

**SENATE JOURNAL
THIRTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
February 12, 1999

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Crippen presiding. Invocation by Pastor Ken Moore. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Bohlinger and Shea, excused. Quorum present.

Mr. President: We, your committee on Bills and Journal, having examined the daily journal for the thirty-fourth legislative day, find the same to be correct.

Miller, Chairman

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 2/12/1999
Correctly printed: SB 229, SB 245, SB 292, SB 294, SB 301, SB 321, SB 325, SB 331, SB 348, SB 352, SB 410, SB 439, SB 440, SB 441, SB 443, SB 444, SB 445, SB 446, SB 447, SB 448, SB 449, SB 450, SB 451, SB 452, SB 453, SB 454, SB 455, SB 456, SB 457, SB 458, SB 459, SB 461, SJR 10, HB 141.
Correctly engrossed: SB 199, SB 239, SB 240, SB 242, SB 327, SB 347, SB 356.
Correctly enrolled: SB 11, SJR 2.
Examined by the sponsor and found to be correct: SB 11, SJR 2.
Signed by the Secretary of Senate at 3:00 p.m., February 11, 1999: SB 6, SB 76.
Signed by the Secretary of Senate at 3:40 p.m., February 11, 1999: SB 21, SB 55, SB 77.
Signed by the President at 3:05 p.m., February 11, 1999: SB 21, SB 55, SB 77.
Delivered to the Governor for his approval at 11:11 a.m., February 12, 1999: SB 4, SB 28, SB 30, SB 34, SB 51, SB 106, SB 141.

HIGHWAYS AND TRANSPORTATION (Mohl, Chairman): 2/12/1999
SB 137, introduced bill, be amended as follows:

1. Title, line 6.
Strike: "NATIONAL GUARD VETERANS' OR"
2. Title, line 7 and line 8.
Strike: "PROVIDING" on line 7 through "PROVISIONS;" on line 8
3. Page 1, line 12 through page 6, line 25.
Strike: section 1 in its entirety
Renumber: subsequent sections
4. Page 12, line 4 and 5.
Following: "pays" on line 4
Strike: ", in addition to"
5. Page 12, line 5 through line 7.
Following: "chapter" on line 5
Strike: ","" on line 5 through "(10)(f)(iv)" on line 7
6. Page 12, line 12 through line 17.

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Strike: section 3 in its entirety
Renumber: subsequent sections

7. Page 13, line 1 through line 7.
Strike: section 6 in its entirety
Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 139, do pass. Report adopted.
SB 266, introduced bill, be amended as follows:

1. Title, line 5.
Following: "PLATES"
Insert: "AND NATIONAL GUARD VETERANS' LICENSE PLATES"

2. Page 1, line 24.
Following: "a"
Insert: "tribal government,"

3. Page 2.
Following: line 3
Insert: "(6) "Tribal government" means the officially recognized government of an Indian tribe, nation, or other organized Indian group or community located in Montana that is exercising self-government powers and that is recognized as being eligible for services provided by the United States to Indians because of their status as Indians."

4. Page 4, line 14.
Following: "through"
Insert: "the executive body of a tribal government,"

5. Page 10, line 12.
Following: "services,"
Insert: "veterans of the national guard,"

6. Page 10, line 14.
Following: "(a)"
Insert: "(i)"

7. Page 10.
Following: line 18
Insert: "(ii) The department may issue national guard veteran plates bearing a design or decal displaying the Montana national guard insignia and the words "National Guard Veteran" and numbered in sets of two with a different number on each set to each applicant who presents to the department a copy of certification of national guard retirement eligibility issued by the appropriate authorities for the applicant or the applicant's deceased spouse and who pays, in addition to all taxes and fees required by parts 3 and 5 of this chapter, a national guard veteran license plate fee of \$10. The additional fee must be distributed in accordance with the provisions of subsection (11)(f)(iii) and (11)(f)(iv)."

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8. Page 13, line 14.

Strike: "61-3-332(11)(b) through (11)(g)"

Insert: "61-3-332(11)"

9. Page 13.

Following: line 16

Insert: "NEW SECTION. Section 14. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa."

Renumber: subsequent sections

10. Page 13, line 23.

Strike: "[LC 1582 and LC 1583]"

Insert: "Senate Bill No. 139, Senate Bill No. 267, and Senate Bill No. 268"

11. Page 13, line 25.

Strike: "[LC 1582 and LC 1583]"

Insert: "Senate Bill No. 139, Senate Bill No. 267, and Senate Bill No. 268"

12. Page 13, line 28.

Strike: "[LC 1582]"

Insert: "Senate Bill No. 267"

13. Page 14, line 1.

Strike: "15(2)"

Insert: "16(2)"

And, as amended, do pass. Report adopted.

SB 267, do pass. Report adopted.

SB 268, do pass. Report adopted.

SB 330, introduced bill, be amended as follows:

1. Title, line 5.

Following: "HIGHWAY"

Insert: "OR CONSTRUCTION"

2. Page 2, line 1.

Following: "for"

Insert: "["

Following: the first "a"

Insert: "federal-aid"

Following: "project"

Insert: ",] a state-funded highway project[,] or a construction project"

3. Page 2, line 4.

Following: "projects"

Insert: "and construction projects"

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4. Page 2, line 12.

Following: "projects"

Insert: "and construction projects "

5. Page 3, line 13.

Following: "for"

Insert: "["

Following: the first "a"

Insert: "federal-aid"

Following: "project"

Insert: ",] a state-funded highway project[,] or a construction project"

6. Page 3, line 16.

Following: "projects"

Insert: "and construction projects "

7. Page 3, line 24.

Following: "projects"

Insert: "and construction projects "

8. Page 3.

Following: line 27

Insert: "(6) For the purposes of subsection (5) "construction" has the same meaning as is provided in 18-2-101."

9. Page 3, line 29.

Following: "the"

Insert: "federal government notifies the state in writing that the"

10. Page 3, line 30.

Strike: "construction and maintenance"

Insert: "projects"

Following: "then"

Insert: "the bracketed language in"

11. Page 4, line 2.

Following: "(2)"

Insert: "The bracketed language in"

Strike: "This"

Insert: "this"

12. Page 4, line 3.

Following: "governor"

Insert: "in writing"

Following: the second "the"

Insert: "director has received written notice of the"

Strike: "government intends"

Insert: "government's intention"

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And, as amended, do pass. Report adopted.

SB 333, do pass. Report adopted.

SB 346, do pass. Report adopted.

SB 397, do pass. Report adopted.

JUDICIARY (Grosfield, Chairman):

2/12/1999

SB 16, introduced bill, be amended as follows:

1. Title, line 5 through line 6.

Following: "AN ACT" on line 5

Strike: remainder of line 5 through "CHANGE;" on line 6

2. Title, line 6.

Strike: "GOVERNMENTAL"

Following: "IMMUNITY"

Insert: "TO GOVERNMENTAL ENTITIES AND HEALTH CARE FACILITIES"

Following: "FOR"

Strike: "SUCH"

Insert: "COMPUTER"

3. Title, line 7.

Following: the first "AND"

Insert: "RESULTING"

4. Page 1, line 11 through page 3, line 20.

Strike: everything after the enacting clause

Insert: NEW SECTION. Section 1. Millennium change -- immunity for governmental entities and health care facilities for computer errors and resulting harm -- exceptions. (1) Except as provided in subsection (2), a governmental entity, as defined in 2-9-101, or a health care facility, as defined in 50-5-101, is not liable, in the absence of gross negligence or willful or wanton misconduct, for any civil damages arising from any failure or malfunction that occurs before January 1, 2005, and that is caused directly or indirectly by the failure of an electronic computing device to accurately or properly recognize, calculate, display, sort, compare, project, sequence, or otherwise process dates or times.

(2) The immunity provided by subsection (1) does not apply to a health care facility if death or bodily injury results from the failure or malfunction.

(3) This section may not be interpreted to interfere with rights to receive statutorily mandated services, entitlements, or compensation from governmental entities. If the failure or malfunction directly or indirectly causes a governmental entity to fail to deliver services, entitlements, or compensation, the remedies available are the existing administrative procedures or remedies provided by law, except as expressly limited by this section. The only compensation for the failure or malfunction is the value of the service, amount of entitlement, or amount of compensation that was due.

(4) This section does not limit the ability of contracting parties to enter into agreements as they consider appropriate with regard to liability and damages. This section does not apply to actions based upon fraud.

(5) For purposes of this section, "electronic computing device" means any computer hardware, software, firmware, computer chip, embedded chip, process control equipment, timing device, or other information system that:

(a) captures, stores, manipulates, or processes data; or

(b) controls, monitors, or assists in the operation of physical apparatus that is not primarily used as a computer

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and that relies on automation or digital technology to function, including but not limited to buildings, structures, facilities, vehicles, vessels, elevators, medical equipment, traffic signals, factory machinery, and similar appliances, equipment, instruments, and machinery."

Insert: "NEW SECTION. Section 2. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Insert: "NEW SECTION. Section 3. Two-thirds vote required. Because [section 1] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage."

Insert: "NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval."

Insert: "NEW SECTION. Section 5. Termination. [This act] terminates January 1, 2005."

And, as amended, do pass. Report adopted.

SB 243, introduced bill, be amended as follows:

1. Title, line 6.

Following: "FACILITY;"

Insert: "REVISING THE PURPOSE STATEMENT OF THE YOUTH COURT ACT;"

2. Title, line 13.

Following: "SECTIONS"

Insert: "41-5-102,"

3. Page 1, line 30.

Insert: "**Section 1.** Section 41-5-102, MCA, is amended to read:

"41-5-102. Declaration of purpose. The Montana Youth Court Act must be interpreted and construed to effectuate the following express legislative purposes:

(1) to preserve the unity and welfare of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of a youth coming within the provisions of the Montana Youth Court Act;

(2) to ~~prevent and reduce youth delinquency through immediate, consistent, enforceable, and avoidable consequences of youths' actions and to establish~~ remove the element of retribution from the penalties imposed upon youth who commit violations of the law and to substitute a program of supervision, care, rehabilitation, ~~detention,~~ competency development, community protection, and, in appropriate cases, restitution as ordered by the youth court;

(3) to achieve the purposes of subsections (1) and (2) in a family environment whenever possible, separating the youth from the parents only when necessary for the welfare of the youth or for the safety and protection of the community;

(4) to provide judicial procedures in which the parties are assured a fair, accurate hearing and recognition and enforcement of their constitutional and statutory rights."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 250, do pass. Report adopted.

LABOR AND EMPLOYMENT RELATIONS (Keating, Chairman):

2/12/1999

SB 305, do pass. Report adopted.

SB 387, introduced bill, be amended as follows:

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1. Title, page 1, lines 5 and 6.

Following: "EMPLOYMENT" on line 5

Strike: remainder of line 5 through "EMPLOYER" on line 6

2. Page 1, lines 12 and 13.

Following: "employment" on line 12

Strike: remainder of line 12 through "employer" on line 13

And, as amended, do pass. Report adopted.

SB 396, introduced bill, be amended as follows:

1. Page 1, line 17.

Following: "times"

Insert: "1.168 times"

And, as amended, do pass. Report adopted.

HB 179, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Bishop, Chairman):

2/11/1999

HB 85, be concurred in. Report adopted.

HB 170, be concurred in. Report adopted.

HB 319, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/11/1999

HB 6, introduced by M. McCann

HB 8, introduced by M. McCann

HB 74, introduced by D. Mood

HB 419, introduced by L. McCulloch

HB 437, introduced by B. Kasten

HB 442, introduced by J. Stovall

House joint resolution passed and transmitted to the Senate for concurrence:

2/11/1999

HJR 12, introduced by C. Juneau

MOTIONS

SB 405 - Senator Cocchiarella moved that SB 405 be taken from the committee on Labor and Employment Relations and rereferred to the committee on State Administration. Motion carried.

SB 111 - Senator DePratu moved to pass consideration of SB 111, on second reading this legislative day, until the 37th legislative day, February 15, 1999, in order to receive a correct fiscal note. Motion carried.

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SB 455 - Senator J. Tester moved that SB 455 be taken from the committee on Judiciary and rereferred to the committee on State Administration. Motion carried.

SJR 10 - Senator Cole moved that Senators Bartlett, Beck, Bohlinger, Christiaens, Cocchiarella, Crismore, DePratu, Devlin, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grosfield, Halligan, Hargrove, Hertel, Jabs, Jergeson, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wells, Wilson, Representatives Ahner, S. Anderson, Barnett, Barnhart, G. Beck, Bookout-Reinicke, Brown, Buzzas, P. Clark, Curtiss, Dale, Dell, Eggers, Erickson, Ewer, Facey, Fisher, Fuchs, Gallus, Gillan, Golie, Grinde, Guggenheim, Gutsche, Hagener, Haines, Harper, Harrington, Hedges, Hibbard, Hurdle, Jackson, Juneau, Kitzenberg, Krenzler, Lawson, Lenhart, Lindeen, Mangan, Masolo, Matthews, McCann, McCulloch, McKenney, Menahan, Mercer, Mood, Ohs, Pavlovich, Peck, Quilici, Raney, Ryan, Schmidt, Simon, Sliter, Smith, Soft, Squires, Story, Stovall, Swanson, Tash, L. Taylor, B. Thomas, Tropila, Tuss, Williams, Witt, Wyatt, Younkin, Zook be added as sponsors to SJR 10. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 462, introduced by L. Grosfield, V. Cocchiarella, W. Crismore, R. Dale, B. McCarthy, K. Ohs, C. Younkin, referred to Natural Resources.

SB 463, introduced by J. Wells, referred to Judiciary.

SB 464, introduced by S. Stang, V. Cocchiarella, D. Mahlum, C. Swysgood, referred to Highways and Transportation.

SB 465, introduced by G. Jergeson, referred to Natural Resources.

SB 466, introduced by M. Halligan, referred to Labor and Employment Relations.

SB 467, introduced by S. Bartlett, referred to Labor and Employment Relations.

SB 468, introduced by V. Cocchiarella, W. Crismore, L. Grosfield, referred to Natural Resources.

SB 469, introduced by M. Waterman, referred to Public Health, Welfare and Safety.

SB 470, introduced by D. Eck, J. Lynch, referred to Business and Industry.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 229 passed as follows:

Yeas: Beck, Berry, Bohlinger, Cocchiarella, Cole, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, McNutt, Mesaros, Miller, Mohl, Nelson, Swysgood, Taylor, Tester, Thomas, Toews, Wells, Mr. President.

Total 32

Nays: Bartlett, Bishop, Christiaens, Doherty, Eck, Ellingson, Franklin, Halligan, Jergeson, Lynch, Mahlum, McCarthy, Roush, Shea, Sprague, Stang, Waterman, Wilson.

Total 18

Paired: Bohlinger, Toews, Ayes; Doherty, Shea, Noes.

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SB 242 failed as follows:

Yeas: Beck, Berry, Cole, Crismore, Ekegren, Ellis, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, McNutt, Mesaros, Miller, Mohl, Sprague, Taylor, Thomas, Toews, Wells.

Total 24

Nays: Bartlett, Bishop, Bohlinger, Christiaens, Cocchiarella, DePratu, Devlin, Doherty, Eck, Ellingson, Franklin, Glaser, Halligan, Jergeson, Lynch, Mahlum, McCarthy, Nelson, Roush, Shea, Stang, Swysgood, Tester, Waterman, Wilson, Mr. President.

Total 26

Paired: Miller, Toews, Ayes; Bohlinger, Shea, Noes.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 245 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Bohlinger, Shea.

Total 2

SB 301 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.

Total 43

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Nays: Cocchiarella, Ellingson, Franklin, Lynch, Toews.
Total 5

Absent or not voting: None.
Total 0

Excused: Bohlinger, Shea.
Total 2

SB 325 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Bohlinger, Shea.
Total 2

SB 348 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Bohlinger, Shea.
Total 2

SB 352 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

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Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Bohlinger, Shea.
Total 2

SPECIAL ORDERS OF THE DAY

SR 3 - Senator Grosfield moved that the Senate adopt SR 3, confirming the nomination and appointment of the Honorable C. Bruce Loble as Chief Water Judge. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Bohlinger, Shea.
Total 2

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Harp moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Holden in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 260 - Senator Devlin moved SB 260, second reading copy, be amended as follows :

1. Page 3, line 16.
Strike: the first "THE"
Strike: "YEAR"
Insert: "years "

2. Page 3, line 17.
Following: "DETERMINED"

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Insert: "prior to the start of a tax year"

3. Page 3, line 21.

Following: "[1.4%]."

Insert: "To determine the rate for tax year 2001, the tax rate for the first half of calendar year 1999 is considered to be [1.4%]."

4. Page 5, line 8.

Strike: "0.25%"

Insert: "0.7%"

Amendment **adopted** unanimously.

SB 260 - Senator B. Glaser moved SB 260, as amended, do pass. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Ekegren, Ellis, Franklin, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Lynch, Mahlum, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Sprague, Stang, Taylor, Thomas, Toews, Wells, Mr. President.

Total 39

Nays: Eck, Ellingson, Halligan, Jergeson, McCarthy, Swysgood, Tester, Waterman, Wilson.

Total 9

Absent or not voting: None.

Total 0

Excused: Bohlinger, Shea.

Total 2

SB 199 - Senator C. Christiaens moved SB 199 do pass. Motion carried with Senator Swysgood voting nay.

SB 239 - Senator G. Roush moved SB 239 do pass. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Mohl, Nelson, Roush, Sprague, Stang, Swysgood, Tester, Waterman, Wilson, Mr. President.

Total 43

Nays: Miller, Taylor, Thomas, Toews, Wells.

Total 5

Absent or not voting: None.

Total 0

Excused: Bohlinger, Shea.

Total 2

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SB 240 - Senator Glaser moved SB 240, second reading copy, be amended as follows:

1. Page 2, line 28.

Following: "subcontractors."

Insert: "A subcontractor participating in making the deposits required in subsection (1) may not have additional retainage withheld by the contractor."

2. Page 3, line 19.

Following: line 18

Insert: "(3) If a construction contractor withholds retainage from a subcontractor or supplier, the contractor shall deposit the retainage into an interest-bearing account. At the time the retainage is paid to the subcontractor or supplier, the construction contractor shall also pay to the subcontractor or supplier the interest on that retainage."

Renumber: subsequent subsection

Amendment **adopted** unanimously.

SB 240 - Senator D. Grimes moved SB 240, as amended, do pass. After discussion, Senator D. Grimes made a substitute motion that consideration of SB 240 be passed for the day. Motion carried unanimously.

SB 292 - Senator A. Bishop moved SB 292 do pass. Motion carried as follows:

Yeas: Bartlett, Berry, Bishop, Christiaens, Cocchiarella, Cole, Doherty, Eck, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Nelson, Roush, Sprague, Stang, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 40

Nays: Beck, Crismore, DePratu, Devlin, Ekegren, Mohl, Swysgood, Taylor.

Total 8

Absent or not voting: None.

Total 0

Excused: Bohlinger, Shea.

Total 2

SB 294 - Senator M. Cole moved SB 294 do pass. Motion carried unanimously.

SB 321 - Senator R. Jabs moved SB 321 do pass. Motion carried unanimously.

SB 327 - Senator G. Devlin moved SB 327 do pass. Motion carried as follows:

Yeas: Bartlett, Bishop, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ellingson, Ellis, Franklin, Glaser, Grosfield, Halligan, Hargrove, Harp, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, McCarthy, McNutt, Mesaros, Mohl, Nelson, Roush, Stang, Swysgood, Waterman, Mr. President.

Total 34

Nays: Beck, Berry, Ekegren, Hertel, Mahlum, Miller, Sprague, Taylor, Tester, Thomas, Toews, Wells, Wilson.

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Total 13

Absent or not voting: Grimes.
Total 1

Excused: Bohlinger, Shea.
Total 2

SB 331 - Senator J. Lynch moved consideration of SB 331 be passed for the day due to Senator Shea's excused absence. Motion carried.

SB 347 - Senator S. Stang moved SB 347 do pass. Motion carried unanimously.

SB 356 - Senator A. Mohl moved SB 356 do pass. After discussion, Senator Harp made a substitute motion that the committee rise and report. Motion carried. Committee arose. Senate resumed. President Crippen in the chair. Chairman Holden moved the Committee of the Whole report be adopted. Report adopted.

MOTIONS

SB 390 - Senator Bishop moved that J. Shockley be added as sponsor to SB 390. Motion carried.

SB 229 - Senator Bishop moved that he be allowed to change his vote on SB 229, third reading, from yea to nay. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Harp moved that the Senate adjourn until 9:00 a.m., Saturday, February 13, 1999. Motion carried.

Senate adjourned at 3:16 p.m.

ROSANA SKELTON
Secretary of Senate

BRUCE CRIPPEN
President of the Senate