

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** By Chairman Diane Rice, on January 30, 2007 at 8:00 A.M., in Room 137 Capitol.

#### ROLL CALL

**Members Present:**

Rep. Diane Rice, Chairman (R)  
Rep. Dave Gallik, Vice Chairman (D)  
Rep. Ron Stoker, Vice Chairman (R)  
Rep. Douglas Cordier (D)  
Rep. Robyn Driscoll (D)  
Rep. Bob Ebinger (D)  
Rep. George Everett (R)  
Rep. Julie French (D)  
Rep. Rick Jore (C)  
Rep. Krayton Kerns (R)  
Rep. Roger Koopman (R)  
Rep. Deborah Kottel (D)  
Rep. Tom McGillvray (R)  
Rep. Jesse O'Hara (R)  
Rep. Ken Peterson (R)  
Rep. Holly Raser (D)  
Rep. John Ward (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** David Niss, 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 334, HB 382, HB 402,, 1/24/2007  
Executive Action: HB 312, HB 321, HB 251, HB 324, HB  
329 HB 247, HB 54, HB 229, HB 233,  
HB 250, HB 311

**HEARING ON HB 334**

**Opening Statement by Sponsor:**

00:01:26 Rep. Bill McChesney (D), HD 40, opened the hearing on  
HB 334, Make build-design highway program permanent.  
[EXHIBIT \(juh20a01\)](#)  
[EXHIBIT \(juh20a02\)](#)

**Proponents' Testimony:**

00:04:28 Loran Frazier, Chief Engineer, Department of  
Transportation  
[EXHIBIT \(juh20a03\)](#)  
00:07:19 Carey Hegreberg, Montana Contractors Association  
00:09:06 Jay Skoog, American Council of Engineering

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:10:44 Rep. Ward  
00:11:17 Mr. Frazier  
00:14:22 Rep. Ebinger  
00:14:45 Mr. Frazier  
00:16:14 Tim Reardan, Chief Legal Counsel, Department of  
Transportation  
00:21:30 Rep. Stoker  
00:22:17 Mr. Frazier  
00:23:41 Rep. Peterson  
00:24:21 Mr. Frazier  
00:26:40 Rep. Cordier  
00:27:10 Mr. Frazier

**Closing by Sponsor:**

00:30:21 Rep. McChesney

**HEARING ON HB 382**

**Opening Statement by Sponsor:**

00:31:00 Rep. Gary MacLaren (R), HD 89, opened the hearing on HB  
382, Require lighted headlights when windshield wipers  
in use.

**Proponents' Testimony:**

00:33:09 Jane Hamman, AAA of Montana/Mountainwest

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:35:01 Rep. O'Hara  
00:35:12 Rep. MacLaren  
00:36:01 Rep. Koopman  
00:36:17 Rep. MacLaren  
00:38:37 Rep. Ward  
00:38:51 Rep. MacLaren  
00:38:56 Rep. Peterson

**Closing by Sponsor:**

00:39:51 Rep. MacLaren

**HEARING ON HB 402**

**Opening Statement by Sponsor:**

00:40:15 Rep. Art Noonan (D), HD 73, opened the hearing on HB 402, Revise fees collected by supreme court.

**Proponents' Testimony:**

00:42:24 Ed Smith, Clerk, Montana Supreme Court  
00:43:44 Andrea Olsen, Montana Trial Lawyers Association

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:44:36 Rep. Peterson  
00:45:09 Mr. Smith

**Closing by Sponsor:**

00:46:46 Rep. Noonan  
00:47:01 Break  
01:00:30 Reconvene

**Sub-Committee Formed for HB 217:**

01:00:55 Chairman Rice

**EXECUTIVE ACTION ON HB 54**

01:01:33 **Motion/Vote:** Rep. Stoker moved that **HB 54 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote. (This from a previously failed Do Pass motion on HB 54.)

**EXECUTIVE ACTION ON HB 312**

01:02:14 **Motion:** Rep. Stoker moved that **HB 312 DO PASS.**

01:02:46 **Motion:** Rep. Peterson moved that **HB 312 BE AMENDED.**  
[EXHIBIT \(juh20a04\)](#)

**Discussion:**

01:03:15 Rep. Peterson

01:06:19 **Vote:** Motion that **HB 312 BE AMENDED** carried 14-3 by voice vote with Rep. Gallik, Jore, and Koopman voting no.

01:06:41 **Motion:** Rep. Stoker moved that **HB 312 DO PASS AS AMENDED.**

**Discussion:**

01:06:54 Rep. Driscoll  
01:07:26 Rep. Peterson  
01:08:09 Rep. Kottel  
01:10:19 Rep. Peterson  
01:10:34 Rep. Koopman  
01:11:28 Rep. Gallik  
01:15:42 Rep. Cordier  
01:19:17 Rep. Ward  
01:22:11 Rep. French  
01:24:06 Rep. Jore  
01:27:24 Rep. Raser  
01:29:42 Rep. Ward  
01:31:26 Rep. Koopman  
01:33:45 Rep. Stoker  
01:34:08 Rep. Peterson  
01:37:03 Rep. Koopman  
01:38:15 Rep. Ward  
01:38:59 Rep. Jore

01:40:55 Rep. Kottel

01:43:01 Rep. Stoker

01:43:13 **Substitute Motion/Vote:** Rep. Stoker made a **SUBSTITUTE MOTION** to strike all amendments for **HB 312**. Substitute motion carried 9-8 by roll call vote with Reps. Cordier, Driscoll, Ebinger, French, Gallik, Peterson, Raser, and Ward voting no.

01:44:26 **Motion:** Rep. Stoker moved that **HB 312 DO PASS**.

**Discussion:**

01:44:41 Rep. Stoker

01:48:36 **Motion/Vote:** Rep. Rice moved that **HB 312 BE AMENDED** with a Conceptual Amendment striking "highest order". Motion carried unanimously by voice vote.

01:49:01 **Motion:** Rep. Stoker moved that **HB 312 DO PASS AS AMENDED**.

**Discussion:**

01:50:14 Rep. Peterson

01:50:18 Rep. McGillvray

01:52:13 Rep. Gallik

01:54:03 Rep. Raser

01:54:59 Rep. Peterson

01:56:53 Rep. Kottel

01:57:15 Rep. Gallik

01:57:35 **Vote:** Motion that **HB 312 DO PASS AS AMENDED** carried 9-8 by roll call vote with Reps. Cordier, Driscoll, Ebinger, French, Gallik, Kottel, Raser, and Ward voting no.

**EXECUTIVE ACTION ON HB 321**

01:59:01 **Motion:** Rep. McGillvray moved that **HB 321 DO PASS**.

01:59:10 **Motion:** Rep. McGillvray moved that **HB 321 BE AMENDED**.  
[EXHIBIT \(juh20a05\)](#)

**Discussion:**

01:59:36 Rep. McGillvray

02:00:43 Rep. Peterson

02:01:25 Rep. Kottel

02:02:47 Rep. French

02:03:18 **Vote:** Motion that **HB 321 BE AMENDED** carried 13-4 by roll call vote with Reps. Gallik, Jore, Peterson, and Raser voting no.

02:04:07 **Motion:** Rep. McGillvray moved that **HB 321 DO PASS AS AMENDED.**

**Discussion:**

02:04:21 Rep. French

02:05:15 Rep. Kottel

02:09:00 Rep. McGillvray

02:10:05 Rep. Driscoll

02:10:37 Rep. McGillvray

02:10:45 Rep. Raser

02:12:02 Rep. Gallik

02:14:34 Rep. Everett

02:15:05 Rep. McGillvray

02:15:20 Rep. Kottel

02:16:57 Rep. French

02:19:05 Rep. Raser

02:21:46 Rep. McGillvray

02:25:43 Rep. Cordier

02:26:24 Rep. McGillvray

02:26:35 Rep. Koopman

02:27:46 Rep. Raser

02:28:04 Rep. McGillvray

02:30:49 Rep. Raser

02:32:47 **Vote:** Motion that **HB 321 DO PASS AS AMENDED** carried 11-6 by roll call vote with Reps. Driscoll, Ebinger, French, Gallik, Kottel, and Raser voting no.

**EXECUTIVE ACTION ON HB 229**

02:34:18 **Motion:** Rep. Stoker moved that **HB 229 DO PASS.**

02:37:05 **Motion:** Rep. Peterson moved that **HB 229 BE AMENDED.**  
**EXHIBIT** (juh20a06)

**Discussion:**

02:37:21 Rep. Peterson

02:39:10 **Vote:** Motion that **HB 229 BE AMENDED** carried 12-5 by roll call vote with Reps. Cordier, Ebinger, Gallik, Kottel, and Raser voting no.

02:39:56 **Motion:** Rep. Stoker moved that **HB 229 DO PASS AS AMENDED**.

**Discussion:**

02:41:04 Rep. French  
02:41:08 Rep. Ward  
02:41:21 Rep. Koopman

02:42:29 **Vote:** Motion that **HB 229 DO PASS AS AMENDED** failed 2-15 with Reps. Driscoll and McGillvray voting aye.

02:43:18 **Motion/Vote:** Rep. Ward moved that **HB 229 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote.

**EXECUTIVE ACTION ON HB 233**

02:43:59 **Motion:** Rep. Stoker moved that **HB 233 DO PASS**.

02:44:17 **Motion:** Rep. Everett moved that **HB 233 BE AMENDED**. [EXHIBIT \(juh20a07\)](#)

**Discussion:**

02:44:34 Rep. Everett  
02:44:59 Rep. Stoker  
02:45:15 David Niss, Legislative Staffer  
02:45:29 Rep. Ebinger  
02:45:39 Mr. Niss  
02:46:28 Rep. Gallik  
02:47:00 Rep. Everett

02:47:18 **Vote:** Motion that **HB 233 BE AMENDED** carried 16-1 by voice vote with Rep. Driscoll voting no.

02:47:34 **Motion:** Rep. Stoker moved that **HB 233 DO PASS AS AMENDED**.

02:47:47 **Motion:** Rep. Gallik moved that **HB 233 BE AMENDED** with a conceptual amendment to exempt "emergency vehicles".

**Discussion:**

02:48:17 Rep. Gallik

02:48:08 **Vote:** Motion that **HB 233 BE AMENDED** carried unanimously by voice vote.

02:48:25 **Motion:** Rep. Stoker moved that **HB 233 DO PASS AS AMENDED.**

**Discussion:**

02:48:29 Rep. Ebinger  
02:49:29 Rep. Rice  
02:51:27 Rep. Peterson  
02:52:03 Rep. Ward

02:52:14 **Substitute Motion/Vote:** Rep. Everett made a substitute motion that **HB 233 BE TABLED.** Substitute motion carried 13-4 by voice vote with Reps. Driscoll, Ebinger, Gallik, and Peterson voting no.

**EXECUTIVE ACTION ON HB 247**

02:53:33 **Motion:** Rep. Stoker moved that **HB 247 DO PASS.**

02:53:53 **Motion:** Rep. Kottel moved that **HB 247 BE AMENDED.**  
[EXHIBIT \(juh20a08\)](#)

**Discussion:**

02:54:18 Rep. Kottel  
02:56:09 Rep. Jore  
02:58:32 Rep. Stoker

02:59:03 **Vote:** Motion that **HB 247 BE AMENDED** carried 15-2 by voice vote with Reps. Jore and Koopman voting no.

02:59:22 **Motion:** Rep. Stoker moved that **HB 247 DO PASS AS AMENDED.**

**Discussion:**

02:59:36 Rep. Peterson  
03:00:08 Rep. Kottel

03:00:40 **Vote:** Motion that **HB 247 DO PASS AS AMENDED** carried 13-4 by roll call vote with Rep. Jore, Koopman, O'Hara, and Peterson voting no.

03:01:45 Break  
03:16:02 Reconvene

(Rep. Koopman absent from the room.)

**EXECUTIVE ACTION ON HB 250**

03:16:31 **Motion:** Rep. Stoker moved that **HB 250 DO PASS.**

**Discussion:**

03:16:52 Rep. Stoker

03:18:41 Rep. French

03:20:51 Rep. Jore

03:21:57 Rep. Stoker

03:24:07 Rep. Rice

03:24:40 Rep. Stoker

03:26:07 Rep. French

03:26:40 Rep. Peterson

03:27:36 Rep. Gallik

03:28:48 Rep. Ebinger

03:29:37 **Vote:** Motion that **HB 250 DO PASS** failed 2-15 with Reps. O'Hara and Stoker voting aye. Rep. Koopman voted by proxy.

03:30:25 **Motion/Vote:** Rep. McGillvray moved that **HB 250 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote.

**EXECUTIVE ACTION ON HB 251**

03:31:04 **Motion:** Rep. Stoker moved that **HB 251 DO PASS.**

03:31:17 **Motion:** Rep. Stoker moved that **HB 251 BE AMENDED.**  
**EXHIBIT (juh20a09)**

**Discussion:**

03:31:52 Rep. Stoker

03:35:45 **Vote:** Motion that **HB 251 BE AMENDED** carried 16-1 by voice vote with Rep. Gallik voting no. Rep. Koopman voted by proxy.

03:36:03 **Motion:** Rep. Stoker moved that **HB 251 DO PASS AS AMENDED.**

**Discussion:**

03:36:23 Rep. Gallik  
03:36:52 Rep. Kottel  
03:38:37 Rep. Stoker  
03:40:00 Rep. Peterson  
03:41:34 Rep. Stoker  
03:41:57 Rep. Gallik

03:42:31 **Vote:** Motion that **HB 251 DO PASS AS AMENDED** carried 15-2 by roll call vote with Reps. Kerns and Peterson voting no. Rep. Koopman voted by proxy.

**EXECUTIVE ACTION ON HB 311**

03:43:26 **Motion:** Rep. McGillvray moved that **HB 311 DO PASS.**

**Discussion:**

03:44:02 Rep. Kerns  
03:44:24 Rep. French  
03:44:47 Rep. Gallik  
03:46:55 Rep. Stoker  
03:47:52 Rep. McGillvray  
03:50:21 Rep. Ebinger  
03:51:17 Rep. Raser

03:51:24 **Motion/Vote:** Rep. Raser moved **HB 311 BE INDEFINITELY POSTPONED.** Motion failed 8-9 by roll call vote with Reps. Cordier, Driscoll, Ebinger, French, Gallik, Kottel, Raser, and Rice voting aye. Rep. Koopman voted by proxy.

03:51:48 **Motion:** Rep. Stoker moved that **HB 311 BE TABLED.**

03:52:06 Rep. Gallik

03:53:15 **Vote:** Motion that **HB 311 BE TABLED** carried 10-7 by roll call vote with Reps. Cordier, Driscoll, Ebinger, French, Gallik, Kottel, and Raser voting no. Rep. Koopman voted by proxy.

**EXECUTIVE ACTION ON HB 324**

03:54:57 **Motion/Vote:** Rep. Stoker moved that **HB 324 DO PASS.** Motion carried 14-3 by roll call vote with Reps. Ward, Jore and Rice voting no. Rep. Koopman voted by proxy.

**EXECUTIVE ACTION ON HB 329**

(Rep. Raser absent from the room.)

03:56:41 **Motion:** Rep. Stoker moved that **HB 329 DO PASS.**

03:57:32 **Motion:** Rep. McGillvray moved than **HB 329 BE AMENDED.**  
**EXHIBIT (juh20a10)**

**Discussion:**

03:57:50 Rep. McGillvray

03:59:10 **Substitute Motion:** Rep. McGillvray made a substitute motion that **HB 329 BE AMENDED** inserting "maximum amount of stay."

**Discussion:**

04:00:39 Rep. Rice

04:01:12 Mr. Niss

04:01:37 Rep. Stoker

04:02:19 Rep. McGillvray

04:02:27 Rep. Peterson

04:03:00 Mr. Niss

04:03:51 Rep. Gallik

04:04:39 Rep. Driscoll

04:05:18 Rep. Gallik

04:05:25 Rep. Kottel

04:06:14 Mr. Niss

04:06:51 Rep. McGillvray

04:07:12 Rep. Peterson

04:08:16 Rep. Rice

04:08:37 Mr. Niss

04:09:13 **Vote:** Motion that **HB 329 BE AMENDED** carried 10-7 by voice vote with Reps. Driscoll, Everett, Gallik, Peterson, Raser, Rice, and Ward voting no. Rep. Raser and Koopman voted by proxy.

04:10:09 **Motion/Vote:** Rep. Stoker moved that **HB 329 DO PASS AS AMENDED.** Motion carried 16-1 by roll call vote with Rep. Jore voting no. Reps. Koopman and Raser voted by proxy.

**ADJOURNMENT**

Adjournment: 12:10 P.M.

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REP. DIANE RICE, Chairman

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PAM SCHINDLER, Secretary

DR/ps

Additional Exhibits:

**EXHIBIT ([juh20aad.pdf](#))**