

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** Chair Ken Peterson, on March 8, 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. Bill Harris (R)  
Rep. Ellie Boldman Hill (D)  
Rep. David Howard (R)  
Rep. Cleve J. Loney (R)  
Rep. Margaret (Margie) MacDonald (D)  
Rep. Michael (Mike) More (R)  
Rep. Carolyn Pease-Lopez (D)  
Rep. Keith Regier (R)  
Rep. Dan Skattum (R)  
Rep. Bob Wagner (R)  
Rep. Wendy Warburton (R)

**Members Excused:** None

**Members Absent:** Rep. Mike Menahan (D)  
Rep. Jesse O'Hara (R)  
Rep. Joe Read (R)

**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: SB 106, 3/1/2011; SB 217, 3/1/2011; SB 304, 3/4/2011;  
SB 335, 3/4/2011.

Executive Action: SB 24, SB 57, SB 304, SB 335, SJ 9

00:01:13 Chairman Peterson  
00:01:19 Rep. O'Hara arrived.  
00:01:30 Rep. Read arrived.  
00:01:54 Rep. Menahan arrived.

**HEARING ON SB 106****Opening Statement by Sponsor:**

00:02:24 Sen. Jason Priest (R), SD 30, opened the hearing on SB 106, Compel participation in lawsuit on health care reform.

**Proponents' Testimony:**

00:05:48 Sen. Art Wittich, SD 65

00:09:15 Rep. Driscoll  
00:09:38 Sen. Wittich  
00:09:43 Rep. Driscoll  
00:09:57 Sen. Wittich  
00:10:15 Rep. MacDonald  
00:10:31 Sen. Wittich  
00:11:52 Rep. Menahan  
00:12:28 Sen. Wittich  
00:12:56 Rep. Hill  
00:13:46 Sen. Wittich  
00:14:26 Rep. More  
00:14:56 Sen. Wittich  
00:15:15 Rep. Warburton  
00:15:48 Sen. Wittich

00:16:10 Nancy Ballance, Ravalli County Tea Party Patriots  
00:17:41 Bob Faw, self  
00:19:48 Rep. Driscoll  
00:20:01 Chairman Peterson  
00:20:17 Mr. Faw  
00:21:11 Rep. Howard  
00:21:39 Chairman Peterson

**Opponents' Testimony:**

00:21:51 John Marshall, self  
00:22:23 Rep. Howard exited.

00:22:55 Anthony Johnstone, State Solicitor for Montana, Office of the Attorney General,  
(AG)  
00:25:35 Rep. O'Hara exited.  
00:29:51 Rep. Loney exited.

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:30:41 Vice Chairwoman Sands  
00:31:27 Sen. Priest  
00:31:34 Rep. Sands  
00:31:37 Chairman Peterson  
00:31:41 Rep. Howard returned.  
00:31:50 Rep. Sands  
00:31:58 Sen. Priest  
00:32:03 Rep. Loney returned.  
00:32:25 Rep. Hill  
00:32:43 Sen. Priest  
00:33:06 Rep. Hill  
00:33:44 Chairman Peterson  
00:33:48 Rep. Hill  
00:33:53 Sen. Priest  
00:34:15 Rep. Hill  
00:34:28 Sen. Priest  
00:35:04 Rep. Hill  
00:35:20 Sen. Priest  
00:35:52 Rep. Wagner  
00:36:16 Mr. Johnstone, AG  
00:36:20 Rep. Wagner  
00:36:53 Mr. Johnstone  
00:37:19 Rep. MacDonald  
00:38:08 Ms Ballance  
00:38:13 Rep. MacDonald  
00:38:18 Ms Ballance  
00:38:31 Rep. MacDonald  
00:38:55 Rep. Menahan exited.  
00:39:00 Ms. Ballance  
00:39:28 Rep. MacDonald  
00:40:11 Ms Ballance  
00:41:09 Rep. MacDonald  
00:41:25 Ms Ballance  
00:41:51 Rep. Harris  
00:43:18 Mr. Johnstone  
00:43:23 Rep. Menahan returned.  
00:43:40 Rep. Loney exited.  
00:44:56 Rep. Harris  
00:45:38 Mr. Johnstone  
00:46:35 Rep. Harris

00:47:07 Mr. Johnstone  
00:47:39 Rep. Hansen  
00:48:34 Mr. Johnstone  
00:50:02 Rep. Wagner  
00:51:10 Rep. Regier exited.  
00:52:08 Mr. Johnstone  
00:54:50 Rep. Wagner  
00:55:02 Rep. Regier returned.  
00:56:56 Mr. Johnstone  
00:57:34 Rep. Wagner  
00:57:48 Mr. Johnstone  
00:58:01 Rep. Bangerter  
00:58:20 Mr. Johnstone  
00:58:37 Rep. Howard exited.  
00:59:00 Chairman Peterson  
00:59:11 Mr. Johnstone  
00:59:44 Rep. Loney returned.  
00:59:51 Chairman Peterson  
01:00:04 Mr. Johnstone  
01:00:12 Vice Chairwoman Sands exited.  
01:00:21 Mr. Johnstone  
01:00:59 Chairman Peterson  
01:01:41 Mr. Johnstone  
01:01:53 Chairman Peterson  
01:02:19 Mr. Johnstone  
01:02:29 Chairman Peterson  
01:02:44 Rep. Driscoll exited.  
01:03:28 Mr. Johnstone  
01:03:33 Chairman Peterson  
01:04:03 Mr. Johnstone  
01:04:10 Chairman Peterson  
01:04:14 Mr. Johnstone  
01:04:24 Rep. Menahan  
01:04:48 Mr. Johnstone  
01:04:52 Rep. Menahan  
01:05:18 Chairman Peterson  
01:05:23 Mr. Johnstone  
01:05:41 Rep. Menahan  
01:06:00 Mr. Johnstone  
01:06:08 Chairman Peterson  
01:06:12 Mr. Johnstone  
01:06:17 Rep. MacDonald  
01:06:47 Mr. Johnstone  
01:07:43 Chairman Peterson  
01:07:53 Mr. Johnstone  
01:07:59 Rep. Driscoll returned  
01:08:06 Rep. O'Hara returned.  
01:08:13 Chairman Peterson

01:08:29 Mr. Johnstone  
01:08:45 Rep. Loney  
01:09:04 Mr. Marshall  
01:12:51 Rep. Loney  
01:13:21 Chairman Peterson  
01:14:03 Mr. Marshall  
01:14:48 Rep. Harris  
01:15:32 Mr. Johnstone  
01:16:17 Rep. Harris

**Closing by Sponsor:**

01:16:30 Sen. Priest

**HEARING ON SB 217**

**Opening Statement by Sponsor:**

01:18:36 Sen. Terry Murphy (R), SD 39, opened the hearing on SB 217, Revise award of costs to enforce constitutional right-to-know.

**Proponents' Testimony:**

01:20:44 John Barrows, Executive Director, Montana Newspaper Association  
**EXHIBIT(juh52a01)**  
01:21:38 Rep. Wagner exited.  
01:25:50 Jan Anderson, Editor/Publisher of the Boulder Monitor and Jefferson County Courier  
01:27:58 Rep. Pease-Lopez exited.  
01:28:53 Tim Ravndal, Lewis and Clark Tea Party  
01:29:27 Rep. Bangerter exited.  
01:30:54 Vice Chairwoman Sands returned.  
01:31:21 Rep. Hansen exited.  
01:32:16 Rep. Bangerter returned.  
01:32:53 Sen. Shockley  
01:33:50 Rep. O'Hara exited.  
01:34:03 Al Smith, Montana Trial Lawyers Association (MTLA)  
01:34:17 Rep. Pease-Lopez returned.  
01:34:59 Brenda Lindlief-Hall, self

**Opponents' Testimony:**

01:36:40 Mark Murphy, Montana County Attorneys' Association (MCAA)

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

01:41:27 Rep. Harris  
01:42:07 Mr. Murphy  
01:42:17 Rep. Wagner returned.  
01:42:35 Mr. Murphy  
01:42:58 Rep. Harris

01:43:19 Mr. Murphy  
01:43:54 Rep. Bangerter  
01:44:32 Mr. Murphy  
01:45:16 Chairman Peterson  
01:46:05 Mr. Murphy  
01:46:19 Rep. Hansen returned.  
01:46:57 Chairman Peterson  
01:47:03 Mr. Murphy  
01:48:05 Chairman Peterson  
01:48:09 Sen. Shockley  
01:48:16 Rep. Menahan  
01:50:32 Mr. Barrows  
01:51:41 Chairman Peterson

**Closing by Sponsor:**

01:52:15 Sen. Murphy  
  
01:53:54 Meeting recessed for 15 minutes  
02:09:18 Meeting resumed with Rep Driscoll, Rep. Hansen, Rep. Howard,  
Rep. MacDonald, Rep. More, Rep. O'Hara, Rep. Pease-Lopez, Rep. Wagner  
and Rep. Warburton absent

**HEARING ON SB 335****Opening Statement by Sponsor:**

02:09:30 Sen. Jim Shockley (R), SD 45, opened the hearing on SB 335, Revise laws  
related to stale-dated warrants.  
  
02:10:11 Rep. More returned.  
02:10:18 Rep. Pease-Lopez and Rep. Driscoll returned.  
02:10 34 Rep. Warburton returned.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Informational Testimony:**

02:11:47 Paul Christofferson, State Accounting Division Administrator, Department of  
Administration (D of A)  
02:11:54 Rep. Wagner returned.

**Questions from Committee Members and Responses:**

02:12:53 Chairman Peterson  
02:13:08 Rep. Hansen returned.  
02:13:35 Rep. O'Hara returned.  
02:13:58 Sen. Shockley  
02:14:06 Mr. Christofferson  
02:14:14 Rep. MacDonald returned.

**Closing by Sponsor:**

02:14:31 Sen Shockley

**HEARING ON SB 304****Opening Statement by Sponsor:**

02:14:47 Sen. Jim Shockley (R), SD 45, opened the hearing on SB 304, Generally revise dependency and neglect laws.

**Proponents' Testimony:**

02:20:41 Corbit Harrington, Senior Yellowstone County Attorney

02:27:55 Larry Epstein, Montana County Attorneys Association (MCAA)

02:28:22 Hank Hudson, Department of Public Health and Human Services.(DPHHS)

02:29:03 Christina Davis, State Director of the Children's Defense Fund

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

02:29:43 Rep. Wagner

02:30:13 Mr. Harrington

02:31:39 Rep. Wagner

02:32:15 Mr. Harrington

02:33:08 Chairman Peterson

02:33:33 Mr. Hudson, DPHHS

02:33:40 Shirley Brown, Division Administrator, Child and Family Services, DPHHS

02:36:19 Chairman Peterson

02:36:28 Ms Brown

02:37:39 Chairman Peterson

02:37:44 Ms Brown

**Closing by Sponsor:**

02:37:54 Sen. Shockley

02:39:40 Rep. Bangerter

**EXECUTIVE ACTION ON SB 24**02:40:55 **Motion/Vote:** Rep. Kerns moved that **SB 24 BE TABLED**. Motion carried 19-0 by voice vote. Rep. Howard was absent and did not vote.**EXECUTIVE ACTION ON SB 335**02:41:27 **Motion/Vote:** Rep. Kerns moved that **SB 335 BE CONCURRED IN**. Motion carried 19-0 by voice vote. Rep. Bangerter will carry the bill. Rep. Howard was absent and did not vote.

**EXECUTIVE ACTION ON SB 304**

02:42:12 **Motion:** Rep. Kerns moved that **SB 304 BE CONCURRED IN.**

02:42:21 **Motion:** Rep. Bangerter moved that **EXECUTIVE ACTION ON SB 304 BE DELAYED.**

**Discussion:**

02:42:35 Rep. Menahan

02:42:52 Rep. Bangerter withdrew the substitute motion.

02:43:01 Rep. Menahan

02:44:09 Rep. Sands

02:44:38 Rep. More

02:44:56 **Motion/Vote:** Rep. Menahan moved that **EXECUTIVE ACTION ON SB 304 BE DELAYED.** Motion carried 19-0 by voice vote.

**EXECUTIVE ACTION ON SB 57**

02:45:48 **Motion:** Rep. O'Hara moved that **SB 57 BE CONCURRED IN.**

02:46:02 **Motion:** Rep. O'Hara moved that **SB 57 BE AMENDED.**  
**EXHIBIT(juh52a02)**

**Discussion:**

02:47:01 Mr. Niss

02:47:53 **Vote:** Motion carried 19-0 by voice vote. Rep. Howard was absent and did not vote.

02:48:09 **Motion:** Rep. O'Hara moved that **SB 57 BE CONCURRED IN AS AMENDED.**

**Discussion:**

02:48:31 Vice Chairman Kerns

02:48:54 Chairman Peterson

02:49:20 Rep. Wagner

02:49:40 Rep. O'Hara

02:49:58 Rep. Hill

02:50:22 Rep. Menahan

02:51:37 Rep. Harris

02:52:25 Rep. Pease-Lopez

02:52:40 Chairman Peterson

02:53:56 Rep. Pease-Lopez

02:54:18 Chairman Peterson

02:54:26 Rep. Pease-Lopez

02:55:02 Chairman Peterson

02:55:45 Rep. Pease-Lopez

02:57:41 **Vote:** Motion failed 10-10 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. Loney, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez, Rep. Read, Rep. Sands and Rep. Warburton voting aye. Rep. Howard voted by proxy.

**EXECUTIVE ACTION ON SJ 9**

03:00:12 **Motion:** Rep. Kerns moved that **SJ 9 BE CONCURRED IN.**

**Discussion:**

03:00:47 Rep. MacDonald  
03:01:11 Chairman Peterson  
03:01:26 Rep. Hansen  
03:01:55 Rep. Menahan  
03:04:28 Rep. Warburton

03:05:28 **Substitute Motion/Vote:** Rep. Warburton made **A SUBSTITUTE MOTION THAT EXECUTIVE ACTION ON SJ 9 BE DELAYED..** Substitute Motion failed 9-10 by roll call vote with Rep. Bangerter, Rep. Hansen, Rep. MacDonald, Rep. O'Hara, Rep. Pease-Lopez, Rep. Peterson, Rep. Read, Rep. Wagner and Rep. Warburton voting aye. Rep. Howard was absent and did not vote.

03:07:56 Rep. Pease Lopez  
03:08:03 Chairman Peterson  
03:08:22 Rep. Harris  
03:09:16 Rep. MacDonald  
03:12:16 Rep. Hill  
03:13:56 Rep. Wagner

03:14:02 **Substitute Motion:** Rep. Wagner made a substitute motion that **EXECUTIVE ACTION ON SJ 9 BE DELAYED.**

**Discussion:**

03:14:41 Rep. More  
03:15:47 Rep. Wagner withdrew his motion  
03:15:57 Rep. More  
03:18:05 Rep. Harris  
03:19:23 Rep. Loney  
03:19:54 Rep. Hansen  
03:21:44 Rep. Sands  
03:22:21 Chairman Peterson  
03:22:31 Rep. More  
03:22:44 Rep. MacDonald  
03:23:22 Chairman Peterson

03:26:00 **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. Rep. Read will carry the bill.

03:26:40 Rep. Hansen  
03:28:46 Chairman Peterson  
03:29:28 Rep. Warburton  
03:30:06 Rep. Wagner  
03:30:34 Rep. Pease-Lopez  
03:31:33 Rep. Wagner exited.  
03:32:15 Rep. Hill  
03:33:42 Rep. More  
03:35:24 Rep. Driscoll  
03:35:43 Rep. Warburton  
03:36:12 Rep. Loney  
03:36:31 Rep. Harris  
03:38:39 Rep. Sands  
03:39:51 Rep. Skattum  
03:39:56 Rep. Wagner returned.  
03:40:16 Chairman Peterson  
03:40:26 Rep. Skattum  
03:40:40 Chairman Peterson  
03:40:52 Rep. More  
03:41:12 Rep. Regier  
03:41:43 Chairman Peterson

**ADJOURNMENT**

03:41:51      Adjournment:

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Karen Armstrong, Secretary

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Additional Documents:

**EXHIBIT**([juh52aad.pdf](#))