

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Ken Peterson, on February 18, 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. Diane Sands, Vice Chairman (D)
Rep. Liz Bangerter (R)
Rep. Robyn Driscoll (D)
Rep. Kris Hansen (R)
Rep. Bill Harris (R)
Rep. Ellie Boldman Hill (D)
Rep. David Howard (R)
Rep. Cleve J. Loney (R)
Rep. Margaret (Margie) MacDonald (D)
Rep. Mike Menahan (D)
Rep. Michael (Mike) More (R)
Rep. Jesse O'Hara (R)
Rep. Carolyn Pease-Lopez (D)
Rep. Joe Read (R)
Rep. Keith Regier (R)
Rep. Dan Skattum (R)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: None

Members Absent: None

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 395, 2/18/2011; HB 446, 2/18/2011; HB 514, 2/18/2011;
HB 516, 2/18/2011; HB 534, 2/18/2011; HB 544, 2/18/2011;
HB 548, 2/18/2011; HB 570, 2/18/2011; HB 583, 2/18/2011

Executive Action: HB 435, HB 457, HB 493, HB 519, HB 532, HB 574

EXECUTIVE ACTION ON HB 435

00:03:37 **Motion:** Rep. Kerns moved that **HB 435 DO PASS.**

Discussion:

00:03:53 Kerns
00:04:12 Rep. Howard
00:04:57 Chairman Peterson
00:05:05 Rep. Loney
00:05:24 Rep. Harris
00:06:04 Rep. O'Hara

00:06:22 **Vote:** Motion failed 7-13 by roll call vote with Rep. Harris, Rep. Kerns, Rep. More, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting aye.

00:07:38 **Motion/Vote:** Rep. Kerns moved that **HB 435 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 493

00:07:50 **Motion:** Rep. Kerns moved that **HB 493 DO PASS.**

00:08:10 **Substitute Motion/Vote:** Rep. Driscoll made a substitute motion that **HB 493 BE TABLED.** Substitute Motion carried 14-6 by roll call vote with Rep. Hansen, Rep. Harris, Rep. Howard, Rep. O'Hara, Rep. Regier and Rep. Wagner voting no.

EXECUTIVE ACTION ON HB 457

00:11:58 **Motion:** Rep. Kerns moved that **HB 457 DO PASS.**

00:12:47 **Motion:** Rep. Regier moved that **HB 457 BE AMENDED.**
[EXHIBIT\(juh40a01\)](#)

Discussion:

00:13:33 Rep. Regier
00:14:14 Rep. Harris
00:14:26 Rep. Sands

00:15:01 Mr. Niss
00:15:53 Rep. Sands
00:16:09 Rep. Regier
00:16:24 Rep. Wagner
00:16:47 Rep. Menahan
00:17:09 Rep. Regier
00:18:04 Chairman Peterson
00:18:45 Mr. Niss
00:19:55 Rep. More
00:20:18 Rep. Harris

00:20:35 **Vote:** Motion carried 15-5 by voice vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan and Rep. Sands voting no.

00:21:19 **Motion:** Rep. Kerns moved that **HB 457 DO PASS AS AMENDED.**

Discussion:

00:21:27 Rep. Sands
00:21:53 Rep. Menahan

00:22:26 **Vote:** Motion carried 18-2 by roll call vote with Rep. Driscoll and Rep. Hill voting no.

EXECUTIVE ACTION ON HB 532

00:24:12 **Motion:** Rep. Kerns moved that **HB 532 DO PASS.**

Discussion:

00:24:29 Kerns
00:24:54 Chairman Peterson
00:26:00 Rep. Wagner
00:26:07 Chairman Peterson
00:27:06 Rep. Driscoll

00:27:43 **Vote:** Motion failed 1-19 by roll call vote with Rep. Regier voting aye.

00:28:45 **Motion/Vote:** Rep. Kerns moved that **HB 532 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 574

00:29:00 **Motion:** Rep. Howard moved that **HB 574 DO PASS.**

00:29:59 **Motion:** Rep. Loney moved that **HB 574 BE AMENDED.**
[EXHIBIT\(juh40a02\)](#)

Discussion:

00:30:12 Rep. Sands

00:30:32 Mr. Niss

00:31:07 **Vote:** Motion carried 18-2 by voice vote with Rep. MacDonald and Rep. Sands voting no.00:31:22 **Motion:** Rep. Kerns moved that **HB 574 DO PASS AS AMENDED.****Discussion:**

00:31:30 Rep. Sands

00:32:00 Rep. Wagner

00:32:35 Rep. MacDonald

00:33:34 Rep. Warburton

00:33:41 Rep. MacDonald

00:34:56 Rep. Warburton

00:35:46 Rep. MacDonald

00:36:18 Rep. Kerns

00:36:42 **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.**EXECUTIVE ACTION ON HB 519**00:38:23 **Motion:** Rep. Kerns moved that **HB 519 DO PASS.**00:38:34 **Motion:** Rep. Regier moved that **HB 519 BE AMENDED.**[EXHIBIT\(juh40a03\)](#)**Discussion:**

00:39:35 Regier

00:42:34 Chairman Peterson

00:44:02 Rep. Regier

00:44:19 Rep. Menahan

00:44:57 Rep. Wagner

00:46:14 Mr. Niss

00:47:07 Rep. Regier

00:47:26 Rep. Hill

00:48:58 Rep. Loney

00:49:58 Rep. Warburton

00:50:45 Chairman Peterson

00:50:51 Rep. MacDonald exited.

00:51:27 **Vote:** Motion failed 8-12 by roll call vote with Rep. Howard, Rep. Kerns, Rep. Peterson, Rep. Read, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting aye. Rep. MacDonald voted by proxy.

00:52:59 Rep. Hansen
00:54:06 Chairman Peterson
00:54:18 Rep. More
00:55:02 Rep. Hansen exited.
00:55:16 Rep. Wagner
00:56:04 Rep. Loney

00:56:37 **Vote:** Motion failed 3-17 by roll call vote with Rep. Regier, Rep. Wagner and Rep. Warburton voting aye. Rep. Hansen and Rep. MacDonald voted by proxy.

00:57:46 **Motion/Vote:** Rep. Kerns moved that **HB 519 BE TABLED AND THE VOTE REVERSED**. Motion carried 19-1 by voice vote with Rep. Wagner voting no.

HEARING ON HJ 14

Opening Statement by Sponsor:

01:00:29 Rep. Michael (Mike) More (R), HD 70, opened the hearing on HJ 14, Resolution asserting state sovereignty.

01:02:13 Rep. Howard entered
01:02:18 Rep. O'Hara returned.
01:02:30 Rep. Read returned.
01:04:07 Rep. Wagner returned.
01:04:16 Rep. Howard exited.

Proponents' Testimony:

01:04:42 Tim Ravndal, Lewis and Clark Conservative Tea Party Group and Montana Tenth Amendment Center
01:05:14 Harris Himes, Montana Eagle Forum
01:05:37 Patty Kanduch, State Director, Concerned Women for America, Montana
01:05:53 Jeanette Zentgraf, Communications Coordinator, Concerned Women for America
01:06:46 Dallas Erickson, self
01:06:52 Lloyd Phillips, Director, Fellow Laborers International Network, Outdoors Network

Opponents' Testimony:

01:07:39 Jamee Greer, Human Rights Network
01:10:13 Sarah Rossi, Montana Coalition Against Domestic and Sexual Violence

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:11:00 Rep. More
01:13:47 Chairman Peterson

HEARING ON HB 395 & HB 446**Opening Statement by Sponsor:**

01:13:56 Rep. Ellie Boldman Hill (D), HD 94, opened the hearing on HB 395, Consider housing needs in discharge plans from mental health facilities. She also opened the hearing on HB 446, Address homeless prevention for people under Dept. of Corrections supervision.

01:14:09 Rep. Howard returned.

01:15:47 Reps More exited.

Proponents' Testimony:

01:24:03 Steve Cape, Montana Coalition for Safety and Justice

01:28:41 Jim Borwn, Montana Association of Churches

01:28:55 Bob Ross, South Central Montana Mental Health Center

01:29:18 Michael O'Neal, AWARE

01:30:36 Matt Kuntz, Executive Director, National Alliance for Mental Illness, Montana (NAMI)

01:31:31 John Wilkinson, Executive Director, National Association of Social Workers

01:32:36 Ed Bartlett, Yellowstone County, City of Billings

01:33:02 Jill Isakson, Great Falls, Board of Directors, Opening Doors

01:34:39 Anita Roessmann, Disability Rights Montana

01:35:34 Erin McGowan Fincham, Eastern Montana Mental Health Center, Western Montana Mental Health Center, and Center for Mental Health

01:36:07 Harris Himes, Big Sky Christian Center, Hamilton

01:36:50 John Porterfield, Montana Coalition for the Homeless

01:37:52 Robert Filipovich, self

Opponents' Testimony: None

Informational Testimony:

01:38:43 Lou Thompson, Addictive and Mental Disorders Division, Department of Public Health and Human Services (DPHHS)

Questions from Committee Members and Responses

01:40:36 Rep. Warburton

01:40:57 Chairman Peterson

01:41:32 Ms Thompson, DPHHS

01:42:31 Rep. Sands

01:43:35 Ms. Fincham

01:44:14 Rep. Sands

01:44:45 Ms Thompson

01:46:00 Rep. MacDonald

01:46:32 Mr. O'Neal

01:47:42 Rep. O'Hara exited.

01:48:53 Rep. Loney

01:49:26 Ms Thompson

01:49:51 Rep. Loney

01:49:56 Pam Bunke, Administrator, Adult Community Corrections Division, Department of Corrections (COR)

01:50:56 Rep. Harris
01:51:42 Ms Thompson
01:52:07 Rep. Harris
01:52:18 Ms Thompson

Closing by Sponsor:

01:52:50 Rep. Hill

01:54:49 Meeting recessed for 10 minutes.
02:03:56 Meeting resumed.

HEARING ON HB 514

Opening Statement by Sponsor:

02:04:37 Rep. Edith (Edie) McClafferty (D), HD 75, opened the hearing on HB 514, Protect sexual orientation and gender identity and expression.

Proponents' Testimony:

02:06:31 Niki Zupanic, American Civil Liberties Union (ACLU)
02:07:36 Rep. Harris returned.
02:07:41 Rep. Menahan returned
02:08:20 Rep Wagner exited.
02:09:40 Roberta Zenker, Civil Rights Attorney
02:10:54 Katelyn Cople, self, National Center for Biotechnology Information (NCBI) after school program

02:13:38 Heather Granbois, self
02:14:50 Daniel Vichland, Montana Equality Now
02:16:20 Acton Seibel, self

Opponents' Testimony:

02:17:10 Harris Himes, Montana Eagle Forum, Pastor
02:17:24 Rep. Wagner returned.
02:18:10 Rep. Howard exited.
02:18:33 Jeff Laszloffy, Montana Family Foundation
02:18:50 Rep. Howard returned.
02:19:33 B. G. Stumberg, Canyon Ferry Baptist Church
02:20:55 Jeanette Zentgraf, Communication Coordinator, Concerned Women for America

EXHIBIT(juh40a04)

02:22:54 Dallas Erickson, Montana Citizens for Decency through Law

EXHIBIT(juh40a05)

EXHIBIT(juh40a06)

02:24:51 Linda Loendorf, self
02:25:26 William D. Wise, self

02:27:26 **Motion:** Rep. Hill moved **TO CONDUCT A PARLIAMENTARY INQUIRY REGARDING WITNESSES BEING ALLOWED TO ENTER THEIR NAMES AND POSTIONS ON BILL IN THE RECORD PER HOUSE RULE 30-40**

02:28:08 Chairman Peterson

02:28:15 Rep. Menahan
02:28:26 Chairman Peterson
02:28:46 Rep. Hill
02:29:34 Rep. Warburton
02:29:55 Chairman Peterson
02:29:59 Rep Hill
02:30:16 Chairman Peterson

Informational Testimony: None

02:30:49 Rep. Sands, Point of Personal Privilege
02:31:20 Rep. Wagner
02:32:24 Chairman Peterson

Questions from Committee Members and Responses:

02:32:58 Rep. Bangerter
02:33:52 Rep. McClafferty
02:34:57 Ms Zupanic
02:36:20 Rep. MacDonald
02:36:46 Acton Douglas
02:38:00 Rep. Hill
02:38:57 Ms Zupanic
02:39:03 Rep. Wagner exited.
02:39:23 Rep. O'Hara exited.
02:40:38 Rep. Howard exited
02:42:01 Rep. Loney
02:42:28 Rep. Hill
02:42:45 Rep. Loney
02:42:48 Kelly McGuire, volunteer for NCBI, Missoula
02:43:46 Rep. Warburton
02:44:01 Ms McGuire

Closing by Sponsor:

02:44:36 Rep. McClafferty

HEARING ON HB 516

Opening Statement by Sponsor:

02:45:19 Rep. Kris Hansen (R), HD 33, opened the hearing on HB 516, Limiting local ordinances to state protected classes.

EXHIBIT(juh40a07)

02:46:59 Rep. Wagner returned.
02:49:02 Rep. O'Hara returned.
02:59:27 Rep. Wagner exited.
03:01:11 Rep. Wagner returned.

03:04:26 **Motion/Vote:** Rep. Hill moved that **ALL PERSONS WHO'VE COME TO OFFER TESTIMONY BE ALLOWED TO ENTER THEIR NAMES, WHO THEY**

REPRESENT, AND WHETHER THEY ARE PROPONENTS OR OPPONENTS IN THE OFFICIAL AUDIO RECORD OF THE MEETING. Motion failed 9-10 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hansen, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez, Rep. Read and Rep. Sands voting aye. Rep. Wagner was absent and did not vote.

Proponents' Testimony:

03:05:01 Harris Himes

03:11:59 Dallas Erickson, Montana Citizens for Decency through Law

[EXHIBIT\(juh40a08\)](#)

03:15:44 Patty Kandish, Concerned Women for America

[EXHIBIT\(juh40a09\)](#)

03:16:03 Jeannette Zentgraf

[EXHIBIT\(juh40a10\)](#)

Opponents' Testimony:

03:17:41 Dave Strohmaier, Missoula City Council

03:18:23 Bob Jaffe, Missoula City Council

03:19:47 Jeff Krauss, Mayor of Bozeman

[EXHIBIT\(juh40a11\)](#)

03:21:16 Jennifer Gursky, Associated Students of University of Montana

[EXHIBIT\(juh40a12\)](#)

03:22:50 Niki Zupanic, ACLU

03:23:11 Rep. Wagner returned.

03:23:31 Dick Weaver, United Church of Christ Minister

03:24:05 Rep. More exited.

03:24:31 Ryan Morton, self

[EXHIBIT\(juh40a13\)](#)

03:26:29 Richard Parker, self

[EXHIBIT\(juh40a14\)](#)

Informational Testimony: None

Questions from Committee Members and Responses:

03:28:20 Rep. Harris

03:29:26 Rep. Hansen

03:29:31 Rep. Harris

03:29:54 Chairman Peterson

03:30:05 Rep. Hill

03:30:48 Ms Zupanic

[EXHIBIT\(juh40a15\)](#)

03:33:28 Rep. More returned.

03:33:34 Rep. Hill

03:34:35 Mr. Himes

03:35:34 Rep. Hill

03:36:11 Mr. Himes

03:36:16 Rep. Warburton

03:37:14 Ms Zupanic

03:37:21 Rep. Warburton
03:37:25 Ms Zupanic
03:37:46 Rep. Warburton
03:37:54 Ms Zupanic
03:38:13 Rep. MacDonald
03:39:26 Ms Zupanic
03:40:29 Rep. MacDonald
03:40:40 Mr. Krauss
03:41:51 Rep. Sands
03:44:02 Rep. Driscoll
03:44:32 Rep. Hansen
03:45:10 Rep. Read

Closing by Sponsor:

03:47:16 Rep. Hansen

HEARING ON HB 583

Opening Statement by Sponsor:

03:48:27 Rep. Keith Regier (R), HD 5, opened the hearing on HB 583, Revise eminent domain laws.

Proponents' Testimony:

03:52:07 John Fitzpatrick, NorthWestern Energy
03:54:38 Rep. Skattum exited.
03:56:36 Ken Morrison, Trans-Canada
03:56:57 Rep. Skattum returned.
03:58:41 Darryl James, Montana Alberta Tie Limited (MATL)
03:59:26 Chris Christians, Montana Farmers' Union, Women in Farming and Economy (WIFE) and Montana Farm Bureau

Opponents' Testimony:

04:00:07 Katy French, self
04:02:26 Tim Ravndal, Lewis and Clark Conservative Tea Party Group

Informational Testimony: None

Questions from Committee Members and Responses:

04:03:36 Rep. Wagner
04:04:00 Mr. Fitzpatrick
04:04:10 Rep. Wagner
04:04:15 Mr. Fitzpatrick
04:04:34 Rep. Warburton
04:05:07 Mr. Christians
04:05:56 Rep. Loney
04:06:21 Rep. Sands returned.
04:06:28 Mr. Fitzpatrick

Closing by Sponsor:

04:07:05 Rep. Regier

04:07:20 Rep. Sands

HEARING ON HB 534

Opening Statement by Sponsor:

04:07:59 Rep. David Howard (R), HD 60, opened the hearing on HB 534, Require proof of citizenship to receive state services.

Proponents' Testimony:

04:08:57 Tim Ravndal, Lewis and Clark Conservative Tea Party Group
04:09:07 Harris Himes, Montana Eagle Forum
04:09:24 Dallas Erickson, self
04:09:35 Mark French, self
04:09:46 Loyd Phillips, self

Opponents' Testimony:

04:10:22 Shahid Haque-Hausrath, Helena attorney
04:14:33 Rep. O'Hara exited.
04:15:11 Rep. Loney exited.
04:15:21 Don Judge, Montana Nurses' Association (MNA)
04:17:01 Rep. MacDonald returned.
04:16:32 Beth Brenneman, Attorney, Disability Rights Montana
04:18:03 Rep. Wagner returned.
04:18:31 Dennis Parman, Office of Public Instruction (OPI)

[EXHIBIT\(juh40a16\)](#)

Informational Testimony

04:20:38 Pam Bucy, Chief Legal Counsel, Department of Labor and Industry (DLI)
04:23:31 Hank Hudson, Department of Health and Human Services (DPHHS)
04:25:19 Rep. O'Hara returned.
04:25:46 Rep. Read returned.

Questions from Committee Members and Responses:

04:26:18 Rep. Sands
04:27:14 Mr. Parman, OPI
04:27:51 Rep. Sands
04:28:14 Mr. Parman
04:28:31 Rep. More exited.
04:28:52 Rep. Sands
04:29:56 Mr. Judge, MNA
04:30:37 Rep. Driscoll
04:31:17 Rep. Howard
04:31:26 Rep. More returned.

Closing by Sponsor:

04:31:40 Rep. Howard

04:33:05 Vice Chairman Kerns assumed the chairmanship.

HEARING ON HB 544

Opening Statement by Sponsor:

04:33:10 Rep. Michael (Mike) More (R), HD 70, opened the hearing on HB 544, Provide abortion screening to prevent provider negligence and patient coercion.

Proponents' Testimony:

04:35:24 Linda Loendorf, self

04:36:44 Megan Petty, self

EXHIBIT(juh40a17)

04:38:31 Susan Gliko, Rachel's Hope

EXHIBIT(juh40a18)

04:40:44 Mary Beth Adams, Nurse Practitioner, Belgrade

04:42:02 Mary Ann Evans, Psychiatrist

04:43:28 Rep. Howard returned.

04:44:43 Barbara Eckstien, Nurse

04:45:16 Rep. O'Hara exited.

Opponents' Testimony:

04:45:51 Alex Corcoran, NARAL Montana

04:47:10 Lindsey Love, Planned Parenthood of Montana

EXHIBIT(juh40a19)

04:49:34 Niki Zupanic

04:50:19 Amy Grmoljez, Billings Clinic

04:51:20 Rep. Read exited.

04:51:32 Erin MacLean, Montana Medical Association

04:52:22 Rep. Wagner returned.

04:52:45 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence

04:53:19 Don Judge, Montana Nurses' Association

04:53:33 Chairman Peterson returned.

04:53:49 Rep. Read returned.

04:54:09 Julianna Crowley, Executive Director, NARAL Montana, submitting written testimony for others: Anita Kuennen, Executive Director, Blue Mountain Clinic in Missoula and Vicky Saporta, President and CEO, National Abortion Federation.

EXHIBIT(juh40a20)

EXHIBIT(juh40a21)

04:55:33 Jamee Greer, Human Rights Network

Informational Testimony:

04:55:54 Al Smith, Montana Trial Lawyers' Association (MTLA)

Questions from Committee Members and Responses:

04:56:14 Rep. Sands

04:56:41 Mr. Smith, MTLA

04:57:11 Rep. O'Hara returned.

04:57:20 Rep. Sands

04:57:32 Mr. Smith

04:57:37 Rep. Sands
04:57:56 Mr. Smith
04:58:42 Rep. Sands
04:58:54 Mr. Smith

Closing by Sponsor:

04:59:16 Rep. More

05:02:19 Chairman Peterson resumed the chairmanship.

HEARING ON HB 548

Opening Statement by Sponsor:

05:02:26 Rep. Liz Bangerter (R), HD 80, opened the hearing on HB 548, Revising 46-18-203 regarding revocation of a suspended or deferred sentence.

Proponents' Testimony:

05:03:06 Mark Mattioli, self

EXHIBIT(juh40a22)

05:05:07 Larry Epstein, Montana County Attorneys' Association (MCAA)

05:08:11 Steve Cape, Montana Coalition for Safety and Justice

05:08:33 Rep. Skattum exited.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

05:09:02 Rep. Bangerter

HEARING ON HB 570

Opening Statement by Sponsor:

05:09:18 Rep. Wayne Stahl (R), HD 35, opened the hearing on HB 570, Revise recreational statutes and define valuable consideration.

05:11:23 Rep. Skattum returned.

Proponents' Testimony: None

Opponents' Testimony:

05:13:11 Al Smith, Montana Trial Lawyers Association (MTLA)

EXHIBIT(juh40a23)

Informational Testimony: None

Questions from Committee Members and Responses:

05:16:28 Rep. Harris
05:17:07 Mr. Smith, MTLA
05:17:41 Rep. Harris

Closing by Sponsor:

05:18:45 Rep. Stahl

ADJOURNMENT

05:20:15 Adjournment:

Karen Armstrong, Secretary

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Additional Exhibits:
[EXHIBIT\(juh40a24\)](#)

Additional Documents:

[EXHIBIT\(juh40aad.pdf\)](#)