

## **MINUTES**

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

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** Chair Terry Murphy, on February 18, 2011 at 8:00 A.M., in Room 303 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. Jeff Essmann (R)  
Sen. Greg Hinkle (R)  
Sen. Rowlie Hutton (R)  
Sen. Larry Jent (D)  
Sen. Cliff Larsen (D)  
Sen. Lynda Moss (D)  
Sen. Jim Peterson (R)  
Sen. Chas Vincent (R)

**Members Excused:** None

**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 324, 2/11/2011; SB 344, 2/11/2011; SB 347, 2/11/2011

Executive Action: SB 61, 121, 123, 308, 334, 344-Tabled, SB 324-Do Pass, SB 276-Do Pass, SB 347-Do Pass As Amended

**HEARING ON SB 347**

**Opening Statement by Sponsor:**

00:01:42 Sen. Bob Lake (R), SD 44, opened the hearing on SB 347, Revise the private property assessment act.

**Proponents' Testimony:**

00:06:21 Bill VanCanagan, Attorney, Montana Association of Realtors (MAR)

[\*\*EXHIBIT\(jus40a01\)\*\*](#)

[\*\*EXHIBIT\(jus40a02\)\*\*](#)

00:19:01 Chuck Denowh, United Property Owners of Montana (UPOM), also Montana Farm Bureau (MFB), Montana Contractors Association (MCA)

00:20:28 Carol Lambert, Women Involved in Farming Economics (WIFE)

00:21:10 Dustin Stewart, Montana Building Industry Association (MBIA)

**Opponents' Testimony:**

00:21:39 Kelly Casillas, Deputy Chief Legal Counsel, Administrator, Community Development Division, Department of Commerce (DOC), State of Montana

00:30:39 Ali Bovingdon, Assistant Attorney General, Department of Justice (DOJ), State of Montana

[\*\*EXHIBIT\(jus40a03\)\*\*](#)

00:34:46 Bob Lane, Chief Legal Counsel, Fish, Wildlife, and Parks, (FWP) State of Montana

[\*\*EXHIBIT\(jus40a04\)\*\*](#)

00:38:25 Stan Frazer, Treasurer, Sportsmen for I-143 Initiative

00:41:51 Candace West, Chief Legal Counsel, Department Natural Resources and Conservation (DNRC), State of Montana

00:49:37 Tim Reardon, Chief Legal Counsel, Department of Transportation (DOT), State of Montana

00:52:26 Janet Ellis, Montana Audubon Society

00:53:16 James Paine, Public Service Commission (PSC), State of Montana

00:54:10 Derf Johnson, Montana Environmental Information Center (MEIC)

00:54:32 Jim Gingery, Executive Director, Montana Medical Growers Association (MMGA)

00:55:04 Gene Allison, Deputy Chief Legal Counsel, Division Business Standards, Department of Labor and Industry (DL&I), State of Montana

00:55:49 Brianna Randall, Clarkfork Coalition

00:56:14 Mark Aagenes, Montana Trout Unlimited (MTU)

00:56:30 George Golie, Montana Wildlife Federation (MWF)

**Informational Testimony:**

None

**Questions from Committee Members and Responses:**

00:56:57 Sen. Jent  
 00:57:20 Sen. Lake  
 00:58:11 Sen. Jent  
 00:58:15 Mr. VanCanagan  
 01:05:26 Sen. Shockley  
 01:06:26 Mr. Reardon  
 01:11:30 Sen. Hinkle  
 01:12:15 Sen. Lake  
 01:14:36 Sen. Moss  
 01:15:18 Ms. Casillas  
 01:17:36 Sen. Shockley  
 01:18:21 Ms. West

**Closing by Sponsor:**

01:20:47 Sen. Lake  
 01:32:37 Recess

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**HEARING ON SB 344**

**Opening Statement by Sponsor:**

01:39:19 Sen. Jason Priest (R), SD 30, opened the hearing on SB 344, Enacting the Montana Property Fairness Act.

**Proponents' Testimony:**

01:47:08 Bill VanCanagan, Attorney, MAR  
 02:02:16 Chuck Denowh, UPOM  
[EXHIBIT\(jus40a05\)](#)  
[EXHIBIT\(jus40a06\)](#)  
[EXHIBIT\(jus40a07\)](#)  
 02:08:23 Dustin Stewart Executive Director, MBIA  
 02:09:20 John Bingham, self  
[EXHIBIT\(jus40a08\)](#)  
 02:13:13 Carol Lambert, WIFE

**Opponents' Testimony:**

02:13:55 Kelly Casillas, Deputy Chief Legal Counsel, Administrator, Community Development Division, DOC  
 02:24:03 Gene Allison, Deputy Chief Legal Counsel, Division Business Standards, DL&I  
 02:31:36 Gordon Morris, Lewis and Clark County  
 02:32:12 George Golie, MWF  
 02:34:59 Ali Bovingdon, Assistant Attorney General, DOJ

02:36:12 James Paine, PSC  
02:38:04 Tara DePuy, Attorney, Land Use, Montana Association of Counties (MACo)  
02:42:26 Tim Reardon, Chief Legal Counsel, MDOT  
02:49:57 Mark Aagenes, MTU  
02:52:07 Alec Hansen, Montana League of Cities and Towns  
02:55:10 Brianna Randall, Clarkfork Coalition  
02:56:48 Bob Lane, Chief Legal Counsel, FWP

**EXHIBIT(jus40a09)**

02:59:47 Janet Ellis, Montana Audubon Society

**EXHIBIT(jus40a10)**

03:01:29 James Gingery, Montana Medical Growers Association  
03:02:17 Linda Stoll, Montana Association of Planners, also for Missoula County,  
Missoula, Montana

**EXHIBIT(jus40a11)**

03:03:52 Anne Hedges, MEIC  
03:04:32 Candace West, Chief Legal Counsel, DNRC  
03:06:03 Joseph Sands, Montana State Council of Professional Firefighters(MSCOPFF)  
03:06:20 Jeff Barber, Montana Nature Conservancy  
03:06:33 Stan Frazer, Treasurer, Sportsmen for I-143 Initiative

**Informational Testimony:**

None

**Questions from Committee Members and Responses:**

03:07:55 Sen. Moss  
03:09:19 Ms. Casillas  
03:11:05 Sen. Larsen  
03:12:01 Sen. Priest  
03:13:28 Sen. Blewett  
03:14:01 Ms. West  
03:15:25 Sen. Essmann  
03:17:45 Mr. VanCanagan

03:22:07 Chairman Murphy

**Closing by Sponsor:**

03:22:36 Sen. Priest

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**HEARING ON SB 324**

**Opening Statement by Sponsor:**

03:27:01 Sen. Joe Balyeat (R), SD 34, opened the hearing on SB 324, Revise consumer protection laws and settlement proceeds.

**EXHIBIT(jus40a12)**

(Sen. Essmann, Sen Peterson, and Sen. Vincent absent from the room)

**Proponents' Testimony:**

None

**Opponents' Testimony:**

03:39:45 Steve Bullock, Attorney General, DOJ

[EXHIBIT\(jus40a13\)](#)

[EXHIBIT\(jus40a14\)](#)

**Informational Testimony:**

None

**Questions from Committee Members and Responses:**

03:53:57 Sen. Blewett  
03:54:54 Mr. Bullock  
03:56:57 Sen. Shockley  
03:57:53 Mr. Bullock  
03:59:26 Sen. Shockley  
03:59:38 Sen. Balyeat

**Closing by Sponsor:**

04:04:06 Sen. Balyeat  
04:05:02 Sen. Blewett  
04:05:13 Sen. Balyeat

04:08:23 Recess

**Committee Business:**

04:15:21 Chairman Murphy  
04:15:32 Sen. Blewett  
04:16:07 Sen. Shockley  
04:16:27 Sen. Augare  
04:16:41 Sen. Murphy  
04:16:45 Sen. Augare  
04:17:01 Sen. Murphy

**EXECUTIVE ACTION ON SB 61**

04:17:52 **Motion/Vote:** Sen. Shockley moved that **SB 61 BE TABLED**. Motion carried unanimously by voice vote. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

**EXECUTIVE ACTION ON SB 121**

04:18:25 **Motion/Vote:** Sen. Shockley moved that **SB 121 BE TABLED**. Motion carried unanimously by voice vote. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

**EXECUTIVE ACTION ON SB 123**

04:18:32 **Motion/Vote:** Sen. Shockley moved that **SB 123 BE TABLED**. Motion carried unanimously by voice vote. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

**EXECUTIVE ACTION ON SB 334**

04:18:52 **Motion/Vote:** Sen. Shockley moved that **SB 334 BE TABLED**. Motion carried unanimously by voice vote. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

04:19:30 Sen. Shockley  
04:19:46 Valencia Lane, Legislative Services Division (LSD)

**EXECUTIVE ACTION ON SB 344**

04:20:05 **Motion:** Sen. Hinkle moved that **SB 344 DO PASS**.

**Discussion:**

04:20:14 Sen. Jent  
04:21:18 Sen. Moss

04:22:00 **Motion/Vote:** Sen. Hinkle moved that **SB 344 BE AMENDED**. Motion carried unanimously by voice vote. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

**EXHIBIT(jus40a15)**

04:22:40 **Motion:** Sen. Shockley moved that **SB 344 DO PASS AS AMENDED**.

04:23:03 Ms. Lane  
**EXHIBIT(jus40a16)**

04:23:04 **Substitute Motion/Vote:** Sen. Augare made a substitute motion that **SB 344 BE TABLED**. Substitute Motion carried 10-2 by roll call vote with Sen. Hinkle and Sen. Peterson voting no. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

**EXECUTIVE ACTION ON SB 347**

04:25:02 **Motion:** Sen. Shockley moved that **SB 347 DO PASS**.

04:25:10 **Motion/Vote:** Sen. Shockley moved that **SB 347 BE AMENDED WITH A CONCEPTUAL AMENDMENT TO STRIKE SECTION 5, 6, 8, and 9**. Motion carried unanimously by roll call vote. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

04:26:35 **Motion:** Sen. Shockley moved that **SB 347 DO PASS AS AMENDED**.

**Discussion:**

04:26:39 Sen. Hutton  
04:28:48 Sen. Shockley  
04:29:41 Sen. Jent

04:31:47 **Vote:** Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Jent, Sen. Larsen and Sen. Moss voting no. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

**EXHIBIT(jus40a17)**

**EXECUTIVE ACTION ON SB 324**

04:32:26 **Motion:** Sen. Shockley moved that **SB 324 DO PASS**.

**Discussion:**

04:32:43 Sen. Jent  
04:36:03 Sen. Shockley

04:36:29 **Vote:** Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Jent, Sen. Larsen and Sen. Moss voting no. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

**EXECUTIVE ACTION ON SB 308**

04:37:11 **Motion:** Sen. Shockley moved that **SB 308 DO PASS**.

04:37:35 **Motion:** Sen. Larsen moved that **SB 308 BE AMENDED**.

**EXHIBIT(jus40a18)**

**Discussion:**

04:38:32 Ms. Lane  
04:40:35 Sen. Larsen  
04:41:21 Sen. Shockley

04:41:49 **Vote:** Motion carried unanimously by voice vote. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

04:42:05 **Motion:** Sen. Blewett moved that **SB 308 DO PASS AS AMENDED.**

**Discussion:**

04:42:12 Sen. Shockley  
04:44:17 Sen. Hutton

04:45:13 **Vote:** Motion failed 6-6 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Hutton, Sen. Jent, Sen. Larsen and Sen. Moss voting aye. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

04:46:08 **Motion/Vote:** Sen. Shockley moved that **SB 308 BE TABLED.** Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Jent, Sen. Larsen and Sen. Moss voting no. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.

**EXECUTIVE ACTION ON SB 276**

04:47:18 **Motion/Vote:** Sen. Shockley moved that **SB 276 DO PASS.** Motion carried 7-5 by roll call vote with Sen. Essmann, Sen. Hinkle, Sen. Hutton, Sen. Shockley and Sen. Vincent voting no. Sen. Essmann, Sen. Peterson and Sen. Vincent voted by proxy.



**ADJOURNMENT**

Adjournment: 12:48 P.M.

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Pam Schindler, Secretary

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Additional Documents:

**EXHIBIT**([jus40aad.pdf](#))