

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 63rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Krayton Kerns, on March 27, 2013 at 8:00 A.M., in Room 137
Capitol

ROLL CALL

Members Present:

Rep. Krayton Kerns, Chair (R)
Rep. Gerald (Jerry) Bennett, Vice Chair (R)
Rep. Margaret (Margie) MacDonald, Vice Chair (D)
Rep. Virginia Court (D)
Rep. Alan Doane (R)
Rep. Jenifer Gursky (D)
Rep. Ellie Boldman Hill (D)
Rep. Sarah Laszloffy (R)
Rep. Dennis R. Lenz (R)
Rep. Carolyn Pease-Lopez (D)
Rep. Keith Regier (R)
Rep. Bridget Smith (D)
Rep. Kirk Wagoner (R)
Rep. Wendy Warburton (R)

Members Excused: Rep. Mark Blasdel (R)
Rep. Jennifer Eck (D)
Rep. Clayton Fiscus (R)
Rep. David Halvorson (R)
Rep. Ryan Lynch (D)
Rep. Jerry O'Neil (R)

Members Absent: None

Staff Present: Karen Armstrong, Committee Secretary
Helen Thigpen, 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 629, 3/25/2013
Executive Action: HB 603, HB 612, SB 160, SB 196, SB 198

00:13:44 Chairman Kerns

EXECUTIVE ACTION ON HB 612

00:15:15 **Motion:** Rep. G. Bennett moved that **HB 612 DO PASS.**

Discussion:

00:15:42 Rep. MacDonald

00:16:29 Rep. Smith

00:16:53 Rep. Regier

00:17:10 Rep. Doane

00:17:39 Rep. MacDonald

00:18:02 Rep. Doane

00:18:07 **Vote:** Motion failed 8-12 by roll call vote with Rep. Court, Rep. Eck, Rep. Gursky, Rep. Hill, Rep. Lynch, Rep. MacDonald, Rep. Pease-Lopez and Rep. Smith voting aye. Rep. Blasdel, Rep. Eck, Rep. Fiscus, Rep. Halvorson, Rep. Lynch and Rep. O'Neil voted by proxy.

00:19:48 **Motion/Vote:** Rep. G. Bennett moved that **HB 612 BE TABLED AND THE VOTE REVERSED.** Motion carried 13-1 by voice vote of those present and voting with Rep. Pease-Lopez voting no. Rep. Blasdel, Rep. Eck, Rep. Fiscus, Rep. Halvorson, Rep. Lynch and Rep. O'Neil were not present and did not vote.

EXECUTIVE ACTION ON HB 603

00:20:12 **Motion:** Rep. G. Bennett moved that **HB 603 DO PASS.**

00:20:27 **Motion:** Rep. Doane moved that **HB 603 BE AMENDED.**
EXHIBIT(juh66a01)

Discussion:

00:20:54 Rep. Doane

00:21:09 Rep. Regier

00:21:50 Rep. Doane

00:21:54 Rep. Regier

00:21:58 Rep. Doane

00:22:02 Rep. MacDonald

00:22:31 Ms Thigpen, Legal Services Division (LSD)

00:22:51 Rep. Doane

00:23:13 Rep. MacDonald

00:23:35 Ms Thigpen, LSD

00:24:16 Chairman Kerns

00:25:07 **Vote:** Motion failed 5-15 by roll call vote with Rep. Doane, Rep. Laszloffy, Rep. Regier, Rep. Smith and Rep. Wagoner voting aye. Rep. Blasdel, Rep. Eck, Rep. Fiscus, Rep. Halvorson, Rep. Lynch and Rep. O'Neil voted by proxy.

00:26:22 **Motion/Vote:** Rep. Gursky moved that **HB 603 BE AMENDED**. Motion carried 19-1 by voice vote with Rep. Lenz voting no. Rep. Blasdel, Rep. Eck, Rep. Fiscus, Rep. Halvorson, Rep. Lynch and Rep. O'Neil voted by proxy.

[EXHIBIT\(juh66a02\)](#)

00:26:48 **Motion:** Rep. G. Bennett moved that **HB 603 DO PASS AS AMENDED**.

00:26:56 **Motion:** Rep. Gursky moved that **HB 603 BE AMENDED**.

[EXHIBIT\(juh66a03\)](#)

Discussion:

00:28:34 Rep. Gursky
00:28:42 Rep. Regier
00:29:01 Chairman Kerns
00:29:07 Rep. Regier
00:29:38 Rep. Gursky
00:30:16 Rep. Regier

00:30:36 **Vote:** Motion failed 8-12 by roll call vote with Rep. Court, Rep. Eck, Rep. Gursky, Rep. Hill, Rep. Lynch, Rep. MacDonald, Rep. Pease-Lopez and Rep. Smith voting aye. Rep. Blasdel, Rep. Eck, Rep. Fiscus, Rep. Halvorson, Rep. Lynch and Rep. O'Neil voted by proxy.

Discussion:

00:31:51 Rep. Hill
00:35:07 Chairman Kerns

00:35:23 **Vote:** Motion carried 15-5 by roll call vote with Rep. Court, Rep. Eck, Rep. Hill, Rep. Pease-Lopez and Rep. Warburton voting no. Rep. Blasdel, Rep. Eck, Rep. Fiscus, Rep. Halvorson, Rep. Lynch and Rep. O'Neil voted by proxy.

EXECUTIVE ACTION ON SB 160

00:36:47 **Motion:** Rep. G. Bennett moved that **SB 160 BE CONCURRED IN**.

00:37:00 **Motion:** Rep. MacDonald moved that **SB 160 BE AMENDED**.

[EXHIBIT\(juh66a04\)](#)

Discussion:

00:37:13 Rep. MacDonald
00:38:18 Ms Thigpen, LSD
00:38:37 Rep. MacDonald
00:39:20 Rep. Warburton
00:39:33 Rep. MacDonald
00:39:43 Rep. Fiscus arrived.
00:39:59 Rep. Warburton
00:41:01 Rep. MacDonald
00:41:36 Chairman Kerns

00:41:53 **Vote:** Motion carried unanimously by roll call vote. Rep. Blasdel, Rep. Eck, Rep. Halvorson, Rep. Lynch and Rep. O'Neil voted by proxy.

00:43:01 **Motion:** Rep. G. Bennett moved that **SB 160 BE CONCURRED IN AS AMENDED.**

00:43:08 **Motion:** Rep. Hill moved that **SB 160 BE AMENDED.**
[EXHIBIT\(juh66a05\)](#)

Discussion:

00:43:18 Rep .Hill

00:44:50 **Vote:** Motion carried unanimously by voice vote. Rep. Blasdel, Rep. Eck, Rep. Halvorson, Rep. Lynch and Rep. O'Neil voted by proxy.

00:45:26 **Motion:** Rep. G. Bennett moved that **SB 160 BE CONCURRED IN AS AMENDED.**

Discussion:

00:45:34 Rep. Wagoner

00:46:21 Rep. Gursky

00:47:31 Rep. Warburton

00:48:17 Rep. MacDonald

00:49:05 Rep. Court

00:51:08 Rep. Pease-Lopez

00:51:56 Chairman Kerns

00:52:43 **Vote:** Motion carried 12-8 by roll call vote with Rep. Bennett, Rep. Blasdel, Rep. Doane, Rep. Fiscus, Rep. Kerns, Rep. O'Neil, Rep. Regier and Rep. Warburton voting no. Rep. Blasdel, Rep. Eck, Rep. Halvorson, Rep. Lynch and Rep. O'Neil voted by proxy. Rep. Gursky will carry the bill.

EXECUTIVE ACTION ON SB 196

00:54:07 **Motion:** Rep. G. Bennett moved that **SB 196 BE CONCURRED IN.**

00:54:15 **Motion:** Rep. G. Bennett moved that **SB 196 BE AMENDED.**
[EXHIBIT\(juh66a06\)](#)

Discussion:

00:54:49 Rep. Regier

00:54:53 Rep. MacDonald

00:54:55 Rep. Blasdel arrived.

00:55:57 Ms Thigpen, LSD

00:56:05 Rep. Regier

00:56:12 Ms Thigpen, LSD

00:56:21 **Vote:** Motion carried unanimously by voice vote. Rep. Eck, Rep. Halvorson, Rep. Lynch and Rep. O'Neil voted by proxy.

00:57:00 **Motion:** Rep. G. Bennett moved that **SB 196 BE CONCURRED IN AS AMENDED.**

Discussion:

00:57:07 Rep. Gursky
00:57:28 Rep. Warburton
00:57:58 Chairman Kerns
00:58:18 Rep. Pease-Lopez
00:58:47 Rep. Hill

00:59:30 **Vote:** Motion carried unanimously by voice vote. Rep. Eck, Rep. Halvorson, Rep. Lynch and Rep. O'Neil voted by proxy. Rep. Doane will carry the bill.

EXECUTIVE ACTION ON SB 198

01:00:12 **Motion:** Rep. G. Bennett moved that **SB 198 BE CONCURRED IN.**

01:00:33 **Motion:** Rep. B. Smith moved that **SB 198 BE AMENDED.**
[EXHIBIT\(juh66a07\)](#)

Discussion:

01:00:55 Rep. Smith
01:02:08 Ms Thigpen, LSD
01:03:13 Rep. Warburton
01:04:11 Rep. O'Neil arrived.

01:04:54 **Vote:** Motion carried unanimously by voice vote. Rep. Eck, Rep. Halvorson and Rep. Lynch voted by proxy.

01:05:19 **Motion:** Rep. G. Bennett moved that **SB 198 BE CONCURRED IN AS AMENDED.**

01:05:31 **Motion:** Rep. Warburton moved that **SB 198 BE AMENDED.**

Discussion:

01:05:42 Rep. Warburton
01:08:01 Chairman Kerns
01:08:08 Rep. Regier
01:08:52 Chairman Kerns

01:09:07 Recessed.

01:10:39 Reconvened with Rep. Blasdel, Rep. Halvorson, Rep. Eck and Rep. Lynch absent.

01:10:51 Chairman Kerns

01:11:15 **Motion/Vote:** Rep. B. Smith moved to **RECONSIDER THE MOTION** on amendment **SB019802.aht to SB 198.** Motion carried 18-0 by voice vote. Rep. Blasdel, and Rep. Halvorson voted by proxy. Rep. Eck and Rep. Lynch were absent and did not vote.

- 01:11:48 Rep. Blasdel returned to the meeting.
- 01:12:14 **Motion/Vote:** Rep. B. Smith moved to **REMOVE AMENDMENT SB019802.aht TO SB 198**. Motion carried 18-0 by voice vote. Rep. Halvorson voted by proxy. Rep. Eck and Rep. Lynch were absent and did not vote.
- 01:12:45 **Motion:** Rep. G. Bennett moved that **SB 198 BE CONCURRED IN**.
- 01:12:56 **Motion:** Rep. Warburton moved that **SB 198 BE AMENDED**.
[EXHIBIT\(juh66a08\)](#)
- Discussion:**
- 01:13:03 Rep. Warburton
- 01:14:10 Rep. Smith
- 01:14:13 Rep. MacDonald
- 01:14:36 Rep. Hill
- 01:15:17 **Vote:** Motion carried 11-9 by roll call vote with Rep. Court, Rep. Eck, Rep. Gursky, Rep. Hill, Rep. Laszloffy, Rep. Lynch, Rep. MacDonald, Rep. Pease-Lopez and Rep. Smith voting no. Rep. Eck, Rep. Halvorson and Rep. Lynch voted by proxy.
- 01:16:32 **Motion:** Rep. G. Bennett moved that **SB 198 BE CONCURRED IN AS AMENDED**.
- 01:16:38 **Motion:** Rep. Warburton moved that **SB 198 BE AMENDED**.
[EXHIBIT\(juh66a09\)](#)
- Discussion:**
- 01:16:47 Rep. Warburton
- 01:17:26 Rep. Smith
- 01:17:53 Rep. Gursky
- 01:18:22 **Vote:** Motion carried 14-6 by roll call vote with Rep. Court, Rep. Eck, Rep. Gursky, Rep. Lynch, Rep. MacDonald and Rep. Pease-Lopez voting no. Rep. Eck, Rep. Halvorson and Rep. Lynch voted by proxy.
- 01:19:47 **Motion/Vote:** Rep. G. Bennett moved that **SB 198 BE CONCURRED IN AS AMENDED**. Motion carried 18-2 by roll call vote with Rep. Kerns and Rep. O'Neil voting no. Rep. Eck, Rep. Halvorson and Rep. Lynch voted by proxy. Rep. Laszloffy will carry the bill.
- 01:21:41 Chairman Kerns

HEARING ON HB 629**Opening Statement by Sponsor:**

01:22:29 Rep. Kathleen Williams (D), HD 65, opened the hearing on HB 629, Implement negotiated water compacts with Montana tribal governments.

[EXHIBIT\(juh66a10\)](#)

[EXHIBIT\(juh66a11\)](#)

[EXHIBIT\(juh66a12\)](#)

[EXHIBIT\(juh66a13\)](#)

01:31:13 Rep. Halvorson arrived

Proponents' Testimony:

01:36:14 Chris Tweeten, Chair, Montana Reserved Water Rights Compact Commission (MRWRCC)

[EXHIBIT\(juh66a14\)](#)

01:52:43 Joe Durglo, Chairman, Confederated Salish and Kootenai Tribes (CSKT)

01:54:59 Rep. Lynch arrived.

01:57:14 Andrew Huff, Chief Legal Counsel, Governor's Office

02:01:18 Seth Makepeace, Hydrologist, Confederated Salish and Kootenai Tribes and negotiating team member

[EXHIBIT\(juh66a15\)](#)

02:05:55 Ric Smith, President, Supervising Broker, Century 21 Big Sky

02:09:19 Alan Mikkelsen, Self

[EXHIBIT\(juh66a16\)](#)

02:16:11 John Carter, Attorney, CSKT

02:21:49 J. R. Iman, Painted Rocks Water Users Association

02:25:02 John Metropoulos, Attorney, Flathead Joint Board of Control

02:30:09 Rep. Dan Solomon, HD 12

[EXHIBIT\(juh66a17\)](#)

[EXHIBIT\(juh66a18\)](#)

[EXHIBIT\(juh66a19\)](#)

02:32:19 Cary Doney, Jocko Irrigation District, Joint Board of Control

02:33:37 Susan Lake, Self

02:35:00 Richard Janssen, Jr., Department Head, Natural Resources Department, CSKT

02:35:27 Steve Hughes, Jocko Irrigation District

02:35:56 Rep. Clarena Brockie, HD 32, Native American Caucus

02:36:55 Rep. Rae Peppers, HD 41

02:37:02 Rep. Lea Whitford, HD 16

02:37:07 Carol Lankford, Vice Chair, CSKT

02:37:15 Sen. Sharon Stewart-Peregoy, SD 21

[EXHIBIT\(juh66a20\)](#)

02:37:38 Mike Murphy, Montana Water Resources Association

02:37:48 John Crowley, Manager, Bitterroot Irrigation District

02:38:04 Paul Barteni, Manager, Daly Ditches Irrigation District

02:38:24 Jim Foster, Manager, Helena Valley Irrigation District

02:38:34 Terry Pitts, Tribal Council, CSKT

02:38:50 Paul Roos, Irrigator from Blackfoot

02:39:02 Barbara Hall, Clark Fork Coalition

02:39:16 Ron Trahan, CSKT

02:39:38 Lloyd Irvine, CSKT Tribal Council
02:39:50 Charmel Gillin, CSKT
02:40:11 Carolee Wenderoth, Self
02:40:24 Craig Pablo, CSKT
02:40:36 Steve Lozar, Tribal Council, CSKT,
02:40:56 Gigi Caye, Self
02:41:09 Louis Caye, Jr., Self
02:41:28 Maggie Good, Rancher, Self
02:42:07 Marshall Pablo, Self
02:42:24 Marie Torosian, Self
02:42:45 Shane Morigeau, Self
02:42:56 Dustin Munro, Western Native Voice
02:43:15 Stacey McQuade, Self
02:43:39 Mark Aagenes, Trout Unlimited
02:43:54 Jack Lake, Self
02:44:13 Paul Wadsworth, Self

[EXHIBIT\(juh66a21\)](#)

[EXHIBIT\(juh66a22\)](#)

02:44:36 Jay Weiner, Staff Attorney, Montana Reserved Water Rights Compact
Commission
02:44:51 Rosemary Caye, Self
02:45:27 Debra Caye
02:45:44 Caryn Kallay, Self
02:45:54 Paula Webster, Self
02:46:07 Bernie Hewin, Self
02:46:18 Sharon Earthboy, Self
02:46:30 Alana Earthboy, Self
02:46:38 Arlene Caye, Self
02:46:58 Llewellyn Caye, Self
02:47:13 Rep. Amanda Curtis, HD 76
02:47:31 Clayton Matt, Self

02:47:56 Recessed.
02:57:50 Reconvened.

Opponents' Testimony:

02:58:31 Brian Shuck, Attorney, Western Montana Water Users Association
03:18:39 Sen. Verdell Jackson, SD 5
03:25:52 Sen. Jennifer Fielder, SD 7 Sanders County Board of Commissioners, Sanders
Natural Resource Council, Plains Drainage
03:28:51 Tim Orr, Self

[EXHIBIT\(juh66a23\)](#)

03:35:32 Robert Ingenice, Self
03:36:20 Daniel Cole, Commissioner, Joint Board of Control
03:39:17 Katherine Vandemoer, Hydrologist, Water Manager, Self

[EXHIBIT\(juh66a24\)](#)

[EXHIBIT\(juh66a25\)](#)

03:49:53 Michael Gale, Self

[EXHIBIT\(juh66a26\)](#)

[EXHIBIT\(juh66a27\)](#)

EXHIBIT(juh66a28)

03:50:46 Marsha Straus, Self

EXHIBIT(juh66a29)

03:51:16 William G. Myers, Jr., Bayside Park Marine Center, Bigfork

EXHIBIT(juh66a30)**EXHIBIT(juh66a31)**

03:53:33 Jerry Laskody, Self

03:56:47 Steve Tobol, Chair, Western Montana Water Users Association

03:59:51 Sen. Janna Taylor, SD 6

04:00:25 Rory Horning, Self

04:00:47 David Passieri, Self

EXHIBIT(juh66a32)**EXHIBIT(juh66a33)**

04:01:16 Derek Skees, Self

EXHIBIT(juh66a34)

04:01:34 Ross Middlemist, Self

EXHIBIT(juh66a35)

04:01:51 Joy Claar, Self

EXHIBIT(juh66a36)

04:02:19 Claris Ryan, Self

04:02:53 Chris Sullivan, Self

EXHIBIT(juh66a37)

04:03:19 Laura O'Neil, Self

EXHIBIT(juh66a38)

04:03:50 Rita Hall, Self

04:04:31 Julia Fehrs, Self

04:04:48 Andrew Speer, Self

04:04:57 Bryan Bohn, Joint Board of Control

04:05:11 John O'Neil, Self

EXHIBIT(juh66a39)

04:05:29 George Hudson, Self

04:05:53 Patrick McCain, Self

EXHIBIT(juh66a40)

04:06:02 Ted Hein, Camas District

04:06:33 Trudy Samuelson, Realtor

EXHIBIT(juh66a41) Homesteaders Free

04:07:04 Gene Erb, Self

EXHIBIT(juh66a42)

04:07:59 Jan Wisniewski, Self

EXHIBIT(juh66a43)

04:08:35 Kendra Reinlasoder, Self

04:08:59 Randy Reinlasoder, Self

04:09:12 Jean Nemeth, Self

04:09:26 Lynn Mason, Self

04:09:47 Roy Vallejo, Self

04:10:36 Julie Rathbun, Self

04:10:51 Pat Arnone, Self

04:11:02 JoAnn Secrist, Constitutional Law Attorney, Self

04:11:21 Dave Tobol, Self

04:11:31 Gary Baertsch, Self

04:11:40 Dan Madson, Self
04:11:50 Harlen Gerdes, Self
04:11:58 Wade Shepard, Self
04:12:05 Shannon Carr, Self
04:12:13 Harley Hettick, Self
EXHIBIT(juh66a44)
04:12:20 Leta Wicka, Self
04:12:33 John Sinrud, Flathead Business and Industry Association
04:12:49 David Peck, Self
04:13:01 Elena Gagliano, Self
04:13:17 Faus Silvernale Self
04:13:29 Charles Bryant, Self
04:13:38 Bill Chandler, Self

EXHIBIT(juh66a45)

04:13:44 John Ployhar, Self

EXHIBIT(juh66a46)

04:14:01 Dick Motta, Self
04:14:15 Dave Long, Self
04:14:22 Marilyn Carr, Self
04:14:35 Christine Laskody, Self
04:14:45 Richard Coleman, Self
04:14:53 Pat Kelley, Self
04:15:08 Kathy Waring, Self
04:15:22 Sheila Vallejo, Self
04:15:33 Terry Prongua, Self
04:15:56 Ed Wehrheim, Self
04:16:09 Earl Brooks, Self
04:16:23 Jerry Halter, Self
04:16:44 Terry Backs, Self
04:16:57 Charlie Lyons, Self
04:17:04 Bill Hollow, Self
04:17:19 David Nash, Self
04:17:23 Dean Brockway, Self
04:17:32 Howard Lyons, Self
04:17:39 Jeff Wilson, Self
04:17:52 Natalie Champoux, Self
04:17:59 Ron Tyson, Self

Informational Testimony:

04:18:36 Rick Breckenridge, Self

EXHIBIT(juh66a47)**EXHIBIT(juh66a48)****Questions from Committee Members and Responses:**

04:20:30 Rep. MacDonald
04:21:13 Mr. Mikkelson, Self
04:22:16 Rep. Gursky
04:23:10 Mr. Carter, CSKT
04:23:48 Rep. Hill
04:24:46 Mr. Carter, CSKT

04:25:32 Rep. Warburton
04:25:52 Mr. Myers, Self
04:26:44 Rep. Regier
04:27:13 Mr. Tweeten, MRWRCC
04:27:21 Rep. Regier
04:27:29 Mr. Tweeten, MRWRCC
04:27:39 Rep. Regier
04:27:54 Mr. Tweeten, MRWRCC
04:27:59 Rep. MacDonald
04:28:28 Mr. Tweeten, MRWRCC
04:29:21 Rep. Wagoner
04:29:41 Mr. Tweeten, MRWRCC
04:30:41 Rep. Court
04:31:01 Mr. Tweeten, MRWRCC
04:32:25 Rep. Gursky
04:32:56 Mr. Tweeten, MRWRCC
04:37:06 Rep. Smith
04:37:41 Mr. Tweeten, MRWRCC
04:38:33 Rep. Warburton
04:39:04 Mr. Sinrud, FBIA
04:41:11 Rep. Lenz
04:41:46 Rep. Williams
04:43:27 Rep. MacDonald
04:44:08 Mr. Tweeten, MRWRCC
04:44:52 Rep. Bennett
04:45:14 Mr. Tweeten, MRWRCC
04:45:45 Rep. Halvorson
04:46:06 Mr. Skees, Self
04:47:18 Rep. Pease-Lopez
04:47:55 Mr. Tweeten, MRWRCC
04:48:08 Rep. Court
04:48:42 Rep. Williams
04:48:54 Chairman Kerns
04:48:58 Rep. Williams
04:49:16 Rep. Laszloffy
04:49:55 Ms Secrist, Self
04:53:31 Rep. Gursky
04:54:02 Mr. Makepeace, CSKT
04:55:24 Rep. Hill
04:56:17 Rep. Williams
04:59:06 Rep. Pease-Lopez
04:59:44 Mr. Tweeten, MRWRCC
05:01:06 Rep. Smith
05:01:24 Mr. Tweeten, MRWRCC
05:01:49 Rep. Regier
05:02:07 Rep. Williams
05:02:13 Rep. Wagoner
05:02:23 Ms Thigpen, LSD
05:02:36 Rep. Fiscus
05:03:28 Ms. Vandemoer, Self

Closing by Sponsor:

05:04:09 Rep. Williams

[EXHIBIT\(juh66a49\)](#)

05:09:43 Chairman Kerns

ADJOURNMENT

Adjournment: 05:10:08

Karen Armstrong, Secretary

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Additional Documents:

EXHIBIT([juh66aad.pdf](#))