

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Ken Peterson, on February 21, 2011 at 7:00 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. 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)

Members Excused: None

Members Absent: Rep. Michael (Mike) More (R)
Rep. Wendy Warburton (R)

Staff Present: Karen Armstrong, Committee Secretary
Robert Stutz, 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:

Executive Action: HB 50, HB 381, HB 281, HB 493, HB 382, HB 395, HB 446, HB 425
HB 332, HB 514, HB 516, HB 518, HB 534, HB 544, HB 548, HB 570,
HB 583, HJ 14

EXECUTIVE ACTION ON HB 50

00:02:37 **Motion:** Rep. Kerns moved that **HB 50 DO PASS.**

Discussion:

00:02:53 Chairman Peterson

[EXHIBIT\(juh42a01\)](#)

[EXHIBIT\(juh42a02\)](#)

00:04:02 Rep. O'Hara

00:04:21 Chairman Peterson

00:05:41 Rep. More arrived.

00:05:52 Rep. Warburton arrived.

00:06:04 **Vote:** Motion carried 11-9 by roll call vote with Rep. Driscoll, Rep. Harris, Rep. Hill, Rep. Kerns, Rep. Loney, Rep. More, Rep. O'Hara, Rep. Wagner and Rep. Warburton voting no.

EXECUTIVE ACTION ON HB 381

Previously considered February 16

00:07:57 **Motion/Vote:** Rep. Kerns moved that **HB 381 BE RECONSIDERED.** Motion carried 11-9 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. Howard, Rep. MacDonald, Rep. Menahan, Rep. O'Hara, Rep. Pease-Lopez and Rep. Sands voting no.

00:08:09 **Motion:** Rep. Kerns moved that **HB 381 BE AMENDED.**

[EXHIBIT\(juh42a03\)](#)

Discussion:

00:12:09 Rep. Kerns

00:13:08 Rep. Wagner

00:13:32 Rep. Harris

00:14:48 **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.

00:14:51 **Motion:** Rep. Kerns moved that **HB 381 DO PASS AS AMENDED.**

Discussion:

00:14:58 Rep. MacDonald

00:16:23 **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 281

Previously considered February 11

00:16:43 **Motion/Vote:** Rep. MacDonald moved that **HB 281 BE REMOVED FROM TABLE**. Motion carried 11-9 by roll call vote with Rep. Hansen, Rep. Howard, Rep. Kerns, Rep. Menahan, Rep. More, Rep. Peterson, Rep. Regier, Rep. Skattum and Rep. Warburton voting no.

00:19:38 **Motion:** Rep. MacDonald moved that **HB 281 DO PASS**.

Discussion:

00:20:02 Rep. Sands
00:20:24 Rep. Harris
00:21:11 Rep. Menahan
00:22:19 Rep. Regier
00:23:00 Rep. Sands
00:23:49 Chairman Peterson
00:24:07 Rep. Loney

00:24:32 **Vote:** Motion failed 10-10 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Harris, Rep. Hill, Rep. Loney, Rep. MacDonald, Rep. O'Hara, Rep. Pease-Lopez, Rep. Read and Rep. Sands voting aye.

EXECUTIVE ACTION ON HB 493

Previously considered February 18

00:25:57 **Motion:** Rep. Kerns moved that **HB 493 BE REMOVED FROM TABLE**.

Discussion:

00:27:16 Rep. Sands
00:27:21 Rep. MacDonald
00:27:28 Rep. Driscoll
00:27:40 Chairman Peterson
00:28:09 Rep. Driscoll
00:28:34 Rep. Pease-Lopez
00:29:01 Rep. Hansen

00:29:40 **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.

00:30:03 **Motion:** Vice Chairman Kerns moved that **HB 493 BE AMENDED**.

EXHIBIT(juh42a04)

Discussion:

00:30:38 Vice Chairman Kerns
00:30:59 Rep. Hansen
00:31:25 Rep. Pease-Lopez
00:31:49 Rep. Kerns
00:32:51 Rep. MacDonald
00:35:14 Mr. Stutz
00:35:19 Rep. MacDonald
00:36:11 Chairman Peterson
00:37:07 Rep. Pease-Lopez

00:37:45 **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.

00:38:17 **Motion:** Rep. Kerns moved that **HB 493 DO PASS AS AMENDED.**

Discussion:

00:38:25 Rep. Harris
00:39:06 Vice Chairman Kerns
00:39:34 Rep. Wagner
00:42:18 Chairman Peterson

00:43:22 **Vote:** Motion failed 10-10 by roll call vote with Rep. Hansen, Rep. Harris, Rep. Howard, Rep. Kerns, Rep. Loney, Rep. More, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting aye.

EXECUTIVE ACTION ON HB 382

Previously considered February 9

00:44:04 **Motion:** Rep. Kerns moved that **HB 382 BE RECONSIDERED.**

Discussion:

00:44:29 Rep. Driscoll
00:44:52 Rep. Hill

00:44:59 **Vote:** Motion carried 11-9 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. O'Hara, Rep. Pease-Lopez, Rep. Peterson and Rep. Sands voting no.

00:46:38 **Motion:** Rep. Kerns moved that **HB 382 DO PASS.**

Discussion:

00:47:02 Rep. Wagner
00:47:40 Chairman Peterson
00:48:07 Rep. Sands

00:49:57 **Vote:** Motion carried 11-9 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. O'Hara, Rep. Pease-Lopez, Rep. Peterson and Rep. Sands voting no.

00:52:10 Rep. O'Hara exited.

EXECUTIVE ACTION ON HB 395

00:50:18 **Motion:** Rep. Hill moved that **HB 395 DO PASS**.

Discussion:

00:52:01 Rep. Regier

00:52:18 Rep. Hill

00:52:25 Rep. O'Hara returned.

00:52:58 Rep. Menahan

00:54:32 Chairman Peterson

00:55:01 Rep. Hill

00:55:20 **Vote:** Motion failed 10-10 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Harris, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. O'Hara, Rep. Pease-Lopez, Rep. Read and Rep. Sands voting aye.

EXECUTIVE ACTION ON HB 446

00:56:07 **Motion/Vote:** Rep. Hill moved that **HB 446 DO PASS**. Motion carried 11-9 by roll call vote with Rep. Hansen, Rep. Howard, Rep. Kerns, Rep. Loney, Rep. Peterson, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting no.

EXECUTIVE ACTION ON HB 425

00:57:43 **Motion:** Rep. Kerns moved that **HB 425 DO PASS**.

Discussion:

00:58:28 Rep. MacDonald

00:58:32 Rep. Regier

00:59:03 **Vote:** Motion carried 13-7 by roll call vote with Rep. Driscoll, Rep. Hansen, Rep. Harris, Rep. Hill, Rep. Howard, Rep. O'Hara and Rep. Pease-Lopez voting no.

EXECUTIVE ACTION ON HB 332

01:00:19 **Motion:** Rep. Wagner moved that **HB 332 DO PASS**.

01:00:25 **Motion:** Rep. Wagner moved that **HB 332 BE AMENDED**.

[**EXHIBIT**](#)(juh42a05)

Discussion:

01:01:02 Rep. Wagner
01:03:54 Rep. Menahan
01:05:00 Rep. Hansen

01:05:31 **Vote:** Motion failed 5-15 by roll call vote with Rep. Kerns, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting aye.

01:06:46 **Substitute Motion/Vote:** Rep. Wagner made a substitute motion that **HB 395 BE TABLED**. Substitute Motion carried 18-2 by voice vote with Rep. Regier and Rep. Skattum voting no.

EXECUTIVE ACTION ON HB 514

01:07:34 **Motion:** Rep. Sands moved that **HB 514 DO PASS**.

Discussion:

01:07:57 Rep. Sands
01:09:05 Rep. Bangerter
01:09:10 Rep. Sands

01:09:29 **Vote:** Motion failed 6-14 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting aye.

01:10:20 **Motion/Vote:** Rep. Kerns moved that **HB 514 BE TABLED AND THE VOTE REVERSED**. Motion carried 18-2 by voice vote with Rep. MacDonald and Rep. Sands voting no.

EXECUTIVE ACTION ON HB 516

01:10:42 **Motion:** Rep. Hansen moved that **HB 516 DO PASS**.

Discussion:

01:10:52 Rep. Sands
01:12:13 Rep. Hill
01:13:36 Rep. MacDonald
01:14:54 Rep. More

01:16:18 **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.

01:17:15 Rep. O'Hara exited.

EXECUTIVE ACTION ON HB 518

01:17:20 **Motion:** Rep. Sands moved that **HB 518 DO PASS.**

01:17:34 **Motion:** Rep. Menahan moved that **HB 518 BE AMENDED.**
EXHIBIT(juh42a06)

Discussion:

01:18:14 Rep. Menahan

01:18:59 Rep. O'Hara returned.

01:19:39 **Vote:** Motion carried unanimously by voice vote.

01:19:55 **Motion:** Rep. Menahan moved that **HB 518 DO PASS AS AMENDED.**

Discussion:

01:20:09 Rep. Kerns

01:20:17 Rep. Menahan

01:21:54 Chairman Peterson

01:22:40 Rep. Menahan

01:23:19 Chairman Peterson

01:23:32 Rep. MacDonald

01:24:20 Rep. Hansen

01:24:49 **Vote:** Motion failed 8-12 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. More, Rep. Pease-Lopez and Rep. Sands voting aye.

01:25:53 **Motion/Vote:** Rep. Kerns moved that **HB 518 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 534

01:26:24 **Motion:** Rep. Howard moved that **HB 534 DO PASS.**

01:26:31 **Motion:** Rep. Howard moved that **HB 534 BE AMENDED.**
EXHIBIT(juh42a07)

01:28:05 Rep. Driscoll exited.

Discussion:

01:28:21 Rep. Howard

01:29:25 Rep. Driscoll returned.

01:29:33 Rep. More exited.

01:30:48 Rep. Bangerter

01:35:27 Rep. More returned.

01:30:58 **Vote:** Motion carried 16-4 by roll call vote with Rep. Driscoll, Rep. MacDonald, Rep. Pease-Lopez and Rep. Sands voting no.

01:32:05 **Motion:** Rep. Howard moved that **HB 534 DO PASS AS AMENDED.**

Discussion:

01:32:21 Rep. Sands
01:33:53 Chairman Peterson
01:34:30 Rep. Skattum
01:35:02 Rep. Driscoll
01:35:46 Rep. Howard
01:36:08 Rep. Sands
01:37:13 Chairman Peterson

01:37:41 **Substitute Motion/Vote:** Rep. Sands made a substitute motion that **HB 534 BE TABLED.** Substitute Motion failed 8-12 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez, Rep. Read and Rep. Sands voting aye.

01:38:10 **Vote:** Motion carried 12-8 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez, Rep. Read and Rep. Sands voting no.

01:38 51 Rep. Hansen exited.

01:38:55 Rep. Howard exited.

EXECUTIVE ACTION ON HB 544

01:40:15 **Motion:** Rep. More moved that **HB 544 DO PASS.**

Discussion:

01:41:34 Rep. More
01:42:03 Rep. Menahan
01:42:53 Rep. Hansen returned.
01:43:41 Rep. Hill

01:44:10 **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. Howard voted by proxy.

EXECUTIVE ACTION ON HB 548

01:45:15 **Motion/Vote:** Rep. Kerns moved that **HB 548 DO PASS.** Motion carried 17-2 by voice vote with Rep. Kerns and Rep. Skattum voting no. Rep. Howard was absent and did not vote.

EXECUTIVE ACTION ON HB 570

01:45:51 **Motion:** Rep. Kerns moved that **HB 570 DO PASS.**

Discussion:

01:46:30 Rep. Sands

01:46:46 Rep. Warburton

01:47:07 **Vote:** Motion failed 6-14 by roll call vote with Rep. Bangerter, Rep. Hansen, Rep. More, Rep. Regier, Rep. Wagner and Rep. Warburton voting aye. Rep. Hansen and Rep. Howard voted by proxy.

01:48:45 **Motion/Vote:** Rep. Kerns moved that **HB 570 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote of those present and voting.

EXECUTIVE ACTION ON HB 583

01:48:56 **Motion:** Rep. Regier moved that **HB 583 DO PASS.**

01:50:43 **Motion:** Rep. K. Peterson moved that **HB 583 BE AMENDED.**
[EXHIBIT\(juh42a08\)](#)

Discussion:

01:51:31 Chairman Peterson

01:54:19 Rep. Regier

01:55:34 Rep. Loney

01:56:00 Rep. Howard returned.

01:56:08 Rep. Menahan

01:58:44 Chairman Peterson

01:59:57 **Vote:** Motion failed 5-15 by roll call vote with Rep. Bangerter, Rep. O'Hara, Rep. Peterson, Rep. Read and Rep. Warburton voting aye.

02:00:58 **Motion/Vote:** Rep. Regier moved that **HB 583 BE AMENDED.** Motion carried unanimously by voice vote.

[EXHIBIT\(juh42a09\)](#)

02:02:02 **Motion:** Rep. K. Peterson moved that **HB 583 BE AMENDED.**
[EXHIBIT\(juh42a10\)](#)

Discussion:

02:07:38 Rep. Regier

02:07:57 Chairman Peterson

02:09:28 Rep. Loney

02:09:36 Chairman Peterson

02:10:12 **Vote:** Motion carried unanimously by voice vote.

02:10:26 **Motion:** Rep. Regier moved that **HB 583 DO PASS AS AMENDED.**

02:10:55 **Substitute Motion:** Rep. Regier made a substitute motion that **HB 583 BE AMENDED.**

EXHIBIT(juh42a11)

Discussion:

02:11:22 Rep. Loney exited.

02:12:03 Chairman Peterson

02:12:51 Rep. Regier

02:13:06 Rep. Loney returned.

02:13:50 Chairman Peterson

02:14:27 **Motion:** Rep. Warburton moved **TO SEGREGATE PARAGRAPHS 1 AND 2 OF THE AMENDMENT.**

02:14:33 Without objection, paragraphs were segregated.

02:14:49 Chairman Peterson

02:14:56 Rep. Menahan

02:16:06 **Motion/Vote:** Rep. K. Peterson moved that **HB 583 BE AMENDED BY ADOPTING PARAGRAPH ONE OF THE AMENDMENT.** Motion carried unanimously by voice vote.

02:16:27 Rep. Regier

02:17:16 Rep. Howard

02:17:44 Chairman Peterson

02:17:48 Rep. Howard

02:18:05 Without objection, the committee voted on Paragraph 2 without a formal motion.

02:18:26 **Vote:** Motion failed 3-17 by roll call vote with Rep. MacDonald, Rep. More and Rep. Regier voting aye.

02:19:53 **Motion:** Rep. Regier moved that **HB 583 DO PASS AS AMENDED.**

Discussion:

02:20:16 Chairman Peterson

02:20:29 **Vote:** Motion carried 17-3 by roll call vote with Rep. Hill, Rep. Wagner and Rep. Warburton voting no.

EXECUTIVE ACTION ON HJ 14

02:21:54 **Motion/Vote:** Rep. More moved that **HJ 14 DO PASS.** 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.

02:24:00 Chairman Peterson

02:24:06 Rep. Sands

02:24:11 Chairman Peterson
02:24:21 Rep. Howard
02:24:26 Chairman Peterson
02:24:53 Rep. Hill

EXECUTIVE ACTION ON HB 395

Previously considered earlier in this meeting.

02:25:15 **Motion:** Rep. Hill moved that **HB 395 BE RECONSIDERED.**

Discussion:

02:27:49 Rep. Skattum
02:28:37 Rep. Hansen

02:31:14 **Vote:** Motion failed 9-11 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Harris, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez, Rep. Read and Rep. Sands voting aye.

ADJOURNMENT

02:33:05 Adjournment:

Karen Armstrong, Secretary

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Additional Documents:

EXHIBIT([juh42aad.pdf](#))