

**SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY**

Helena, Montana
February 22, 1999

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Crippen presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Franklin, Halligan and Wells, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 2/22/1999

Correctly printed: SB 130, SB 132, SB 220, SB 265, SB 270, SB 271, SB 302, SB 307, SB 320, SB 323, SB 337, SB 353, SB 355, SB 367, SB 384, SB 388, SB 393, SB 398, SB 404, SB 412, SB 416, SB 417, SB 423, SB 426, SB 429, SB 435, SB 457, SB 463, SB 468, SB 469, SB 473, SB 478, SB 483, SB 484, SB 485, SB 488, SB 489, SB 514, SB 515, SJR 12.

Correctly engrossed: SB 100, SB 329, SB 334, SB 335, SB 336, SB 338, SB 339, SB 340, SB 341, SB 344, SB 345, SB 365, SB 376, SB 382, SB 434, SB 455, SB 458, SJR 8.

AGRICULTURE, LIVESTOCK AND IRRIGATION (Jabs, Chairman): 2/19/1999

SB 401, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "FROM"

Insert: "WHILE"

2. Title, line 7.

Following: "REFUNDS"

Strike: "IF THE PERSON FILES CERTAIN FARM INCOME REPORTS"

Insert: "ACCORDING TO THE RATIO OF THE PERSON'S GROSS EARNED FARM INCOME TO TOTAL GROSS EARNED INCOME"

3. Title, line 9.

Following: "FUEL;"

Strike: "AND"

4. Title, line 10.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

5. Page 3, line 29.

Strike: "from"

Insert: "while"

6. Page 6, line 4.

Following: "refund"

Strike: "of 60%"

7. Page 6, line 7.

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Following: "~~ratio of the~~"

Insert: "ratio of the"

Following: "applicant's"

Insert: "gross earned"

Following: "income"

Insert: "to total gross earned income, excluding unearned income"

8. Page 6, line 8 through line 10.

Following: "applicant." on line 8

Strike: remainder of line 8 through "service." on line 10

9. Page 6.

Following: line 14

Insert: "(3) An applicant may apply for a refund of the applicable tax on gallons of gasoline as evidenced by bulk delivery invoices or by evidence of keylock or cardrol purchases according to the applicant's ratio of gross earned farm income to total gross earned income, excluding unearned income, as follows:

(a) if the ratio is 50% or more, the applicant may apply for a refund of 60% of the gasoline tax;

(b) if the ratio is between 40% and 49%, the applicant may apply for a refund of 50% of the gasoline tax;

(c) if the ratio is between 30% and 39%, the applicant may apply for a refund of 40% of the gasoline tax;

(d) if the ratio is between 20% and 29%, the applicant may apply for a refund of 30% of the gasoline tax;

(e) if the ratio is between 10% and 19%, the applicant may apply for a refund of 20% of the gasoline tax;

(f) if the ratio is less than 10%, the applicant is not eligible for a refund of the gasoline tax under this section.

(4) If the applicant's ratio in any of the 3 previous years on record is higher than the present year, the highest ratio must be used to calculate the eligible refund."

Renumber: subsequent subsections

10. Page 6, line 25.

Strike: "from"

Insert: "while"

11. Page 9, line 25.

Following: "refund"

Strike: "of 60%"

12. Page 9, line 26 through page 10, line 1.

Following: "use." on line 26

Strike: remainder of line 26 through "service." on page 10, line 1

Insert: "(2) An applicant may apply for a refund of the applicable tax on gallons of special fuel as evidenced by bulk delivery invoices or by evidence of keylock or cardrol purchases according to the applicant's ratio of gross earned farm income to total gross earned income, excluding unearned income, as follows:

(a) if the ratio is 50% or more, the applicant may apply for a refund of 60% of the special fuel tax;

(b) if the ratio is between 40% and 49%, the applicant may apply for a refund of 50% of the special fuel tax;

(c) if the ratio is between 30% and 39%, the applicant may apply for a refund of 40% of the special

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fuel tax;

(d) if the ratio is between 20% and 29%, the applicant may apply for a refund of 30% of the special

fuel tax;

(e) if the ratio is between 10% and 19%, the applicant may apply for a refund of 20% of the special

fuel tax;

(f) if the ratio is less than 10%, the applicant is not eligible for a refund of the special fuel tax under this section.

(3) If the applicant's ratio in any of the 3 previous years on record is higher than the present year, the highest ratio must be used to calculate the eligible refund."

Renumber: subsequent subsections "

13. Page 10, line 7.

Insert: "NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 1999."

And, as amended, do pass. Report adopted.

SJR 11, introduced joint resolution, be amended as follows:

1. Page 1.

Following: line 28

Insert: "(2) fair compensation for lost agricultural income, as called for under trade compensation and assistance programs of the Agricultural Trade Act of 1978 and the Federal Agricultural Improvement and Reform Act of 1996 (FAIR Act), for all existing and future sanctions;

(3) further support for risk management tools and education, such as the pilot projects for forward contracts and the use of hedges and options, and development and funding of a more effective yield and income insurance program by Congress and the administration;"

Renumber: subsequent subsections

2. Page 1, line 30.

Following: "trade"

Insert: ", including a complete investigation of the possible effects of the proposed Cargill-Continental merger"

3. Page 2, line 1.

Following: "(3)"

Strike: "blocking the merger between Cargill and Continental"

Insert: "expansion and development of new international markets for agricultural products and ensuring that agricultural producers have advisory status at any agricultural trade negotiations, with a priority on price transparency of the Canadian Wheat Board;

(6) reductions of regulations and taxes to enable farmers and ranchers to be more profitable;"

Renumber: subsequent subsections

And, as amended, be adopted. Report adopted.

FISH AND GAME (Mesaros, Chairman):

2/22/1999

SB 445, introduced bill, be amended as follows:

1. Title, line 9.

Following: "AN"

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Insert: "IMMEDIATE"

2. Page 1, line 24 and line 25.

Following: "board" on line 24

Insert: "as of January 1, 1999"

Strike: "within" through "operation" on line 25

3. Page 1, line 28.

Strike: "Commercial" through "only"

Insert: "An outfitter will limit launches to two boats at each state or federal river access site each day"

4. Page 1, line 29 through page 2, line 2.

Strike: "The" on page 1, line 29 through "1999" on page 2, line 2

Insert: "An outfitter's total annual use of the Beaverhead and Big Hole Rivers will not exceed the greater of either:

(A) the outfitter's annual average use for the years 1995 through 1998; or

(B) the outfitter's actual use for the year ending December 31, 1998"

5. Page 2.

Following: line 3

Insert: "(4) For the purposes of subsection (3), a launch is the equivalent of 2 client days.

(5) In calculating the use pursuant to subsection (3)(c)(ii), an outfitter shall use the same time periods for both rivers and may not combine periods of use from both rivers for one river's calculations.

(6) Subject to subsection (7), an outfitter who has had an operating plan on file with the board prior to January 1, 1999, that includes the Beaverhead and Big Hole Rivers is allowed a minimum of 90 total launches each year, allocated proportionately between the Beaverhead and Big Hole Rivers based on the outfitter's actual historic use on each river.

(7) The board shall develop rules that limit the number of outfitters that are guaranteed a minimum of 90 launches. The rules must address how the application of historical use pattern information maintained by the board is used to determine the limits.

(8) From the third Saturday in May through Labor Day of any year, a commercial outfitter or guide may not launch any boats on Saturdays and Sundays in the following areas:

(a) on the Big Hole River from Jerry Creek fishing access site to the salmonfly fishing access site; and

(b) on the Beaverhead River from Clark Canyon Dam to the Henneberry fishing access site."

Renumber: subsequent subsections

6. Page 2, line 12 through line 14.

Strike: subsection (6) in its entirety

Renumber: subsequent subsection

7. Page 2, line 19.

Following: "area"

Insert: "and other recreationists or interested parties"

8. Page 2, line 21.

Strike: "October 1, 2000"

Insert: "July 1, 2001"

9. Page 3, line 3.

Strike: "July 1, 1999"

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Insert: "on passage and approval"

10. Page 3.

Following: line 3

Insert: "NEW SECTION. Section 6. Termination. (1) [Section 1] terminates for the Big Hole River on the date that the legislature adopts a river recreation management plan for the Big Hole River that addresses limits on commercial outfitting and guiding.

(2) [Section 1] terminates for the Beaverhead River on the date that the legislature adopts a river recreation management plan for the Beaverhead River that addresses limits on commercial outfitting and guiding."

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Crismore, Chairman):
SB 411, introduced bill, be amended as follows:

2/20/1999

1. Page 1, line 26.

Following: "beneficiary."

Insert: "The board shall include as revenue all proceeds derived from or attributable to the forested tracts held in trust for each beneficiary and shall include any change in value or unrealized gain resulting from the appreciation of the land."

And, as amended, do pass. Report adopted.

SB 462, introduced bill, be amended as follows:

1. Title, line 12.

Following: "CONTROL EASEMENTS;"

Insert: "PROVIDING FOR REPORTING REQUIREMENTS BY QUALIFIED PRIVATE ORGANIZATIONS;"

2. Page 1, line 20.

Strike: "19"

Insert: "20"

3. Page 2, line 12.

Strike: "19"

Insert: "20"

4. Page 2, line 23.

Strike: "19"

Insert: "20"

5. Page 2, line 26.

Following: "means an easement"

Strike: "running"

Insert: "created under [sections 1 through 20] that burdens an environmental control site, that runs"

6. Page 2, line 27.

Strike: the first "that" through "site"

Insert: ", "

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7. Page 3, line 11.

Following: "contaminants"

Insert: "that are subject to regulation by federal, state, or local environmental protection laws or"

8. Page 3, line 19.

Strike: "19"

Insert: "20"

9. Page 3, line 21.

Following: "of"

Insert: "interests in"

10. Page 3, line 22.

Following: "sites"

Insert: ", including environmental control easements"

11. Page 3, line 26.

Strike: "19"

Insert: "20"

12. Page 4, line 7.

Strike: "19"

Insert: "20"

13. Page 4, line 11.

Strike: "17"

Insert: "18"

14. Page 4, line 14.

Strike: "19"

Insert: "20"

15. Page 4, line 21.

Strike: "19"

Insert: "20"

16. Page 5, line 8.

Following: "easement,"

Strike: "including"

17. Page 5, line 9.

Following: "form"

Insert: ", "

18. Page 5, line 12 through line 14.

Strike: "If" on line 12 through "parties." on line 14

19. Page 5, line 17.

Strike: "19"

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Insert: "20"

20. Page 5, lines 18 through line 19.

Following: "roads,"

Strike: "signs," on line 18 through "utilities," on line 19

21. Page 6, line 7.

Strike: "19"

Insert: "20"

22. Page 6, line 29.

Strike: "19"

Insert: "20"

23. Page 7.

Following: line 17

"NEW SECTION. Section 12. Qualified private organizations. If the grantee or holder of an environmental control easement is a qualified private organization, then the organization has the following additional obligations:

(1) The organization shall provide to the state or federal agency that approved the environmental control easement pursuant to [section 8] an annual report on or before April 30 of each year providing a description of actions taken to monitor the environmental control site, the status of compliance with the environmental control easement, and any other information that the state or federal agency may require relating to compliance with the provisions of the environmental control easement.

(2) Within 15 days following the discovery of any material violation of the environmental control easement, the organization shall provide to the state or federal agency that approved the environmental control easement pursuant to [section 8] a written report setting forth the nature of the violation, the remedies that the grantee intends to undertake to correct the violation, and any other information that the state or federal agency may request.

(3) The organization shall notify, in writing, the state or federal agency that approved the environmental control easement pursuant to [section 8] of the organization's dissolution, the cessation of operations, or the occurrence of any other event that renders the organization incapable of performing its obligations under the terms of the environmental control easement."

Renumber: subsequent sections

24. Page 7, line 20.

Strike: "19"

Insert: "20"

25. Page 7, line 21 through line 23.

Following: "otherwise." on line 21

Strike: "An" on line 21 through "easement." on line 23

26. Page 7, line 24.

Strike: "19"

Insert: "20"

27. Page 7, line 25.

Following: "section"

Insert: "or in violation of the express terms of the instrument creating the easement"

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28. Page 8, line 25.

Strike: "19"

Insert: "20"

29. Page 10, lines 8 and 9.

Following: "and are"

Strike: "jointly and severally"

30. Page 10, line 17.

Strike: "19"

Insert: "20"

31. Page 10, line 18.

Strike: "19"

Insert: "20"

And, as amended, do pass. Report adopted.

SB 492, do pass. Report adopted.

SB 499, introduced bill, be amended as follows:

1. Page 2, line 18.

Strike: "identifiable"

And, as amended, do pass. Report adopted.

Senator Franklin present at this time.

REPORTS OF SELECT COMMITTEES

SELECT COMMITTEE ON CONSTITUTIONAL AMENDMENTS (McNutt, Chairman):

2/22/1999

SB 493, introduced bill, be amended as follows:

1. Page 1, line 27.

Strike: "increasing from 10% to"

Insert: "requiring at least"

Strike: "the minimum number"

Strike: "who"

2. Page 1, line 28.

Strike: "must"

Insert: "to"

3. Page 1, line 29.

Strike: "increasing from 10% to"

Insert: "requiring at least"

Strike: "the minimum number"

4. Page 1, line 30.

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Strike: "who must"
Insert: "to"

And, as amended, do pass. Report adopted.

SB 494, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "10"
Insert: "8"

2. Page 1, line 16.

Strike: "10"
Insert: "eight"

3. Page 1, line 17.

Strike: "10"
Insert: "eight"

4. Page 1, line 25.

Strike: "increasing the minimum number of electors who must"
Insert: "requiring at least 8% of the qualified electors to"

5. Page 1, line 27.

Strike: "increasing the minimum number of electors who must"
Insert: "requiring at least 8% of the qualified electors to"

And, as amended, do pass. Report adopted.

SB 495, introduced bill, be amended as follows:

1. Title, line 8.

Strike: "10"
Insert: "8"

2. Page 1, line 18.

Strike: "10"
Insert: "eight"

3. Page 1, line 20.

Strike: "10"
Insert: "eight"

4. Page 2, lines 7 and 8.

Following: "requiring" on line 7

Strike: remainder of line 7 through "changed" on line 8

Insert: "8% of all electors and 8% of electors in one-half of the counties to petition to refer legislative acts to the electors"

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5. Page 2, lines 9 and 10.

Following: "requiring" on line 9

Strike: remainder of line 9 through "changed" on line 10

Insert: "8% of all electors and 8% of electors in one-half of the counties to petition to refer legislative acts to the electors"

And, as amended, do pass. Report adopted.

SB 496, introduced bill, be amended as follows:

1. Page 2, lines 5 and 6.

Following: "FOR"

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

Insert: "requiring that signatures be gathered in one-half of the counties rather than one-third of legislative districts for statutory initiatives"

2. Page 2, lines 7 and 8.

Following: "AGAINST"

Strike: remainder of line 7 through "ballot" on line 8

Insert: "requiring that signatures be gathered in one-half of the counties rather than one-third of legislative districts for statutory initiatives"

And, as amended, do pass. Report adopted.

SB 497, introduced bill, be amended as follows:

1. Title, line 7.

Following: "ELECTION TO"

Strike: "A MAJORITY"

Insert: "TWO-THIRDS"

Strike: "QUALIFIED"

2. Title, line 8.

Strike: "IN THE STATE"

Insert: "VOTING IN THE ELECTION"

3. Page 1, line 22.

Strike: "a majority"

Insert: "two-thirds"

Strike: "qualified"

Strike: "in the state"

Insert: "voting on the amendment"

4. Page 1, line 30.

Strike: the second "a majority"

Insert: "two-thirds"

Strike: "qualified"

Insert: "the"

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Following: "electors"

Insert: "voting"

5. Page 2, line 2.

Strike: the second "a majority"

Insert: "two-thirds"

Strike: "qualified"

Insert: "the"

Following: "electors"

Insert: "voting"

And, as amended, do pass. Report adopted.

SB 498, introduced bill, be amended as follows:

1. Page 2, lines 8 and 9.

Following: "FOR" on line 8

Strike: remainder of line 8 through "ballot" on line 9

Insert: "requiring that signatures be gathered in one-half of the counties rather than two-fifths of legislative districts for constitutional initiatives"

2. Page 2, lines 10 and 11.

Following: "AGAINST" on line 10

Strike: remainder of line 10 through "ballot" on line 11

Insert: "requiring that signatures be gathered in one-half of the counties rather than two-fifths of legislative districts for constitutional initiatives"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/22/1999

HB 104, introduced by T. Hagener

HB 181, introduced by P. Sliter

HB 237, introduced by E. Swanson

HB 315, introduced by B. Raney

HB 336, introduced by K. Gillan

HB 366, introduced by B. Kasten

HB 373, introduced by C. Younkin

HB 395, introduced by T. Facey

HB 399, introduced by M. Guggenheim

HB 429, introduced by J. Shockley

HB 440, introduced by M. Brainard

HB 501, introduced by K. Ohs

HB 506, introduced by P. Sliter

HB 508, introduced by D. Harrington

HB 527, introduced by H. Harper

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HB 530, introduced by D. McGee
HB 531, introduced by K. Gillan
HB 561, introduced by S. Gallus
HB 566, introduced by M. Brainard
HB 585, introduced by R. Jore
HB 590, introduced by B. Lawson
HB 593, introduced by H. Harper
HB 614, introduced by D. Wagner
HB 615, introduced by D. Harrington
HB 616, introduced by M. Lindeen
HB 625, introduced by P. Bergsagel
HB 639, introduced by J. Mangan
HB 640, introduced by J. Mangan

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

2/22/1999

HJR 6, introduced by D. Mood
HJR 9, introduced by C. Tuss
HJR 24, introduced by C. Juneau
HJR 27, introduced by B. Story
HJR 31, introduced by R. Menahan

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

Session #1

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

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

SB 344 - Senator C. Swysgood moved SB 344 do pass. Motion carried as follows:

Yeas: Beck, Berry, Cole, Crismore, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Lynch, McCarthy, McNutt, Mesaros, Miller, Mohl, Roush, Shea, Sprague, Swysgood, Thomas, Toews.

Total 28

Nays: Bartlett, Bishop, Bohlinger, Christiaens, Cocchiarella, DePratu, Doherty, Eck, Ellingson, Franklin, Jergeson, Keenan, Mahlum, Nelson, Stang, Taylor, Tester, Waterman, Wilson, Mr. President.

Total 20

Absent or not voting: None.

Total 0

Excused: Halligan, Wells.

Total 2

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SB 345 - Senator D. Shea moved SB 345 do pass. Motion carried as follows:

Yeas: Beck, Cole, Crismore, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Lynch, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Shea, Sprague, Stang, Swysgood, Thomas, Toews, Mr. President.

Total 29

Nays: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, DePratu, Doherty, Eck, Ellingson, Franklin, Jergeson, Keenan, Mahlum, Roush, Taylor, Tester, Waterman, Wilson.

Total 19

Absent or not voting: None.

Total 0

Excused: Halligan, Wells.

Total 2

SB 133, House Amendments - Senator A. Mohl moved House Amendments to SB 133 be concurred in. Motion carried as follows:

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

Total 40

Nays: Beck, Ellis, Hertel, McNutt, Miller, Swysgood, Taylor, Toews.

Total 8

Absent or not voting: None.

Total 0

Excused: Halligan, Wells.

Total 2

Senator Halligan present at this time.

SB 263 - Senator R. Holden moved SB 263, as amended on Saturday, February 20, 1999, the forty-third legislative day, do pass. Motion **failed** as follows:

Yeas: Berry, Bishop, Cocchiarella, DePratu, Devlin, Ekegren, Grimes, Hargrove, Hertel, Holden, Jabs, Keenan, Mahlum, Mesaros, Mohl, Toews, Mr. President.

Total 17

Nays: Bartlett, Beck, Bohlinger, Christiaens, Cole, Crismore, Doherty, Eck, Ellingson, Ellis, Franklin, Glaser, Grosfield, Halligan, Harp, Jergeson, Keating, Lynch, McCarthy, McNutt, Miller, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wilson.

Total 32

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Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 263 - Senator Lynch moved that SB 263 be indefinitely postponed. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, 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, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wilson.
Total 44

Nays: Bishop, DePratu, Miller, Toews, Mr. President.
Total 5

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 372 - Senator M. Halligan moved SB 372 do pass. Motion carried with Senator Bartlett voting nay.

SB 264 - Senator P. Ekegren moved SB 264 do pass. Motion carried unanimously.

SB 366 - Senator S. Bartlett requested SB 366 be placed at the bottom of the second reading board because the fiscal note was not present. Request granted.

SB 376 - Senator B. McCarthy moved SB 376, second reading copy, be amended as follows :

1. Page 1, line 22.

Following: line 21

Insert: "(3) "Resident" has the meaning provided in 18-1-103 and in addition includes a partnership, an association, or a corporation that has performed work in Montana for at least 1 year prior to the award of a contract."

Amendment **adopted** unanimously.

SB 376 - Senator B. McCarthy moved SB 376, as amended, do pass. After discussion, Senator McCarthy requested SB 376 be moved to the bottom of the second reading board. Request granted.

SB 390 - Senator L. Grosfield moved SB 390, second reading copy, be amended as follows :

1. Title, line 7.

Following: "COURT;"

Insert: "PROHIBITING A JUDGMENT LIEN FOR ATTORNEY COMPENSATION ON WORKERS' COMPENSATION INSURER PAYMENTS FOR MEDICAL SERVICES;"

Following: "39-71-611"

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Insert: ", "

Strike: "AND"

Following: "39-71-612,"

Insert: "AND 39-71-704,"

2. Page 2, line 4.

Following: line 3

Insert: "(4) An award of attorney fees under subsection (3) may be made only if it is determined that the actions of the insurer were unreasonable."

3. Page 3, line 2.

Insert: "**Section 3.** Section 39-71-704, MCA, is amended to read:

"39-71-704. Payment of medical, hospital, and related services -- fee schedules and hospital rates -- fee limitation -- no lien attachment to medical services payments. (1) In addition to the compensation provided under this chapter and as an additional benefit separate and apart from compensation benefits actually provided, the following must be furnished:

(a) After the happening of a compensable injury and subject to other provisions of this chapter, the insurer shall furnish reasonable primary medical services for conditions resulting from the injury for those periods as the nature of the injury or the process of recovery requires.

(b) The insurer shall furnish secondary medical services only upon a clear demonstration of cost-effectiveness of the services in returning the injured worker to actual employment.

(c) The insurer shall replace or repair prescription eyeglasses, prescription contact lenses, prescription hearing aids, and dentures that are damaged or lost as a result of an injury, as defined in 39-71-119, arising out of and in the course of employment.

(d) The insurer shall reimburse a worker for reasonable travel expenses incurred in travel to a medical provider for treatment of an injury only if the travel is incurred at the request of the insurer. Reimbursement must be at the rates allowed for reimbursement of travel by state employees.

(e) Except for the repair or replacement of a prosthesis furnished as a result of an industrial injury, the benefits provided for in this section terminate when they are not used for a period of 60 consecutive months.

(f) Notwithstanding subsection (1)(a), the insurer may not be required to furnish, after the worker has achieved medical stability, palliative or maintenance care except:

(i) when provided to a worker who has been determined to be permanently totally disabled and for whom it is medically necessary to monitor administration of prescription medication to maintain the worker in a medically stationary condition; or

(ii) when necessary to monitor the status of a prosthetic device.

(g) If the worker's treating physician believes that palliative or maintenance care that would otherwise not be compensable under subsection (1)(f) is appropriate to enable the worker to continue current employment or that there is a clear probability of returning the worker to employment, the treating physician shall first request approval from the insurer for the treatment. If approval is not granted, the treating physician may request approval from the department for the treatment. The department shall appoint a panel of physicians, including at least one treating physician from the area of specialty in which the injured worker is being treated, pursuant to rules that the department may adopt, to review the proposed treatment and determine its appropriateness.

(h) Notwithstanding any other provisions of this chapter, the department, by rule and upon the advice of the professional licensing boards of practitioners affected by the rule, may exclude from compensability any medical treatment that the department finds to be unscientific, unproved, outmoded, or experimental.

(2) The department shall annually establish a schedule of fees for medical services not provided at a hospital that are necessary for the treatment of injured workers. Charges submitted by providers must be the usual and customary charges for nonworkers' compensation patients. The department may require insurers to submit information to be used in establishing the schedule.

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(3) (a) The department shall establish rates for hospital services necessary for the treatment of injured workers.

~~(b) Except as provided in subsection (3)(g), for the fiscal year beginning July 1, 1997, rates for services provided at a hospital must be the greater of:~~

~~—— (i) 69% of the hospital's January 1, 1997, usual and customary charges; or~~

~~—— (ii) the discount factor established by the department that was in effect on June 30, 1997, for the hospital. The discount factor for a hospital formed by the merger of two or more existing hospitals is computed by using the weighted average of the discount factors in effect at the time of the merger.~~

~~(c)~~(b) Except as provided in subsection ~~(3)(g)~~ (3)(f), beginning July 1, 1998, the department shall adjust hospital discount factors so that the rate of payment does not exceed the annual percentage increase in the state's average weekly wage, as defined in 39-71-116.

~~(d)~~(c) The department may establish a fee schedule for hospital outpatient services rendered on or after July 1, 1998. The fee schedule must, in the aggregate, provide for fees that are equal to the statewide average discount factors paid to hospitals to provide the same or equivalent procedure to workers' compensation hospital outpatients.

~~(e)~~(d) The discount factors established by the department pursuant to this subsection (3) may not be less than medicaid reimbursement rates.

~~(f)~~(e) For services available in Montana, insurers are not required to pay facilities located outside Montana rates that are greater than those allowed for services delivered in Montana.

~~(g)~~(f) For a hospital licensed as a medical assistance facility pursuant to Title 50, chapter 5, the rate for services is the hospital's usual and customary charge. Fees paid to a hospital licensed as a medical assistance facility are not subject to the limitation provided in subsection (4).

(4) The percentage increase in medical costs payable under this chapter may not exceed the annual percentage increase in the state's average weekly wage, as defined in 39-71-116.

(5) Payment pursuant to reimbursement agreements between managed care organizations or preferred provider organizations and insurers is not bound by the provisions of this section.

(6) Disputes between an insurer and a medical service provider regarding the amount of a fee for medical services must be resolved by a hearing before the department upon written application of a party to the dispute.

(7) (a) After the initial visit, the worker is responsible for 20%, but not to exceed \$10, of the cost of each subsequent visit to a medical service provider for treatment relating to a compensable injury or occupational disease, unless the visit is to a medical service provider in a managed care organization as requested by the insurer or is a visit to a preferred provider as requested by the insurer.

(b) After the initial visit, the worker is responsible for \$25 of the cost of each subsequent visit to a hospital emergency department for treatment relating to a compensable injury or occupational disease.

(c) "Visit", as used in subsections (7)(a) and (7)(b), means each time that the worker obtains services relating to a compensable injury or occupational disease from:

(i) a treating physician;

(ii) a physical therapist;

(iii) a psychologist; or

(iv) hospital outpatient services available in a nonhospital setting.

(d) A worker is not responsible for the cost of a subsequent visit pursuant to subsection (7)(a) if the visit is an examination requested by an insurer pursuant to 39-71-605.

(8) A judgment lien for attorney compensation does not attach to payments for medical services made by an insurer directly to a hospital or other provider pursuant to this section. "

Renumber: subsequent section

Amendment **adopted** as follows:

Yeas: Beck, Berry, Bohlinger, Cole, Crismore, DePratu, Devlin, Ellis, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Sprague, Swysgood, Taylor, Thomas,

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Toews, Mr. President.
Total 28

Nays: Bartlett, Bishop, Christiaens, Cocchiarella, Doherty, Eck, Ekegren, Ellingson, Franklin, Glaser, Halligan, Jergeson, Lynch, McCarthy, Nelson, Roush, Shea, Stang, Tester, Waterman, Wilson.
Total 21

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 390 - Senator A. Bishop moved SB 390, as amended, do pass. Motion carried 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 409 - Senator J. Ellingson moved SB 409 do pass. Motion carried unanimously.

SB 419 - Senator D. Shea moved SB 419 do pass. Motion carried unanimously.

SB 421 - Senator D. Mahlum moved SB 421 do pass. Motion carried as follows:

Yeas: Bartlett, Berry, Bohlinger, Christiaens, Cocchiarella, DePratu, Doherty, Eck, Ellingson, Franklin, Halligan, Hargrove, Hertel, Jabs, Jergeson, Keenan, Lynch, Mahlum, McCarthy, Nelson, Shea, Sprague, Taylor, Tester, Thomas, Waterman, Wilson, Mr. President.
Total 28

Nays: Beck, Bishop, Cole, Crismore, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Harp, Holden, Keating, McNutt, Mesaros, Miller, Mohl, Roush, Stang, Swysgood, Toews.
Total 21

Absent or not voting: None.
Total 0

Excused: Wells.

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Total 1

Senator Harp moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Crippen in the chair. Chairman Devlin moved the Committee of the Whole report be adopted. Report adopted.

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 265 passed as follows:

Yeas: Bartlett, Beck, Berry, Bohlinger, Cocchiarella, Cole, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Mr. President.

Total 39

Nays: Bishop, Christiaens, Doherty, Eck, Ellingson, Franklin, Halligan, Jergeson, Keenan, Wilson.

Total 10

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 271 passed as follows:

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

Total 37

Nays: Bartlett, Bishop, Christiaens, Doherty, Ellingson, Franklin, Lynch, McCarthy, Nelson, Shea, Stang, Wilson.

Total 12

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 320 passed as follows:

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

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Total 37

Nays: Bartlett, Christiaens, Cocchiarella, Doherty, Eck, Ellingson, Franklin, Lynch, McCarthy, Shea, Stang, Wilson.

Total 12

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 323, a Constitutional Amendment, received the following vote:

Yeas: Bartlett, Bishop, Bohlinger, Christiaens, Cocchiarella, DePratu, Doherty, Eck, Ellingson, Franklin, Halligan, Jergeson, Keating, Lynch, McCarthy, Nelson, Roush, Shea, Sprague, Stang, Tester, Thomas, Waterman, Wilson.

Total 24

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

Total 26

Paired: Doherty, Aye; Wells, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 353 passed as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, DePratu, Doherty, Eck, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Jabs, Jergeson, Lynch, Mahlum, McCarthy, Miller, Nelson, Roush, Shea, Sprague, Stang, Tester, Thomas, Waterman, Wilson, Mr. President.

Total 35

Nays: Beck, Crismore, Devlin, Ekegren, Hertel, Holden, Keating, Keenan, McNutt, Mesaros, Mohl, Swysgood, Taylor, Toews.

Total 14

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 367 passed as follows:

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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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 384 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, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Mr. President.
Total 47

Nays: Jergeson, Wilson.
Total 2

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 388 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, 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 48

Nays: Grimes.
Total 1

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

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SB 393 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 398 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 404 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.

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Total 1

SB 412 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 416 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 417 passed as follows:

Yeas: Bartlett, Berry, Bishop, Christiaens, Cocchiarella, Cole, DePratu, Doherty, Eck, Ekegren, Ellingson, Franklin, Glaser, Grimes, Halligan, Hargrove, Hertel, Jabs, Jergeson, Lynch, Mahlum, McCarthy, Roush, Shea, Sprague, Tester, Toews, Waterman, Wilson, Mr. President.
Total 30

Nays: Beck, Bohlinger, Crismore, Devlin, Ellis, Grosfield, Harp, Holden, Keating, Keenan, McNutt, Mesaros, Miller, Mohl, Nelson, Stang, Swysgood, Taylor, Thomas, Wells.
Total 20

Paired: Waterman, Aye; Wells, No.

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 423 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wilson, Mr. President.
Total 47

Nays: Glaser, Miller.
Total 2

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 426 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 429 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, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wilson, Mr. President.
Total 47

Nays: Miller, Toews.

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Total 2

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 435 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: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 463 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: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 468 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

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 469 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 473 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

MOTIONS

Majority Leader Harp moved that the Senate stand in recess until the hour of 1:00 p.m. this legislative day. Motion carried.

Senate recessed at 11:25 p.m.

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Senate reconvened at 1:00 p.m.

Roll Call. All members present except Senators Harp and Wells, excused. Quorum present.

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

Miller, Chairman

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 2/22/1999
Correctly engrossed: SB 399, SB 401, SB 406, SB 411, SB 422, SB 462, SB 477, SB 491, SB 499, SB 501.

FIRST READING AND COMMITMENT OF BILLS

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

- HB 59**, introduced by D. Mood (by request of the Department of Corrections), referred to Judiciary.
HB 115, introduced by D. McGee (by request of the Department of Corrections), referred to Judiciary.
HB 130, introduced by B. Story (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.
HB 188, introduced by C. Tuss (by request of the Secretary of State), referred to State Administration.
HB 236, introduced by J. Barnett, D. Hargrove, referred to Education and Cultural Resources.
HB 241, introduced by B. Ryan, E. Franklin, J. Lynch, J. Tropila, referred to State Administration.
HB 244, introduced by T. Facey, referred to Judiciary.
HB 248, introduced by D. Harrington, G. Beck, S. Gallus, K. Gillan, J. Lynch, B. McCarthy, B. Pavlovich, J. Quilici, D. Shea, B. Tash, J. Tropila, referred to Natural Resources.
HB 258, introduced by J. Cobb, referred to State Administration.
HB 267, introduced by B. Molnar, S. Kitzenberg, D. McGee, K. Miller, B. Raney, L. Soft, referred to Fish and Game.
HB 269, introduced by B. Molnar, D. Grimes, D. McGee, K. Miller, referred to Public Health, Welfare and Safety.
HB 274, introduced by M. Hanson, referred to State Administration.
HB 275, introduced by B. Barnhart, J. Bohlinger, C. Christiaens, P. Clark, D. Eck, G. Golie, H. Harper, B. McCarthy, B. Raney, referred to Public Health, Welfare and Safety.
HB 314, introduced by B. Raney, L. Grosfield, S. Anderson, M. Cole, B. Crippen, L. Grinde, H. Harper, C. Hibbard, S. Stang, B. Story, J. Stovall, E. Swanson, referred to Fish and Game.
HB 326, introduced by M. Brainard, referred to Local Government.
HB 334, introduced by J. Quilici, G. Beck, J. Harp, J. Lynch, D. Mahlum, W. McNutt, R. Menahan, S. Rose, D. Shea, referred to State Administration.
HB 338, introduced by G. Masolo, C. Ahner, R. Dale, G. Golie, T. Hagener, S. Rose, referred to Local Government.
HB 339, introduced by P. Sliter, A. Ellis, referred to Judiciary.
HB 340, introduced by S. Anderson, referred to Natural Resources.
HB 342, introduced by B. Raney (by request of the Joint Select Committee on CI-75), referred to State Administration.
HB 345, introduced by B. Raney, S. Anderson, referred to Agriculture, Livestock and Irrigation.
HB 349, introduced by B. Thomas, R. Dale, B. Davies, T. Hagener, D. Haines, G. Masolo, J. Witt, referred to

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State Administration.

HB 352, introduced by M. Brainard, L. Grinde, P. Sliter, B. Story, referred to Agriculture, Livestock and Irrigation.

HB 353, introduced by B. Tash, K. Ohs, C. Younkin, referred to Local Government.

HB 362, introduced by T. Schmidt, referred to State Administration.

HB 374, introduced by J. Hurdle, P. Clark, G. Gutsche, C. Williams, referred to Judiciary.

HB 379, introduced by B. Tash, S. Anderson, T. Beck, M. Brainard, W. Crismore, L. Grinde, L. Grosfield, M. Hanson, J. Hertel, K. Mesaros, D. Mood, K. Ohs, B. Rehbein, P. Sliter, C. Swysgood, L. Taylor, C. Younkin, referred to Fish and Game.

HB 387, introduced by R. Jore, referred to Fish and Game.

HB 396, introduced by G. Masolo, E. Clark, T. Hagener, D. Hedges, S. Kitzenberg, D. Mahlum, J. McKenney, W. McNutt, B. Pavlovich, B. Rehbein, S. Rose, J. Witt, referred to Judiciary.

HB 407, introduced by C. Younkin, T. Beck, J. Cobb, L. Grinde, L. Grosfield, M. McCann, K. Mesaros, K. Ohs, C. Swysgood, referred to Judiciary.

HB 411, introduced by D. Ewer, C. Ahner, S. Bartlett, D. Grimes, H. Harper, C. Hibbard, B. Lawson, G. Masolo, referred to Local Government.

HB 412, introduced by C. Juneau, G. Beck, R. Buzzas, B. Eggers, K. Gillan, M. Guggenheim, H. Harper, J. Hurdle, S. Kitzenberg, B. Krenzler, M. McCann, J. Mercer, G. Roush, F. Smith, C. Williams, referred to State Administration.

HB 414, introduced by R. Johnson, referred to Education and Cultural Resources.

HB 419, introduced by L. McCulloch, A. Bishop, K. Gillan, B. Lawson, R. Somerville, S. Stang, referred to Education and Cultural Resources.

HB 430, introduced by C. Squires, V. Cocchiarella, referred to Public Health, Welfare and Safety.

HB 432, introduced by C. Tuss, K. Gillan, L. Grosfield, D. Mood, K. Ohs, B. Simon, E. Swanson, M. Taylor, referred to State Administration.

HB 435, introduced by P. Clark, referred to Fish and Game.

HB 437, introduced by B. Kasten, M. McCann, S. Stang, referred to Business and Industry.

HB 442, introduced by J. Stovall, T. Beck, R. Brown, S. Doherty, B. Eggers, D. Ewer, T. Facey, L. Grinde, H. Harper, T. Keating, G. Masolo, M. McCann, R. Peck, S. Rose, J. Shockley, P. Sliter, F. Smith, C. Tuss, J. Witt, referred to Business and Industry.

HB 443, introduced by S. Bookout-Reinicke, referred to Local Government.

HB 444, introduced by B. Thomas, P. Bergsagel, R. Dale, L. Grinde, D. Haines, referred to Agriculture, Livestock and Irrigation.

HB 454, introduced by L. Soft, A. Bishop, J. Holden, R. Johnson, S. Kitzenberg, referred to Highways and Transportation.

HB 455, introduced by L. Soft, S. Kitzenberg, referred to Judiciary.

HB 458, introduced by K. Ohs, K. Gillan, H. Harper, B. Tash, referred to Natural Resources.

HB 459, introduced by R. Clark, D. Adams, C. Ahner, S. Bookout-Reinicke, M. Brainard, R. Dale, B. Davies, D. Grimes, L. Grinde, C. Hibbard, J. Holden, R. Jore, S. Kitzenberg, M. McCann, L. McCulloch, J. Mercer, K. Miller, S. Orr, J. Shockley, P. Sliter, B. Tash, M. Taylor, A. Walters, J. Wells, C. Younkin, referred to Judiciary.

HB 461, introduced by B. Simon, referred to Business and Industry.

HB 467, introduced by C. Hibbard, A. Bishop, V. Cocchiarella, B. Crippen, R. Dale, B. DePratu, A. Ellis, K. Galvin-Halcro, L. Grinde, L. Grosfield, T. Hagener, M. Hanson, J. Harp, D. Harrington, T. Keating, R. Lenhart, M. Lindeen, J. Mangan, J. Mercer, A. Mohl, R. Peck, J. Quilici, B. Rehbein, S. Rose, G. Roush, D. Shea, C. Squires, B. Story, C. Swysgood, B. Tash, J. Tester, J. Wells, J. Witt, referred to Highways and Transportation.

HB 468, introduced by M. Brainard, referred to State Administration.

HB 474, introduced by C. Hibbard, C. Ahner, G. Beck, T. Beck, C. Christiaens, R. Clark, B. Crippen, D. Ewer, K. Galvin-Halcro, D. Grimes, M. Halligan, J. Harp, H. Harper, D. Harrington, S. Kitzenberg, J. Lynch, L.

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McCulloch, R. Menahan, K. Ohs, D. Shea, C. Squires, B. Wilson, referred to State Administration.

HB 476, introduced by R. Johnson, M. Halligan, C. Hibbard, referred to Local Government.

HB 480, introduced by R. Johnson, referred to Finance and Claims.

HB 482, introduced by J. Mangan, C. Christiaens, T. Dell, E. Franklin, K. Gillan, B. Krenzler, B. Molnar, T. Schmidt, referred to Judiciary.

HB 485, introduced by S. Anderson, A. Curtiss, A. Ellis, G. Masolo, D. Mood, R. Somerville, B. Tash, referred to Natural Resources.

HB 486, introduced by S. Anderson, S. Gallus, L. Grosfield, J. Harp, D. Harrington, B. McCarthy, K. Ohs, M. Waterman, C. Younkin, referred to Natural Resources.

HB 487, introduced by S. Anderson, S. Gallus, L. Grosfield, J. Harp, D. Harrington, B. McCarthy, K. Ohs, M. Waterman, C. Younkin, referred to Natural Resources.

HB 488, introduced by D. Wagner, D. Adams, R. Bitney, J. Cobb, A. Curtiss, J. Harp, H. Harper, V. Jackson, R. Jore, B. Kasten, S. Kitzenberg, B. Lawson, B. Molnar, S. Orr, B. Raney, P. Sliter, R. Somerville, A. Walters, referred to Fish and Game.

HB 492, introduced by H. Harper, P. Clark, D. Ewer, M. Hanson, D. Harrington, C. Hibbard, J. Holden, R. Menahan, B. Pavlovich, J. Quilici, B. Raney, S. Rose, J. Tropila, T. Zook, referred to Judiciary.

HB 494, introduced by C. Squires, C. Ahner, S. Bartlett, G. Beck, T. Beck, R. Clark, D. Ewer, S. Gallus, K. Galvin-Halcro, B. Glaser, D. Grimes, M. Guggenheim, D. Hargrove, H. Harper, J. Hertel, C. Hibbard, S. Kitzenberg, R. Menahan, B. Pavlovich, J. Quilici, D. Shea, B. Wilson, C. Younkin, referred to State Administration.

HB 499, introduced by H. Harper, A. Ellis, referred to Agriculture, Livestock and Irrigation.

HB 502, introduced by K. Ohs, L. Grinde, referred to State Administration.

HB 504, introduced by K. Ohs, C. Ahner, D. Grimes, J. Hertel, B. McCarthy, K. Miller, D. Mood, B. Pavlovich, R. Somerville, B. Tash, F. Thomas, J. Witt, referred to Business and Industry.

HB 509, introduced by G. Gutsche, R. Buzzas, P. Clark, V. Cocchiarella, J. Ellingson, T. Facey, K. Galvin-Halcro, R. Johnson, S. Kitzenberg, B. Lawson, M. Lindeen, L. McCulloch, S. Rose, P. Sliter, F. Thomas, C. Younkin, referred to Education and Cultural Resources.

HB 512, introduced by L. Soft, S. Bartlett, D. Berry, A. Bishop, R. Buzzas, C. Christiaens, B. DePratu, D. Eck, E. Franklin, T. Hagener, D. Hargrove, C. Hibbard, B. Krenzler, L. McCulloch, referred to Business and Industry.

HB 514, introduced by R. Somerville, G. Masolo, referred to Business and Industry.

HB 522, introduced by B. Pavlovich, S. Gallus, D. Harrington, B. McCarthy, R. Menahan, J. Quilici, J. Tropila, referred to Business and Industry.

HB 523, introduced by J. McKenney, D. Ewer, referred to Business and Industry.

HB 528, introduced by C. Juneau, S. Doherty, D. Eck, B. Eggers, J. Ellingson, D. Ewer, E. Franklin, S. Gallus, K. Galvin-Halcro, K. Gillan, G. Gutsche, H. Harper, J. Hurdle, G. Jergeson, S. Kitzenberg, B. McCarthy, L. Nelson, G. Roush, D. Shea, F. Smith, E. Swanson, referred to Education and Cultural Resources.

HB 533, introduced by S. Gallus, G. Beck, R. Clark, W. Crismore, B. Eggers, T. Facey, K. Galvin-Halcro, K. Gillan, G. Golie, J. Harp, H. Harper, D. Harrington, C. Hibbard, M. Lindeen, J. Mangan, L. McCulloch, R. Menahan, B. Pavlovich, J. Quilici, B. Raney, P. Sliter, R. Somerville, C. Williams, referred to Fish and Game.

HB 534, introduced by S. Gallus, referred to Fish and Game.

HB 539, introduced by P. Sliter, R. Bitney, S. Fisher, V. Jackson, B. Lawson, R. Somerville, referred to Natural Resources.

HB 551, introduced by J. Cobb, referred to Public Health, Welfare and Safety.

HB 557, introduced by D. Ewer, S. Bartlett, T. Beck, S. Doherty, J. Ellingson, E. Franklin, H. Harper, J. Lynch, L. McCulloch, B. Raney, G. Roush, D. Shea, B. Wilson, referred to Business and Industry.

HB 558, introduced by R. Bitney, J. Hertel, J. Lynch, J. Quilici, P. Sliter, referred to Business and Industry.

HB 567, introduced by M. Noennig, L. Grosfield (by request of the Joint Select Committee on CI-75), referred to Taxation.

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HB 571, introduced by M. McCann, G. Jergeson, referred to Agriculture, Livestock and Irrigation.
HB 578, introduced by S. Anderson, M. Halligan, referred to State Administration.
HB 580, introduced by T. Schmidt, E. Franklin, referred to Public Health, Welfare and Safety.
HB 581, introduced by J. Cobb, referred to Business and Industry.
HB 583, introduced by B. Thomas, S. Bartlett, P. Bergsagel, B. Crippen, S. Doherty, A. Ellis, D. Haines, M. Hanson, J. Harp, H. Harper, D. Hedges, C. Hibbard, R. Holden, S. Kitzenberg, L. McCulloch, L. Nelson, K. Ohs, B. Rehbein, S. Rose, P. Sliter, C. Squires, B. Tash, F. Thomas, B. Wilson, referred to Public Health, Welfare and Safety.
HB 584, introduced by C. Juneau, R. Buzzas, A. Curtiss, S. Kitzenberg, R. Lenhart, M. McCann, L. McCulloch, G. Roush, F. Smith, C. Williams, referred to Education and Cultural Resources.
HB 598, introduced by J. Quilici, G. Beck, T. Facey, K. Gillan, J. Harp, D. Harrington, B. Krenzler, M. Lindeen, J. Lynch, D. Mahlum, J. Mangan, W. McNutt, R. Menahan, D. Mood, B. Pavlovich, B. Ryan, D. Shea, B. Simon, P. Sliter, B. Tash, referred to Business and Industry.
HB 617, introduced by K. Ohs, referred to Natural Resources.
HB 620, introduced by C. Tuss, T. Beck, C. Christiaens, D. Mahlum, G. Masolo, J. Tester, J. Tropila, referred to State Administration.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 5, introduced by R. Jore, M. Brainard, A. Curtiss, B. Davies, S. Orr, B. Rehbein, A. Walters, J. Wells, referred to Judiciary.
HJR 10, introduced by A. Curtiss, M. Brainard, R. Jore, B. Molnar, S. Orr, referred to State Administration.
HJR 11, introduced by A. Curtiss, M. Brainard, R. Jore, B. Molnar, S. Orr, B. Tash, referred to Natural Resources.
HJR 19, introduced by A. Curtiss, referred to Taxation.
HJR 20, introduced by J. Quilici, J. Andersen, T. Facey, D. Fuchs, K. Galvin-Halcro, K. Gillan, J. Holden, S. Kitzenberg, B. Lawson, M. Lindeen, J. Mangan, G. Masolo, L. McCulloch, J. McKenney, M. Noennig, S. Rose, A. Walters, D. Wyatt, referred to Education and Cultural Resources.
HJR 21, introduced by B. Lawson, J. Andersen, T. Facey, D. Fuchs, K. Galvin-Halcro, K. Gillan, J. Holden, S. Kitzenberg, M. Lindeen, J. Mangan, G. Masolo, L. McCulloch, J. McKenney, M. Noennig, B. Rehbein, S. Rose, A. Walters, D. Wyatt, referred to Education and Cultural Resources.
HJR 22, introduced by G. Masolo, D. Adams, C. Ahner, J. Andersen, J. Barnett, M. Brainard, R. Brown, E. Clark, R. Clark, J. Cobb, A. Curtiss, T. Facey, S. Fisher, D. Fuchs, K. Galvin-Halcro, D. Grimes, L. Grinde, D. Haines, D. Hedges, J. Holden, V. Jackson, S. Kitzenberg, B. Krenzler, J. Mangan, L. McCulloch, D. McGee, J. Mercer, B. Molnar, D. Mood, M. Noennig, R. Peck, J. Quilici, S. Rose, B. Ryan, B. Simon, P. Sliter, F. Smith, R. Somerville, J. Stovall, E. Swanson, L. Taylor, F. Thomas, C. Tuss, A. Walters, C. Williams, D. Wyatt, T. Zook, referred to Public Health, Welfare and Safety.
HJR 26, introduced by R. Bitney, P. Clark, A. Curtiss, A. Ellis, G. Golie, J. Harp, M. Lindeen, J. Quilici, P. Sliter, S. Stang, J. Stovall, referred to Agriculture, Livestock and Irrigation.

Senator Harp present at this time.

MOTIONS

SB 277 - Senator Bohlinger moved that SB 277 be taken from the committee on Finance and Claims, printed and placed on second reading. After discussion, Senator Bohlinger withdrew his motion because the bill is not subject to the transmittal deadline.

SJR 6 - Senator Doherty moved that SJR 6 be taken from the committee on Labor and Employment Relations,

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printed and placed on second reading in the Committee of the Whole. Motion **failed** as follows:

Yeas: Bartlett, Beck, Bishop, Christiaens, Cocchiarella, Doherty, Eck, Ellingson, Franklin, Halligan, Jergeson, Lynch, Mahlum, McCarthy, Nelson, Roush, Shea, Stang, Tester, Waterman, Wilson, Mr. President.
Total 22

Nays: Berry, Bohlinger, Cole, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, McNutt, Mesaros, Miller, Mohl, Sprague, Swysgood, Taylor, Thomas, Toews.
Total 27

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SB 427 - Senator Sprague moved that SB 427 be taken from the committee on Highways and Transportation, printed and placed on second reading in the Committee of the Whole. Motion **passed** as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, Christiaens, DePratu, Doherty, Eck, Ellingson, Grimes, Grosfield, Halligan, Hargrove, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Miller, Nelson, Shea, Sprague, Tester, Waterman, Wilson, Mr. President.
Total 27

Nays: Beck, Cocchiarella, Cole, Crismore, Devlin, Ekegren, Ellis, Franklin, Glaser, Harp, Hertel, Holden, Jabs, Keenan, Mesaros, Mohl, Roush, Stang, Swysgood, Taylor, Thomas, Toews.
Total 22

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

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

Session #2

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

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

SB 430 - Senator G. Roush moved SB 430 do pass. Motion carried as follows:

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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, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Swysgood, Taylor, Thomas, Toews, Wilson, Mr. President.

Total 45

Nays: Jergeson, Stang, Tester, Waterman.

Total 4

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 466 - Senator M. Halligan moved SB 466 do pass. Motion carried unanimously.

SB 470 - Senator D. Eck moved SB 470 do pass. Motion carried unanimously.

SB 472 - Senator D. Grimes moved SB 472 do pass. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Christiaens, Cole, DePratu, Devlin, Doherty, Ellis, Franklin, Grimes, Grosfield, Halligan, Hargrove, Holden, Jabs, Keating, Lynch, McNutt, Mesaros, Miller, Nelson, Roush, Shea, Stang, Swysgood, Taylor, Tester, Thomas, Toews.

Total 31

Nays: Bohlinger, Cocchiarella, Crismore, Eck, Ekegren, Ellingson, Glaser, Harp, Hertel, Jergeson, Keenan, Mahlum, McCarthy, Mohl, Waterman, Wilson, Mr. President.

Total 17

Absent or not voting: Sprague.

Total 1

Excused: Wells.

Total 1

SB 481 - Senator F. Thomas moved SB 481 do pass. Motion carried unanimously.

SB 486 - Senator M. Halligan moved SB 486 do pass. Motion carried unanimously.

SB 500 - Senator D. Berry moved SB 500 do pass. Motion carried unanimously.

SB 503 - Senator J. Ellingson moved SB 503 do pass. Motion carried as follows:

Yeas: Bartlett, Bishop, Bohlinger, Christiaens, Cocchiarella, Doherty, Eck, Ekegren, Ellingson, Franklin, Grimes, Grosfield, Halligan, Hargrove, Holden, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Roush, Shea, Sprague, Taylor, Toews, Waterman, Wilson.

Total 29

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Nays: Beck, Berry, Cole, Crismore, DePratu, Devlin, Ellis, Glaser, Harp, Hertel, Jabs, Mesaros, Miller, Mohl, Nelson, Stang, Swysgood, Tester, Thomas, Mr. President.

Total 20

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 504 - Senator J. Lynch moved SB 504 do pass. Motion carried 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: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 505 - Senator D. Grimes moved SB 505 do pass. Motion carried unanimously.

SB 506 - Senator D. Grimes moved SB 506 do pass. Motion carried unanimously.

SB 507 - Senator D. Grimes moved SB 507 do pass. Motion carried unanimously.

Senator Roush excused at this time.

SB 132 - Senator J. Hertel moved SB 132 do pass. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bohlinger, Christiaens, Cocchiarella, Cole, Doherty, Eck, Ekegren, Ellingson, Franklin, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Miller, Nelson, Shea, Sprague, Stang, Taylor, Tester, Thomas, Toews, Waterman, Wilson.

Total 35

Nays: Bishop, Crismore, DePratu, Devlin, Ellis, Glaser, Grimes, Grosfield, Keenan, Mesaros, Mohl, Swysgood, Mr. President.

Total 13

Absent or not voting: None.

Total 0

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Excused: Roush, Wells.
Total 2

Senator Swysgood assumed the chair.

SB 130 - Senator J. Hertel moved SB 130 do pass. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, Doherty, Eck, Ekegren, Ellingson, Franklin, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Lynch, Mahlum, McNutt, Miller, Mohl, Nelson, Shea, Sprague, Stang, Taylor, Tester, Thomas, Toews, Waterman, Mr. President.
Total 38

Nays: DePratu, Devlin, Ellis, Glaser, Grimes, Keenan, Mesaros, Swysgood.
Total 8

Absent or not voting: McCarthy, Wilson.
Total 2

Excused: Roush, Wells.
Total 2

SB 220 - Senator D. Toews moved SB 220 do pass. Motion carried unanimously.

SB 302 - Senator D. Toews moved SB 302 do pass. Motion carried unanimously.

SB 270 - Senator G. Devlin moved SB 270 do pass. Motion carried unanimously.

Senator Roush present at this time.

SB 355 - Senator A. Mohl moved SB 355 do pass. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Cole, Crismore, DePratu, Devlin, Ekegren, Glaser, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Swysgood, Taylor, Tester, Toews, Waterman, Wilson, Mr. President.
Total 37

Nays: Christiaens, Cocchiarella, Doherty, Eck, Ellingson, Franklin, Grimes, Halligan, Mahlum, Stang, Thomas.
Total 11

Absent or not voting: Ellis.
Total 1

Excused: Wells.
Total 1

SB 457 - Senator V. Cocchiarella moved SB 457 do pass. Motion carried unanimously.

SB 488 - Senator S. Bartlett moved SB 488 do pass. Motion carried unanimously.

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SJR 12 - Senator M. Cole moved SJR 12 be adopted. Motion carried unanimously.

SB 366 - Senator S. Bartlett moved consideration of SB 366 be again placed at the bottom of the second reading board this legislative day, as the fiscal note still was not available. Motion carried.

SB 376 - Senator B. McCarthy moved SB 376, second reading copy, be amended as follows:

1. Page 2, line 2 through line 4.

Strike: "and" on line 2 through "settlement" on line 4

Insert: "in which natural resources are damaged as designated by a court decision or settlement"

Amendment **adopted** as follows:

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

Total 46

Nays: Bartlett, Grosfield, Taylor.

Total 3

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 376 - Senator B. McCarthy moved SB 376, as amended, do pass. Motion **failed** as follows:

Ayes: Beck, Bishop, Cocchiarella, Cole, Crismore, Doherty, Eck, Ellingson, Franklin, Halligan, Harp, Hertel, Jabs, Lynch, Mahlum, McCarthy, Roush, Shea, Sprague, Swysgood, Tester, Toews, Wilson, Mr. President.

Total 24

Nays: Bartlett, Berry, Bohlinger, Christiaens, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Holden, Jergeson, Keating, Keenan, McNutt, Mesaros, Miller, Mohl, Nelson, Stang, Taylor, Thomas, Waterman.

Total 25

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 376 - Senator Keating moved that SB 376 be indefinitely postponed. Motion **failed** as follows:

Yeas: Berry, Bohlinger, Christiaens, Cole, DePratu, Devlin, Ekegren, Glaser, Grimes, Grosfield, Halligan, Hargrove, Holden, Jergeson, Keating, Keenan, McNutt, Mesaros, Miller, Mohl, Sprague, Taylor, Thomas,

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Waterman.
Total 24

Nays: Bartlett, Beck, Bishop, Cocchiarella, Crismore, Doherty, Eck, Ellingson, Ellis, Franklin, Harp, Hertel, Jabs, Lynch, Mahlum, McCarthy, Nelson, Roush, Shea, Stang, Swysgood, Tester, Toews, Wilson, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

Senator Harp moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Crippen in the chair. Chairman Swysgood moved the Committee of the Whole report be adopted. Report adopted.

MOTIONS

SB 12 - Senator Halligan moved SB 12 be taken from the committee on Ethics, printed and placed on second reading. Motion carried 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: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

Majority Leader Harp moved that the Senate stand in recess until the hour of 3:35 p.m. this legislative day, February 22, 1999. Motion carried.

Senate recessed at 3:15 p.m.

Senate reconvened at 3:35 p.m.

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

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

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Session #3

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

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

SB 233 - Senator J. Bohlinger moved SB 233 do pass. Motion carried as follows:

Yeas: Bartlett, Beck, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Eck, Ekegren, Ellingson, Franklin, Glaser, Grimes, Grosfield, Halligan, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Miller, Nelson, Roush, Shea, Sprague, Taylor, Tester, Thomas, Waterman, Wilson, Mr. President.

Total 39

Nays: Berry, Devlin, Ellis, Hargrove, Keenan, Mohl, Stang, Swysgood, Toews.

Total 9

Absent or not voting: Mesaros.

Total 1

Excused: Wells.

Total 1

SB 448 - Senator E. Franklin moved SB 448 do pass. Motion carried unanimously.

SB 403 - Senator S. Stang moved SB 403 do pass. Motion carried as follows:

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

Total 40

Nays: Christiaens, Devlin, Holden, Keenan, Mesaros, Miller, Nelson, Swysgood, Toews.

Total 9

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 446 - Senator M. Taylor moved SB 446 do pass. Motion carried with Swysgood voting nay.

SB 452 - Senator D. Berry moved SB 452 do pass. Motion carried unanimously.

SB 453 - Senator T. Beck requested SB 453 be placed at the bottom of the second reading board for purpose of

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amendment. Request granted.

SB 471 - Senator M. Cole moved SB 471 do pass. Motion carried unanimously.

SB 476 - Senator A. Bishop moved SB 476 do pass. Motion carried unanimously.

SB 482 - Senator K. Mesaros moved consideration of SB 482 be passed for the day because it was a companion bill to others to be considered on the forty-fourth legislative day. Motion carried.

SB 490 - Senator B. Glaser moved SB 490 do pass. Motion carried unanimously.

SJR 13 - Senator S. Doherty moved SJR 13 be adopted. Motion **failed** as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Doherty, Eck, Ellingson, Franklin, Halligan, Hargrove, Jergeson, Lynch, McCarthy, Nelson, Roush, Shea, Stang, Tester, Waterman, Wilson, Mr. President.

Total 24

Nays: Beck, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Harp, Hertel, Holden, Jabs, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Sprague, Swysgood, Taylor, Thomas, Toews.

Total 25

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 307 - Senator D. Grimes moved SB 307, second reading copy, be amended as follows :

1. Title, line 5.

Strike: "OR REPRESENTS"

2. Page 1, line 23.

Following: "state"

Strike: " ;"

Insert: ", including:

(i) sports betting;

(ii) internet lottery play;

(iii) blackjack;

(iv) pull tabs;

(v) online bingo or keno; and

(vi) the game commonly known as "El Gordo" in which a limited number of tickets with preprinted numbers are printed and sold and in which a winning ticket is drawn; or"

3. Page 1, line 26 through page 2, line 3.

Strike: " ;" on page 1, line 26 through "machines" on page 2, line 3

Amendment **adopted** as follows:

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Yeas: Bartlett, Berry, Bishop, Bohlinger, Cole, Crismore, DePratu, Eck, Ellingson, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Holden, Keating, Keenan, Mesaros, Miller, Thomas, Toews, Wilson, Mr. President.

Total 25

Nays: Beck, Christiaens, Cocchiarella, Devlin, Doherty, Ekegren, Franklin, Hertel, Jabs, Jergeson, Lynch, Mahlum, McCarthy, McNutt, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Waterman.

Total 24

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 307 - Senator D. Grimes moved SB 307, as amended, do pass. Motion **failed** as follows:

Yeas: Bishop, Bohlinger, Cole, Crismore, DePratu, Eck, Ekegren, Ellingson, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Holden, Keating, Keenan, McNutt, Miller, Thomas, Wilson, Mr. President.

Total 22

Nays: Bartlett, Beck, Berry, Christiaens, Cocchiarella, Devlin, Doherty, Franklin, Halligan, Hertel, Jabs, Jergeson, Lynch, Mahlum, McCarthy, Mesaros, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Toews, Waterman.

Total 27

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 307 - Senator Lynch moved that SB 307 be indefinitely postponed. Motion carried as follows;

Yeas: Bartlett, Beck, Berry, Christiaens, Cocchiarella, Cole, Crismore, Devlin, Franklin, Hertel, Jabs, Jergeson, Keenan, Lynch, Mahlum, McCarthy, Mesaros, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Tester, Waterman.

Total 26

Nays: Bishop, Bohlinger, DePratu, Doherty, Eck, Ekegren, Ellingson, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Holden, Keating, McNutt, Miller, Taylor, Thomas, Toews, Wilson, Mr. President.

Total 23

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

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SB 366 - Senator Bartlett moved SB 366 do pass. Motion carried 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, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Sprague, Stang, Taylor, Tester, Thomas, Waterman, Wilson, Mr. President.

Total 44

Nays: Devlin, Lynch, Shea, Swysgood, Toews.

Total 5

Absent or not voting: None.

Total 0

Excused: Wells.

Total 1

SB 453 - Senator L. Grosfield moved SB 453, second reading copy, be amended as follows :

1. Title, line 5.

Following: "LICENSES;"

Insert: "LIMITING GAMBLING MACHINE PERMITS IN RESORT AREAS;"

2. Page 1, line 17.

Following: ". "

Insert: "Regardless of how many resort area all-beverages licenses are issued, no more than 20 gambling machine permits may be issued for the resort area."

Amendment **adopted** unanimously.

SB 453 - Senator L. Grosfield moved SB 453, as amended, do pass. Motion carried unanimously.

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

MOTIONS

SB 35 - Senator Bohlinger moved that SB 35 be taken from the committee on Highways and Transportation, printed and placed on the second reading board. Motion **failed** as follows:

Yeas: Bartlett, Bohlinger, Christiaens, Cocchiarella, Cole, Doherty, Eck, Ellingson, Franklin, Halligan, Jergeson, Lynch, McCarthy, Nelson, Shea, Sprague, Waterman, Wilson.

Total 18

Nays: Beck, Berry, Bishop, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Roush, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Mr. President.

Total 31

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Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

SJR 13 - Senator Holden moved that SJR 13, currently on second reading, be indefinitely postponed. Motion **failed** as follows:

Yeas: Beck, Berry, Crismore, DePratu, Devlin, Ekegren, Grimes, Grosfield, Hargrove, Hertel, Holden, Keating, Keenan, McNutt, Mesaros, Miller, Mohl, Sprague, Thomas, Toews.
Total 20

Nays: Bartlett, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Doherty, Eck, Ellingson, Ellis, Franklin, Glaser, Halligan, Harp, Jabs, Jergeson, Lynch, Mahlum, McCarthy, Nelson, Roush, Shea, Stang, Swysgood, Taylor, Tester, Waterman, Wilson, Mr. President.
Total 29

Absent or not voting: None.
Total 0

Excused: Wells.
Total 1

ANNOUNCEMENTS

Senator Thomas introduced the pages for the week and welcomed them to the Senate.

Majority Leader Harp moved that the Senate adjourn until 8:00 a.m., Tuesday, February 23, 1999. Motion carried.

Senate adjourned at 5:25 p.m.

ROSANA SKELTON
Secretary of Senate

BRUCE CRIPPEN
President of the Senate