

## MINUTES

### MONTANA SENATE 63rd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** Chair Terry Murphy, on March 27, 2013 at 8:00 A.M., in Room 303 Capitol

#### ROLL CALL

**Members Present:**

Sen. Terry Murphy, Chair (R)  
Sen. Scott Sales, Vice Chair (R)  
Sen. Anders Blewett (D)  
Sen. Scott Boulanger (R)  
Sen. Robyn Driscoll (D)  
Sen. Jennifer Fielder (R)  
Sen. Larry Jent (D)  
Sen. Cliff Larsen (D)  
Sen. Chas Vincent (R)  
Sen. Art Wittich (R)

**Members Excused:** Sen. Shannon Augare (D), Sen. John Brenden (R)

**Members Absent:** None

**Staff Present:** Julianne Burkhardt, Legislative Branch  
Pam Schindler, Committee Secretary

**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 208, 3/15/2013; HB 421, 3/15/2013; HJ 5, 3/15/2013  
Executive Action: HB 208-BE CONCURRED IN, HJ 5-BE CONCURRED IN  
HB 104-BE CONCURRED IN AS AMENDED, HB 287-  
BE CONCURRED IN, SB 384-DO PASS  
HB 522-BE CONCURRED IN, HB 74, HB 229, HB 555-VOTE  
TIED, HB 67-TABLED, HB 254-TABLED, HB 255-TABLED, HB  
421-TABLED, HB 438-TABLED, SB 377-TABLED

**HEARING ON HB 421****Opening Statement by Sponsor:**

00:18:23 Rep. Joanne Blyton (R), HD 59, opened the hearing on HB 421, Revise law pertaining to abandoned vehicles.

**Proponents' Testimony:**

00:20:26 Terry Morrison, President, Montana Tow Truck Association (MTTA), Owner, Mr. T's Towing Service, Bozeman, Montana

00:22:10 Jim Dusenberry, Capital City Towing Association, (CCTA) Owner, JB's Towing, Helena, Montana

00:23:21 Bob Gilbert, Montana Tow Truck Association (MTTA)

00:24:27 Maureen Connor, Montana Association of Counties (MACo)

00:25:03 Jerry Williams, Montana Police Protective Association (MPPA)

**Opponents' Testimony:**

00:26:17 Kate Cholewa, City of Missoula, Missoula, Montana

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

00:28:34 Sen. Boulanger

00:29:03 Rep. Blyton

**Closing by Sponsor:**

00:32:16 Rep. Blyton

**HEARING ON HB 208****Opening Statement by Sponsor:**

00:34:14 Rep. Jerry O'Neil (R), HD 3, opened the hearing on HB 208, Providing immunity for solid waste management system.

**Proponents' Testimony:**

00:37:57 Greg Chilcott, President, Montana Association of County Supervisors (MACS), also, Ravalli County Commissioner, Hamilton, Montana

**Opponents' Testimony:**

00:39:20 Al Smith, Montana Trial Lawyers Associations (MTLA)

**Informational Testimony: None**

**Questions from Committee Members and Responses:**

00:46:19 Sen. Larsen  
00:47:15 Rep. O'Neill  
00:50:13 Sen. Blewett  
00:51:02 Mr. Smith, MTLA

**Closing by Sponsor:**

00:53:02 Rep. O'Neill

**HEARING ON HJ 5**

**Opening Statement by Sponsor:**

00:54:34 Rep. Jerry O'Neil (R), HD 3, opened the hearing on HJ 5, Resolution to amend the US constitution regarding foreign treaties.

**Proponents' Testimony:**

00:57:56 Jane Hamman, self, Clancy, Montana

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

01:00:26 Rep. O'Neill  
01:01:23 Brief Recess  
01:12:00 Reconvened

**EXECUTIVE ACTION ON HB 208**

01:12:42 **Motion:** Sen. Sales moved that **HB 208 BE CONCURRED IN.**

**Discussion:**

01:12:50 Sen. Blewett  
01:13:38 Sen. Sales  
01:14:09 Sen. Fielder  
01:15:18 Sen. Murphy

01:16:16 **Vote:** Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Jent and Sen. Larsen voting no. Sen. Augare and Sen. Brenden voted by proxy. Sen. Fielder will carry the bill.

**EXECUTIVE ACTION ON HB 421**

01:17:34 **Motion/Vote:** Sen. Boulanger moved that **HB 421 BE TABLED**. Motion carried 9-3 by roll call vote with Sen. Blewett, Sen. Fielder and Sen. Jent voting no. Sen. Augare and Sen. Brenden voted by proxy.

(Sen. Brenden entered the hearing)

**EXECUTIVE ACTION ON HB 74**

01:18:41 **Motion:** Sen. Larsen moved to **RECONSIDER THE PREVIOUS ACTION** on **HB 74**.

**Discussion:**

01:19:27 Sen. Wittich  
01:19:43 Sen. Fielder  
01:20:34 Sen. Murphy  
01:21:32 Sen. Larsen  
01:22:05 Sen. Vincent  
01:22:20 Julianne Burkhardt, Legislative Services Division (LSD)  
01:22:47 Sen. Brenden  
01:23:58 Sen. Jent  
01:24:54 Sen. Larsen

01:25:01 **Vote:** Motion failed 6-6 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Brenden, Sen. Driscoll, Sen. Jent and Sen. Murphy voting aye. Sen. Augare voted by proxy.

**EXECUTIVE ACTION ON HJ 5**

01:26:50 **Motion:** Sen. Sales moved that **HJ 5 BE CONCURRED IN**.

**Discussion:**

01:27:01 Sen. Blewett  
01:27:32 Sen. Fielder

(Sen. Brenden absent from the hearing)

01:28:23 **Vote:** Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Jent and Sen. Larsen voting no. Sen. Augare and Sen. Brenden voted by proxy. Sen. Fielder will carry the bill.

**Committee Business:**

01:30:00 Rachel Weiss, Legislative Services Division (LSD)

[EXHIBIT\(jus66a01\)](#)

[EXHIBIT\(jus66a02\)](#)

[EXHIBIT\(jus66a03\)](#)

01:35:21 Sen. Wittich

01:36:14 Ms. Weiss, LSD

**EXECUTIVE ACTION ON HB 255**

01:37:15 **Motion/Vote:** Sen. Fielder moved that **HB 255 BE TABLED**. Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Jent and Sen. Larsen voting no. Sen. Augare and Sen. Brenden voted by proxy.

**EXECUTIVE ACTION ON HB 254**

01:38:24 **Motion:** Sen. Wittich moved that **HB 254 BE CONCURRED IN**.

01:39:23 **Substitute Motion/Vote:** Sen. Wittich made a substitute motion that **HB 254 BE TABLED**. Substitute Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Fielder and Sen. Larsen voting no. Sen. Augare and Sen. Brenden voted by proxy.

**EXECUTIVE ACTION ON HB 67**

01:40:31 **Motion:** Sen. Blewett moved that **HB 67 BE CONCURRED IN**.

01:40:51 **Substitute Motion:** Sen. Wittich made a substitute motion that **HB 67 BE TABLED**.

**Discussion:**

01:42:04 Sen. Larsen

01:42:32 Sen. Murphy

01:42:40 Without objection, Sen. Wittich withdrew the substitute motion that **HB 67 BE TABLED**.

01:42:55 Chairman Murphy

01:43:12 Julie Steab, Investigator, Commissioner of Political Practices (COPP), State of Montana

01:44:08 Sen. Fielder

01:45:22 Sen. Larsen

01:46:29 Sen. Blewett

01:47:24 Sen. Jent

01:47:44 **Substitute Motion/Vote:** Sen. Wittich made a substitute motion that **HB 67 BE TABLED**. Substitute Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Jent and Sen. Larsen voting no. Sen. Augare and Sen. Brenden voted by proxy.

#### **EXECUTIVE ACTION ON HB 229**

01:50:53 **Motion/Vote:** Sen. Driscoll moved that **HB 229 BE TABLED**. Motion failed 6-6 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Jent, Sen. Larsen and Sen. Sales voting aye. Sen. Augare and Sen. Brenden voted by proxy.

#### **Discussion:**

01:52:06 Sen. Wittich  
01:52:48 Chairman Murphy  
01:53:23 Sen. Jent

#### **EXECUTIVE ACTION ON HB 104**

01:54:54 **Motion:** Sen. Wittich moved that **HB 104 BE CONCURRED IN**.

#### **Discussion:**

01:55:05 **Motion:** Sen. Jent moved that **HB 104 BE AMENDED**.  
[EXHIBIT\(jus66a04\)](#)

#### **Discussion:**

01:55:30 Ms. Burkhardt, Legislative Services Division (LSD)  
01:56:00 Sen. Murphy  
01:56:06 Ms. Burkhardt, LSD  
01:56:09 Sen. Fielder  
01:57:15 Sen. Jent  
01:57:54 Sen. Fielder  
01:58:09 Sen. Jent  
01:59:29 Ms. Burkhardt  
02:00:36 Sen. Wittich

02:01:56 **Vote:** Motion carried 8-4 by roll call vote with Sen. Boulanger, Sen. Brenden, Sen. Sales and Sen. Vincent voting no. Sen. Augare and Sen. Brenden voted by proxy.

02:02:45 **Motion/Vote:** Sen. Jent moved that **HB 104 BE CONCURRED IN AS AMENDED**. Motion carried 12-0 by roll call vote. Sen. Augare and Sen. Brenden voted by proxy. Sen. Driscoll will carry the bill.

#### **Committee Business**

02:03:42 Rep. Blyton

02:04:50 Sen. Fielder  
02:05:18 Sen. Blewett  
02:05:30 Ms. Burkhardt  
02:05:51 Sen. Blewett

**EXECUTIVE ACTION ON SB 377**

02:07:34 **Motion:** Sen. Larsen moved that **SB 377 DO PASS.**

02:07:52 **Motion:** Sen. Larsen moved that **SB 377 BE AMENDED.**  
**EXHIBIT(jus66a05)**

02:08:13 Ms. Burkhardt

02:09:06 Brief Recess  
02:13:52 Reconvene

02:14:06 Sue O'Connell, Legislative Services Division (LSD)  
02:18:26 Sen. Murphy  
02:18:52 Sen. Fielder  
02:19:15 Ms. O'Connell, LSD  
02:19:32 Sen. Wittich  
02:20:59 Ms. O'Connell  
02:22:22 Sen. Fielder  
02:23:07 Sen. Vincent  
02:24:21 Ms. O'Connell  
02:24:52 Sen. Vincent  
02:24:59 Ms. O'Connell

02:25:53 **Vote:** Motion carried 12-0 by roll call vote. Sen. Augare and Sen. Brenden voted by proxy.

02:26:16 **Motion:** Sen. Larsen moved that **SB 377 DO PASS AS AMENDED.**

**Discussion:**

02:26:20 Sen. Vincent  
02:27:11 Sen. Wittich  
02:28:47 Sen. Larsen  
02:30:00 Sen. Fielder  
02:31:11 Sen. Murphy

02:33:06 **Vote:** Motion failed 5-7 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Larsen and Sen. Murphy voting aye. Sen. Augare and Sen. Brenden voted by proxy.

02:33:09 Without objection, Sen. Sales made a motion that **SB 377 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote of those present and voting.

**EXECUTIVE ACTION ON HB 287**

02:34:09 **Motion:** Sen. Blewett moved that **HB 287 BE CONCURRED IN.**

**Discussion:**

02:34:35 Sen. Sales  
02:36:03 Sen. Wittich  
02:36:45 Ms. Burkhardt  
02:36:57 Sen. Fielder  
02:37:17 Jon Bennion, Deputy Chief, Attorney General, Department of Justice (DOJ)  
State of Montana  
02:37:45 Sen. Wittich  
02:38:00 Mr. Bennion, DOJ  
02:40:53 Sen. Vincent  
02:41:06 Mr. Bennion  
02:42:24 Sen. Vincent  
02:43:06 Sen. Blewett  
02:43:19 Sen. Vincent  
02:43:36 Sen. Blewett  
02:43:49 Mr. Bennion  
02:44:00 Ms. Burkhardt  
02:44:30 Sen. Sales  
02:44:47 Ms. Burkhardt

(Sen. Fielder absent from the hearing)

02:46:02 **Vote:** Motion carried 10-2 by roll call vote with Sen. Sales and Sen. Vincent voting no. Sen. Augare, Sen. Brenden and Sen. Fielder voted by proxy. Sen. Brenden will carry the bill.

**EXECUTIVE ACTION ON HB 438**

02:48:19 **Motion:** Sen. Sales moved that **HB 438 BE CONCURRED IN.**

02:48:31 **Motion:** Sen. Sales moved that **HB 438 BE AMENDED.**  
[EXHIBIT\(jus66a06\)](#)

**Discussion:**

02:49:30 **Substitute Motion/Vote:** Sen. Sales made a substitute motion that **HB 438 BE AMENDED BY REMOVING THE WORD "MANAGING" FROM AMENDMENT.** Substitute motion carried 11-1 by roll call vote with Sen. Blewett voting no. Sen. Augare, Sen. Brenden and Sen. Fielder voted by proxy.

**Discussion:**

02:50:33 Ms. Burkhardt

02:52:34 **Motion/Vote:** Sen. Wittich moved that **HB 438 BE AMENDED**. Motion carried 11-1 by roll call vote with Sen. Blewett voting no. Sen. Augare, Sen. Brenden and Sen. Fielder voted by proxy.

02:54:04 **Motion:** Sen. Sales moved that **HB 438 BE CONCURRED IN AS AMENDED**.

**Discussion:**

02:54:15 Sen. Jent  
02:55:24 Sen. Blewett  
02:56:08 Ms. Burkhardt  
02:56:24 Sen. Murphy  
02:56:30 Sen. Blewett  
02:57:00 Sen. Wittich

02:59:05 **Substitute Motion/Vote:** Sen. Vincent made a substitute motion that **HB 438 BE TABLED**. Substitute Motion carried 7-5 by roll call vote with Sen. Boulanger, Sen. Brenden, Sen. Fielder, Sen. Murphy and Sen. Sales voting no. Sen. Augare, Sen. Brenden and Sen. Fielder voted by proxy.

**Discussion:**

03:00:48 Sen. Wittich

**EXECUTIVE ACTION ON SB 384**

**Discussion:**

03:01:12 Ms. Burkhardt  
03:02:13 Sen. Murphy  
03:02:21 Ms. Burkhardt  
03:03:26 Sen. Wittich  
03:03:40 Sen. Murphy  
03:03:57 Moe Wosepka, Montana Catholic Conference (MCC)  
03:06:57 Sen. Sales  
03:07:17 Mr. Wosepka, MCC

03:10:07 **Motion/Vote:** Sen. Boulanger moved that **SB 384 DO PASS**. Motion carried 12-0 by roll call vote. Sen. Augare, Sen. Brenden and Sen. Fielder voted by proxy.

**EXECUTIVE ACTION ON HB 555**

03:13:11 **Motion:** Sen. Blewett moved that **HB 555 BE CONCURRED IN**.

**Discussion:**

03:13:24 Ms. Burkhardt  
03:13:32 Sen. Jent

03:13:54 **Vote:** Motion failed 6-6 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Jent, Sen. Larsen and Sen. Murphy voting aye. Sen. Augare, Sen. Brenden and Sen. Fielder voted by proxy.

**EXECUTIVE ACTION ON HB 522**

03:15:37 **Motion/Vote:** Sen. Sales moved that **HB 522 BE CONCURRED IN**. Motion carried 12-0 by roll call vote. Sen. Augare, Sen. Brenden and Sen. Fielder voted by proxy. Sen. Wittich will carry the bill.

**ADJOURNMENT**

Adjournment: 11:12 A.M.

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Pam Schindler, Secretary

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**Additional Documents:**

Additional Documents:

**EXHIBIT([jus66aad.pdf](#))**