

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Ken Peterson, on February 17, 2011 at 8:00 AM, in Room 137
Capitol

ROLL CALL

Members Present:

Rep. Krayton Kerns, Vice Chairman (R)
Rep. Diane Sands, Vice Chairman (D)
Rep. Liz Bangerter (R)
Rep. Robyn Driscoll (D)
Rep. Kris Hansen (R)
Rep. Bill Harris (R)
Rep. David Howard (R)
Rep. Cleve J. Loney (R)
Rep. Margaret (Margie) MacDonald (D)
Rep. Mike Menahan (D)
Rep. Carolyn Pease-Lopez (D)
Rep. Keith Regier (R)
Rep. Dan Skattum (R)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: Rep. Ken Peterson, Chairman (R)

Members Absent: Rep. Ellie Boldman Hill (D)
Rep. Michael (Mike) More (R)
Rep. Jesse O'Hara (R)
Rep. Joe Read (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 50 2/10/2011; HB 446 2/9/2011; HB 455, 2/9/2011;
HB 457 2/9/2011; HB 493 2/15/2011; HB 496 2/15/2011;
HB 518 2/14/2011; HB 519 2/15/2011; HB 532 2/15/2011;
HB 574 2/15/2011;

Executive Action: HB 271; HB 455; HB 496

00:00:58 Vice Chairman Kerns assumed the chairmanship.

HEARING ON HB 50**Opening Statement by Sponsor:**

00:01:47 Rep. Ken Peterson (R), HD 46, opened the hearing on HB 50, Revise requirements for civil actions against bars for dram shop liability.

Proponents' Testimony:

00:03:21 Mike Cok, self
00:06:02 Rep. Menahan exited.
00:06:05 Rep. O'Hara arrived.
00:06:33 Rep. More arrived.
00:06:41 Harris Himes, self
00:07:17 David Paoli, Missoula
00:08:15 Rep. Menahan entered.

Opponents' Testimony:

00:09:12 Chris Gallus, Staples Law Office representing Montana Tavern Association
00:16:53 Jacqueline Lenmark, American Insurance Association
00:18:25 John Hayes, Great Falls, self
00:22:23 Brian Sandrock, four Helena bars and casinos
00:23:17 Neil Peterson, Gaming Industry Association

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:23:41 Rep. Peterson

00:30:03 Rep. Sands exited.

HEARING ON HB 518**Opening Statement by Sponsor:**

00:25:43 Rep. Chuck Hunter (D), HD 79, opened the hearing on HB 518, Create a mental health care advance directive.

Proponents' Testimony:

00:26:54 Anita Roessmann, Disability Rights Montana

[EXHIBIT\(juh39a01\)](#)

[EXHIBIT\(juh39a02\)](#)

00:30:18 Rep. Sands returned.

00:35:41 Michael Caruso, self

00:36:57 Aimee Grmoljez, Billings Clinic

Opponents' Testimony:

00:37:30 Patricia Bowling, self

00:42:09 Rep. O'Hara exited.

00:43:15 Donald Harr, Montana Psychiatric Association, Montana Medical Association

[EXHIBIT\(juh39a03\)](#)

00:46:04 Rep. O'Hara returned.

00:46:29 Candace Payne, Montana Psychiatric Association

[EXHIBIT\(juh39a04\)](#)

Informational Testimony: None

Questions from Committee Members and Responses:

00:46:52 Rep. Hansen

00:47:16 Ms Roessman

Closing by Sponsor:

00:47:51 Rep. Hunter

00:48:31 Rep. Hansen exited.

HEARING ON HB 455

Opening Statement by Sponsor:

00:49:22 Rep. Jerry O'Neil (R), HD 3, opened the hearing on HB 455, Amend MAPA to allow non-attorney representation before agencies.

[EXHIBIT\(juh39a05\)](#)

[EXHIBIT\(juh39a06\)](#)

00:50:34 Rep. Hansen returned.

Proponents' Testimony: None

Opponents' Testimony:

00:53:03 Karen Powell, Montana State Tax Appeal Board

[EXHIBIT\(juh39a07\)](#)

00:57:46 David Scrimm, Chief Administrative Law Judge, Department of Labor and Industry (DLI)

Informational Testimony: None

Questions from Committee Members and Responses:

01:02:52 Rep. Wagner
01:03:08 Mr. Scrimm, DLI
01:05:23 Rep. MacDonald
01:05:35 Candace West, Chief Legal Counsel, Department of Natural Resources (DNRC)

Closing by Sponsor:

01:06:12 Rep. O'Neil

01:08:42 Rep. Sands exited.

HEARING ON HB 519**Opening Statement by Sponsor:**

01:08:59 Rep. Edward Greef (R), HD 90, opened the hearing on HB 519, Direct Dept of Corrections to terminate certain prison industries contracts.

01:10:29 Rep. Peterson exited.

Proponents' Testimony:

01:12:31 Jim Edinger, President, J and R Planing, Bitterroot Valley Forest Products
01:16:11 Haywood Jones, General Manager, J and R Planing
01:17:31 Rep. Ron Ehli, HD 880
01:18:45 Sen. Bob Lake, SD 44
01:19:11 Rep. Sands returned.
01:20:41 Rep. Randy Brodehl, HD 7, representing R and J Enterprizes
01:21:16 Rep. Regier exited.

Opponents' Testimony:

01:21:44 Sen. Kim Gillan
01:23:55 Diana Koch, Legal Counsel, Department of Corrections (COR)
01:24:35 Rep. O'Hara exited.
01:25:48 John Giuliani, Rocky Mountain Timber Products, Montana Timber Products

EXHIBIT(juh39a08)

01:27:12 Rep. Regier returned.
01:27:15 Rep. Read arrived.
01:29:03 Ed Nowman, Blackfoot Timber Products, Lincoln
01:29:51 Gayle Lambert, Administrator, Montana Correctional Enterprise Division of the Department of Corrections (COR)

EXHIBIT(juh39a09)

Informational Testimony: None

Questions from Committee Members and Responses:

01:33:16 Rep. Sands
01:33:27 Rep. Wagner
01:33:36 Rep. Driscoll exited.
01:34:10 Ms Koch
01:34:31 Rep. Warburton
01:34:37 Rep. Sands exited.

01:35:06 Ms Lambert
01:36:46 Rep. Sands returned.
01:36:53 Rep. Loney

01:37:08 Ms Lambert
01:37:15 Rep. Hansen
01:37:46 Rep. Driscoll returned.
01:38:01 Ms Koch

Closing by Sponsor:

01:38:17 Rep. Greef

EXHIBIT(juh39a10)

HEARING ON HB 457

Opening Statement by Sponsor:

01:42:03 Rep. Pat Noonan (D), HD 73, opened the hearing on HB 457, Provide protection of pregnant women.

Proponents' Testimony:

01:43:10 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence
01:44:00 Rebecca Mastee, Montana Catholic Conference
01:45:04 Jeff Laszloffy, Montana Family Foundation
01:45:31 Lisa Wamsley, self
01:46:13 Alex Corcoran, NARAL Pro-Choice Montana
01:47:19 Don Judge, Montana Nurses Association
01:48:07 Lindsey Love, Planned Parenthood of Montana
01:48:43 Harris Himes, Montana Eagle Forum
01:49:10 B. G. Stumberg, Canyon Ferry Baptist Church
01:49:41 Jamee Greer, Montana Human Rights Network

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:50:08 Rep. More
01:50:24 Rep. Noonan
01:50:31 Rep. Menahan
01:50:45 Vice Chairman Kerns
01:50:53 Rep. More
01:51:18 Rep. Noonan
01:51:33 Rep. Regier
01:52:18 Rep. Noonan
01:52:22 Rep. Harris
01:52:58 Rep. Noonan
01:53:17 Rep. Harris
01:53:40 Rep. Noonan
01:53:48 Rep. Pease-Lopez exited.

01:54:12 Rep. Harris
01:54:30 Rep. Noonan

Closing by Sponsor:

01:54:58 Rep. Noonan

HEARING ON HB 532

Opening Statement by Sponsor:

01:55:41 Rep. Tom Berry (R), HD 45, opened the hearing on HB 532, Revising statutes of limitations time limits regarding accrual of damages.

01:55:49 Rep. Regier exited.

Proponents' Testimony:

01:56:57 Brian Delaney, Associate Counsel for ALPS Corporation

EXHIBIT(juh39a11)

01:59:39 Rep. Regier returned.

01:59:47 Rep. Pease-Lopez returned.

02:05:41 Rep. Driscoll exited.

02:07:01 Rep. Sands exited.

02:07:25 Bruce Spencer, Property Casualty Insurers Association

Opponents' Testimony:

02:07:42 Amy Eddy, Attorney, Kalispell, Montana Trial Lawyers Association

02:10:50 Beth Brenneman, Disability Rights Montana

Informational Testimony: None

Questions from Committee Members and Responses:

02:12:37 Rep. Loney

02:12:58 Ms Eddy

02:13:49 Rep. Loney

02:13:54 Ms Eddy

02:13:57 Rep. Sands returned.

Closing by Sponsor:

02:14:53 Rep. Berry

HEARING ON HB 493

Opening Statement by Sponsor:

02:15:35 Rep. James Knox (R), HD 47, opened the hearing on HB 493, Provide for 14th amendment state compact on birth records.

EXHIBIT(juh39a12)

02:18:02 Rep. Bangerter exited.

02:20:04 Rep. Read exited.

02:20:28 Rep. Bangerter returned.

Proponents' Testimony:

02:20:36 B. G. Stumberg, self
02:21:24 Lisa Wamsley, self
02:22:58 Rep. Driscoll returned.
02:23:55 Harris Himes, Montana Eagle Forum

Opponents' Testimony:

02:24:53 Niki Zupanic, American Civil Liberties Union (ACLU)
EXHIBIT(juh39a13)
00:25:59 Rep. Read returned.
02:28:32 Rep. Driscoll exited.
02:30:51 Shahid Haque-Hausrath, Helena Attorney
EXHIBIT(juh39a14)
02:31:21 Deborah Smith, Washington Chapter, American Immigration Lawyers'
Association
02:33:37 Jamee Greer, Human Rights Network
02:35:03 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence

Informational Testimony: None**Questions from Committee Members and Responses:**

02:35:27 Rep. Harris
02:36:47 Mr. Haque-Hausrath
02:37:54 Rep. Harris
02:38:38 Rep. Knox
02:39:51 Rep. More
02:40:32 Ms Zupanic
02:40:37 Rep. More
02:40:43 Ms Zupanic
02:40:51 Rep. More
02:40:56 Ms Zupanic
02:41:06 Rep. More
00:41:22 Ms Zupanic
02:43:04 Rep. More
02:43:09 Rep. Sands
02:43:57 Ms Smith
02:44:03 Rep. Sands
02:44:19 Ms Smith
02:44:47 Rep. Sands
02:45:05 Rep. Knox
02:47:09 Rep. Sands
02:47:57 Rep. Knox
02:48:26 Rep. Wagner
02:50:38 Rep. Loney exited.
02:51:32 Rep. Wagner
02:51:45 Mr. Haque-Hausrath
02:53:14 Rep. Warburton
02:53:38 Rep. Loney returned.
02:53:56 Mr. Haque-Hausrath
02:55:13 Chairman Peterson returned.

02:56:30 Vice Chairman Kerns
02:56:34 Rep. Menahan
02:57:03 Ms. Smith
02:58:29 Rep. Wagner
02:59:17 Ms Smith

Closing by Sponsor:

02:59:39 Rep. Knox

03:01:08 Rep. Peterson resumed the chairmanship.

HEARING ON HB 574

Opening Statement by Sponsor:

03:01:25 Rep. Wendy Warburton (R), HD 34, opened the hearing on HB 574,
Constitutional referendum to specify no right to abortion or its public funding.

Proponents' Testimony:

03:02:41 Rebecca Mastee, Montana Catholic Conference
[EXHIBIT\(juh39a15\)](#)
03:07:32 Jeff Laszloffy, Montana Family Foundation
03:08:11 Nancy Frank, Clancy, Options Womens Clinics and 8 other clinics.
03:09:18 Lisa Wamsley, self
03:11:23 Harris Himes, Montana Eagle Forum
03:11:31 B. G. Stumberg, Canyon Ferry Road Baptist Church

Opponents' Testimony:

03:12:14 Niki Zupanic, ACLU
[EXHIBIT\(juh39a16\)](#)
03:15:39 Brian Miller, Attorney, Morrison, Miller and Sherwood
[EXHIBIT\(juh39a17\)](#)
03:16:21 Rep. Driscoll returned.
03:19:37 Alex Corcoran, NARAL Montana
03:20:13 Rep. Harris exited.
03:20:53 Lindsey Love, Plannned Parenthood of Montana
03:21:37 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence

Informational Testimony: None

Questions from Committee Members and Responses:

03:22:41 Chairman Peterson

Closing by Sponsor:

03:23:05 Rep. Warburton

03:27:05 Rep. Sands exited.

HEARING ON HB 496**Opening Statement by Sponsor:**

03:26:10 Rep. Mike Menahan (D), HD 82, opened the hearing on HB 496, Allowing law enforcement agencies to destroy certain firearms they possess.

03:28:32 Rep. Harris returned.

03:30:45 Rep. Sands returned.

Proponents' Testimony:

03:32:45 Brant Light, Chief Prosecutor, Attorney General's Office (AG)

03:34:15 Mark Murphy, Montana County Attorneys' Association (MCAA)

03:34:40 Rep. Hill arrived.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

03:35:26 Rep. Regier

03:35:33 Rep. Menahan

03:36:34 Rep. Wagner

03:36:54 Rep. Menahan

03:37:04 Rep. Wagner

03:37:12 Mr. Light

Closing by Sponsor:

03:37:43 Rep. Menahan

03:40:19 Chairman Peterson

03:40:25 Rep. Driscoll

03:40:30 Rep. More

03:40:37 Chairman Peterson

03:40:45 Rep Sands exited.

03:40:49 Rep. More

03:41:08 Rep. Regier

03:41:18 Chairman Peterson

EXECUTIVE ACTION ON HB 496

03:42:06 **Motion:** Rep. Kerns moved that **HB 496 DO PASS.**

Discussion:

03:42:10 Vice Chairman Kerns

03:42:44 Rep. Harris

03:43:12 Rep. More

03:43:43 Rep. Wagner

03:44:10 Rep. Loney

03:44:25 Rep. MacDonald

03:44:53 Rep. Menahan
03:45:21 Rep. MacDonald
03:45:51 Rep. Hansen
03:46:08 Rep. Menahan
03:46:20 Chairman Peterson

03:47:15 **Vote:** Motion carried 12-7 by roll call vote with Rep. Harris, Rep. Kerns, Rep. Loney, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting no. Rep. O'Hara and Rep. Sands voted by proxy. Rep. Howard was not present and did not vote.

EXECUTIVE ACTION ON HB 271

Previously considered February 4 and February 8

03:49:16 **Motion:** Rep. Kerns moved that **HB 271 BE RECONSIDERED**.

03:49:48 **Vote:** Motion carried 10-7 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Harris, Rep. Hill, Rep. MacDonald, Rep. Menahan and Rep. Pease-Lopez voting no. Rep. Howard, Rep. O'Hara and Rep. Sands were absent and did not vote.

03:50:06 **Motion/Vote:** Rep. Kerns moved that **HB 271 DO PASS AS AMENDED**. Motion carried 11-9 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. Howard, Rep. MacDonald, Rep. Menahan, Rep. O'Hara, Rep. Pease-Lopez and Rep. Sands voting no. Rep. Howard, Rep. O'Hara and Rep. Sands voted by proxy.

EXECUTIVE ACTION ON HB 455

03:53:24 **Motion:** Rep. Kerns moved that **HB 455 DO PASS**.

Discussion:

03:53:54 Rep. Hansen
03:54:32 Rep. Wagner
03:54:44 Rep. Skattum exited.
03:55:23 Rep. Menahan
03:56:54 Rep. Loney
03:57:10 Rep. More
03:57:31 Chairman Peterson
03:58:39 Vice Chairman Kerns
03:58:50 Rep. Hansen

03:59:32 **Vote:** Motion failed 8-11 by roll call vote with Rep. Hansen, Rep. Harris, Rep. Kerns, Rep. More, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting aye. Rep. O'Hara, Rep. Sands and Rep. Skattum voted by proxy. Rep. Howard was absent and did not vote.

04:01:16 **Motion/Vote:** Rep. Kerns moved that **HB 455 BE TABLED AND THE VOTE REVERSED**. Motion carried 16-0 by voice vote. Rep. Howard, Rep. O'Hara, Rep. Sands and Rep. Skattum were not present for the vote.

04:01:28 Chairman Peterson

04:01:45 Rep. Wagner

04:02:03 Chairman Peterson

ADJOURNMENT

04:02:05 Adjournment:

Karen Armstrong, Secretary

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Additional Documents:

EXHIBIT([juh39aad.pdf](#))