

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 67th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** Chair Barry Usher, on April 21, 2021 at 8:00 AM, in Room 137 Capitol

#### ROLL CALL

**Members Present:**

Rep. Barry Usher, Chair (R)  
Rep. Kathy Kelker, Vice Chair (D)  
Rep. Amy Regier, Vice Chair (R)  
Rep. Seth Berglee (R)  
Rep. Laurie Bishop (D)  
Rep. Jennifer Carlson (R)  
Rep. Robert Farris-Olsen (D)  
Rep. Frank Fleming (R)  
Rep. Tom France (D)  
Rep. Donavon Hawk (D)  
Rep. Dennis R. Lenz (R)  
Rep. Brandon Ler (R)  
Rep. Bob Phalen (R)  
Rep. Derek Skees (R)  
Rep. Ed Stafman (D)  
Rep. Mallerie Stromswold (R)  
Rep. Danny Tenenbaum (D)

**Members Excused:**

Rep. Jane Gillette (R)  
Rep. Jedediah Hinkle (R)

**Members Absent:** None

**Staff Present:**

Lydia Balian, Committee Secretary  
Rachel Weiss, Legislative Branch  
Hallie Swain, Remote Meeting Coordinator

**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: HJ 40, 4/19/2021; HJ 43, 4/19/2021; HJ 47, 4/19/2021  
Executive Action on: HJ 29; HJ 31; HJ 34; HJ 40; HJ 43; SB 402

08:02:42 Vice Chair Kelker  
08:03:20 Chair Usher  
08:04:03 Rep. Stafman assumed the chair.

### **HEARING ON HJ 40**

#### **Opening Statement by Sponsor:**

08:05:51 Rep. Bill Mercer (R), HD 46, opened the hearing on HJ 40, Judicial Standards Commission study and audit request.

#### **Proponents' Testimony:**

08:10:46 Bruce Spencer, State Bar of Montana  
08:12:56 Ed Bartlett, Montana Judges Association  
08:12:59 Rep. Skees left the meeting.

#### **Opponents' Testimony:** None

#### **Informational Testimony:**

08:16:38 Angus Maciver, Legislative Audit Division (LAD)

#### **Questions from Committee Members and Responses:**

08:17:01 Vice Chair Kelker  
08:17:32 Angus Maciver, LAD  
08:18:57 Rep. Fleming  
08:20:04 Angus Maciver, LAD  
08:21:26 Rep. Bishop  
08:21:49 Angus Maciver, LAD  
08:23:03 Rep. Phalen  
08:24:36 Bruce Spencer, State Bar of Montana  
08:25:25 Rep. France  
08:26:12 Angus Maciver, LAD

#### **Closing by Sponsor:**

08:30:32 Rep. Mercer  
  
08:35:50 Rep. Carlson assumed the chair.

### **HEARING ON HJ 47**

#### **Opening Statement by Sponsor:**

08:36:13 Rep. Kerri Seekins-Crowe (R), HD 43, opened the hearing on HJ 47, Request interim study and audit of educational programs for incarcerated.

[EXHIBIT\(juh76a01\)](#)

#### **Proponents' Testimony:**

08:42:11 Rep. Patelis  
08:45:57 Rep. Zolnikov  
08:48:28 Rep. Mercer

#### **Opponents' Testimony:** None

**Informational Testimony:**

08:51:40 Angus Maciver, Legislative Audit Division (LAD)

**Questions from Committee Members and Responses:**

08:52:03 Rep. France

08:52:42 Rep. Mercer

**Closing by Sponsor:**

08:54:39 Rep. Seekins-Crowe

**HEARING ON HJ 43****Opening Statement by Sponsor:**

08:57:27 Rep. Bill Mercer (R), HD 46, opened the hearing on HJ 43, Interim study bill to examine judicial security.

**Proponents' Testimony:**

09:00:44 Bruce Spencer, State Bar of Montana

09:03:13 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association (MSPOA);  
Montana County Attorneys Association (MCAA)

09:05:01 Ed Bartlett, Montana Judges Association

**Opponents' Testimony:** None**Informational Testimony:** None**Questions from Committee Members and Responses:**

09:06:36 Rep. Phalen

09:07:00 Rep. Mercer

09:08:34 Vice Chair Kelker

09:09:16 Rep. Mercer

09:09:52 Chair Carlson

09:10:17 Rep. Mercer

09:11:03 Bruce Spencer, State Bar of Montana

09:12:48 Nanette Gilbertson, MSPOA; MCAA

**Closing by Sponsor:**

09:13:51 Rep. Mercer

09:14:19 Recess

09:51:37 Reconvened with Rep. Farris-Olsen excused.

09:51:37 Rep. Usher resumed the chair.

**EXECUTIVE ACTION ON HJ 29**

09:52:05 **Motion:** Rep. A. Regier moved that **HJ 29 DO PASS.**

**Discussion:**

09:52:29 Rep. Carlson  
09:53:11 Vice Chair Kelker  
09:54:18 Chair Usher  
09:55:55 Rep. Carlson  
09:56:17 Chair Usher

09:56:39 **Vote:** Motion carried unanimously by voice vote. Rep. Farris-Olsen, Rep. Gillette, Rep. J. Hinkle and Rep. Skees voted by proxy.

**EXECUTIVE ACTION ON HJ 31**

09:57:36 **Motion:** Rep. A. Regier moved that **HJ 31 DO PASS.**

**Discussion:**

09:58:00 Rep. Fleming

09:59:53 **Motion:** Rep. A. Regier moved that **HJ 31 BE AMENDED.**  
**EXHIBIT(juh76a02)**

**Discussion:**

10:00:00 Rep. Fleming

10:01:25 **Vote:** Motion carried unanimously by voice vote. Rep. Farris-Olsen, Rep. Gillette, Rep. J. Hinkle and Rep. Skees voted by proxy.

10:01:56 **Motion:** Rep. A. Regier moved that **HJ 31 DO PASS AS AMENDED.**

**Discussion:**

10:02:04 Vice Chair Kelker  
10:03:03 Chair Usher

10:03:46 **Vote:** Motion carried unanimously by voice vote. Rep. Farris-Olsen, Rep. Gillette, Rep. J. Hinkle and Rep. Skees voted by proxy.

**EXECUTIVE ACTION ON HJ 34**

10:04:23 **Motion:** Rep. A. Regier moved that **HJ 34 DO PASS.**

**Discussion:**

10:04:50 Vice Chair Kelker

10:05:17 **Vote:** Motion carried unanimously by voice vote. Rep. Farris-Olsen, Rep. Gillette, Rep. J. Hinkle and Rep. Skees voted by proxy.

**EXECUTIVE ACTION ON HJ 40**

10:05:50 **Motion:** Rep. A. Regier moved that **HJ 40 DO PASS.**

**Discussion:**

10:06:12 Vice Chair Kelker  
10:07:11 Rep. Carlson  
10:07:57 Rep. Phalen  
10:08:19 Rep. Ler  
10:08:41 Vice Chair Kelker  
10:10:12 Rep. Phalen  
10:10:48 Chair Usher  
10:12:46 Rep. Carlson  
10:13:55 Rep. France  
10:15:02 Rep. Bishop  
10:16:10 Chair Usher

10:16:59 **Vote:** Motion carried 17-2 by roll call vote with Rep. Phalen and Rep. Usher voting no. Rep. Farris-Olsen, Rep. Gillette, Rep. J. Hinkle and Rep. Skees voted by proxy.

**EXECUTIVE ACTION ON HJ 43**

10:18:19 **Motion:** Rep. A. Regier moved that **HJ 43 DO PASS.**

**Discussion:**

10:18:46 Vice Chair Kelker  
10:20:06 Rep. Phalen  
10:20:30 Rep. Carlson  
10:20:58 Rep. Phalen

10:21:13 **Vote:** Motion carried 11-8 by roll call vote with Rep. Berglee, Rep. Carlson, Rep. Fleming, Rep. Hawk, Rep. Kelker, Rep. Lenz, Rep. Ler and Rep. Phalen voting no. Rep. Farris-Olsen, Rep. Gillette, Rep. J. Hinkle and Rep. Skees voted by proxy.

**EXECUTIVE ACTION ON SB 402**

10:22:30 **Motion:** Rep. A. Regier moved that **SB 402 BE CONCURRED IN.**

**Discussion:**

10:23:10 Rep. Phalen  
10:24:14 Rep. Ler

10:25:08 **Motion:** Rep. A. Regier moved that **SB 402 BE AMENDED.**  
[EXHIBIT\(juh76a03\)](#)

**Discussion:**

10:25:16 Rep. Tenenbaum

10:25:30 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Farris-Olsen, Rep. France, Rep. Gillette, Rep. J. Hinkle and Rep. Skees voted by proxy.

10:26:32 **Motion:** Rep. A. Regier moved that **SB 402 BE CONCURRED IN AS AMENDED.**

10:30:30 **Motion:** Rep. A. Regier moved that **SB 402 BE AMENDED.**  
**EXHIBIT(juh76a04)**

**Discussion:**

10:30:45 Chair Usher  
10:31:32 Rep. Stafman  
10:31:51 Chair Usher  
10:32:14 Rep. Tenenbaum  
10:33:35 Rep. Ler  
10:33:58 Rep. Carlson  
10:34:34 Rep. Tenenbaum  
10:35:12 Rep. Carlson  
10:35:29 Vice Chair Kelker  
10:36:06 Chair Usher  
10:36:22 Vice Chair Kelker  
10:36:44 Chair Usher  
10:36:59 Vice Chair Kelker  
10:37:59 Rep. Tenenbaum  
10:38:05 Rep. France left the meeting.

10:38:21 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Farris-Olsen, Rep. Gillette, Rep. J. Hinkle and Rep. Skees voted by proxy.

10:39:15 Rep. France rejoined the meeting.

10:39:18 **Motion/Vote:** Rep. A. Regier moved that **SB 402 BE CONCURRED IN AS AMENDED.** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Farris-Olsen, Rep. France, Rep. Gillette and Rep. J. Hinkle voted by proxy. Rep. Ler will carry the bill.

\*Standing Committee Report was held in order to reconsider action on SB 402.

**ADJOURNMENT**

Adjournment: 10:40:59

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Lydia Balian, Secretary

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Additional Documents:

**EXHIBIT**([juh76aad.pdf](#))