

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Gerald (Jerry) Bennett, on February 17, 2015 at 8:00 AM, in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Gerald (Jerry) Bennett, Chair (R)
Rep. Virginia Court, Vice Chair (D)
Rep. Alan Doane, Vice Chair (R)
Rep. Seth Berglee (R)
Rep. Jennifer Eck (D)
Rep. Clayton Fiscus (R)
Rep. Stephanie Hess (R)
Rep. Ellie Boldman Hill (D)
Rep. Kathy Kelker (D)
Rep. Sarah Laszloffy (R)
Rep. Margaret (Margie) MacDonald (D)
Rep. Theresa Manzella (R)
Rep. Nate McConnell (D)
Rep. G. Bruce Meyers (R)
Rep. Matthew Monforton (R)
Rep. Carolyn Pease-Lopez (D)
Rep. Zac Perry (D)
Rep. Andrew Person (D)
Rep. Randall Pinocci (R)
Rep. Kirk Wagoner (R)

Members Excused: Rep. Keith Regier (R)

Members Absent: None

Staff Present: McKenzie Chambers, 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 405, 2/13/2015; HB 410, 2/13/2015; HB 426, 2/13/2015; HB 436, 2/13/2015; HB 463, 2/13/2015
Executive Action: HB 227, HB 369, HB 424, HB 425, HB 466

00:01:00 Chair J. Bennett

HEARING ON HB 436

Opening Statement by Sponsor:

00:01:54 Rep. Kimberly Dudik (D), HD 94, opened the hearing on HB 436, Revising the Montana uniform trust code.

Proponents' Testimony:

00:02:43 Dirk Williams, State Bar of Montana
[EXHIBIT\(juh36a01\)](#)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:06:14 Chair J. Bennett
00:06:21 Rep. Hill
00:06:54 Dirk Williams, State Bar of Montana

Closing by Sponsor:

00:07:22 Rep. Dudik

HEARING ON HB 463

Opening Statement by Sponsor:

00:07:50 Rep. Kelly McCarthy (D), HD 49, opened the hearing on HB 463, Revise laws related to asset forfeiture.

Proponents' Testimony:

00:17:47 Rep. Zolnikov, HD 45
00:20:41 Rep. Regier joined the meeting.
00:22:23 Niki Zupanic, American Civil Liberties Union (ACLU) of Montana
00:27:05 John Quandt, Americans for Prosperity (AFP) Montana

Opponents' Testimony:

00:30:26 Jon Bennion, Deputy Attorney General/Legislative Liaison, Office of the Attorney General, Department of Justice (DOJ)

[EXHIBIT\(juh36a02\)](#)

[EXHIBIT\(juh36a03\)](#)

00:33:57 Mary "Marty" Phippen, Montana Association of Clerks of District Court

[EXHIBIT\(juh36a04\)](#)

00:35:10 Leo Gallagher, County Attorney, Lewis and Clark County
00:39:20 Larry Epstein, Montana County Attorneys Association (MCAA)

Informational Testimony: None

Questions from Committee Members and Responses:

00:40:05 Rep. McConnell
00:41:33 Jon Bennion, DOJ
00:43:52 Rep. McConnell
00:44:29 Jon Bennion, DOJ
00:45:00 Rep. Wagoner
00:45:39 Jon Bennion, DOJ
00:46:13 Rep. Wagoner
00:46:52 Jon Bennion, DOJ
00:47:46 Rep. Wagoner
00:48:05 Jon Bennion, DOJ
00:48:34 Rep. Perry
00:49:10 Jon Bennion, DOJ
00:49:46 Rep. Pinocci
00:50:45 Jon Bennion, DOJ
00:51:11 Rep. Pinocci
00:51:19 Jon Bennion, DOJ
00:52:06 Rep. MacDonald

Closing by Sponsor:

00:52:27 Rep. McCarthy

HEARING ON HB 405

Opening Statement by Sponsor:

00:57:23 Rep. Jeff Essmann (R), HD 54, opened the hearing on HB 405, Revise laws regarding pre-nuptial agreements.

Proponents' Testimony:

00:59:26 Donna Wax, Wax and Associates
[EXHIBIT\(juh36a05\)](#)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:03:34 Rep. Doane
01:04:17 Rep. Essmann
01:06:15 Rep. Meyers
01:06:37 Rep. Essmann
01:07:26 Rep. Manzella
01:07:56 Donna Wax, Wax and Associates
01:08:06 Rep. Manzella
01:08:13 Donna Wax, Wax and Associates

Closing by Sponsor:

01:10:59 Rep. Essmann

HEARING ON HB 410**Opening Statement by Sponsor:**

01:11:50 Rep. Jeff Essmann (R), HD 54, opened the hearing on HB 410, Generally revise laws on the exploitation of vulnerable persons.

[EXHIBIT\(juh36a06\)](#)

Proponents' Testimony:

01:16:48 Donya Parrish, Montana Credit Union Network (MCUN)

[EXHIBIT\(juh36a07\)](#)

[EXHIBIT\(juh36a08\)](#)

01:17:52 Mary Cochenour, Assistant Attorney General, Prosecution Services Bureau,
Legal Services Division, Department of Justice (DOJ)

01:20:13 Larry Epstein, Self

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:25:39 Rep. Monforton
01:26:13 Mary Cochenour, DOJ
01:27:56 Rep. Monforton
01:28:01 Mary Cochenour, DOJ
01:28:05 Rep. Monforton
01:28:28 Mary Cochenour, DOJ
01:29:31 Rep. Regier
01:30:45 Rep. Essmann
01:32:12 Rep. Regier
01:32:26 Rep. Essmann
01:32:29 Rep. Regier
01:32:42 Rep. Essmann
01:32:51 Rep. Regier
01:33:03 Rep. Essmann
01:33:35 Rep. McConnell
01:34:27 Mary Cochenour, DOJ
01:35:06 Rep. McConnell
01:36:02 Mary Cochenour, DOJ
01:37:31 Rep. McConnell
01:38:09 Mary Cochenour, DOJ
01:41:12 Rep. Kelker
01:42:19 Mary Cochenour, DOJ
01:43:03 Rep. Kelker
01:43:30 Rep. Essmann
01:44:35 Rep. Regier

Closing by Sponsor:

01:45:25 Rep. Essmann

01:47:12 Chair J. Bennett
01:47:28 Recessed
01:55:58 Reconvened
01:56:13 Chair J. Bennett

HEARING ON HB 426

Opening Statement by Sponsor:

01:56:20 Rep. Matthew Monforton (R), HD 69, opened the hearing on HB 426, Revise attorney-client privilege laws providing a crime-fraud exception.

Proponents' Testimony:

02:00:25 Bruce Spencer, State Bar of Montana

Opponents' Testimony:

02:03:05 Lee Bruner, Montana Defense Trial Lawyers (MDTL)

Informational Testimony: None

Questions from Committee Members and Responses:

02:06:10 Rep. Hill
02:06:54 Lee Bruner, MDTL
02:07:39 Rep. Hill
02:07:51 Lee Bruner, MDTL
02:08:14 Rep. Meyers
02:09:03 Rep. Monforton
02:09:49 Rep. Meyers
02:10:15 Rep. Monforton
02:10:36 Rep. Kelker
02:11:46 Bruce Spencer, State Bar of Montana
02:13:56 Rep. Kelker
02:14:10 Bruce Spencer, State Bar of Montana
02:14:45 Rep. Doane
02:15:09 Lee Bruner, MDTL
02:15:33 Rep. Doane
02:15:41 Lee Bruner, MDTL
02:15:57 Rep. Court
02:16:23 Rep. Monforton
02:16:29 Rep. Court
02:16:41 Bruce Spencer, State Bar of Montana
02:17:25 Rep. McConnell
02:17:48 Rep. Regier left the meeting.
02:17:57 Rep. Monforton
02:19:23 Rep. McConnell
02:19:40 Rep. Monforton
02:21:09 Rep. Person
02:21:38 Lee Bruner, MDTL
02:21:59 Rep. Hill

02:22:38 Bruce Spencer, State Bar of Montana
02:22:55 Rep. Hill
02:23:30 Rep. Monforton
02:24:26 Rep. Hill
02:24:49 Rep. Monforton

Closing by Sponsor:

02:25:32 Rep. Monforton

02:26:42 Chair J. Bennett
02:28:04 Rep. MacDonald
02:28:16 Chair J. Bennett
02:28:22 Rep. MacDonald
02:28:32 Chair J. Bennett

02:28:51 Recess
02:54:42 Reconvened

EXECUTIVE ACTION ON HB 424

02:54:46 **Motion:** Rep. Doane moved that **HB 424 DO PASS.**

Discussion:

02:55:07 Helen Thigpen, Legislative Services Division (LSD)
02:55:45 Rep. Monforton
02:58:15 Rep. Person

02:58:59 **Vote:** Motion carried 12-9 by roll call vote with Rep. Court, Rep. Eck, Rep. Hill, Rep. Kelker, Rep. MacDonald, Rep. McConnell, Rep. Pease-Lopez, Rep. Perry and Rep. Person voting no. Rep. Regier voted by proxy.

EXECUTIVE ACTION ON HB 425

02:59:58 **Motion:** Rep. Doane moved that **HB 425 DO PASS.**

Discussion:

03:00:05 Helen Thigpen, LSD
03:00:28 Rep. Monforton
03:00:50 Rep. Court
03:01:38 Rep. Kelker
03:02:34 Rep. McConnell
03:03:33 Rep. Eck

03:04:01 **Vote:** Motion carried 11-10 by roll call vote with Rep. Court, Rep. Eck, Rep. Hill, Rep. Kelker, Rep. MacDonald, Rep. McConnell, Rep. Pease-Lopez, Rep. Perry, Rep. Person and Rep. Wagoner voting no. Rep. Regier voted by proxy.
Note: HB 425 awaiting the arrival of fiscal note in committee. Bill will remain in committee until further notice.

EXECUTIVE ACTION ON HB 466

03:05:00 **Motion:** Rep. Doane moved that **HB 466 DO PASS.**

Discussion:

03:05:06 Helen Thigpen, LSD

03:05:37 **Vote:** Motion carried unanimously by voice vote. Rep. Regier voted by proxy.

EXECUTIVE ACTION ON HB 369

03:06:03 **Motion:** Rep. Doane moved that **HB 369 DO PASS.**

Discussion:

03:06:06 Helen Thigpen, LSD

[EXHIBIT\(juh36a09\)](#)

03:06:23 **Motion:** Rep. Doane moved that **HB 369 BE AMENDED.**

Discussion:

03:06:33 Helen Thigpen, LSD

03:07:10 Rep. Fiscus

03:07:32 Rep. Monforton

03:10:32 Rep. McConnell

03:11:59 **Vote:** Motion carried 19-2 by roll call vote with Rep. Eck and Rep. Person voting no. Rep. Regier voted by proxy.

03:12:48 **Motion:** Rep. Doane moved that **HB 369 DO PASS AS AMENDED.**

Discussion:

03:12:56 Rep. Fiscus

[EXHIBIT\(juh36a10\)](#)

03:14:04 **Vote:** Motion carried 11-10 by roll call vote with Rep. Court, Rep. Eck, Rep. Hill, Rep. Kelker, Rep. Laszloffy, Rep. MacDonald, Rep. McConnell, Rep. Pease-Lopez, Rep. Perry and Rep. Person voting no. Rep. Regier voted by proxy.

EXECUTIVE ACTION ON HB 227

03:15:11 **Motion:** Rep. Doane moved that **HB 227 DO PASS**.

Discussion:

03:15:22 Rep. MacDonald

03:16:19 **Vote:** Motion failed 10-11 by roll call vote with Rep. Court, Rep. Eck, Rep. Hill, Rep. Kelker, Rep. MacDonald, Rep. McConnell, Rep. Meyers, Rep. Pease-Lopez, Rep. Perry and Rep. Person voting aye. Rep. Regier voted by proxy.

03:17:19 **Motion/Vote:** Rep. Doane moved that **HB 227 BE TABLED**. Motion carried 20-0 by voice vote. Rep. Regier was excused.

03:17:34 Chair J. Bennett

ADJOURNMENT

Adjournment: 03:18:50

McKenzie Chambers, Secretary

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Additional Documents:

EXHIBIT([juh36aad.pdf](#))