

**SENATE JOURNAL  
SEVENTY-SIXTH LEGISLATIVE DAY**

Helena, Montana  
April 8, 1999

Senate Chambers  
State Capitol

Senate convened at 1:00 p.m. President Pro Tempore Beck presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

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

Miller, Chairman

**REPORTS OF STANDING COMMITTEES**

**BILLS AND JOURNAL** (Miller, Chairman): 4/8/1999  
Correctly printed: HB 128, HB 630.  
Correctly enrolled: SB 22, SB 68, SB 69, SB 89, SB 215, SB 221, SB 236, SB 384.  
Examined by the sponsor and found to be correct: SB 22, SB 68, SB 69, SB 89, SB 137, SB 215, SB 221, SB 236, SB 384, SJR 11.

**BUSINESS AND INDUSTRY** (Hertel, Chairman): 4/8/1999  
**HB 515**, be amended as follows:

1. Title, page 1, line 9 through line 14.  
**Strike:** "CREATING" ON LINE 9 THROUGH ";" ON LINE 14"

2. Page 1, line 20 through page 5, line 24.  
**Strike:** "sections 1 through 5 in their entirety"  
**Renumber:** subsequent sections

3. Page 5, line 28.  
**Strike:** "MUST"  
**Insert:** "may"

4. Page 5, line 29.  
**Following:** "PROVISION OF"  
**Insert:** "goods,"

5. Page 6, line 1.  
**Following:** "PRIVATIZING"  
**Insert:** "the sale of goods,"

6. Page 6, line 6 through line 17.  
**Strike:** "sections 7 through 9 in their entirety"

And, as amended, be concurred in. Report adopted.

**FINANCE AND CLAIMS** (Swysgood, Chairman): 4/7/1999

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**HB 4**, be concurred in. Report adopted.

**HB 5**, be amended as follows:

1. Page 2.

**Following:** line 9

**Insert:** "Missoula Regional Correctional Facility Supplemental 526,497 Federal Special Revenue"

2. Page 2.

**Following:** line 10

**Insert:** "170,000 General fund"

3. Page 2.

**Following:** line 12

**Insert:** "Construct Fort Peck Fish Hatchery 14,640,000 Federal Special Revenue"

4. Page 3.

**Following:** line 6

**Insert:** "Addition to Paxson Gallery, UM-Missoula  
2,500,000 Higher Education Funds, Federal, Donations, Grants, Plant Funds"

5. Page 5, line 6.

**Strike:** "IN LIEU OF GENERAL OBLIGATION BOND AUTHORITY"

6. Page 5.

**Following:** line 8

**Insert:** "(ii) up to \$526,497 for the Missoula regional correctional facility supplemental; and"

**Renumber:** subsequent subsections

7. Page 5, line 10.

**Following:** "(1)"

**Strike:** ":",

**Insert:** "."

8. Page 5, following line 10.

**Strike:** lines 11 through 14 in their entirety

**Insert:** "(5) The appropriation for the Fort Peck fish hatchery in subsection (1) is contingent upon passage and approval of House Bill No. 20."

**Renumber:** subsequent subsection

And, as amended, be concurred in. Report adopted.

**HB 14**, be concurred in. Report adopted.

**HB 109**, be concurred in. Report adopted.

**HB 115**, be concurred in. Report adopted.

**HB 420**, be amended as follows:

1. Title, page 1, line 7.

**Strike:** "A RETROACTIVE"

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**Insert:** "AN"

2. Page 2, line 10.

**Strike:** "retroactive"

3. Page 2, line 11.

**Following:** "applies"

**Strike:** "retroactively, within the meaning of 1-2-109,"

4. Page 2, line 12.

**Strike:** "1998"

**Insert:** "1999"

And, as amended, be concurred in. Report adopted.

**HB 607**, be amended as follows:

1. Page 4, following line 8.

**Strike:** lines 9 and 10

**Insert:** "(3) accept and comply with the findings made by a peer conducting the independent review concerning an adverse determination, a determination as to whether the services were appropriate and medically necessary, or a health care treatment decision; and"

2. Page 5, lines 14 and 15.

**Following:** "5" on both lines

**Insert:** "and 8"

3. Page 5, line 22.

**Strike:** "APPLICABILITY"

**Insert:** "Application to certain entities"

4. Page 5, line 31.

**Following:** line 30

**Insert:** "(3) [This act] does not apply to a health carrier, managed care entity, or preferred provider organization that provides services under Title 39, chapters 71 and 72."

And, as amended, be concurred in. Report adopted.

**HB 644**, be concurred in. Report adopted.

**HB 653**, be concurred in. Report adopted.

**HB 676**, be concurred in. Report adopted.

**JUDICIARY** (Grosfield, Chairman):

4/8/1999

**PRELIMINARY REPORT**

**SR 6**, be adopted. Report adopted.

**SJR 14**, introduced joint resolution, be amended as follows:

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1. Page 2, line 15.

**Following:** "MCA,"

**Insert:** "and statutes in other titles of the MCA that contain criminal sentences"

2. Page 3, line 13.

**Following:** "THAT"

**Insert:** "for the purposes of this study, subcommittees of"

**Following:** "committee"

**Insert:** "shall"

**Following:** "include"

**Strike:** "in its work"

**Insert:** ", to the extent allowed by law,"

3. Page 3, line 14.

**Strike:** "courts"

**Insert:** "judges"

4. Page 3, line 15.

**Following:** "control,"

**Insert:** "county commissioners,"

5. Page 3, line 16.

**Following:** line 15

**Insert:** "BE IT FURTHER RESOLVED THAT the Legislative Council may accept gifts, grants, donations, and other funding that may become available to assist in this study."

And, as amended, be adopted. Report adopted.

**NATURAL RESOURCES** (Crismore, Chairman):

4/8/1999

**HB 158**, be amended as follows:

1. Title, page 1, line 10.

**Following:** the second "FOR"

**Insert:** "CERTAIN"

2. Page 10, line 19 through line 26.

**Strike:** subsection (2) in its entirety

**Renumber:** subsequent subsections

3. Page 11, line 22.

**Strike:** "\$100"

**Insert:** "\$70"

4. Page 11, line 23.

**Strike:** "\$40"

**Insert:** "\$20"

And, as amended, be concurred in. Report adopted.

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**TAXATION** (Devlin, Chairman):

4/8/1999

**HB 513**, be concurred in. Report adopted.

**HB 652**, be amended as follows:

1. Page 2, line 21.

**Insert:** "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 424 is passed and approved and if it amends section 15-30-171, then the section of Senate Bill No. 424 amending section 15-30-171 is void."

**Renumber:** subsequent sections

And, as amended, be concurred in. Report adopted.

**MESSAGES FROM THE OTHER HOUSE**

Senate bill **not** concurred in and returned to the Senate:

4/7/1999

**SB 469**, introduced by M. Waterman

**MOTIONS**

**SB 97** - Senator Harp moved that the President Pro Tempore be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on SB 97. Motion carried. The President Pro Tempore appointed the following members:

Senator Hargrove, Chairman  
Senator Grosfield  
Senator Stang

**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 36**, as amended by the House, 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 46, as amended by the House, 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, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 49

Nays: Tester.  
Total 1

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 94, as amended by the House, 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 132, as amended by the House, 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, Hertel, Holden, Jabs, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 47

Nays: Devlin, Keenan, Swysgood.  
Total 3

Absent or not voting: None.  
Total 0

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Excused: None.  
Total 0

**SB 134, as amended by the House,** 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 153, as amended by the House,** 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, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 49

Nays: Swysgood.  
Total 1

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 186, as amended by the House,** passed as follows:

Yeas: Beck, Berry, Bishop, Bohlinger, Christiaens, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, 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, Wells, Mr. President.

Total 45

Nays: Bartlett, Cocchiarella, Ellingson, Waterman, Wilson.  
Total 5

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Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 219, as amended by the House, 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 225, as amended by the House, 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, Miller, Nelson, Roush, Shea, Sprague, Stang, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.  
Total 47

Nays: Mesaros, Mohl, Swysgood.  
Total 3

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 258, as amended by the House, 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

**SB 271, as amended by the House**, passed as follows:

Yeas: Beck, Berry, Bishop, Bohlinger, Cole, Crismore, 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 32

Nays: Bartlett, Christiaens, Cocchiarella, Doherty, Eck, Ellingson, Franklin, Halligan, Jergeson, Lynch, McCarthy, Nelson, Roush, Shea, Stang, Tester, Waterman, Wilson.  
Total 18

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**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 Miller in the chair.

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

**SB 33 - House Amendments** - Senator F. Thomas moved House amendments to SB 33 be **not** concurred in. Motion carried unanimously.

**SB 241 - House Amendments** - Senator S. Doherty moved House amendments to SB 241 be concurred in. Motion carried unanimously.

**SB 269 - House Amendments** - Senator D. Toews moved House amendments to SB 269 be concurred in. Motion carried unanimously.

**SB 292 - House Amendments** - Senator A. Bishop moved House amendments to SB 292 be concurred in. Motion carried unanimously.

**SB 293 - House Amendments** - Senator A. Bishop moved House amendments to SB 293 be concurred in. Motion

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carried unanimously.

**SB 305 - House Amendments** - Senator F. Thomas moved House amendments to SB 305 be concurred in. Motion carried with Senator Bartlett voting nay.

**SB 306 - House Amendments** - Senator D. Grimes moved House amendments to SB 306 be concurred in. Motion carried unanimously.

**SB 331 - House Amendments** - Senator D. Shea moved House amendments to SB 331 be concurred in. Motion carried unanimously.

**SB 353 - House Amendments** - Senator E. Franklin moved House amendments to SB 353 be concurred in. Motion carried unanimously.

**SB 401 - House Amendments** - Senator R. Holden moved House amendments to SB 401 be concurred in. Motion carried unanimously.

**SB 417 - House Amendments** - Senator M. Waterman moved House amendments to SB 417 be concurred in. Motion carried unanimously.

**SB 434 - House Amendments** - Senator M. Waterman moved House amendments to SB 434 be concurred in. Motion carried unanimously.

**SB 462 - House Amendments** - Senator L. Grosfield moved House amendments to SB 462 be concurred in. Motion carried unanimously.

**SB 472 - House Amendments** - Senator J. Wells moved House amendments to SB 472 be concurred in. Motion carried unanimously.

**SB 482 - House Amendments** - Senator K. Mesaros moved House amendments to SB 482 be concurred in. After discussion, Senator V. Cocchiarella made a substitute motion that the House Amendments to SB 482 be **not** concurred in. Motion carried unanimously.

**SB 490 - House Amendments** - Senator B. Glaser moved House amendments to SB 490 be concurred in. Motion carried unanimously.

**SB 505 - House Amendments** - Senator D. Grimes moved House amendments to SB 505 be concurred in. Motion carried unanimously.

**SJR 10 - House Amendments** - Senator M. Cole moved House amendments to SJR 10 be concurred in. Motion carried unanimously.

**SB 59 - House Amendments** - Senator J. Wells moved House amendments to SB 59 be **not** concurred in. Motion carried unanimously.

**SB 117 - House Amendments** - Senator F. Thomas moved House amendments to SB 117 be concurred in. Motion carried unanimously.

**SB 169 - Conference Committee Report No. 1** - Senator M. Taylor moved the Conference Committee report to

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SB 169 be adopted. Motion carried unanimously.

**SB 178 - House Amendments** - Senator L. Nelson moved House amendments to SB 178 be concurred in. Motion carried unanimously.

**SB 233 - House Amendments** - Senator J. Bohlinger moved House amendments to SB 233 be concurred in. Motion carried unanimously.

**SB 251 - House Amendments** - Senator M. Halligan moved House amendments to SB 251 be concurred in. Motion carried unanimously.

**SB 334 - House Amendments** - Senator K. Mesaros moved House amendments to SB 334 be **not** concurred in. Motion carried unanimously.

**SB 338 - House Amendments** - Senator K. Mesaros moved House amendments to SB 338 be **not** concurred in. Motion carried with Senators Devlin and Stang voting nay.

**SB 345 - House Amendments** - Senator D. Shea moved House amendments to SB 345 be concurred in. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Doherty, Eck, Ellingson, Franklin, Glaser, Grimes, Halligan, Harp, Holden, Jergeson, Keenan, Lynch, McCarthy, Nelson, Roush, Shea, Sprague, Stang, Taylor, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.

Total 32

Nays: Cole, Crismore, DePratu, Devlin, Ekegren, Ellis, Grosfield, Hargrove, Hertel, Jabs, Keating, Mahlum, McNutt, Mesaros, Miller, Mohl, Swysgood, Toews.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SB 361 - House Amendments** - Senator K. Mesaros moved House amendments to SB 361 be concurred in. Motion carried unanimously.

**SB 372 - House Amendments** - Senator M. Halligan moved House amendments to SB 372 be concurred in. Motion carried unanimously.

**SB 381 - House Amendments** - Senator D. Grimes moved House amendments to SB 381 be concurred in. Motion carried unanimously.

**SB 388 - House Amendments** - Senator C. Christiaens moved House amendments to SB 388 be concurred in. Motion carried unanimously.

**SB 393 - House Amendments** - Senator M. Waterman moved House amendments to SB 393 be concurred in. Motion carried unanimously.

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**SB 411 - House Amendments** - Senator W. Crismore moved House amendments to SB 411 be concurred in. Motion carried unanimously.

**SB 421 - House Amendments** - Senator D. Mahlum moved House amendments to SB 421 be concurred in. Motion carried unanimously.

**SB 429 - House Amendments** - Senator D. Shea moved House amendments to SB 429 be concurred in. Motion carried unanimously.

**SB 458 - House Amendments** - Senator F. Thomas moved House amendments to SB 458 be **not** concurred in. Motion carried unanimously.

**SB 476 - House Amendments** - Senator A. Bishop moved House amendments to SB 476 be concurred in. Motion carried with Senators Bartlett and McNutt voting nay.

**SB 486 - House Amendments** - Senator M. Halligan moved House amendments to SB 486 be concurred in. Motion carried unanimously.

**SB 533 - House Amendments** - Senator G. Devlin moved House amendments to SB 533 be concurred in. Motion carried unanimously.

**SJR 7 - House Amendments** - Senator J. Bohlinger moved House amendments to SJR 7 be concurred in. Motion carried unanimously.

Senator Harp moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Pro Tempore Beck in the chair. Chairman K. Miller moved the Committee of the Whole report be adopted. Report adopted.

**MOTIONS**

**SB 345** - Senator M. Taylor moved that he be allowed to change his vote on SB 345 second reading this legislative day, from nay to yea. Motion carried.

**SB 217** - Senator Harp moved that the President Pro Tempore be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on SB 217. Motion carried. The President Pro Tempore appointed the following members:

Senator Miller, Chairman  
Senator Toews  
Senator Eck

**SB 229** - Senator Harp moved that the President Pro Tempore be authorized to appoint a **Free** Conference Committee to meet with a like committee from the House to confer on SB 229. Motion carried. The President Pro Tempore appointed the following members:

Senator Thomas, Chairman  
Senator McNutt  
Senator Cocchiarella

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**SB 195** - Senator Harp moved that the President Pro Tempore be authorized to appoint a Conference Committee, and request the House to appoint a like committee, to confer on House Amendments to SB 195. Motion carried. The President Pro Tempore appointed the following members:

Senator Hargrove, Chairman  
Senator Halligan  
Senator Lynch

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Majority Leader Harp moved that the Senate adjourn until 12:00 noon, Friday, April 9, 1999. Motion carried.

Senate adjourned at 2:38 p.m.

ROSANA SKELTON  
Secretary of Senate

BRUCE CRIPPEN  
President of the Senate