

## **MINUTES**

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

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN DIANE RICE**, on February 8, 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 506, HB 464, HB 514, HB 521, HB 527, 1/31/2007  
Executive Action: HB 68, HB 217, HB 340

**HEARING ON HB 464**

**Opening Statement by Sponsor:**

00:01:33 Rep. Ken Peterson (R), HD 46, opened the hearing on HB 464, Revise damages for unfair claims settlement practices.

**Proponents' Testimony:**

00:10:42 Al Smith, Montana Trial Lawyers Association

[EXHIBIT\(juh28a01\)](#)

[EXHIBIT\(juh28a02\)](#)

[EXHIBIT\(juh28a03\)](#)

[EXHIBIT\(juh28a04\)](#)

[EXHIBIT\(juh28a05\)](#)

00:12:59 Rick Anderson, Attorney

00:26:59 Jim McCluskey, self

00:28:58 Jim Manley, Attorney, President, Montana Trial Lawyers Association

**Opponents' Testimony:**

00:43:45 John Alke, Attorney, Montana Defense Trial Lawyers Association

00:53:17 Jacqueline Lenmark, American Insurance Association, American Council of Life Insurers, Frank Cote, Tanya Ask, Blue Cross/Blue Shield of Montana

01:01:08 John Metropolis, Farmers Insurance Company

01:02:59 Greg VanHorsen, State Farm Insurance Company

01:03:44 Larry Kibbee, Property Casualty Insurance Company of America

01:04:28 Don Allen, Association of Insurance and Financial Advisors

01:05:22 Bruce Spencer, Montana Automobile Dealers Association

01:06:07 Amy Minto, Attorneys Liability Protection Society

[EXHIBIT\(juh28a06\)](#)

01:06:35 Webb Brown, Montana Chamber of Commerce

**Informational Testimony:**

01:06:52 Patrick Driscoll, Chief Legal Counsel, Auditor, State of Montana

**Questions from Committee Members and Responses:**

01:08:26 Rep. Kottel

01:09:50 Ms. Lenmark

01:19:11 Rep. McGillvray

01:19:33 Mr. Driscoll  
01:20:58 Rep. Cordier  
01:21:23 Mr. Manley  
01:22:43 Rep. Koopman  
01:23:47 Mr. Metroplis  
01:26:39 Rep. Gallik  
01:27:45 Mr. Driscoll  
01:29:06 Mr. Manley  
01:33:11 Mr. Anderson  
01:40:32 Rep. O'Hara  
01:41:01 Mr. Manley

**Closing by Sponsor:**

01:43:53 Rep. Peterson

**HEARING ON HB 527**

**Opening Statement by Sponsor:**

01:50:30 Rep. John Musgrove (D), HD 34, opened the hearing on HB 527, Revise child abuse reporting.

**Proponents' Testimony:**

01:53:32 Pam Harada, self  
[EXHIBIT\(juh28a07\)](#)

**Opponents' Testimony:** None

**Informational Testimony:**

01:58:57 Bruce Dagle, Bureau Chief, Centralized Intake Services,  
Department of Public Health and Human Services  
[EXHIBIT\(juh28a08\)](#)

**Questions from Committee Members and Responses:**

02:00:11 Rep. Stoker  
02:00:30 Mr. Dagle  
02:00:42 Rep. Ward  
02:00:51 Mr. Dagle

**Closing by Sponsor:**

02:01:53 Rep. Musgrove  
02:03:30 Break  
02:14:38 Reconvene

**HEARING ON HB 514**

**Opening Statement by Sponsor:**

02:14:48 Rep. Mary Caferro, (D), HD 80, opened the hearing on HB 514, Prohibit sex. contact between staff, etc. of mental health facilities & residents.

**Proponents' Testimony:**

02:16:24 Beth Brennaman, Montana Advocacy Program

[EXHIBIT](#)(juh28a09)

02:21:25 Jani McCall, Montana Children's Initiative Project

02:24:00 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence

02:24:32 John Connor, Chief Criminal Prosecutor, Assistant Attorney General, Department of Justice, State of Montana

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

02:27:22 Rep. Gallik

02:28:37 Mr. Connor

**Closing by Sponsor:**

02:29:35 Rep. Caferro

**HEARING ON HB 521**

**Opening Statement by Sponsor:**

02:30:16 Rep. Elsie Arntzen, (R), HD 53, opened the hearing on HB 521, Revise burglary law by revising definition of "occupied structure".

**Proponents' Testimony:**

02:35:37 John Connor, Chief Criminal Prosecutor, Assistant Attorney General, Department of Justice, State of Montana

02:38:49 Nanette Gilbertson, Montana County Attorneys Association

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

02:39:37 Rep. Peterson

02:40:12 Mr. Connor

**Closing by Sponsor:**

02:41:12 Rep. Arntzen

**HEARING ON HB 506**

**Opening Statement by Sponsor:**

02:44:11 Rep. Scott Mendenhall (R), HD 77, opened the hearing on HB 506, Medical treatment, nutrition, and hydration to prevent death.

**Proponents' Testimony:**

02:48:36 Greg Trude, Right to Life of Montana

[EXHIBIT\(juh28a10\)](#)

**Opponents' Testimony:** None

**Informational Testimony:**

02:50:50 Beth Brenneman, Montana Advocacy Program

**Questions from Committee Members and Responses:**

02:55:05 Rep. Cordier

02:55:28 Ms. Brenneman

02:58:01 Rep. Driscoll

02:58:21 Rep. Mendenhall

02:58:46 Casey Blumenthal, Montana Hospital Association

03:01:21 Rep. Stoker

03:01:31 Ms. Blumenthal

03:02:38 Rep. Kottel

03:03:00 Rep. Mendenhall

03:06:17 Rep. Peterson

03:06:31 Rep. Mendenhall

03:11:25 Rep. Gallik

03:12:11 Rep. Mendenhall

03:14:57 Rep. Driscoll

03:15:19 Ms. Blumenthal

03:17:01 Rep. Rice

03:17:15 Ms. Blumenthal

03:17:51 Rep. French  
03:18:07 Ms. Blumenthal  
03:18:35 Rep. Stoker  
03:18:57 Ms. Blumenthal

**Closing by Sponsor:**

03:20:20 Rep. Mendenhall

**EXECUTIVE ACTION ON HB 68**

03:24:25 **Motion:** Rep. McGillvray moved that **HB 68 DO PASS AS AMENDED.** (from previous postponed action.)

**Discussion:**

03:25:40 Rep. Peterson  
03:26:08 Rep. Kottel  
03:28:49 Rep. Gallik

03:30:14 **Vote:** Motion that **HB 68 DO PASS AS AMENDED** failed 8-9 by roll call vote with Reps. Gallik, French, Raser, Cordier, Driscoll, O'Hara, Kottel, and Ebinger voting aye.

03:31:25 **Motion/Vote:** Rep. Stoker moved that **HB 68 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote.

**EXECUTIVE ACTION ON HB 217**

03:31:32 David Niss, Legislative Services

03:32:02 **Motion:** Rep. Stoker moved that **HB 217 DO PASS.**

03:32:18 **Motion:** Rep. Peterson moved that **HB 217 BE AMENDED.**  
[EXHIBIT\(juh28a11\)](#)

**Discussion:**

03:33:34 Rep. Peterson  
03:38:18 Rep. Ebinger  
03:39:18 Rep. Gallik

03:39:57 **Vote:** Motion that **HB 217 BE AMENDED** carried by voice vote with Reps. Gallik and Koopman voting no.

03:40:15 **Motion:** Rep. Stoker moved that **HB 217 DO PASS AS AMENDED.**

**Discussion:**

03:40:31 Rep. Driscoll  
03:41:18 Rep. Gallik  
03:43:03 Rep. Kottel  
03:49:07 Rep. Peterson  
03:49:42 Rep. Raser

03:50:47 **Vote:** Motion that **HB 217 DO PASS AS AMENDED** carried 15-2 by roll call vote with Reps. Driscoll and Gallik voting no.

**EXECUTIVE ACTION ON HB 340**

03:51:09 **Motion:** Rep. McGillvray moved that **HB 340 DO PASS.**

03:52:58 **Motion:** Rep. Jore moved that **HB 340 BE AMENDED.**  
**EXHIBIT(juh28a12)**

**Discussion:**

03:53:25 Rep. Jore  
03:54:43 Mr. Niss  
04:00:55 Rep. Jore  
04:01:28 Rep. Kottel

04:02:19 **Motion/Vote:** Rep. Peterson **MOVED TO SEGREGATE PARAGRAPH 1 FROM PARAGRAPHS 2-7 IN AMENDMENT 1** for **HB 340.** Motion carried by voice vote 15-2 with Reps. Cordier and Ebinger voting no.

04:05:25 **Vote:** Motion to **SEGREGATE SECTION 1** carried by voice vote unanimously.

04:08:08 **Motion/Vote:** Rep. Stoker motion that **HB 340 BE AMENDED** with remaining Segregated Paragraphs 2-7 in Amendment 1 carried by voice vote unanimously.

04:08:59 **Motion:** Rep. Jore moved that **HB 340 DO PASS AS AMENDED.**

04:09:11 **Motion:** Rep. Kottel moved that **HB 340 BE AMENDED.**  
**EXHIBIT(juh28a13)**

**Discussion:**

04:11:21 Rep. Kottel

04:13:30 **Motion/Vote:** Rep. Stoker moved to **SEGREGATE PARAGRAPH #3 FROM AMENDMENT 2**. Motion carried by voice vote 16-1 with Rep. Driscoll voting no.

04:14:58 **Motion:** Rep. Stoker moved to **HB 340 BE AMENDED with PARAGRAPHS 1-2 AND 4-12 IN AMENDMENT 2**.

**Discussion:**

04:15:42 Rep. Koopman

04:16:14 Rep. Peterson

04:16:37 Rep. Rice

04:16:48 Rep. Gallik

04:17:14 Rep. Stoker

04:17:35 **Vote:** Motion that **HB 340 BE AMENDED WITH PARAGRAPHS 1-2, 4-12 FROM AMENDMENT #2** carried by roll call vote 13-4 with Reps. Stoker, Koopman, Peterson, and Jore voting no.

04:18:18 **Motion:** Rep. Stoker moved that **HB 340 DO PASS AS AMENDED**.

04:18:28 **Motion:** Rep. Kottel moved that **HB 340 BE AMENDED with SEGREGATED PARAGRAPH #3 ON AMENDMENT 2**.

**Discussion:**

04:18:58 Rep. Kottel

04:21:52 Rep. Rice

04:22:07 Rep. Peterson

04:23:40 Rep. Stoker

04:25:00 Rep. Kottel

04:26:26 Rep. Jore

04:28:23 **Vote:** Motion to **AMEND HB 340 WITH SEGREGATED PARAGRAPH #3 IN AMENDMENT 2** carried by roll call vote 15-2 with Reps. Stoker and McGillvray voting no.

04:28:29 **Motion:** Rep. Stoker moved that **HB 340 DO PASS AS AMENDED**.



04:29:06 **Motion:** Rep. Gallik moved that **HB 340 BE AMENDED WITH PARAGRAPH #4 FROM AMENDMENT.**  
**EXHIBIT(juh28a14)**

**Discussion:**

04:29:49 Rep. Gallik  
04:30:04 Rep. Koopman  
04:31:50 Rep. French

04:31:57 **Vote:** Motion to **AMEND HB 340 WITH PARAGRAPH #4 FROM AMENDMENT** (Exhibit 14) failed by roll call vote 7-10 with Reps. Gallik, French, Raser, Cordier, Driscoll, Kottel, and Ebinger voting aye.

**Discussion:**

04:32:49 Rep. Gallik  
04:33:21 Rep. Koopman  
  
04:33:51 Chairman Rice postponed action on HB 340.

**ADJOURNMENT**

Adjournment: 12:34 P.M.

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REP. DIANE RICE, Chairman

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PAM SCHINDLER, Secretary

DR/ps

Additional Exhibits:

**EXHIBIT ([juh28aad.pdf](#))**