

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Ken Peterson, on February 15, 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. 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. Dan Skattum (R)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: Rep. Bill Harris (R)
Rep. Keith Regier (R)

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 425, 2/7/2011; HB 442, 2/9/2011; HB 480, 2/11/2011;
HB 492, 2/11/2011

Executive Action: HB 274, HB 299, HB 321, HB 382, HB 412, HB 425, HB 438,
HB 442, HB 480, HB 490, HB 492

HEARING ON HB 442

Opening Statement by Sponsor:

00:00:28 Rep. Mike Phillips (D), HD 66, opened the hearing on HB 442, Revise concealed
weapon permit.

00:01:34 Rep. Regier arrived.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony:

00:04:24 Jim Smith, Montana Sheriffs' and Peace Officers' Association

Questions from Committee Members and Responses:

00:05:44 Rep. Regier

00:06:19 Rep. Wagner

Closing by Sponsor:

00:07:05 Rep. Phillips

HEARING ON HB 480

Opening Statement by Sponsor:

00:08:55 Rep. Mike Menahan (D), HD 82, opened the hearing on HB 480, Revise laws
relating to justice's court.

EXHIBIT(juh37a01)

00:09:50 Rep. Howard exited.

00:16:17 Rep. Howard returned.

Proponents' Testimony:

00:18:07 Mary Phippen, Montana Magistrates Association

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:19:16 Rep. Wagner

00:19:35 Rep. Driscoll exited.
00:19:42 Rep. Menahan

Closing by Sponsor:

00:22:14 Rep. Menahan

00:23:18 Rep. Driscoll returned
00:23:21 Rep. Peterson exited.
00:23:24 Vice Chairman Kerns assumed the chairmanship.

HEARING ON HB 492

Opening Statement by Sponsor:

00:23:31 Rep. David Howard (R), HD 60, opened the hearing on HB 492, Prohibit immigration sanctuary policies by local governments.

Proponents' Testimony:

00:28:03 Harris Himes, Montana Eagle Forum
00:28:47 Paul Nachman, self
00:33:21 Chairman Peterson returned
00:33:59 Roger Hagan, American Legion
00:34:53 Rep. Hansen exited.

Opponents' Testimony:

00:35:16 Shahid Haque-Hausrath, Helena attorney
00:36:44 Rep. Hansen returned.
00:42:00 Niki Zupanic, American Civil Liberties Union, Montana (ACLU)
00:43:40 Sarah Rossi, Montana Coalition Against Domestic and Sexual Violence
00:44:42 Kim Abbott, Montana Human Rights Network

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:46:07 Rep. Howard

HEARING ON HB 425

Opening Statement by Sponsor:

00:46:22 Rep. Ken Peterson (R), HD 46, opened the hearing on HB 425, Revise offer of settlement.

[EXHIBIT\(juh37a02\)](#)

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:55:15 Rep. Menahan
00:55:34 Rep. Warburton exited.
00:56:53 Chairman Peterson
00:57:18 Rep. Regier returned.

Closing by Sponsor:

00:50:25 Chairman Peterson

01:05:13 Meeting recessed until 9:20.
01:19:43 Meeting resumed with Rep. Skattum, Rep. Bangerter, Rep. Hill, Rep. Harris, and Rep. O'Hara absent.

EXECUTIVE ACTION ON HB 274

01:20:08 **Motion:** Rep. Howard moved that **HB 274 DO PASS.**

01:20:27 Rep. MacDonald
01:20:58 Rep. Howard
01:22:04 Chairman Peterson
01:22:09 Rep. MacDonald
01:22:24 Rep. Hill returned.
01:22:49 Rep. Bangerter returned.
01:23:01 Rep. O'Hara returned.
01:24:01 Rep. Sands
01:24:27 Rep. Skattum returned.
01:26:30 Rep. Howard
01:26:32 Rep. Harris returned.
01:26:36 Rep. MacDonald
01:27:04 Rep. Howard
01:27:28 Rep. MacDonald
01:28:49 Rep. Driscoll

01:29:42 **Vote:** Motion failed 9-11 by roll call vote with Rep. Bangerter, Rep. Hansen, Rep. Howard, Rep. Loney, Rep. More, Rep. O'Hara, Rep. Peterson, Rep. Read and Rep. Regier voting aye. Rep. Harris voted by proxy.

01:31:20 **Motion/Vote:** Rep. Kerns moved that **HB 274 BE TABLED AND THE VOTE REVERSED.** Motion carried 19-0 by voice vote. Rep. Harris was absent and did not vote.

EXECUTIVE ACTION ON HB 299

01:31:31 **Motion:** Rep. Hansen moved that **HB 299 DO PASS.**

Discussion:

01:33:05 Mr. Niss

01:33:29 Rep. Hansen
01:33:54 Mr. Niss
01:33:59 Rep. Hansen
01:39:56 Rep. Driscoll
01:40:18 Rep. Hansen
01:40:45 Rep. Regier
01:41:18 Rep. Hansen
01:42:16 Rep. Regier
01:42:22 Rep. Hansen
01:43:21 Rep. Regier
01:43:37 Chairman Peterson
01:43:46 Rep. Hansen
01:43:50 Rep. Sands
01:44:29 Rep. Menahan
01:45:20 Rep. Skattum
01:45:30 Rep. Hansen
01:45:51 Rep. Howard
01:47:13 Rep. Wagner
01:48:23 Rep. Loney
01:48:44 Rep. Bangerter
01:49:14 Rep. Menahan

01:51:28 **Vote:** Motion carried 12-8 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. Kerns, Rep. Menahan, Rep. Pease-Lopez, Rep. Peterson, Rep. Skattum and Rep. Warburton voting no.

EXECUTIVE ACTION ON HB 412

01:53:16 **Motion:** Rep. Harris moved that **HB 412 DO PASS.**

01:55:02 Chairman Peterson
01:56:01 Rep. More
01:56:25 Without objection, executive action was delayed pending amendments.

EXECUTIVE ACTION ON HB 425

01:57:00 **Motion:** Rep. K. Peterson moved that **HB 425 DO PASS.**

01:57:22 Rep. Hansen
01:58:28 Chairman Peterson
01:59:25 Rep. Hansen
01:59:53 Rep. Kerns
02:00:54 Rep. Hansen
02:01:44 Rep. Menahan
02:02:51 Chairman Peterson
02:03:37 Without objection, executive action was delayed.
02:03:57 Chairman Peterson

EXECUTIVE ACTION ON HB 412

02:04:12 **Motion:** Rep. Kerns moved that **HB 412 DO PASS.**

02:04:22 **Motion:** Rep. K. Peterson moved that **HB 412 BE AMENDED.**
EXHIBIT(juh37a03)

Discussion:

02:05:23 Rep. Harris

02:05:35 **Vote:** Motion carried unanimously by voice vote.

02:05:48 **Motion:** Rep. Kerns moved that **HB 412 DO PASS AS AMENDED.**

02:05:57 **Motion:** Rep. More moved that **HB 412 BE AMENDED.**
EXHIBIT(juh37a04)

Discussion:

02:06:23 Rep. Harris

02:06:51 Chairman Peterson

02:07:20 Rep. Harris

02:07:25 Rep. Warburton

02:07:53 Chairman Peterson

02:08:11 Rep. Regier

02:08:28 Rep. More

02:09:29 **Vote:** Motion carried 11-9 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez, Rep. Peterson, Rep. Regier, Rep. Sands and Rep. Warburton voting no.

02:10:42 **Motion:** Rep. Howard moved that **HB 412 DO PASS AS AMENDED.**

Discussion:

02:10:54 Rep. MacDonald

02:11:13 Chairman Peterson

02:11:55 Rep. MacDonald

02:13:31 Rep. Wagner

02:14:43 Rep. Harris

02:16:19 Rep. More

02:17:27 Rep. Sands

02:17:47 Chairman Peterson

02:17:57 Rep. Sands

02:18:13 Chairman Peterson

02:18:20 Rep. Sands

02:18:29 Rep. Hansen exited.

02:18:31 Chairman Peterson

02:18:47 Rep. Sands

02:19:15 **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. Rep. Hansen voted by proxy.

EXECUTIVE ACTION ON HB 438

02:20:49 **Motion:** Rep. Kerns moved that **HB 438 DO PASS**.

02:20:59 **Motion:** **Motion:** Rep. Hansen moved that **HB 438 BE AMENDED**.
[**EXHIBIT\(juh37a05\)**](#)

Discussion:

02:22:21 Rep. Sands

02:23:47 Rep. Hill

02:24:48 Rep. Harris

02:24:51 **Vote:** Motion carried 16-4 by roll call vote with Rep. Hill, Rep. MacDonald, Rep. Pease-Lopez and Rep. Sands voting no.

02:25:54 **Motion:** Rep. Kerns moved that **HB 438 DO PASS AS AMENDED**.

Discussion:

02:26:34 Rep. Hansen

02:27:10 Chairman Peterson

02:27:17 Rep. Menahan

02:27:21 Rep. Harris

02:27:28 **Vote:** Motion carried 13-7 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no.

EXECUTIVE ACTION ON HB 490

02:28:37 **Motion:** Rep. Hill moved that **HB 490 DO PASS**.

Discussion:

02:29:32 Rep. Sands

02:30:22 Rep. O'Hara exited.

02:30:35 Rep. Warburton

02:30:54 Rep. Sands

02:31:07 Rep. MacDonald

02:33:25 Rep. Pease-Lopez

02:33:57 **Vote:** Motion carried 15-5 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan and Rep. Sands voting no. Rep. O'Hara voted by proxy.

EXECUTIVE ACTION ON HB 492

02:35:10 **Motion:** Rep. Kerns moved that **HB 492 DO PASS.**

Discussion:

02:35:45 Rep. Howard
02:26:02 Rep. O'Hara returned.
02:36:31 Rep. Sands
02:37:15 Rep. Pease-Lopez
02:38:03 Rep. Howard
02:38:50 Rep. Pease-Lopez
02:39:27 Rep. Loney

02:39:57 **Vote:** Motion carried 13-7 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no.

EXECUTIVE ACTION ON HB 480

02:41:22 **Motion:** Rep. Kerns moved that **HB 480 DO PASS.**

02:41:29 **Motion:** Rep. Menahan moved that **HB 480 BE AMENDED.**

Discussion:

02:42:37 Rep. Kerns
02:42:43 Rep. Peterson

02:43:17 **Vote:** Motion carried unanimously by voice vote.

02:43:30 **Motion:** Rep. Kerns moved that **HB 480 DO PASS AS AMENDED.**

Discussion:

02:43:43 Rep. Wagner
02:44:26 Chairman Peterson
02:44:45 Rep. Menahan
02:44:57 Chairman Peterson
02:45:25 Rep. Wagner
02:45:29 Chairman Peterson

02:45:35 **Vote:** Motion carried 17-3 by roll call vote with Rep. Hill, Rep. More and Rep. Wagner voting no.

EXECUTIVE ACTION ON HB 442

02:46:37 **Motion:** Rep. Kerns moved that **HB 442 DO PASS.**

Discussion:

02:46:54 Rep. Kerns
02:47:08 Rep. Hansen
02:47:49 Rep Howard

02:48:01 **Vote:** Motion failed 6-14 by roll call vote with Rep. Driscoll, Rep. MacDonald, Rep. O'Hara, Rep. Pease-Lopez, Rep. Peterson and Rep. Regier voting aye.

02:49:01 **Motion/Vote:** Rep. Kerns moved that **HB 442 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 382

02:49:14 **Motion:** Rep. Kerns moved that **HB 382 BE REMOVED FROM TABLED**.

02:49:34 Chairman Peterson

02:49:56 **Vote:** Motion failed 10-10 by roll call vote with Rep. Hansen, Rep. Harris, Rep. Kerns, Rep. Loney, Rep. More, Rep. Read, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting aye.

EXECUTIVE ACTION ON HB 274

02:51:32 **Motion:** Rep. Howard moved that **HB 274 BE REMOVED FROM TABLED**.

Discussion:

02:51:47 Rep. Howard
02:52:15 Rep. Sands
02:53:05 Mr. Niss
02:53:51 Rep. Howard withdrew his motion.
02:54:08 Rep. Hansen
02:54:18 Chairman Peterson

EXECUTIVE ACTION ON HB 321

02:55:18 **Motion:** Rep. Kerns moved that **HB 321 DO PASS**.

Discussion:

02:56:16 Rep. Kerns
02:56:45 Rep. Hansen
02:57:04 Rep. Menahan exited.
02:57:10 Rep. Read
02:57:46 Rep. Sands
02:58:28 Rep. Kerns
02:58:51 Rep. Harris
02:59:53 Rep. Menahan returned.
02:59:58 Rep. Howard

03:00:29 Rep. Loney
03:01:04 Rep. More
03:03:44 Rep. Driscoll
03:04:20 Chairman Peterson
03:05:12 Rep. Skattum

03:05:57 **Vote:** Motion carried 13-7 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no.

ADJOURNMENT

03:07:03 Adjournment:

Karen Armstrong, Secretary

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Additional Exhibits
EXHIBIT(juh37a06)

Additional Documents:

EXHIBIT([juh37aad.pdf](#))