

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Vice Chairman Peterson, on March 30, 2009 at 9:02
A.M., in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Deborah Kottel, Vice Chairman (D)
Rep. Ken Peterson, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Gerald Bennett (R)
Rep. Anders Blewett (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. David Howard (R)
Rep. Krayton Kerns (R)
Rep. Margaret MacDonald (D)
Rep. Edith (Edie) McClafferty (D)
Rep. Mike Menahan (D)
Rep. Michael More (R)
Rep. Keith Regier (R)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: Rep. Diane Sands (D); Rep. Ron Stoker,
Chairman (R)

Members Absent: None

Staff Present: Jennifer Eck, 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: SB 263, 3/27/2009

Executive Action: SB 476, HJ 31, SB 221, SB 236,
SB 263

HEARING ON SB 263

Opening Statement by Sponsor:

00:01:02 Sen. Jim Shockley (R), SD 45, opened the hearing on
SB 263, Revise public defender laws.

Proponents' Testimony:

00:10:59 Marty Lambert, Montana County Attorneys Association
00:13:25 Jim Haynes, District Court Judge, Ravalli County

Opponents' Testimony: None

Informational Testimony:

00:18:20 Harry Freeborn, Administrative Director, Office of the
State Public Defender

Questions from Committee Members and Responses:

00:20:56 Rep. Kottel
00:22:19 Sen. Shockley
00:22:25 Rep. Kottel
00:22:30 Sen. Shockley
00:24:07 Rep. Kottel
00:24:37 Sen. Shockley
00:25:06 Rep. Kottel
00:25:10 Sen. Shockley
00:25:13 Rep. Kottel
00:25:59 Sen. Shockley
00:26:36 Rep. Kottel
00:26:40 Sen. Shockley
00:26:48 Rep. Kottel
00:26:53 Rep. Wagner
00:27:26 Mr. Lambert
00:28:00 Rep. Wagner
00:28:37 Mr. Lambert
00:28:49 Rep. Wagner
00:28:59 Mr. Lambert
00:29:16 Rep. Wagner
00:29:18 Rep. Howard
00:29:31 Mr. Freeborn
00:29:34 Rep. Howard
00:29:40 Mr. Freeborn
00:30:04 Rep. Howard
00:30:19 Mr. Freeborn
00:30:30 Rep. Howard

00:30:31 Mr. Freeborn
00:30:39 Rep. Howard
00:30:53 Mr. Freeborn
00:30:58 Rep. Howard
00:31:04 Mr. Freeborn
00:31:34 Rep. Howard
00:31:41 Mr. Freeborn
00:32:48 Rep. Howard
00:33:06 Mr. Freeborn
00:33:25 Rep. Menahan
00:35:16 Mr. Freeborn
00:37:28 Rep. Menahan
00:38:28 Mr. Freeborn
00:38:51 Rep. Menahan
00:39:16 Mr. Freeborn
00:39:28 Rep. Menahan
00:40:01 Mr. Freeborn
00:40:26 Rep. Menahan
00:41:05 Mr. Freeborn
00:41:40 Vice Chairman Peterson
00:41:44 Larry Murphy, Contract Manager, Office of the State
Public Defender
00:41:58 Rep. Menahan
00:42:33 Mr. Murphy
00:44:11 Vice Chairman Peterson
00:44:14 Rep. MacDonald
00:44:25 Vice Chairman Peterson
00:44:27 Rep. MacDonald
00:44:40 Sen. Shockley
00:46:00 Vice Chairman Peterson
00:46:17 Mr. Freeborn
00:46:18 Vice Chairman Peterson
00:46:58 Mr. Freeborn
00:47:41 Vice Chairman Peterson
00:47:57 Mr. Freeborn
00:48:42 Vice Chairman Peterson
00:48:51 Sen. Shockley
00:48:53 Vice Chairman Peterson
00:50:06 Sen. Shockley
00:51:13 Vice Chairman Peterson
00:51:28 Sen. Shockley
00:51:59 Vice Chairman Peterson
00:52:03 Sen. Shockley
00:52:35 Vice Chairman Peterson
00:52:52 Sen. Shockley
00:53:14 Vice Chairman Peterson
00:53:30 Sen. Shockley
00:53:51 Vice Chairman Peterson
00:54:00 Sen. Shockley
00:54:15 Vice Chairman Peterson

Closing by Sponsor:

00:54:22 Sen. Shockley
00:59:23 Vice Chairman Peterson
00:59:57 Recess
01:14:24 Reconvene
01:14:24 Rep. Sands joined the meeting.

EXECUTIVE ACTION ON SB 263

01:14:46 **Motion:** Rep. Kottel moved that **SB 263 BE CONCURRED IN.**

Discussion:

01:14:49 Vice Chairman Peterson
01:14:54 Rep. Menahan
01:18:07 Vice Chairman Peterson
01:18:10 Rep. Menahan
01:18:22 Mr. Niss
01:18:35 Rep. Menahan
01:18:46 Mr. Niss
01:18:56 Rep. Menahan
01:18:59 Mr. Niss
01:19:09 Vice Chairman Peterson
01:19:14 Mr. Niss
01:20:27 Rep. Menahan
01:21:07 Mr. Niss
01:22:07 Rep. Menahan
01:22:41 Mr. Niss
01:22:53 Rep. Menahan
01:23:08 Mr. Niss
01:23:28 Rep. Menahan
01:24:07 Rep. Kottel
01:26:27 Rep. Menahan
01:26:33 Vice Chairman Peterson postponed Executive Action on
SB 263 until later in the meeting.

EXECUTIVE ACTION ON SB 476

01:26:45 **Motion:** Rep. Blewett moved that **SB 476 BE BROUGHT OFF
THE TABLE.**
01:27:19 Vice Chairman Peterson

01:27:42 **Vote:** Motion carried 11-6 by voice vote with Rep. Menahan, Rep. Warburton, Rep. Howard, Rep. Kerns, Rep. Wagner, and Rep. Bennett voting no.

01:28:20 **Motion:** Rep. Blewett moved that **SB 476 BE CONCURRED IN.**

Discussion:

01:28:30 Rep. Blewett
01:29:53 Vice Chairman Peterson
01:30:00 Rep. Howard
01:30:56 Rep. Wagner
01:31:17 Vice Chairman Peterson
01:31:54 Rep. Blewett called the question.
01:31:55 Chairman Stoker joined the meeting and resumed his role as chair of the committee.

01:31:59 **Vote:** Motion carried 12-6 by roll call vote with Rep. Kerns, Rep. Bennett, Rep. Wagner, Rep. Howard, Rep. Warburton, and Rep. Menahan voting no.

01:33:58 Rep. Driscoll
01:34:20 Rep. Menahan
01:34:28 Chairman Stoker

EXECUTIVE ACTION ON HJ 31

01:35:05 **Motion:** Rep. Peterson moved that **HJ 31 DO PASS.**

Discussion:

01:35:10 Chairman Stoker
01:35:19 Rep. Kerns
01:35:37 Rep. Sands
01:36:35 Rep. Bennett
01:36:39 Rep. MacDonald
01:37:55 Chairman Stoker
01:37:59 Rep. Bennett
01:38:28 Rep. Peterson
01:39:10 Rep. Warburton
01:39:53 Rep. Peterson called the question.

01:39:58 **Vote:** Motion carried 13-5 by roll call vote with Rep. Sands, Rep. MacDonald, Rep. Driscoll, Rep. Becker, and Rep. Blewett voting no.

01:40:46 Chairman Stoker

EXECUTIVE ACTION ON SB 221

01:41:19 **Motion:** Rep. Peterson moved that **SB 221 BE CONCURRED IN.**

Discussion:

01:41:32 Rep. MacDonald

01:41:36 Mr. Niss

[**EXHIBIT\(juh70a01\)**](#)

[**EXHIBIT\(juh70a02\)**](#)

01:42:16 **Motion:** Rep. Menahan moved that **SB 221 BE AMENDED**
(refer to Exhibit 1).

01:42:30 Mr. Niss

01:42:39 Rep. Menahan

01:43:35 Rep. Kottel called the question.

01:43:39 Rep. Peterson

01:44:21 Chairman Stoker

01:44:40 **Vote:** Motion carried 10-8 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, Rep. Wagner, Rep. Howard, Rep. Warburton, and Rep. Stoker voting no.

01:45:36 **Motion:** Rep. Peterson moved that **SB 221 BE CONCURRED IN AS AMENDED.**

01:45:45 **Motion:** Rep. Menahan moved that **SB 221 BE AMENDED**
(refer to Exhibit 2).

Discussion:

01:45:58 Chairman Stoker

01:46:02 Rep. Menahan

01:47:18 Chairman Stoker

01:47:21 Rep. Sands

01:47:42 Rep. Menahan

01:48:12 Chairman Stoker

01:48:16 Rep. Warburton

01:48:39 Rep. Peterson called the question.

01:48:44 Chairman Stoker

01:49:01 **Vote:** Motion carried 13-5 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. Howard, and Rep. Warburton voting no.

01:49:50 **Motion:** Rep. Peterson moved that **SB 221 BE CONCURRED IN AS AMENDED.**

Discussion:

01:49:56 Chairman Stoker
01:50:09 Rep. Kerns
01:51:04 Rep. Bennett
01:51:32 Rep. MacDonald
01:53:04 Rep. More
01:54:16 Rep. Peterson called the question.

01:56:06 **Vote:** Motion failed 7-11 by roll call vote with Rep. Kottel, Rep. Sands, Rep. MacDonald, Rep. Becker, Rep. Driscoll, Rep. Blewett, and Rep. Menahan voting aye.

01:57:02 Chairman Stoker

01:57:04 **Motion/Vote:** Rep. Peterson moved that **SB 221 BE TABLED AND THE VOTE REVERSED.** Motion carried 16-2 by voice vote with Rep. MacDonald and Rep. Menahan voting no.

01:57:30 Chairman Stoker

EXECUTIVE ACTION ON SB 236

01:58:02 **Motion:** Rep. Peterson moved that **SB 236 BE CONCURRED IN.**

Discussion:

01:58:07 Chairman Stoker
01:58:12 Rep. More
02:03:41 Chairman Stoker
02:03:45 Rep. Kottel
02:08:24 Rep. Warburton
02:09:50 Rep. Peterson
02:14:36 Rep. Wagner
02:18:49 Rep. Menahan
02:25:26 Rep. Regier
02:27:49 Rep. Peterson called the question.
02:28:04 Rep. MacDonald
02:30:51 Chairman Stoker

02:32:15 **Vote:** Motion failed 8-10 by roll call vote with Rep. Kottel, Rep. Sands, Rep. MacDonald, Rep. Ebinger, Rep. Driscoll, Rep. McClafferty, Rep. Blewett, and Rep. Menahan voting aye.

02:33:27 **Motion:** Rep. Peterson moved that **SB 236 BE TABLED AND THE VOTE REVERSED.**

02:33:38 Chairman Stoker

02:33:44 Rep. Peterson

02:33:47 **Vote:** Motion carried 11-7 by roll call vote with Rep. Kottel, Rep. Sands, Rep. MacDonald, Rep. Ebinger, Rep. Driscoll, Rep. Blewett, and Rep. Menahan voting no.

02:34:43 Chairman Stoker

EXECUTIVE ACTION ON SB 263

02:35:10 **Motion:** Rep. Menahan moved that **SB 263 BE CONCEPTUALLY AMENDED** (refer to audio recording).

02:37:00 Rep. More

02:37:09 Rep. Menahan

02:37:49 Chairman Stoker

02:38:00 Rep. Menahan

02:39:36 Chairman Stoker

02:39:42 Rep. Peterson called the question.

02:39:46 Chairman Stoker

02:39:52 **Vote:** Motion carried 16-2 by voice vote with Rep. Driscoll and Rep. Kottel voting no.

02:40:07 **Motion/Vote:** Rep. Peterson moved that **SB 263 BE CONCURRED IN AS AMENDED.** Motion carried 16-2 by voice vote with Rep. Driscoll and Rep. Kottel voting no.

02:40:52 Chairman Stoker

ADJOURNMENT

02:41:51 Adjournment

Jennifer Eck, Secretary

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Additional Exhibits:

EXHIBIT(juh70a03) Written testimony from Mary Lou Randour, Ph.D.
in support of SB 221

EXHIBIT(juh70a04) Letter and article in opposition to SB 221
from Cheryl Moldenhauer

EXHIBIT(juh70a05) Letter from the Rosebud County Commissioners
in support of SB 221

Additional Documents:

EXHIBIT(juh70aad.pdf)