

**SENATE JOURNAL  
THIRTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana  
February 15, 1999

Senate Chambers  
State Capitol

Senate convened at 1:00 p.m. President Crippen presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Doherty, excused. Quorum present.

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

Miller, Chairman

Senator Doherty present at this time.

**SPECIAL ORDERS OF THE DAY**

President Crippen appointed Senators Beck and Lynch to escort Abraham Lincoln, President of the United States (former Senator Harry Fritz) to the well of the Senate where he addressed the members and acknowledged his 190th birthday.

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL** (Miller, Chairman): 2/15/1999  
Correctly printed: SB 16, SB 137, SB 139, SB 243, SB 250, SB 266, SB 267, SB 268, SB 303, SB 305, SB 333, SB 346, SB 396, HB 66, HB 82, HB 93, HB 138, HB 139, HB 175.  
Correctly engrossed: SB 123, SB 125, SB 126, SB 240, SB 303, SB 331, SB 356, HB 194.  
Correctly enrolled: SB 9.  
Signed by the Speaker at 11:43 a.m., February 15, 1999: SB 11, SJR 2.  
Examined by the sponsor and found to be correct: SB 9, SR 3.  
Signed by the Secretary of Senate at 10:30 a.m., February 15, 1999: SB 11, SJR 2.

**FISH AND GAME** (Mesaros, Chairman): 2/15/1999  
**SB 241**, introduced bill, be amended as follows:

1. Title, line 8.

**Strike:** "SHOOTER"

**Insert:** "COMPANION"

**Strike:** "OR" through "FIREARM,"

2. Title, line 9.

**Following:** "DEFINITIONS;"

**Insert:** "GRANTING RULEMAKING AUTHORITY FOR ESTABLISHMENT OF REVIEW BOARDS TO RESOLVE DISPUTES;"

3. Page 2, line 1 through line 2.

**Strike:** "has" on line 1 through "certification" on line 2

**Insert:** "establishes to the satisfaction of the department"

4. Page 2, line 3.

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**Strike:** "has a permanent physical disability or that the"

**Strike:** "person"

5. Page 2, line 4.

**Following:** "mobility."

**Insert:** "The department shall adopt rules to establish a board or boards of review to resolve any disputes over whether a person meets the criteria established in this subsection. Each board must have at least one Montana-licensed physician as a member."

6. Page 2, line 19.

**Strike:** "suffering from"

**Insert:** "experiencing"

7. Page 2, line 24.

**Strike:** "suffering from"

**Insert:** "experiencing"

8. Page 2, line 26 through line 27.

**Strike:** ", who" on line 26 through "shooter" on line 27

9. Page 2, line 28 through page 3, line 1.

**Strike:** "A" on page 2, line 28 through "shooter" on page 3, line 1

**Insert:** "The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person"

10. Page 3, line 4.

**Strike:** "suffering from"

**Insert:** "experiencing"

11. Page 3, line 13.

**Strike:** "suffers from"

**Insert:** "experiences"

12. Page 3, line 17.

**Following:** "person."

**Strike:** "virtual inability"

**Insert:** "nonambulatory or virtually unable"

13. Page 3, line 18 through line 19.

**Strike:** the first "to" on line 18 through "physician" on line 19

**Insert:** "due to permanent physical reliance on crutches, canes, prosthetic appliances, portable oxygen, or similar remedial appliances or devices. The board or boards of review established pursuant to subsection (3) shall resolve any disputes regarding whether a person meets the criteria for having substantially impaired mobility"

And, as amended, do pass. Report adopted.

**SB 293**, do pass. Report adopted.

**SB 381**, introduced bill, be amended as follows:

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1. Page 3, line 23.

**Following:** "offenses"

**Insert:** "at different times"

2. Page 4.

**Following:** line 24

**Insert:** "(8) A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles. However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap upon conviction or forfeiture of bond or bail for a violation of this title."

**Renumber:** subsequent subsections

And, as amended, do pass. Report adopted.

**NATURAL RESOURCES** (Crismore, Chairman):  
**SB 235**, introduced bill, be amended as follows:

2/15/1999

1. Page 1.

**Following:** line 6

**Insert:** "WHEREAS, waters classified A-Closed pursuant to ARM 17.30.621 represent the highest quality waters in Montana; and

WHEREAS, almost all A-Closed drainages originate in remote, largely inaccessible, alpine settings that afford maximum natural protection for water quality; and

WHEREAS, there is either no habitation or development or extremely limited habitation or development in A-Closed drainages; and

WHEREAS, the existing municipal water rights in each of those drainages have been used for municipal supply purposes and will be needed in many of the drainages; and

WHEREAS, the high elevation alpine settings of A-Closed drainages provide gravity flowing systems that reduce the need for pumping facilities and related energy costs for Montana citizens; and

WHEREAS, the superior mineral, radiological, and microbiological quality of A-Closed waters renders them especially suitable as a raw source of municipal drinking water; and

WHEREAS, there are few gravity flow alternative sources for high quality municipal water, and therefore the loss of the right to use these high quality waters would result in the loss of a unique and irreplaceable natural resource.

THEREFORE, the 56th Legislature of the State of Montana finds that it is appropriate to enact legislation to establish a limited presumption of nonabandonment for municipal water rights situated in A-Closed basins."

2. Page 1, line 24.

**Following:** "(3)."

**Insert:** "the legislature finds that"

3. Page 1, line 25.

**Strike:** "as of"

**Insert:** "before"

4. Page 1, line 26.

**Following:** "rule"

**Insert:** "is a unique water suited to municipal water use"

**Following:** "that"

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**Strike:** "is claimed"

**Insert:** "such a claim"

5. Page 1, line 27 through line 28.

**Following:** "be"

**Strike:** "totally or partially"

6. Page 1, line 28.

**Following:** "if"

**Insert:** "the city, town, or other private or public entity has used any part of the water right or municipal water supply and"

**Following:** "entity" on line 28

**Insert:** "also"

7. Page 1, line 30 through page 2, line 1.

**Following:** "(a)"

**Strike:** "used" on page 1, line 30 through "(b)" on page 2, line 1

8. Page 2, line 3.

**Strike:** "(c)"

**Insert:** "(b)"

**Following:** ", or"

**Insert:** "regularly"

9. Page 2, line 5 through line 9.

**Strike:** subsections (d), (e), and (f) in their entirety

10. Page 2.

**Following:** line 9

**Insert:** "(c) conducted a formal study, prepared by a registered professional engineer or qualified consulting firm, that includes a specific assessment that using the water right for municipal supply is feasible and that the amount of the water right is reasonable for foreseeable future needs; or"

11. Page 2, line 10.

**Strike:** "(g)"

**Insert:** "(d)"

**Following:** "facilities"

**Insert:** "connected to the municipal water supply system"

12. Page 2.

**Following:** line 11

**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."

**Renumber:** subsequent section

And, as amended, do pass. Report adopted.

**SB 314**, introduced bill, be amended as follows:

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1. Page 1, line 15

**Strike:** ":"

2. Page 1, line 16.

**Strike:** "(a)"

**Strike:** "; and"

**Insert:** "."

3. Page 1, line 17.

**Strike:** line 17 in its entirety

4. Page 1, line 21 through line 27.

**Strike:** section 2 in its entirety

**Renumber:** subsequent sections

5. Page 2.

**Following:** line 20

**Strike:** subsection 2 in its entirety

**Renumber:** subsequent subsection

6. Page 3, line 10.

**Following:** "the"

**Strike:** "department"

**Insert:** "board"

7. Page 3, line 12.

**Following:** "the "

**Strike:** "department"

**Insert:** "board"

8. Page 3.

**Following:** line 28

**Strike:** lines 29 and 30 in their entirety

9. Page 4, line 2.

**Following:** "before the"

**Strike:** "department"

**Insert:** "board"

10. Page 5, line 19.

**Following:** "[Sections"

**Strike:** " 4 through 8"

**Insert:** "3 through 7"

11. Page 5, line 21.

**Following:** "[sections"

**Strike:** " 4 through 8"

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**Insert:** "3 through 7"

12. Page 5, line 23.

**Following:** "If"

**Strike:** "[LC 989]"

**Insert:** "Senate Bill No. 313"

13. Page 5, line 24 through line 25.

**Following:** "if"

**Strike:** "[LC 989]"

**Insert:** "Senate Bill No. 313"

**Following:** "sections 2" on line 24

**Strike:** the remainder of line 24 through "8" on line 25

**Insert:** ", 3, and 5 through 7"

14. Page 5, line 26.

**Strike:** "[LC 989]"

**Insert:** "Senate Bill No. 313"

15. Page 5, line 27.

**Strike:** "[LC 989]"

**Insert:** "Senate Bill No. 313"

16. Page 5, line 28.

**Following:** "then"

**Strike:** "[sections 1 and 9] are"

**Insert:** "[section 8] is"

And, as amended, do pass. Report adopted.

**SB 362**, do pass. Report adopted.

**SB 371**, do pass. Report adopted.

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

2/15/1999

**SB 224**, introduced bill, be amended as follows:

1. Page 2, line 22 through line 26.

**Following:** "provide"

**Strike:** remainder of line 22 through "(c)" on line 26

2. Page 2, line 28.

**Following:** "may"

**Insert:** ":

(a)"

3. Page 2, line 29.

**Following:** "section"

**Insert:** ";

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- (b) provide problem gambling education and prevention services to the general public; and
- (c) provide a toll-free telephone service to alleviate gambling-related crises and to refer persons to certified pathological gambling counselors"

And, as amended, do pass. Report adopted.

**SB 359**, introduced bill, be amended as follows:

1. Page 1, line 10 through page 6, line 4.

**Strike:** section 1 through section 4 in their entirety

**Insert:** "NEW SECTION. Section 1. Findings and purpose. (1) Cigarette smoking presents serious public health concerns to the State and to the citizens of the State. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(2) Cigarette smoking also presents serious financial concerns for the State. Under certain health-care programs, the State may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.

(3) Under these programs, the State pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.

(4) It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State or are found culpable by the courts.

(5) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the State. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the State (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(6) It would be contrary to the policy of the State if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the State will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise."

**Insert:** "NEW SECTION. Section 2. Definitions. (1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(3) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or

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purchased by, consumers as a cigarette described in clause (a) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

(5) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998 by the State and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with [section 3(2)] of this Act.

(7) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.

(8) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.

(9) "Tobacco Product Manufacturer" means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate):

(a) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(b) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) becomes a successor of an entity described in paragraph (a) or (b).

The term "Tobacco Product Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of paragraphs (a) - (c) above.

(10) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs (or "roll-your-own" tobacco containers) bearing the excise tax stamp of the State. The department of revenue shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year."

**Insert: "NEW SECTION. Section 3. Requirements.** Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(1) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(2)(a) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation) --

1999: \$.0094241 per unit sold after the date of enactment of this Act;

2000: \$.0104712 per unit sold;

for each of 2001 and 2002: \$.0136125 per unit sold;

for each of 2003 through 2006: \$.0167539 per unit sold;

for each of 2007 and each year thereafter: \$.0188482 per unit sold.

(b) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (a) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances--

(i) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer



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by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (A) in the order in which they were placed into escrow and (B) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(ii) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(iii) to the extent not released from escrow under subparagraphs (i) or (ii), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(c) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall-

(i) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(ii) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(iii) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years. Each failure to make an annual deposit required under this section shall constitute a separate violation."

**Renumber:** subsequent sections

2. Page 6, line 6.

**Strike:** "4"

**Insert:** "3"

And, as amended, do pass. Report adopted.

**SB 364**, introduced bill, be amended as follows:

1. Page 1, line 17.

**Following:** "(b)"

**Strike:** the remainder of line 17

**Insert:** "the child-only group health insurance plan provided through the federal Title IV-D program of the department;"

And, as amended, do pass. Report adopted.

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**STATE ADMINISTRATION** (Cole, Chairman): 2/15/1999  
**SB 383**, do pass. Report adopted.  
**SJR 4**, introduced joint resolution, be amended as follows:

1. Page 1, line 12.  
**Strike:** "statue honoring Mike Mansfield, a"  
**Following:** "Representatives"  
**Strike:** ", "

2. Page 1, line 17 through page 1, line 20.  
**Strike:** subsection (1) in its entirety  
**Renumber:** subsequent subsections

And, as amended, be adopted. Report adopted.

**TAXATION** (Devlin, Chairman): 2/15/1999  
**SB 380**, do pass. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

House bills passed and transmitted to the Senate for concurrence: 2/15/1999

**HB 173**, introduced by R. Somerville  
**HB 258**, introduced by J. Cobb  
**HB 274**, introduced by M. Hanson  
**HB 349**, introduced by B. Thomas  
**HB 387**, introduced by R. Jore  
**HB 407**, introduced by C. Younkin  
**HB 414**, introduced by R. Johnson

**MOTIONS**

**SB 452** - Senator Beck moved that D. Berry be added as sponsor to SB 452. Motion carried.

**FIRST READING AND COMMITMENT OF BILLS**

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

**SB 492**, introduced by L. Grosfield, M. Cole, W. Crismore, T. Keating, G. Roush, referred to Natural Resources.  
**SB 493**, introduced by L. Grosfield, referred to Select Committee on Constitutional Amendments.  
**SB 494**, introduced by L. Grosfield, referred to Select Committee on Constitutional Amendments.  
**SB 495**, introduced by L. Grosfield, referred to Select Committee on Constitutional Amendments.  
**SB 496**, introduced by L. Grosfield, referred to Select Committee on Constitutional Amendments.  
**SB 497**, introduced by L. Grosfield, referred to Select Committee on Constitutional Amendments.  
**SB 498**, introduced by L. Grosfield, referred to Select Committee on Constitutional Amendments.  
**SB 499**, introduced by L. Grosfield, C. Swysgood, referred to Natural Resources.  
**SB 500**, introduced by D. Berry, referred to Local Government.  
**SB 501**, introduced by J. Hertel, referred to Business and Industry.

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The following Senate joint resolution was introduced, read first time, and referred to committee:

**SJR 12**, introduced by M. Cole, S. Bartlett, T. Beck, C. Christiaens, V. Cocchiarella, B. Crippen, W. Crismore, B. DePratu, S. Doherty, D. Eck, P. Ekegren, J. Ellingson, B. Glaser, L. Grosfield, M. Halligan, D. Hargrove, J. Harp, J. Hertel, R. Jabs, T. Keating, B. Keenan, J. Lynch, D. Mahlum, B. McCarthy, W. McNutt, A. Mohl, L. Nelson, G. Roush, D. Shea, M. Sprague, M. Taylor, J. Tester, D. Toews, M. Waterman, J. Wells, referred to State Administration.

**APPOINTMENT OF SELECT COMMITTEE**

The president appointed the following members to the Select Committee on Constitutional Amendments:

Senator W. McNutt, Chairman  
Senator L. Grosfield  
Senator M. Cole  
Senator T. Beck  
Senator F. Thomas  
Senator L. Nelson  
Senator J. Tester  
Senator B. Wilson.

**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 16** passed as follows:

Yeas: Bartlett, Beck, Berry, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Eck, Ekegren, Ellingson, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Swysgood, Taylor, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 44

Nays: Bishop, Doherty, Franklin, Halligan, Stang, Tester.  
Total 6

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 137** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr.

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President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 139** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 240** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 243** passed as follows:

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

Total 43

Nays: Bartlett, Christiaens, Devlin, Ellingson, Franklin, Swysgood, Waterman.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 250** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 49

Nays: Eck.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 266** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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**SB 267** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 268** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 305** passed as follows:

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

Total 28

Nays: Bartlett, Beck, Bishop, Christiaens, Cocchiarella, Doherty, Eck, Ellingson, Franklin, Halligan, Harp, Jergeson, Lynch, McCarthy, Nelson, Roush, Shea, Sprague, Stang, Tester, Waterman, Wilson.

Total 22

Absent or not voting: None.

Total 0

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Excused: None.  
Total 0

**SB 330** passed as follows:

Yeas: Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Wells, Wilson, Mr. President.  
Total 46

Nays: Bartlett, Eck, Jergeson, Waterman.  
Total 4

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 331** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wilson, Mr. President.  
Total 49

Nays: Wells.  
Total 1

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 333** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 50

Nays: None.  
Total 0

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Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 346** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Thomas, Waterman, Wells, Wilson, Mr. President.  
Total 46

Nays: Miller, Nelson, Tester, Toews.  
Total 4

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 356** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Jabs, Jergeson, Keating, Keenan, Mahlum, McCarthy, McNutt, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.  
Total 43

Nays: Devlin, Hertel, Holden, Lynch, Mesaros, Miller, Toews.  
Total 7

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 396** passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 50



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Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**HB 66** concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**HB 82** concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 50

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**HB 93** concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel,

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Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 138** concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 139** concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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**HB 175** concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 194** concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**MOTIONS**

**SB 305** - Senator Jergeson moved that he be allowed to change his vote on SB 305, third reading, from yea to nay. Motion carried.

**SB 305** - Senator Nelson moved that she be allowed to change her vote on SB 305, third reading, from yea to nay. Motion carried.

**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 Cole in the chair.

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

**SB 111** - Senator Stang moved SB 111, second reading copy, be amended as follows :

1. Title, line 6.

**Strike:** "\$1 MILLION"

**Insert:** "\$500,000"

2. Page 2, line 7.

**Strike:** "\$1 MILLION"

**Insert:** "\$500,000"

3. Page 11, line 6.

**Strike:** "\$1 million"

**Insert:** "\$500,000"

Amendment **failed** as follows:

Yeas: Bartlett, Beck, Bishop, Christiaens, Cocchiarella, Crismore, Doherty, Eck, Ellingson, Franklin, Halligan, Jergeson, Lynch, McCarthy, Nelson, Roush, Shea, Stang, Tester, Waterman, Wilson.

Total 21

Nays: Berry, Bohlinger, Cole, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Sprague, Swysgood, Taylor, Thomas, Toews, Wells, Mr. President.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 111** - Senator DePratu moved SB 111, second reading copy, be amended as follows :

1. Page 1, line 26.

**Strike:** "THOSE"

**Insert:** "nontransferable licenses"

Amendment **passed** unanimously.

**SB 111** - Senator Eck moved SB 111, second reading copy, be further amended as follows:

1. Title, line 7.

**Following:** "OF"

**Insert:** "MOST"

**Following:** "INTANGIBLE"

**Insert:** "PERSONAL"

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2. Page 2, line 7.

**Following:** "INTANGIBLE"

**Insert:** "personal"

**Following:** "PROPERTY"

**Insert:** ", other than a transferrable liquor license for on-premise consumption of liquor, beer, or wine issued under Title 16,"

Senator Keenan expressed his conflict of interest in SB 111 as his name is on a liquor license in Montana.

Amendment **failed** as follows:

Yeas: Bartlett, Bishop, Eck, Ellingson, Grimes, Hargrove, Keenan, Waterman, Mr. President.

Total 9

Nays: Beck, Berry, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Ekegren, Ellis, Franklin, Glaser, Grosfield, Halligan, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Wells, Wilson.

Total 41

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 111** - Senator DePratu moved SB 111, as amended, do pass. Senator DePratu expressed his conflict of interest in SB 111 as he has an automobile franchise. Motion carried as follows:

Yeas: Beck, Berry, Bohlinger, Cocchiarella, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Roush, Sprague, Stang, Taylor, Thomas, Toews, Wells, Mr. President.

Total 33

Nays: Bartlett, Bishop, Christiaens, Cole, Doherty, Eck, Ellingson, Franklin, Halligan, Lynch, McCarthy, Nelson, Shea, Swysgood, Tester, Waterman, Wilson.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 387** - Senator Wilson moved SB 387 do pass. Motion carried as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, Doherty, Eck, Ekegren,

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Ellingson, Ellis, Franklin, Grosfield, Halligan, Hargrove, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, Nelson, Roush, Shea, Sprague, Stang, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.

Total 37

Nays: Beck, DePratu, Devlin, Glaser, Grimes, Harp, McNutt, Mesaros, Miller, Mohl, Swysgood, Taylor, Toews.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**HB 137** - Senator Ellis moved HB 137 be concurred in. Motion carried unanimously.

**HB 197** - Senator Thomas moved HB 197 be concurred in. After discussion, Senator Thomas made a substitute motion that HB 197 be passed for the day. Motion carried

Senator Taylor excused at this time.

**HB 85** - Senator Bohlinger moved HB 85, second reading copy, be amended as follows :

1. Title, line 5.

**Following:** " ; "

**Insert:** " PROVIDING RULEMAKING AUTHORITY FOR THE ADMINISTRATION, DISPENSATION, AND PRESCRIPTION OF DRUGS TAKEN ORALLY OR BY INJECTION; "

2. Title, line 6.

**Strike:** " SECTION "

**Insert:** " SECTIONS "

**Following:** " 37-10-101 "

**Insert:** " AND 37-10-103 "

3. Page 1, line 27.

**Strike:** " by the board "

**Insert:** " as provided in 37-10-103 "

4. Page 2, line 8.

**Insert:** " **Section 2.** Section 37-10-103, MCA, is amended to read:

**"37-10-103. Use of drugs not prohibited by pharmacy law -- rulemaking.** The use of drugs by a licensed optometrist as stated in 37-10-101 is not prohibited by Title 37, chapter 7. The board and the board of medical examiners, acting jointly, shall adopt rules listing the drugs that may be prescribed as provided in 37-10-101 to be taken orally or by injection and may adopt rules that govern the administration and dispensation of those drugs. "

Amendment **failed** as follows:

Yeas: Bartlett, Beck, Bohlinger, Cocchiarella, DePratu, Doherty, Halligan, Harp, Keenan, Stang, Wilson.

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Total 11

Nays: Berry, Bishop, Christiaens, Cole, Crismore, Devlin, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Hargrove, Hertel, Holden, Jabs, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Swysgood, Tester, Thomas, Toews, Waterman, Wells, Mr. President.

Total 38

Absent or not voting: None.

Total 0

Excused: Taylor.

Total 1

**HB 85** - Senator Christiaens moved HB 85, be concurred in. Motion carried as follows:

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

Total 38

Nays: Beck, Bohlinger, Cocchiarella, DePratu, Devlin, Eck, Harp, Keenan, Mohl, Shea, Waterman.

Total 11

Absent or not voting: None.

Total 0

Excused: Taylor.

Total 1

Senator Harp moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Crippen in the chair. Chairman Cole moved the Committee of the Whole report be adopted. Report adopted.

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Harp moved that the Senate adjourn until 1:00 p.m., Tuesday, February 16, 1999. Motion carried.

Senate adjourned at 3:13 p.m.

ROSANA SKELTON  
Secretary of Senate

BRUCE CRIPPEN  
President of the Senate