFGA
01:32:32 Rep. Driscoll returned.
01:32:53 Rep. Read exited.
01:33:01 Rep. Skattum exited.
01:34:40 Rep. MacDonald returned.
01:35:19 Tim Ravndal, Lewis and Clark Conservative Tea Party

01:35:57 Lisa Wamsley, self

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:37:02 Vice Chairman Kerns

01:37:18 Rep. Sands returned.

HEARING ON HB 381

Opening Statement by Sponsor:

01:37:27 Rep. Krayton Kerns (R), HD 58, opened the hearing on HB 381, Criminalize enforcement of certain federal firearms laws.

Proponents' Testimony:

01:37:54 Gary Marbut, MSSA, WMFGA

01:38:10 Rep. Wagner returned.

Opponents' Testimony:

01:40:32 Mark Muir, Chief of Police, City of Missoula

01:43:16 Rep. Read returned.

01:43:38 Mark Murphy, MCAA

01:46:00 Rep. Skattum returned.

01:46:22 Rep. More exited.

01:46:47 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence

01:47:10 Rep. Loney exited.

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:48:52 Vice Chairman Kerns

01:49:43 Meeting recessed until 10:05

02:05:14 Meeting resumed with Rep. Wagner, Rep. Regier, Rep. More and Rep. Pease-Lopez absent.

EXECUTIVE ACTION ON HB 436

02:05:29 **Motion/Vote:** Rep. Kerns moved that **HB 436 BE TABLED**. Motion carried 16-0 by voice vote. Rep. More, Rep. Pease-Lopez, Rep. Regier, and Rep. Wagner were absent and did not vote.

EXECUTIVE ACTION ON HB 146

02:06:26 **Motion:** Rep. Kerns moved that **HB 146 DO PASS.**

02:06:41 Rep. Wagner returned.

02:06:47 **Motion:** Rep. K. Peterson moved that **HB 146 BE AMENDED.**
EXHIBIT(juh38a03)

Discussion:

02:07:25 Rep. Regier returned.

02:07:35 Rep. Pease-Lopez returned.

02:07:56 **Vote:** Motion carried 19-0 by voice vote. Rep. More was absent.

02:08:02 **Motion:** Rep. Kerns moved that **HB 146 DO PASS AS AMENDED.**

02:08:08 **Motion:** Rep. K. Peterson moved that **HB 146 BE AMENDED.**
EXHIBIT(juh38a04)

02:09:10 Rep. Sands

02:09:29 Rep. Wagner

02:10:15 **Vote:** Motion carried 19-0 by voice vote. Rep. More was absent.

02:10:31 **Motion:** Rep. Kerns moved that **HB 146 DO PASS AS AMENDED.**

02:10:39 Chairman Peterson

02:12:52 Rep. Bangerter

02:13:06 Chairman Peterson

02:13:16 Rep. Bangerter

02:13:35 Chairman Peterson

02:14:21 Rep. Pease-Lopez

02:14:51 Chairman Peterson

02:15:14 Rep. Kerns

02:15:33 Rep. Menahan

02:16:02 Chairman Peterson

02:17:29 Rep. Skattum

02:17:56 Chairman Peterson

02:18:34 Rep. Hansen

02:19:24 Chairman Peterson

02:19:31 Mr. Niss

02:22:27 Rep. Harris

02:23:11 Rep. Hansen

02:23:38 Chairman Peterson

02:23:46 Rep. Kerns
02:24:17 Rep. Sands

02:25:19 **Vote:** Motion failed 10-10 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hansen, Rep. Howard, Rep. Loney, Rep. More, Rep. O'Hara, Rep. Peterson, Rep. Regier and Rep. Warburton voting aye. Rep. More voted by proxy.

02:27:25 Chairman Peterson

EXECUTIVE ACTION ON HB 240

02:27:34 **Motion:** Rep. Kerns moved that **HB 240 DO PASS.**

02:27:42 **Motion:** Rep. Wagner moved that **HB 240 BE AMENDED.**
[EXHIBIT\(juh38a05\)](#)
[EXHIBIT\(juh38a06\)](#)
[EXHIBIT\(juh38a07\)](#)

Discussion:

02:29:04 Rep. Wagner
02:37:58 Rep. More returned.
02:38:28 Rep. Sands
02:39:04 Mr. Niss
02:39:27 Rep. Sands
02:39:54 Rep. MacDonald
02:40:33 Rep. Wagner
02:40:45 Rep. MacDonald
02:41:15 Rep. Wagner
02:41:49 Rep. MacDonald
02:42:30 Rep. Wagner
02:42:51 Rep. MacDonald
02:43:21 Rep. Kerns
02:43:28 Rep. More
02:43:59 Rep. Hansen
02:44:05 Rep. MacDonald

02:44:43 **Vote:** Motion carried 16-4 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. Menahan and Rep. Sands voting no.

02:45:41 **Motion:** Rep. Kerns moved that **HB 240 DO PASS AS AMENDED.**

02:45:49 Chairman Peterson
02:58:02 Rep. Regier
02:58:18 Chairman Peterson
02:58:27 Rep. Wagner
03:02:26 Rep. Hansen
03:05:00 Rep. More
03:07:34 Rep. MacDonald
03:08:13 Rep. Menahan

03:10:22 Rep. Hill
03:11:11 Chairman Peterson

03:14:52 **Vote:** Motion carried 11-9 by roll call vote with Rep. Driscoll, Rep. Howard, Rep. Loney, Rep. Menahan, Rep. O'Hara, Rep. Pease-Lopez, Rep. Peterson, Rep. Read and Rep. Sands voting no.

EXECUTIVE ACTION ON HB 448

03:15:19 **Motion:** Rep. Kerns moved that **HB 448 DO PASS.**

Discussion:

03:16:14 Rep. Menahan
03:16:32 Rep. Harris
03:16:55 Rep. Kerns
03:17:11 Rep. More
03:18:12 Rep. MacDonald

03:18:53 **Vote:** Motion carried 14-6 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no. Rep. O'Hara voted by proxy.

EXECUTIVE ACTION ON HB 381

03:20:04 **Motion:** Rep. Kerns moved that **HB 381 DO PASS.**

Discussion:

03:20:11 Rep. Warburton
03:21:35 Rep. Kerns
03:22:10 Rep. Warburton

03:22:25 **Vote:** Motion failed 10-10 by roll call vote with Rep. Harris, Rep. Kerns, Rep. Loney, Rep. More, Rep. Peterson, Rep. Read, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting aye.

EXECUTIVE ACTION ON HB 435

03:23:50 **Motion:** Rep. Kerns moved that **HB 435 DO PASS.**

Discussion:

03:24:04 Rep. More
03:24:32 Chairman Peterson
03:24:35 Rep. More
03:24:39 Chairman Peterson
03:24:45 Rep. More

03:25:01 **Substitute Motion/Vote:** Rep. Kerns made a substitute motion that **HB 435 BE POSTPONED**. Substitute Motion carried 13-7 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez, Rep. Peterson and Rep. Sands voting no.

EXECUTIVE ACTION ON HB 274

03:26:45 **Motion/Vote:** Rep. Howard moved that **HB 274 BE REMOVED FROM TABLE**. Motion carried 13-7 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. Kerns, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no.

03:29:15 **Motion:** Rep. Howard moved that **HB 274 DO PASS**.

03:29:31 **Motion:** Rep. Howard moved that **HB 274 BE AMENDED**.
[EXHIBIT\(juh38a08\)](#)

Discussion:

03:30:20 Rep Howard.

03:31:07 Rep. Bangerter

03:31:09 **Vote:** Motion carried 15-5 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Pease-Lopez and Rep. Sands voting no.

03:32:20 **Motion:** Rep. Howard moved that **HB 274 DO PASS AS AMENDED**.

Discussion:

03:32:38 Rep. Hill

03:33:31 Rep. Kerns

03:33:36 Rep. MacDonald

03:34:40 Rep. Sands

03:35:25 Rep. More

03:35:41 **Vote:** Motion carried 11-9 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. Kerns, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez, Rep. Peterson, Rep. Sands and Rep. Wagner voting no.

03:36:34 Chairman Peterson

ADJOURNMENT

03:37:54 Adjournment:

Karen Armstrong, Secretary

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Additional Exhibits
[EXHIBIT\(juh38a09\)](#)
[EXHIBIT\(juh38a10\)](#)
[EXHIBIT\(juh38a11\)](#)

Additional Documents:

[EXHIBIT\(juh38aad.pdf\)](#)