

## **MINUTES**

### **MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** Chair Terry Murphy, on February 17, 2011 at 8:00 A.M., in Room 317-A Capitol

#### **ROLL CALL**

##### **Members Present:**

Sen. Terry Murphy, Chair (R)  
Sen. Jim Shockley, Vice Chair (R)  
Sen. Shannon Augare (D)  
Sen. Anders Blewett (D)  
Sen. Greg Hinkle (R)  
Sen. Rowlie Hutton (R)  
Sen. Larry Jent (D)  
Sen. Cliff Larsen (D)  
Sen. Lynda Moss (D)  
Sen. Jim Peterson (R)

**Members Excused:** Sen. Jeff Essmann (R)

**Members Absent:** None

**Staff Present:** Valencia Lane, 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: SB 308, 2/9/2011; SB 336, 2/9/2011; SB 337, 2/9/2011

Executive Action: SB 337-Do Pass As Amended, SB 279-Do Pass As Amended,  
SB 336-Tie

**HEARING ON SB 308**

**Opening Statement by Sponsor:**

00:01:09 Sen. Cliff Larsen (D), SD 50, opened the hearing on SB 308, Provide for criminal offense for refusal of alcohol testing.

[EXHIBIT\(jus39a01\)](#)

**Proponents' Testimony:**

00:05:17 Rep. Edie McClafferty, HD 75, Butte, Montana

[EXHIBIT\(jus39a02\)](#)

[EXHIBIT\(jus39a03\)](#)

00:08:29 Steve Bullock, Attorney General, Department of Justice (DOJ), State of Montana

[EXHIBIT\(jus39a04\)](#)

[EXHIBIT\(jus39a05\)](#)

00:13:35 Matt Cochenour, Appellate Prosecutor, Assistant Attorney General, DOJ

00:19:58 Josh Trehwella, self, Husband of Merry Jane Trehwella, killed by a drunk driver in Billings, Montana 2010

00:24:35 Jeff Hays, Prosecuting Attorney, Darby, Montana

00:28:32 Larry Epstein, Montana Police Protective Association (MPPA), Montana Chiefs of Police (MCPA), Montana County Attorney Association (MCAA)

00:30:13 Jim Smith, Montana Sheriff and Peace Officers Association (MSPOA)

00:30:58 Rebecca Sturdevant, Mothers Against Drunk Driving (MADD)

[EXHIBIT\(jus39a06\)](#)

00:35:46 Kris Minard, self

00:37:50 Hiedi Handford, self

00:39:22 Col. Mike Tooley, Chief, Montana Highway Patrol, DOJ

**Opponents' Testimony:**

00:39:56 Katie Heitstuman, American Civil Liberties Union (ACLU)

[EXHIBIT\(jus39a07\)](#)

**Informational Testimony:**

None

**Questions from Committee Members and Responses:**

00:43:06 Sen. Hinkle

00:44:24 Sen. Larsen

00:46:56 Sen. Shockley

00:47:17 Mr. Hays

00:49:11 Sen. Shockley

00:49:35 Mr. Epstein

00:52:37 Mr. Cochenour

00:54:15 Sen. Murphy

00:54:49 Mr. Bullock

00:56:16 Sen. Jent  
00:56:51 Mr. Bullock  
00:57:53 Sen. Shockley  
00:58:12 Mr. Cochenour  
01:01:26 Sen. Murphy  
01:02:20 Mr. Bullock

**Closing by Sponsor:**

01:03:25 Sen. Larsen

**HEARING ON SB 337**

**Opening Statement by Sponsor:**

01:08:13 Sen. Anders Blewett (D), SD 11, opened the hearing on SB 337, Revise probate laws and laws relating to civil proceedings.

**Proponents' Testimony:**

01:11:21 Chuck Willey, Professor, Chairman, Business and Estates Committee, State Bar of Montana

**EXHIBIT(jus39a08)**

01:18:54 Beth Brennenman, Disability Rights Montana (DRM)  
01:21:11 Dan McLean, Probate and Trust Attorney, Helena, Montana  
01:24:02 Ward Shanahan, Attorney, Helena, Montana

**Opponents' Testimony:**

None

**Informational Testimony:**

None

**Questions from Committee Members and Responses:**

01:27:39 Sen. Shockley  
01:28:18 Mr. Shanahan

**Closing by Sponsor:**

01:29:06 Sen. Blewett

01:30:06 recess  
01:44:48 resume

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**HEARING ON SB 336**

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**Opening Statement by Sponsor:**

01:44:51 Sen. David Wanzenried (D), SD 49, opened the hearing on SB 336, Generally revise medical marijuana laws to authorize PTSD for coverage.

**Proponents' Testimony:**

01:49:12 Tayln Lang, Veteran

[EXHIBIT\(jus39a09\)](#)

[EXHIBIT\(jus39a10\)](#)

01:53:11 Hiedi Handford, Montana Connect, Patients Out of Time

[EXHIBIT\(jus39a11\)](#)

01:56:21 Charlie Brown, Veteran, Missoula, Montana

02:07:31 Kate Cholewa, Alliance for Cannabis Science

02:09:39 Mike Fellows, Veteran

[EXHIBIT\(jus39a12\)](#)

02:10:32 Jim Gingary, Executive Director, Montana Medical Growers Association (MMGA)

02:13:12 Joe Estenson, self

02:13:38 Tom Daubert, Patients and Family United

02:15:19 Sen. Cliff Larsen, SD 50

02:18:51 Katie Heitstuman, ACLU

02:20:38 James Locker, self

02:25:15 Doug Chyatte, Montanans for Responsible Legislation

[EXHIBIT\(jus39a13\)](#)

02:25:54 Dennis Gulyas, self

**Opponents' Testimony:**

02:27:43 Dan Stewart, self

[EXHIBIT\(jus39a14\)](#)

**Informational Testimony:**

None

**Questions from Committee Members and Responses:**

None

**Closing by Sponsor:**

02:33:55 Sen. Wanzenried

02:38:04 Chairman Murphy

(Sen. Vincent absent from room)

**EXECUTIVE ACTION ON SB 337**

02:47:43 **Motion:** Sen. Shockley moved that **SB 337 DO PASS.**

02:47:54 **Motion:** Sen. Blewett moved that **SB 337 BE AMENDED.**  
**EXHIBIT(jus39a15)**

**Discussion:**

02:51:21 Valencia Lane, Legislative Services Division (LSD)

02:52:41 Sen. Blewett (was going to make a Conceptual Amendment, but decided not to make the amendment)

02:53:11 **Vote:** Motion carried unanimously by roll call vote. Sen. Essmann and Sen. Vincent voted by proxy.

02:53:00 Ms. Lane

02:54:53 **Motion:** Sen. Shockley moved that **SB 337 BE AMENDED.**  
**EXHIBIT(jus39a16)**

**Discussion:**

02:54:56 Sen. Blewett  
02:55:16 Sen. Shockley

02:55:45 **Vote:** Motion carried unanimously by roll call vote. Sen. Essmann and Sen. Vincent voted by proxy.

(Sen. Vincent present in room)

02:56:13 **Motion/Vote:** Sen. Blewett moved that **SB 337 DO PASS AS AMENDED.**  
Motion carried unanimously by roll call vote. Sen. Essmann voted by proxy.

**EXECUTIVE ACTION ON SB 336**

02:57:13     **Motion:** Sen. Blewett moved that **SB 336 DO PASS.**

**Discussion:**

02:57:28     Sen. Shockley  
02:59:02     Sen. Blewett  
03:00:20     Sen. Hutton  
03:01:11     Sen. Larsen  
03:02:57     Sen. Jent  
03:03:46     Sen. Hinkle  
03:04:16     Sen. Shockley

03:05:42     **Vote:** Motion failed 6-6 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Larsen, Sen. Moss, Sen. Murphy and Sen. Vincent voting aye. Sen. Essmann voted by proxy.

03:06:42     Sen. Larsen

**EXECUTIVE ACTION ON SB 279**

03:07:27     **Motion:** Sen. Shockley moved that **SB 279 DO PASS.**

03:08:36     **Motion:** Sen. Hinkle moved that **SB 279 BE AMENDED.**  
**EXHIBIT(jus39a17)**

**Discussion:**

03:09:16     Sen. Shockley  
03:09:32     Sen. Hinkle  
03:09:53     Sen. Peterson  
03:10:20     Sen. Murphy  
03:11:45     Sen. Jent  
03:12:28     Sen. Larsen  
03:13:31     Sen. Hinkle  
03:14:31     Sen. Murphy  
03:14:42     Sen. Peterson  
03:15:31     Sen. Shockley

03:15:40     **Motion:** Sen. Hinkle **WITHDREW AMENDMENT WITHOUT OBJECTION.**

03:15:47     **Motion:** Sen. Augare moved that **SB 279 BE AMENDED.**  
**EXHIBIT(jus39a18)**

**Discussion:**

03:16:15     Sen. Peterson  
03:17:48     Sen. Shockley

03:18:07      **Vote:** Motion carried 10-2 by roll call vote with Sen. Larsen and Sen. Shockley voting no. Sen. Essmann voted by proxy.

03:18:51      **Motion:** Sen. Hinkle moved that **SB 279 DO PASS AS AMENDED.**

**Discussion:**

03:18:59      Sen. Moss

**EXHIBIT(jus39a19)**

03:20:48      Sen. Hinkle

03:21:55      Sen. Moss

03:22:03      Sen. Murphy

03:22:52      Sen. Hinkle

03:23:21      Sen. Moss

03:23:52      Sen. Larsen

03:24:37      Sen. Shockley

03:25:00      Sen. Murphy

03:25:10      Sen. Larsen

03:25:47      Sen. Jent

03:27:02      **Vote:** Motion carried 8-4 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Larsen and Sen. Moss voting no. Sen. Essmann voted by proxy.

**Exhibits distributed to the Committee at the conclusion of today's hearing:**

**EXHIBIT(jus39a20)**

Regarding SB 308-Picture from Josh Trewhella of wife, Merry Jane Trewhella, killed by a drunk driver Billings, Montana, 2010

**EXHIBIT(jus39a21)**

Regarding SB 336-Letter from Calvina Fay, Save Our Society From Drugs, in opposition to SB 336

**ADJOURNMENT**

Adjournment: 11:31 A.M.

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Pam Schindler, Secretary

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Additional Documents:

**EXHIBIT**([jus39aad.pdf](#))