

**SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY**

Helena, Montana
April 14, 1999

Senate Chambers
State Capitol

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

Roll Call. All members present. Quorum present.

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

Miller, Chairman

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman):

4/14/1999

Correctly printed: HB 174, HB 515, HB 658.

Correctly engrossed: HB 248, HB 516, HB 540, HB 626, HB 647, HB 661, HB 674, HB 678, HJR 2, HJR 35.

Examined by the sponsor and found to be correct: SB 359.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to Senate Bill 338
Report No. 1, April 13, 1999

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 338** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 338** (reference copy -- salmon) be amended as follows:

1. Title, line 18.

Following: "~~PROGRAMS:~~"

Insert: "INCREASING THE COST OF NONRESIDENT UPLAND GAME BIRD LICENSES AND PROVIDING THAT THE FEE INCREASE BE USED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ENCOURAGE PUBLIC ACCESS TO PRIVATE LANDS FOR HUNTING PURPOSES;"

2. Title, line 19.

Following: "ISSUE"

Insert: "UP TO"

3. Title, line 20.

Following: "LICENSES TO"

Insert: "TWO APPLICANTS SPONSORED BY"

4. Title, line 22.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Following: "87-1-269²,"

Insert: "87-2-402,"

5. Title, line 26.

Strike: "AN IMMEDIATE"

Strike: "DATE"

Insert: "DATES AND A TERMINATION DATE"

6. Page 15, line 28.

Insert: "**Section 3.** Section 87-2-402, MCA, is amended to read:

"87-2-402. Class B-1--nonresident upland game bird license. Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older, upon payment of a fee of ~~\$55~~ \$110 may receive a Class B-1 license that entitles the holder to hunt upland game birds and possess the carcasses of upland game birds as authorized by department rules.""

Renumber: subsequent sections

7. Page 16, line 19 through line 21.

Strike: "ANY" on line 19 through "SUBSECTION." on line 21

Insert: "If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner."

8. Page 16, line 21.

Following: "LICENSES."

Insert: "If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses."

9. Page 16, line 24 through line 25.

Strike: "A" on line 24 through "ACTIVITIES." on line 25

10. Page 23, line 17.

Insert: "NEW SECTION. **Section 5. Allocation of license fee to hunting access enhancement program.** The amount of \$55 from the sale of each Class B-1 nonresident upland game bird license must be used by the department to encourage public access to private lands for hunting purposes in accordance with 87-1-265 through 87-1-267."

Renumber: subsequent sections

11. Page 23, line 21.

Insert: "NEW SECTION. **Section 7. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [section 5]."

Insert: "NEW SECTION. **Section 8. Termination.** [Section 5] terminates March 1, 2006."

12. Page 24, line 5.

Strike: "DATE"

Insert: "dates"

13. Page 24, line 7.

Strike: "[THIS ACT]"

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Insert: "(1) Except as provided in subsection (2), [this act]"

14. Page 24, line 9.

Insert: "(2) [Sections 3, 5, and 8] are effective March 1, 2000."

For the Senate:

Mesaros, Chairman
Crismore
McCarthy

For the House:

Fuchs, Chairman
Golie
Wagner

CONFERENCE COMMITTEE
on Senate Amendments to House Bill 57
Report No. 1, April 13, 1999

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 57** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that Senate amendments to **House Bill 57** (reference copy -- salmon) be accepted by the House.

For the House:

R. Johnson, Chairman (unsigned)
Bookout-Reinicke
Galvin-Halcro

For the Senate:

Toews, Chairman (unsigned)
Glaser
Waterman

CONFERENCE COMMITTEE
on Senate Amendments to House Bill 129
Report No. 1, April 13, 1999

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 129** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 129** (reference copy -- salmon) be amended as follows:

1. Page 7, line 18.

Following: "roadway"

Insert: "or in response to any other hazard on the roadway"

2. Page 10, line 7.

Following: "ROADWAY"

Insert: "or in response to any other hazard on the roadway"

For the House:

For the Senate:

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Stovall, Chairman
Gallus
Hedges

R. Holden, Chairman
Cole
Stang (unsigned)

CONFERENCE COMMITTEE
on Senate Amendments to House Bill 528
Report No. 1, April 13, 1999

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 528** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 528** (reference copy -- salmon) be amended as follows:

1. Page 2, line 26.

Following: line 25

Insert: "NEW SECTION. Section 1. Recognition of American Indian cultural heritage -- legislative intent.

(1) It is the constitutionally declared policy of this state to recognize the distinct and unique cultural heritage of American Indians and to be committed in its educational goals to the preservation of their cultural heritage.

(2) It is intent of the legislature that in accordance with Article X, section 1(2), of the Montana constitution:

(a) every Montana citizen, whether Indian or non-Indian, be afforded an opportunity to be educated about the distinct and unique heritage of American Indians in a culturally responsive manner; and

(b) every educational agency and all educational personnel will work cooperatively with Montana tribes or those tribes that are in close proximity, when providing instruction or when implementing an educational goal or adopting a rule related to the education of each Montana citizen, to include information specific to the cultural heritage and contemporary contributions of American Indians, with particular emphasis on Montana Indian tribal groups and governments.

(3) It is also the intent of [sections 1 through 3], predicated on the belief that all school personnel should have an understanding and awareness of Indian tribes to help them relate effectively with Indian students and parents, that educational personnel provide means by which school personnel will gain an understanding of and appreciation for the American Indian people."

Renumber: subsequent sections

2. Page 2, line 28.

Strike: "AND 2"

Insert: "through 3"

3. Page 4, lines 22 and 24.

Strike: "AND 2" on both lines

Insert: "through 3" on both lines

For the House:

Walters, Chairman
Juneau
Rose

For the Senate:

Ekegren, Chairman
Eck
Jabs

CONFERENCE COMMITTEE
on Senate Amendments to House Bill 557
Report No. 1, April 13, 1999

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 557** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 557** (reference copy -- salmon) be amended as follows:

1. Page 1, lines 26 and 27.

Following: "subsection"

Strike: remainder of line 26 through "relevant" on line 27

Insert: "authorizes the physician or other health care provider to disclose or release only"

Following: "information" on line 27

Strike: "concerning the"

Insert: "relevant to the"

For the House:

G. Masolo, Chairman
Ewer
Stovall

For the Senate:

Berry, Chairman
Ellis
Wilson

FREE CONFERENCE COMMITTEE
on House Bill 506
Report No. 1, April 14, 1999

Mr. Speaker and Mr. President:

We, your **Free** Conference Committee met and considered Senate amendments to **House Bill 506** (reference copy -- salmon) and recommend this **Free** Conference Committee report be adopted.

And, recommend that **House Bill 506** (reference copy -- salmon) be amended as follows:

1. Title, line 12.

Following: " ; "

Insert: "AND"

2. Title, lines 13 and 14.

Following: "MCA" on line 13

Strike: the remainder of line 13 through "DATE" on line 14

3. Page 7, line 19.

Strike: section 8 in its entirety

For the House:

Sliter, Chairman
Matthews
McKenney

For the Senate:

Hertel, Chairman
T. Beck
Roush

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/14/1999

SB 81, introduced by J. Harp

SB 111, introduced by B. DePratu

SB 164, introduced by Mesaros

SB 220, introduced by Toews

SB 302, introduced by D. Toews

SB 492, introduced by L. Grosfield

Senate joint resolution concurred in as amended and returned to the Senate for concurrence in House amendments:

4/14/1999

SJR 16, introduced by K. Miller

SB 406 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** conference committee to meet with a like committee from the Senate to confer on SB 406:

4/13/1999

Representative E. Bergsagel, Chairman

Representative Ewer

Representative R. Johnson

SB 301 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following conference committee to meet with a like committee from the Senate to confer on House amendments to SB 301:

4/13/1999

Representative Kasten, Chairman

Representative Peck

Representative Witt

HB 182 - The House failed to concur in Senate amendments to HB 182, authorized the Speaker to appoint the following conference committee, and requested that the Senate appoint a like committee to confer on Senate amendments to HB 182:

4/13/1999

Representative Ahner, Chairman

Representative Dell

Representative Mood

HB 470 - The House failed to concur in Senate amendments to HB 470, authorized the Speaker to appoint the following conference committee, and requested that the Senate appoint a like committee to confer on Senate amendments to HB 470:

4/13/1999

Representative Cobb, Chairman

Representative Barnhart

Representative Kasten

HB 566 - The House failed to concur in Senate amendments to HB 566, authorized the Speaker to appoint the following conference committee, and requested that the Senate appoint a like committee to confer on Senate

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

amendments to HB 566:

4/13/1999

Representative Brainard, Chairman
Representative Buzzas
Representative Davies

HB 314 - The House failed to concur in Senate amendments to HB 314, authorized the Speaker to appoint the following **free** conference committee, and requested that the Senate appoint a like committee to confer on HB 314:

4/13/1999

Representative Fuchs, Chairman
Representative Raney
Representative Shockley

HB 337 - The House failed to concur in Senate amendments to HB 337, authorized the Speaker to appoint the following **free** conference committee, and requested that the Senate appoint a like committee to confer on HB 337:

4/13/1999

Representative E. Bergsagel, Chairman
Representative Ewer
Representative R. Johnson

HB 374 - The House failed to concur in Senate amendments to HB 374, authorized the Speaker to appoint the following **free** conference committee, and requested that the Senate appoint a like committee to confer on HB 374:

4/13/1999

Representative Younkin, Chairman
Representative Hurdle
Representative Noennig

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

4/14/1999

HJR 36, introduced by Harper

MOTIONS

HB 182 - Senator Harp moved that the President be authorized to appoint a Conference Committee to meet with a like committee from the House on Senate amendments to HB 182. Motion carried. The President appointed the following members:

Senator Hargrove, Chairman
Senator Sprague
Senator Tester

HB 470 - Senator Harp moved that the President be authorized to appoint a Conference Committee to meet with a like committee from the House on Senate amendments to HB 470. Motion carried. The President appointed the following members:

Senator Swysgood, Chairman
Senator Keenan
Senator Waterman

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

HB 566 - Senator Harp moved that the President be authorized to appoint a Conference Committee to meet with a like committee from the House on Senate amendments to HB 566. Motion carried. The President appointed the following members:

Senator Holden, Chairman
Senator Jabs
Doherty

HB 314 - Senator Harp moved that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee on HB 314. Motion carried. The President appointed the following members:

Senator Grosfield, Chairman
Senator Mesaros
Senator Ellingson

HB 337 - Senator Harp moved that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee on HB 337. Motion carried. The President appointed the following members:

Senator Thomas, Chairman
Senator Sprague
Senator Cocchiarella

HB 374 - Senator Harp moved that the President be authorized to appoint a **Free** Conference Committee to meet with a like committee on HB 374. Motion carried. The President appointed the following members:

Senator Bishop, Chairman
Senator Bohlinger
Senator Bartlett

FIRST READING AND COMMITMENT OF BILLS

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

HJR 36, introduced by Harper, Ahner, J. Andersen, Barnhart, Bartlett, G. Beck, T. Beck, Brown, Buzzas, Christiaens, Cole, Crippen, Crismore, Curtiss, Dale, Dell, DePratu, Doherty, Eck, Eggers, Ellingson, R. Erickson, Ewer, Fisher, Franklin, Fuchs, Gallus, Galvin-Halcro, Gillan, Glaser, Golie, Grinde, Grosfield, Guggenheim, Gutsche, Hagener, Haines, Halligan, Hargrove, Harp, Harrington, Hurdle, Jergeson, Juneau, Keating, Kitzenberg, Krenzler, Lenhart, Lynch, Mahlum, Mangan, McCann, McCarthy, McCulloch, McKenney, McNutt, Menahan,

Mesaros, Mohl, Ohs, Pavlovich, Quilici, Raney, Rose, Roush, Ryan, Schmidt, Shea, Simon, Sliter, L. Soft, Somerville, Squires, Stang, Swanson, Tash, L. Taylor, M. Taylor, Tester, B. Thomas, Tropila, Tuss, Walters, Waterman, C. Williams, Wyatt, Zook, referred to State Administration.

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:

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

SB 96, Free Conference Committee Report No. 1, adopted 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, Toews, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays: Miller.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 97, Free Conference Committee Report No. 1, adopted 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, Toews, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays: Miller.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 500, 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

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Excused: None.
Total 0

HB 174 concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, 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, Wells, Wilson, Mr. President.
Total 48

Nays: Doherty, Jergeson.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 626, as amended by the Senate, concurred in as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, DePratu, Doherty, Eck, Ellingson, Ellis, Franklin, Glaser, Grosfield, Halligan, Harp, Hertel, Jabs, Jergeson, Keenan, Lynch, Mahlum, McCarthy, Mesaros, Miller, Roush, Shea, Taylor, Thomas, Waterman, Wells, Wilson, Mr. President.
Total 34

Nays: Beck, Crismore, Devlin, Ekegren, Grimes, Hargrove, Holden, Keating, McNutt, Mohl, Nelson, Sprague, Stang, Swysgood, Tester, Toews.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 658 concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, 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, Wells, Wilson, Mr. President.
Total 48

Nays: Doherty, Jergeson.
Total 2

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 661, as amended by the Senate, concurred in as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Cocchiarella, Cole, Crismore, DePratu, Devlin, 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, Wells, Wilson, Mr. President.
Total 46

Nays: Christiaens, Doherty, Jergeson, Waterman.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 2, as amended by the Senate, concurred in as follows:

Yeas: Beck, Berry, Bishop, Bohlinger, Cole, Crismore, DePratu, Devlin, Eck, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Shea, Sprague, Swysgood, Taylor, Thomas, Toews, Wells, Mr. President.
Total 36

Nays: Bartlett, Christiaens, Cocchiarella, Doherty, Ellingson, Franklin, Halligan, Jergeson, Nelson, Roush, Stang, Tester, Waterman, Wilson.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Majority Leader Harp moved that the Senate stand in recess until the hour of 2:00 p.m. for party caucuses. Motion carried.

Senate recessed at 1:25 p.m.

Senate reconvened at 2:05 p.m.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Roll Call. All members present. Quorum present.

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

Session No. 1

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

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

SB 172 - House Amendments - Senator L. Nelson moved that SB 172 - House Amendments be placed below SB 199 - House Amendments on second reading this day. Motion carried.

SB 192 - House Amendments - Senator J. Bohlinger moved House amendments to SB 192 be concurred in. Motion carried unanimously.

SB 199 - House Amendments - Senator C. Christiaens moved House amendments to SB 199 be concurred in. Motion carried unanimously.

Senator Grosfield excused at this time.

SB 172 - House Amendments - Senator M. Waterman moved House amendments to SB 172 be concurred in. Motion carried unanimously.

SB 205 - House Amendments - Senator W. McNutt moved House amendments to SB 205 be **not** concurred in. Motion carried unanimously.

SB 342 - House Amendments - Senator D. Hargrove moved House amendments to SB 342 be concurred in. Motion carried unanimously.

SB 460 - House Amendments - Senator A. Ellis moved House amendments to SB 460 be concurred in. Motion carried unanimously.

SB 33 - Free Conference Committee Report No. 1 - Senator F. Thomas requested the Free Conference Committee report to SB 33 be placed below HJR 35 on the second reading board. Request granted.

SB 229 - Free Conference Committee Report No. 1 - Senator F. Thomas moved the Free Conference Committee report to SB 229 be adopted. Motion carried unanimously.

SB 334 - Conference Committee Report No. 1 - Senator K. Mesaros moved the Conference Committee report to SB 334 be adopted. Motion carried unanimously.

Senator Grosfield present at this time.

SB 458 - Free Conference Committee Report No. 1 - Senator F. Thomas moved the Free Conference Committee report to SB 458 be adopted. Motion carried unanimously.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

HB 100 - Free Conference Committee Report No. 1 - Senator D. Berry moved the Free Conference Committee report to HB 100 be adopted. Motion carried unanimously.

HB 459 - Conference Committee Report No. 1 - Senator J. Wells moved the Conference Committee report to HB 459 be adopted. Motion carried unanimously.

HJR 35 - Free Conference Committee Report No. 1 - Senator C. Christiaens moved the Free Conference Committee report to HJR 35 be adopted. Motion carried unanimously.

SB 33 - Free Conference Committee Report No. 1 - Senator F. Thomas moved the Free Conference Committee report to SB 33 be adopted. Motion carried unanimously.

HB 248 - Senator J. Lynch moved HB 248 be concurred in. After discussion, Senator J. Lynch made a substitute motion that HB 248 be indefinitely postponed. Motion carried 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, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Mr. President.
Total 47

Nays: Lynch, Wilson.
Total 2

Absent or not voting: Glaser.
Total 1

Excused: None.
Total 0

HB 515 - Senator C. Swysgood moved HB 515 be concurred in. Motion carried as follows:

Yeas: Beck, Berry, Bishop, Bohlinger, Cole, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Halligan, Hargrove, Hertel, Holden, Jabs, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Roush, Sprague, Swysgood, Taylor, Thomas, Toews, Waterman, Wells, Mr. President.
Total 34

Nays: Bartlett, Christiaens, Cocchiarella, Doherty, Eck, Ellingson, Franklin, Jergeson, Lynch, McCarthy, Nelson, Shea, Stang, Tester.
Total 14

Absent or not voting: Harp, Wilson.
Total 2

Excused: None.
Total 0

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 Bartlett moved the Committee of the Whole

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

report be adopted. Report adopted.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

MOTIONS

Majority Leader Harp moved that the Senate stand in recess until the hour of 4:15 p.m. Motion carried.

Senate recessed at 2:43 p.m.

Senate resumed at 4:15 p.m.

Roll Call. All members present. Quorum present.

MOTIONS

SB 205 - Senator Harp moved that the President be authorized to appoint a Conference Committee to meet with a like committee from the House on House Amendments to SB 205. Motion carried. The President appointed the following members:

Senator McNutt, Chairman
Senator Hertel
Senator Tester

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

Session No. 2

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

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

Senators Eck and Taylor excused at this time.

HB 516 - Senator M. Waterman moved HB 516, second reading copy, be amended as follows :

1. Page 2, line 12 and line 13.

Strike: "HEALTH SYSTEMS" in both places

Insert: "corporations"

2. Page 3, line 15.

Strike: "THE EFFECTS OF"

3. Page 3, line 16.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Following: "(A)"

Insert: "the effects of"

4. Page 3, line 18.

Following: "(B)"

Insert: "the effects of"

5. Page 3, line 20.

Following: "(C)"

Insert: "the effects of"

6. Page 3, line 22.

Following: "INCOME;"

Insert: "(d) Montana's laws concerning the review of conversions of nonprofit corporations with charitable assets to for-profit status;"

Renumber: subsequent subsections

Amendment **failed** as follows:

Yeas: Bartlett, Christiaens, Cocchiarella, Doherty, Ellingson, Franklin, Grimes, Jergeson, McCarthy, Nelson, Roush, Shea, Stang, Waterman, Wilson.

Total 15

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

Total 33

Absent or not voting: None.

Total 0

Excused: Eck, Taylor.

Total 2

HB 516 - Senator D. Grimes moved HB 516, second reading copy, be amended as follows :

1. Page 1, line 17.

Following: "TAXATION"

Strike: " ; AND "

Insert: " . "

2. Page 2, line 12 through line 13.

Strike: lines 12 and 13 in their entirety

Amendment **adopted** unanimously.

HB 516 - Senator L. Grosfield moved HB 516, as amended, be concurred in. Motion carried as follows:

Yeas: Beck, Berry, Bishop, Bohlinger, Cole, Crismore, DePratu, Ekegren, Ellis, Glaser, Grimes, Grosfield,

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Hargrove, Harp, Hertel, Jabs, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Sprague, Swysgood, Thomas, Wells.

Total 27

Nays: Bartlett, Christiaens, Cocchiarella, Devlin, Doherty, Ellingson, Franklin, Halligan, Holden, Jergeson, Lynch, McCarthy, Nelson, Roush, Shea, Stang, Tester, Toews, Waterman, Wilson, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: Eck, Taylor.

Total 2

HB 540 - Senator B. DePratu requested consideration of HB 540 be placed at the bottom of the second reading board. Request granted.

Senator Mohl excused at this time.

HB 674 - Senator A. Ellis moved HB 674 be concurred in. Motion carried unanimously.

HB 678 - Senator B. Glaser moved HB 678 be concurred in. Motion carried with Senators Doherty and Ellingson voting nay.

Senator Mohl present at this time.

HB 350 - Senator J. Tester moved HB 350, second reading copy, be amended as follows :

1. Title, lines 5 through 7.

Strike: "ELIMINATING" on line 5 through "CYCLE";" on line 7

2. Title, line 14.

Strike: "13-37-216;"

3. Page 3, line 17 through page 5, line 2.

Strike: section 4 in its entirety

Renumber: subsequent sections

4. Page 10, line 9.

Strike: "5"

Insert: "4"

5. Page 10, line 11.

Strike: "5"

Insert: "4"

Amendment **failed** as follows:

Yeas: Bartlett, Bohlinger, Christiaens, Cocchiarella, Doherty, Ellingson, Franklin, Halligan, Jergeson, Lynch,

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

McCarthy, Nelson, Roush, Shea, Stang, Tester, Toews, Waterman, Wilson.
Total 19

Nays: Beck, Berry, Bishop, Cole, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Sprague, Swysgood, Thomas, Wells, Mr. President.
Total 29

Absent or not voting: None.
Total 0

Excused: Eck, Taylor.
Total 2

HB 350 - Senator F. Thomas moved HB 350, be concurred in. Motion carried as follows:

Yeas: Beck, Berry, Bishop, Bohlinger, Cole, Crismore, DePratu, Devlin, Ekegren, Ellis, Glaser, Grimes, Grosfield, Hargrove, Harp, Hertel, Holden, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Sprague, Swysgood, Thomas, Wells.
Total 28

Nays: Bartlett, Christiaens, Cocchiarella, Doherty, Ellingson, Franklin, Halligan, Jabs, Jergeson, Lynch, McCarthy, Nelson, Roush, Shea, Stang, Tester, Toews, Waterman, Wilson, Mr. President.
Total 20

Absent or not voting: None.
Total 0

Excused: Eck, Taylor.
Total 2

Senator Grimes excused at this time.

HB 670 - Senator R. Jabs moved HB 670 be concurred in. Motion carried as follows:

Yeas: Bartlett, Berry, Bohlinger, Christiaens, Cocchiarella, Cole, Doherty, Ellingson, Ellis, Franklin, Glaser, Grosfield, Halligan, Hargrove, Hertel, Jabs, Jergeson, Lynch, Mahlum, McCarthy, Mohl, Nelson, Roush, Shea, Stang, Tester, Thomas, Waterman, Wilson, Mr. President.
Total 30

Nays: Beck, Bishop, Crismore, DePratu, Devlin, Ekegren, Harp, Holden, Keating, Keenan, McNutt, Mesaros, Miller, Sprague, Swysgood, Toews, Wells.
Total 17

Absent or not voting: None.
Total 0

Excused: Eck, Grimes, Taylor.
Total 3

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Senator Grimes present at this time.

HB 540 - Senator B. DePratu moved HB 540 be concurred in. Motion carried as follows:

Yeas: Beck, Berry, Bohlinger, Cole, Crismore, DePratu, Devlin, Ekegren, Glaser, Grimes, Grosfield, Hargrove, Harp, Holden, Keating, Keenan, Mahlum, McNutt, Mesaros, Miller, Mohl, Sprague, Swysgood, Thomas, Wells, Mr. President.

Total 26

Nays: Bartlett, Bishop, Christiaens, Cocchiarella, Doherty, Ellingson, Ellis, Franklin, Halligan, Hertel, Jabs, Jergeson, Lynch, McCarthy, Nelson, Roush, Shea, Stang, Tester, Toews, Waterman, Wilson.

Total 22

Absent or not voting: None.

Total 0

Excused: Eck, Taylor.

Total 2

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

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman):

4/14/1999

Correctly enrolled: SB 170, SR 5, SR 6.

Signed by the President at 3:30 p.m., April 14, 1999: SB 117, SB 151, SB 167, SB 178, SB 233, SB 241, SB 251, SB 269, SB 273, SB 292, SB 293, SB 294, SB 331, SB 345.

Signed by the Secretary of Senate at 5:00 p.m., April 14, 1999: SB 117, SB 151, SB 167, SB 178, SB 233, SB 241, SB 251, SB 269, SB 273, SB 292, SB 293, SB 294, SB 331, SB 345.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to Senate Bill 59
Report No. 1, April 14, 1999

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 59** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 59** (reference copy -- salmon) be amended as follows:

1. Title, line 8.

Strike: "AN"

Strike: "LICENSE DRAWING FEE"

Insert: "APPLICATION FEES"

Following: "TO"

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Insert: "RESIDENT AND NONRESIDENT"

2. Title, line 9.

Strike: "FOR A SPECIES"

3. Title, line 11.

Following: "AND"

Insert: "ALLOWING A NONRESIDENT TO PAY \$25 TO PARTICIPATE IN A PREFERENCE SYSTEM FOR DEER AND ELK PERMITS;"

4. Page 2, line 28.

Strike: "fee"

Insert: "and application fees"

5. Page 3, line 1 through line 3.

Strike: subsection (2) in its entirety

Insert: "(2) (a) If a resident participates in a preference system adopted by the commission, the department shall collect an additional application fee of \$2 for each application form to fund the administration of the preference system.

(b) If a nonresident participates in a preference system adopted by the commission, the department shall collect an additional application fee of \$20 for each application form to fund the administration of the preference system."

6. Page 6, line 25.

Following: "(1)"

Insert: "(1)"

7. Page 7, line 8.

Following: "commission."

Insert: "(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

8. Page 7, line 10.

Following: "(1)"

Insert: "(1)"

9. Page 7, line 24.

Following: "commission."

Insert: "(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

10. Page 7, line 26.

Following: "(1)"

Insert: "(1)"

11. Page 8, line 9.

Following: "commission."

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Insert: "(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

12. Page 9, line 26.

Following: "commission."

Insert: "(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

13. Page 10, line 12.

Following: "commission."

Insert: "(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

14. Page 10, line 28.

Following: "commission."

Insert: "(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission."

For the Senate:

J. Wells, Chairman
Franklin
M. Taylor

For the House:

Walters, Chairman
Gutsche
Wagner

CONFERENCE COMMITTEE
on House Amendments to Senate Bill 195
Report No. 1, April 14, 1999

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 195** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 195** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 9.

Strike: "A DELAYED"

Insert: "AN"

2. Page 2.

Following: line 17

Insert: "(c) Service qualified pursuant to this subsection (3) is in addition to the service that may be qualified under subsection (1), except that a member may not receive duplicate credit for the same years of military service."

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

3. Page 3, line 8.

Strike: "JANUARY 1, 2000"

Insert: "July 1, 1999"

4. Page 3, line 10.

Strike: "JANUARY 1, 2002"

Insert: "July 1, 2001"

For the Senate:

Hargrove, Chairman
Halligan
Lynch

For the House:

Brainard, Chairman
E. Clark
Pavlovich

CONFERENCE COMMITTEE
on House Amendments to Senate Bill 243
Report No. 2, April 14, 1999

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 243** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 243** (reference copy -- salmon) be amended as follows:

1. Title, line 7.

Following: "ACT;"

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

2. Title, line 13.

Following: "41-5-102;"

Insert: "41-5-102,"

3. Page 2, line 20.

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

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

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

(2) to prevent and reduce youth delinquency through a system that does not seek retribution but that provides:

(a) immediate, consistent, enforceable, and avoidable consequences of youths' actions;

(b) and to establish a program of supervision, care, rehabilitation, detention, competency development, and community protection; for youth before they become adult offenders; and

(c) in appropriate cases and, in appropriate cases, restitution as ordered by the youth court;

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

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

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

Renumber: subsequent sections

For the Senate:

F. Thomas, Chairman
Grimes
Halligan

For the House:

D. McGee, Chairman
Facey
Shockley

CONFERENCE COMMITTEE
on House Amendments to Senate Bill 301
Report No. 1, April 14, 1999

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 301** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 301** (reference copy -- salmon) be amended as follows:

1. Page 1, line 23.

Following: "~~account~~"

Insert: "to be deposited into the renewable resource grant and loan program state special revenue account"

2. Page 3, line 6.

Following: "~~account~~"

Insert: "to be deposited into the renewable resource grant and loan program state special revenue account"

For the Senate:

Keating, Chairman
Jergeson
K. Miller

For the House:

Kasten, Chairman
Peck
Witt

CONFERENCE COMMITTEE
on Senate Amendments to House Bill 302
Report No. 1, April 14, 1999

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 302** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 302** (reference copy -- salmon) be amended as follows:

1. Page 1, line 23.

Strike: "IN AMOUNTS NOT TO EXCEED \$500,000 A LOAN"

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

For the House:

Cobb, Chairman
Krenzler (unsigned)
Witt

For the Senate:

Crismore, Chairman
Jergeson
Keenan

CONFERENCE COMMITTEE
on Senate Amendments to House Joint Resolution 5
Report No. 1, April 14, 1999

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Joint Resolution 5** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Joint Resolution 5** (reference copy -- salmon) be amended as follows:

1. Page 2, line 18 through line 22.

Strike: "(1)" on line 18 through "._" on line 22

Renumber: subsequent subsections

2. Page 2, line 26.

Following: "States"

Insert: "and is therefore urged to repeal the Brady Law"

For the House:

Jore, Chairman
Davies
C. Williams (unsigned)

For the Senate:

J. Wells, Chairman
Bohlinger (unsigned)
Lynch

FREE CONFERENCE COMMITTEE
on Senate Bill 406
Report No. 1, April 14, 1999

Mr. President and Mr. Speaker:

We, your **Free** Conference Committee met and considered **Senate Bill 406** (reference copy -- salmon) and recommend this **Free** Conference Committee report be adopted.

And, recommend that **Senate Bill 406** (reference copy -- salmon) be amended as follows:

1. Page 3, lines 7, 10, and 14.

Strike: "[SECTION 31]" in three places

Insert: "69-8-403"

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

2. Page 21, line 12.

Strike: "utility"

Insert: "services provider"

3. Page 21, line 16.

Strike: "utility"

Insert: "services provider"

4. Page 22, line 25.

Strike: "[THIS ACT]"

Insert: "[sections 1 through 28] or this chapter"

5. Page 28, line 7.

Strike: "69-8-404"

Insert: "[section 32]"

6. Page 30.

Following: line 18

Insert: "NEW SECTION. Section 32. Default supplier license. (1) In developing licensing rules for default suppliers, the commission shall promote and facilitate the development of a competitive market for electricity supply.

(2) Default supplier licensing rules must ensure that:

(a) a default supplier may not purchase electricity for or sell electricity to commercial or industrial electric consumers having individual accounts with an average monthly demand in the previous calendar year of 100 kilowatts or more or to new commercial or industrial electric consumers having individual accounts with an estimated monthly demand of 100 kilowatts or more;

(b) a default supplier may not discount its commission- approved rates to retain or gain customers;

(c) a default supplier may not obligate customers to a contractual term or service;

(d) federal power marketing administration power or benefits acquired by a default supplier are distributed as widely and equitably as possible among small customers and in a manner that encourages competition;

(e) a default supplier, except when the default supplier is the distribution services provider, may not construct, purchase, take, receive, or otherwise acquire or own, hold, equip, maintain, or operate electric generating plants or transmission or distribution lines or systems, except that a default supplier may enter into transmission or distribution agreements for the lease or use of capacity on transmission and distribution systems owned by others to supply electricity to its customers in the state;

(f) a default supplier may not offer for sale any products other than electricity supply or provide electricity supply to members or customers other than those residing in the state or sell electricity or otherwise engage in the marketing of electricity on the wholesale market, but may dispose of excess electricity associated with temporary load-energy imbalances.

(3) Except as provided in subsection (2)(e), a default supplier may provide only a single electricity supply service to all of its small customers. A default supplier may also offer an additional electricity supply service that includes a component of renewable energy.

(4) A default supplier may not offer other supply services unless the default supplier forms a separate entity."

Renumber: subsequent sections

7. Page 30, line 25.

Strike: "IN PROVIDING THIS SERVICE"

Insert: "of reentering the default supplier business"

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

8. Page 31, line 9.
Strike: "SECTION"
Insert: "Sections"
Following: "32"
Insert: "and 33"

9. Page 31, line 10.
Strike: "SECTION"
Insert: "sections"
Following: "32"
Insert: "and 33"

For the Senate:

F. Thomas, Chairman
Berry
Doherty

For the House:

R. Johnson, Chairman
E. Bergsagel
Ewer

FREE CONFERENCE COMMITTEE
on Senate Bill 482
Report No. 1, April 14, 1999

Mr. President and Mr. Speaker:

We, your **Free** Conference Committee met and considered **Senate Bill 482** (reference copy -- salmon) and recommend this **Free** Conference Committee report be adopted.

And, recommend that **Senate Bill 482** (reference copy -- salmon) be amended as follows:

1. Title, line 4 and line 5.
Following: "ESTABLISHING"
Strike: the remainder of line 4 through "REQUIRING" on line 5
Insert: "ESTABLISHING"

2. Title, line 10.
Following: "VIOLATIONS;"
Strike: "AND PROVIDING AN EFFECTIVE DATE"
Insert: "PROVIDING DEFINITIONS; PROVIDING LICENSE APPLICATION AND RENEWAL FEES; ESTABLISHING LICENSE QUALIFICATIONS AND REQUIREMENTS; SETTING FORTH THE PERTINENT REGULATORY POWERS AND FUNCTIONS OF THE DEPARTMENT OF COMMERCE; REQUIRING FEE DISCLOSURE AND OTHER PERFORMANCE OF LICENSEES; AND ESTABLISHING PROHIBITIONS ON CERTAIN ACTIVITIES AND PENALTIES FOR VIOLATIONS"

3. Page 1, line 12 through line 25.
Strike: lines 12 through 25 in their entirety

4. Page 1, line 28 through page 3, line 2.
Strike: everything after the enacting clause

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Insert: "NEW SECTION. Section 1. Short title. [Sections 1 through 21] may be referred to as the "Montana Residential Mortgage Lending Act"."

Insert: "NEW SECTION. Section 2. Purpose. The activities of lenders and brokers and the offering of financing for residential real property have a direct and immediate impact upon the housing industry, the neighborhoods and communities of this state, homeowners, and potential homeowners. The legislature finds that it is essential for the protection of the citizens of this state and the stability of the Montana economy that reasonable standards governing the business practices of residential mortgage lenders and mortgage brokers be imposed. The legislature further finds that the obligations of lenders and mortgage brokers to consumers in connection with making, soliciting, processing, placing, or negotiating a residential mortgage loan warrant the regulation of the residential mortgage lending process, including the solicitation, application, and making of a residential mortgage loan. The purpose of [sections 1 through 21] is to protect consumers seeking residential mortgage loans and to ensure that the residential mortgage lending industry is operating fairly, honestly, and efficiently, free from deceptive and anticompetitive practices. A further purpose of [sections 1 through 21] is to regulate residential mortgage lending to benefit Montana citizens by ensuring the availability of residential mortgage funding, to benefit responsible providers of residential mortgage loans and services, and to avoid requirements inconsistent with legitimate and responsible business practices in the residential mortgage lending industry."

Insert: "NEW SECTION. Section 3. Necessity for license -- scope of act. (1) A person, partnership, association, corporation, or other entity, except an exempt person or entity, may not engage in the business of brokering or making residential mortgage loans without first obtaining a license from the department in accordance with the licensing procedures provided in [sections 5 through 10] and rules promulgated by the department.

(2) A person, partnership, association, corporation, or other entity required to be licensed under [sections 1 through 21] may not do any business without a license under any name or title or circulate or use any advertising or make any representation or give any information to any person that indicates or reasonably implies activity within the scope of [sections 1 through 21].

(3) The department may request a district court to issue an injunction to restrain any person or entity from violating or continuing to violate any provision of [sections 1 through 21].

(4) When the department has reasonable cause to believe that a person or entity that has not submitted an application for a license is conducting any of the activities described in subsection (1) and the person or entity is not an exempt person or entity, the department may review all books and records of the person or entity and any additional documentation necessary in order to determine whether the person or entity is required to become licensed under [sections 1 through 21].

(5) Each person, partnership, association, corporation, or other entity conducting activities regulated by [sections 1 through 21] that is not exempt must be issued a license that restricts the licensee's operations to those activities that are specified in the application. Two classifications of licenses may be issued covering either mortgage brokering or mortgage lending. If an entity is issued a mortgage lending license, the entity may also engage in brokerage services.

(6) Licenses must be issued to either the person or the business entity, which may be a sole proprietorship, partnership, or corporation. Employees or agents of the business entity are not required to be licensed.

(7) An exempt person or entity is exempt from the licensing requirements of [sections 5 through 10], but is subject to the requirements imposed by [sections 11 through 14] and to the powers of the department set forth in [sections 16 through 20]; except that state and federal banks, savings and loan associations, savings banks, credit unions, and their subsidiaries and affiliates are exempt from the provisions of [sections 1 through 21]."

Insert: "NEW SECTION. Section 4. Definitions. As used in [sections 1 through 21], the following definitions apply:

(1) "Borrower" means the person on whose behalf mortgage brokering and mortgage lending activities are conducted.

(2) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a licensee, whether through the ownership of voting stock of the licensee, through the ownership of voting stock of any entity that possesses the power to direct or cause the direction of management

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

or policies, or by other means. Control is presumed to exist if any person, directly or indirectly, owns, controls, or holds with power to vote 10% or more of the voting stock of any licensee or of any entity that owns, controls, or holds with power to vote 10% or more of the voting stock of any licensee, but a person does not control a licensee solely by reason of being an officer or director of the licensed entity.

(3) "Department" means the department of commerce provided for in 2-15-1801.

(4) "Exempt person or entity" means:

(a) a banking organization or foreign banking corporation chartered or licensed by any state or the United States comptroller of the currency that is authorized to transact business in this state;

(b) a federally chartered savings and loan association, federal savings bank, or federal credit union that is authorized to transact business in this state;

(c) a savings and loan association, savings bank, or credit union organized under the laws of this or any other state that is authorized to transact business in this state;

(d) an entity engaged solely in commercial mortgage lending;

(e) a service corporation of a savings and loan association or savings bank organized under the laws of this state or the service corporation of a federally chartered savings and loan association or savings bank;

(f) a person or entity making residential mortgage loans with one's own funds for one's own investments;

(g) a person who assists in the performance of the activities regulated by [sections 1 through 21] and who is compensated in any manner by only one licensee or exempt organization;

(h) an agency of the federal government, the state, or a local government;

(i) an employee or employer pension plan originating mortgage loans to its participants; or

(j) a person acting in a fiduciary capacity conferred by authority of any court.

(5) "Lender" means a person, partnership, association, corporation, or another entity that lends money for residential mortgage loans.

(6) "Licensee" means a person, partnership, association, corporation, or any other entity licensed or that is required to be licensed pursuant to [sections 1 through 21] to engage in the activities regulated by [sections 1 through 21].

(7) "Making residential mortgage loans" means, for compensation or gain, either directly or indirectly, advancing funds or making a commitment to advance funds to loan applicants for residential mortgage loans.

(8) "Mortgage broker" or "broker" means a person, partnership, association, or corporation, other than an exempt person or entity, that performs the lending activities described in [sections 1 through 21].

(9) "Mortgage brokering", "brokering", or "brokerage services" means the act of assisting a borrower in attempting to obtain a loan secured by residential real estate in return for consideration to be paid by either the borrower or the lender, including but not limited to contracting for the delivery of a residential mortgage loan to a third-party lender and soliciting, processing, placing, or negotiating a residential mortgage loan.

(10) "Mortgage loan", "residential mortgage loan", or "home mortgage loan" means a loan primarily secured by a security instrument on residential real property, a mortgage on residential real property, a deed of trust, or certificates of stock or other evidence of ownership interests in and proprietary leases from corporations or partnerships formed for the purpose of cooperative ownership of residential real property.

(11) "Residential real property" or "residential real estate" means real property located in this state that is improved by a dwelling in which up to four families reside.

(12) "Soliciting, processing, placing, or negotiating a residential mortgage loan" means, for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower."

Insert: "NEW SECTION. Section 5. Licensee name. A person, partnership, association, corporation, or other entity engaged in the business regulated by [sections 1 through 21] may not operate the business under a name other than the real name of the individual or entity conducting the business or a legally assumed name."

Insert: "NEW SECTION. Section 6. License application process -- fee. The department shall issue a license

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

upon completion of the following:

- (1) the filing of an application for license; and
- (2) the payment of an application fee of \$500 that includes the department's cost of investigation."

Insert: "NEW SECTION. Section 7. License application. (1) An application for a residential mortgage license must be in writing, under oath, and on a form obtained from and prescribed by the department.

(2) The application must contain the name and complete business and residential address or addresses of the license applicant. If the license applicant is a partnership, association, corporation, or other form of business organization, the application must contain the address of each member and of the director and principal officer of the partnership, association, corporation, or other form of business organization. The application must also include the following:

(a) an affirmation that the license applicant or its members, directors, or principals are at least 18 years of age; and

(b) the identify of:

(i) a person or entity that owns or controls, directly or indirectly, 10% or more of any class of stock of the license applicant; or

(ii) a person or entity that controls, directly or indirectly, the election of 25% or more of the members of the board of directors of a license applicant."

Insert: "NEW SECTION. Section 8. License renewal -- fee. (1) A license issued prior to January 1, 2000, is renewable biennially on January 1. A license issued after January 1, 2000, is renewable biennially beginning with the second anniversary of the date of the issuance of the original license. The license renewal fee is \$300. A properly completed renewal application form and the renewal fee must be received by the department 60 days prior to the renewal date. If the department receives a properly completed renewal application form and the renewal fee for a licensee at least 60 days prior to the renewal date, the licensee may operate in the interim pending receipt of official notification of renewal.

(2) It is the responsibility of each licensee to accomplish the renewal of the licensee's license. The failure of a licensee to receive a renewal form absent a request sent by certified mail for the form does not waive the licensee's responsibility. Failure by a licensee to submit a properly completed renewal application form and the renewal fee in a timely fashion, absent a written extension from the department, may result in the assessment of a civil fine.

(3) A licensee ceasing an activity or activities regulated by [sections 1 through 21] and desiring to no longer be licensed shall inform the department in writing and, at the same time, convey the license and all other symbols or official indicators of licensure to the department. The licensee shall include a plan for the withdrawal from regulated business, including a timetable for the disposition of the business. Upon receipt of written notice, the department shall issue a certified statement canceling the license.

(4) An application for the renewal of an existing license must contain the information specified in [section 7]. However, only the requested information that has changed from the most recent prior application must be submitted."

Insert: "NEW SECTION. Section 9. Undertakings and representations of licensee. An application for a license must be accompanied by undertakings and representations stating that the applicant:

(1) will keep and maintain for 24 months the business records and any other information regarding any mortgage loan made or brokered in the course of the conduct of its business;

(2) will file with the department, when due, any report or reports that it is required to file under any of the provisions of [sections 1 through 21];

(3) will disburse funds in accordance with its agreements and will make a good faith effort to effect closings in a timely manner;

(4) has not committed a crime against the laws of this state, another state, or the United States involving fraudulent or dishonest dealing and that no final judgment has been entered against the applicant in a civil action upon grounds of fraud, misrepresentation, or deceit that has not been previously reported to the department;

(5) will account or deliver to any person any personal property, such as money, a fund, a deposit, a check,

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

a draft, a mortgage, or some other document or thing of value, that has come into the applicant's possession and that is not the applicant's property or that the applicant is not in law or equity entitled to retain under the circumstances, at the time that has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to the accounting and delivery;

(6) has not engaged in any conduct that would be cause for denial of a license;

(7) is not insolvent;

(8) will advise the department in writing of any material changes to the information submitted on the most recent application for license within 45 days of the change. The written notice must be signed in the same form as the application for an amended license.

(9) will advise the department in writing of any material judgments entered against, and bankruptcy petitions by, the license applicant within 30 days of the occurrence of the judgment or petition."

Insert: "NEW SECTION. Section 10. Refusal to issue or renew license. The department may refuse to issue or renew a license if it is determined that the applicant is not in material compliance with any provisions of [sections 1 through 21]."

Insert: "NEW SECTION. Section 11. Escrow funds. (1) Trust or escrow funds for any purpose authorized by the residential mortgage loan contract are subject to and must satisfy all applicable federal requirements, must be maintained in a depository institution as described in subsection (2), and may not be commingled with any licensee funds.

(2) A trust or escrow account must be placed in a federally insured depository institution, a federal home loan bank, a federal reserve bank, or other similar government-sponsored enterprise, to be removed and used only for:

(a) payments authorized by the borrower, allowed by the mortgage loan contract, or required by federal or state law;

(b) refunds to the mortgagor;

(c) transfer of escrow funds to another institution described in this subsection (2);

(d) forwarding of escrow funds to the appropriate servicer in case of a transfer of servicing;

(e) any other purpose authorized by the residential mortgage loan contract; or

(f) compliance with a department or court order."

Insert: "NEW SECTION. Section 12. Fee disclosure -- loan brokerage agreement. (1) Within 3 days of a completed residential mortgage loan application or before the borrower gives the licensee any consideration, whichever comes first, a loan brokerage agreement is required and must be in writing and signed by both the borrower and a licensee whose services to the borrower constitute brokering.

(2) The loan brokerage agreement must include a clear and conspicuous statement that, upon request, a copy will be made available to the borrower or the borrower's authorized representative for review prior to signing.

(3) Both the borrower and the licensee's authorized representative shall sign and date the loan brokerage agreement, and a copy of the fully executed loan brokerage agreement must be given to the borrower within 3 business days of signing.

(4) The loan brokerage agreement must contain an explicit description of the services that the licensee agrees to perform for the borrower and the fees for the services.

(5) The loan brokerage agreement must include a clear and conspicuous statement regarding the conditions under which the borrower is obligated to pay the licensee.

(6) The loan brokerage agreement must provide that if the licensee makes materially false or misleading statements or omissions in the agreement, the borrower may, upon written notice:

(a) void the agreement;

(b) recover money paid to the licensee for which services have not been performed; and

(c) recover actual costs, including attorney fees, for enforcing the borrower's rights under the loan brokerage agreement.

(7) The loan brokerage agreement is the only agreement between the borrower and licensee with respect to a single loan, except that the licensee shall also provide to the borrower disclosure statements necessary to comply

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

with all applicable federal and state requirements."

Insert: "NEW SECTION. Section 13. Fees and charges prior to closing. (1) A licensee whose services to a borrower are limited to brokering may not require a borrower to pay any fees or charges prior to the residential mortgage loan closing, except for:

(a) charges to be incurred by the licensee on behalf of the borrower for services from third parties necessary to process the application, such as credit reports and appraisals; and

(b) an application fee.

(2) A licensee may not require a borrower to pay any fees or charges prior to the residential mortgage loan closing, except for:

(a) charges to be incurred by the licensee on behalf of the borrower for services from third parties necessary to process the application, such as credit reports and appraisals; and

(b) an application fee.

(3) A licensee who is a lender may not require a borrower to pay any fees or charges prior to the residential mortgage loan closing, except for:

(a) those fees and charges permitted in subsection (1); and

(b) a rate-lock fee if:

(i) there is a written agreement signed by both the borrower and the licensee;

(ii) the terms of the agreement include but are not limited to:

(A) the expiration date of the rate-lock fee agreement;

(B) the principal amount of the mortgage loan, the term of the mortgage loan, and identification of the property;

(C) the initial interest rate and the points to be paid; and

(D) the amounts and payment terms of the lock-in fee and commitment fee, along with a statement as to whether the fees are refundable and the terms and conditions necessary to obtain a refund; and

(iii) the licensee is able to demonstrate to the department that it is able to perform under the terms of the agreement.

(4) A commitment fee may be charged, upon approval of the residential mortgage loan application, if:

(a) the commitment is in writing and signed by the borrower and the licensee;

(b) the commitment states all of the following:

(i) the terms and conditions of the residential mortgage loan; and

(ii) the terms and conditions of the commitment, including but not limited to:

(A) the time period during which the commitment is irrevocable and may be accepted by the borrower, which may not be less than 7 calendar days from the date of commitment or the date of mailing, whichever is later;

(B) the amount and payment terms of the commitment fee, along with a statement as to whether the fee is refundable and the terms and conditions necessary to obtain a refund;

(C) the expiration date of the commitment; and

(D) the conditions precedent to closing.

(5) Fees or charges collected pursuant to this section, other than those collected pursuant to subsection (1) or (2)(a), must be refunded if a valid commitment or closing is not produced, respectively, except that the respective fees may be retained by the licensee upon the licensee's ability to demonstrate to the department any of the following reasons:

(a) the borrower has withdrawn the loan application;

(b) the borrower has made a material misrepresentation or omission on the loan application;

(c) the borrower has failed to provide documentation necessary to the processing or closing of the loan application; or

(d) the fact that closing does not occur is at no fault of the lender."

Insert: "NEW SECTION. Section 14. Prohibited practices. A licensee may not:

(1) knowingly provide or offer to provide for any borrower any brokering or lending services under any arrangement with any entity other than a licensee or an exempt person or entity;

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

(2) disburse the mortgage loan proceeds in any form other than, as applicable, a direct deposit to a customer's account, a wire, a bank or certified check, or an attorney's check drawn on a trust account. An entity may apply to the department for a waiver of the requirements of this provision by demonstrating, in a letter of application, that it has or intends to adopt any other method of disbursement of loan proceeds that will satisfy the purposes of this subsection.

(3) fail to disburse funds in accordance with a commitment to make a mortgage loan that is accepted by the applicant;

(4) accept any fees at closing that were not disclosed;

(5) accept attorney fees at closing in excess of the fees that have been or will be remitted to the licensee's attorneys;

(6) require the borrower to be represented by a particular attorney;

(7) unreasonably refuse to issue or unreasonably delay the issuance of a satisfaction of mortgage after the mortgage has been fully satisfied;

(8) obtain any agreement or instrument in which blanks are left to be filled in after execution;

(9) obtain any exclusive dealing or exclusive agency agreement from any borrower;

(10) delay closing of any mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;

(11) engage in fraudulent home mortgage loan underwriting practices;

(12) make payment, whether directly or indirectly, of any kind to any in-house or fee appraiser of any government or private money lending agency with which an application for a home mortgage loan has been filed for the purpose of influencing the independent judgment of the appraiser with respect to the value of any residential real estate that is to be covered by the home mortgage;

(13) knowingly make any false promises likely to influence or persuade or pursue a course of misrepresentation and false promises through agents, solicitors, advertising, or otherwise; or

(14) knowingly misrepresent, circumvent, or conceal, through whatever subterfuge or device, any of the material particulars or the nature of the material particulars regarding a transaction to which it is a party."

Insert: "NEW SECTION. Section 15. Bonds -- letters of credit -- pledges of licensees. (1) All licensees shall maintain a bond or irrevocable letter of credit or make a pledge of certain of its assets to the department, in accordance with this section. Each bond, letter of credit, or pledge must be used for the recovery of expenses, fines, or fees levied by the department in accordance with [sections 1 through 21] or for losses or damages incurred by borrowers or consumers as a result of a licensee's noncompliance with the requirements of [sections 1 through 21]. The bond, letter of credit, or pledge is payable when the licensee fails to comply with any provisions of [sections 1 through 21] and must be either in the form of a surety bond, an irrevocable letter of credit, or a pledge of assets in an amount of not less than \$50,000, as prescribed by the department. The bond or letter of credit must be payable to the department and must be issued by an insurance company or bank authorized to do business in this state. A copy of the bond, letter of credit, or pledge agreement, including any riders and endorsements executed subsequent to the effective date of the bond, letter of credit, or pledge agreement, must be placed on file with the department within 10 days of the execution of the bond, letter of credit, or pledge agreement.

(2) The department may promulgate rules with respect to the requirements for the bonds, letters of credit, or pledges as are reasonable and necessary to accomplish the purposes of [sections 1 through 21]."

Insert: "NEW SECTION. Section 16. Powers of department. (1) All powers and duties of regulation and supervision conferred by [sections 1 through 21] are vested in the department. The department shall adopt rules necessary to carry out the intent and purposes of [sections 1 through 21]. A copy of every rule must be mailed to each licensee within at least 15 days of its effective date. However, the failure of a licensee to receive a copy of a rule does not exempt a licensee from complying with a rule adopted under [sections 1 through 21].

(2) The functions, powers, and duties of the department include the following:

(a) to issue or refuse to issue any license as provided by [sections 5 through 10];

(b) to revoke or suspend for cause any license issued under [sections 5 through 10];

(c) to keep records of all licenses issued under [sections 5 through 10];

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

(d) to receive, consider, investigate, and act upon complaints made by any person in connection with any residential mortgage licensee in this state or any person whom the department has reason to believe is violating or is about to violate [sections 1 through 21];

(e) to prescribe the forms of and receive:

(i) applications for licenses; and

(ii) all reports and all books and records required to be made by any licensee;

(f) to subpoena documents and witnesses and compel their attendance, to administer oaths, and to require the production of any books, papers, or other materials relevant to any inquiry authorized by [sections 1 through 21];

(g) to enforce by order any provision of [sections 1 through 21];

(h) to levy fees, fines, and charges for services performed in administering [sections 1 through 21];

(i) to conduct hearings for the purpose of:

(i) appeals of orders of the department;

(ii) suspensions or revocations of licenses or fining of licensees;

(iii) investigating complaints against licensees; and

(iv) carrying out the purposes of [sections 1 through 21]; and

(j) to define by rule any terms used for the efficient and clear administration of [sections 1 through 21]."

Insert: "NEW SECTION. Section 17. Revocation and suspension of license. The department, upon 10 days' written notice to the licensee and a statement of the grounds and upon reasonable opportunity to be heard at a public hearing, if requested by the licensee, may suspend for not more than 30 days or revoke a license if it finds that the licensee has knowingly violated any provision of [sections 1 through 21]. When the department enters an order revoking or suspending a license, it shall mail a copy of the order by certified mail to the licensee at the address for which the license was issued."

Insert: "NEW SECTION. Section 18. Reinstatement. The department may reinstate any suspended or revoked license if a fact or condition does not then exist that clearly would have justified the department in refusing to originally issue the license. In any case in which the license has been revoked for cause, an application may not be made for issuance of a new license or the reinstatement of a revoked license for a period of 6 months from the date of revocation."

Insert: "NEW SECTION. Section 19. Access to records -- witnesses. For purposes of [sections 1 through 21], when acting upon a written complaint to the department and in accordance with the Montana Administrative Procedure Act, the department or its authorized representatives must be given free access to the offices and places of business, files, safes, and vaults of all licensees and may require the attendance of any person and examine any person under oath relative to loans or the business or the subject matter of any examination, investigation, or hearing and may require the production of books, accounts, papers, and records. In the event of disobedience to any subpoena or other process issued by the department or failure to produce any books, accounts, papers, and records, the department may invoke the aid of any district court of this state in requiring the evidence and testimony of witnesses and the production of books, accounts, papers, and records."

Insert: "NEW SECTION. Section 20. Injunctions -- receivers. (1) If the department has reasonable cause to believe that a person is violating or is threatening to violate any provision of [sections 1 through 21], the department may enter an order requiring the person to cease and desist from the violation.

(2) An action may be brought by the attorney general or the department to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance of a violation. In any action, an order or judgment may be entered awarding a preliminary or a final injunction.

(3) In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought has the power and jurisdiction to impound, and to appoint a receiver for, the property and business of the defendant, including books, papers, documents, and records that the court finds reasonably necessary to prevent violations of [sections 1 through 21]. A receiver, when appointed and qualified, has the powers and duties related to custody, collection, administration, winding up, and liquidation of the property and business that may be conferred upon the receiver by the court."

Insert: "NEW SECTION. Section 21. Penalties. (1) A person who contracts for or receives interest or charges

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

on any bond, bill, promissory note, or other instrument of writing at a rate exceeding the maximum amount authorized by [sections 1 through 21] is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both.

(2) A person who, by any device, subterfuge, or pretense whatsoever, engages in any transaction permitted only to licensees without first having obtained a license is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both."

Insert: "NEW SECTION. Section 22. Codification instruction. [Sections 1 through 21] are intended to be codified as an integral part of Title 32, and the provisions of Title 32 apply to [sections 1 through 21]."

For the Senate:

Hertel, Chairman
Cocchiarella
Mesaros

For the House:

Barnett, Chairman
Krenzler
Trexler

FREE CONFERENCE COMMITTEE
on House Bill 315
Report No. 1, April 14, 1999

Mr. Speaker and Mr. President:

We, your **Free** Conference Committee met and considered **House Bill 315** (reference copy -- salmon) and recommend this **Free** Conference Committee report be adopted.

And, recommend that **House Bill 315** (reference copy -- salmon) be amended as follows:

1. Title, line 12 through line 14.

Strike: "REQUIRING" on line 12 through "SITES;" on line 14

Insert: "DESIGNATING CERTAIN FISHING ACCESS SITES AS PRIMITIVE

FISHING ACCESS SITES; LIMITING DEVELOPMENT AT DESIGNATED PRIMITIVE FISHING ACCESS SITES; ALLOWING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO DESIGNATE ADDITIONAL FISHING ACCESS SITES AS PRIMITIVE FISHING ACCESS SITES BY RULE; PROHIBITING CAMP HOSTS AND ALL-TERRAIN VEHICLE USE AT PRIMITIVE FISHING ACCESS SITES; ESTABLISHING A 7-DAY CAMPING LIMIT IN PRIMITIVE FISHING ACCESS SITES;"

2. Title, line 15.

Following: "ELIMINATING"

Insert: "RESIDENT"

3. Title, line 15 through line 16.

Following: "SITES" on line 15

Strike: remainder of line 15 through "PASSPORT" on line 16

Insert: "DURING CERTAIN DESIGNATED TIMES"

4. Page 2, line 5.

Strike: "AND 2"

Insert: "through 4"

5. Page 5, line 12 through page 6, line 1.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Strike: section 2 in its entirety

Insert: "NEW SECTION. Section 2. Primitive fishing access sites established. (1) Because of their unique and primarily undeveloped character, the following fishing access sites are designated as primitive fishing access sites and are subject to the provisions of [sections 1 through 4]:

(a) Region 1 -- Ashley Creek, Beaver Lake, Blanchard Lake, Bootjack Lake, Ducharme, Frank Lake, Horseshoe Lake-Ferndale, Loon Lake-Eureka, Loon Lake-Ferndale, Marle Lake, Marlowe Springs, McKay Landing, Moran Lake, Pressentine, Savage Lake, Skyles Lake, Spring Creek, Swan River, and Whitefish;

(b) Region 2 -- Aunt Molly, Bass Creek, Cedar Meadows, Forks, Harry Morgan, Marco Flats, Monture, Natural Pier, Poker Joe, Red Rock, River Junction, Sheep Flats, Thibodeau, and Whitaker Bridge;

(c) Region 3 -- Alder Bridge, Axtell Bridge, Blackbird, Cardwell, Cherry River, Chicory, Corrals, Corwin Springs, Deepdale, Dewey, Erwin Bridge, Fairweather, Fishtrap Creek, Four Corners, Gallatin Forks, Greenwood Bottoms, Grey Owl, High Bridge, High Road, Highway 89, Kalsta Bridge, Kirk Wildlife Refuge, Kountz Bridge, Mallard's Rest, Mayflower Bridge, McAtee Bridge, Meadow Lake, Milwaukee, Notch Bottom, Parrot Castle, Pennington Bridge, Pine Creek, Point of Rocks, Powerhouse, Queen of the Waters, Sappington Bridge, Shed's Bridge, Slip and Slide, Tizer Lakes, and Williams Bridge;

(d) Region 4 -- Carroll Trail, Dearborn, Dunes, Eagle Island, Hardy Bridge, Lichen Cliff, Loma Bridge, Lower Carter Pond, Mid-Canon, Mountain Palace, Pelican Point, Prickly Pear, Spite Hill, Table Rock, Truly Take-out, Upper Carter Pond, and White Bear;

(e) Region 5 -- Absaroka, Beaver Lodge, Big Rock, Bridger Bend, Buffalo Mirage, Bull Springs, East Bridge, General Custer, Grant Marsh, Grey Bear, Homestead Isle, Horsethief Station, Selkirk, and Two Leggings;

(f) Region 6 -- Bjornberg Bridge, Cole Ponds, Faber Reservoir, and Whitetail Reservoir; and

(g) Region 7 -- Amelia Island, Broadus Bridge, Diamond Willow, Elk Island, Falcon Bridge, Joe's Island, Little Powder River, Myers Bridge, Powder River Depot, Seven Sisters, and Twelve Mile Dam.

(2) Pursuant to its authority in 23-1-106, the department may by rule designate any fishing access site not listed in subsection (1) as a primitive fishing access site when a determination is made that the designation is desirable to protect the unique and primarily undeveloped character of that fishing access site."

Insert: "NEW SECTION. Section 3. Limit on development of primitive fishing access sites. (1) The only development allowed at primitive fishing access sites designated in [section 2] is:

(a) necessary improvements required to meet minimum public health standards regarding sanitation, which may include necessary access to outhouses, vaults, and water;

(b) new improvements necessary to ensure the safe public use of boat ramps;

(c) addition of gravel to existing unpaved roads, resurfacing of paved roads, dust abatement, and bridge improvements when necessary to ensure safe public access, including necessary new access roads into and within the primitive fishing access site;

(d) establishment of new hiking trails or improvement of existing hiking trails; and

(e) installation of minimal signage:

(i) designating the site as a primitive fishing access site in which development has been limited and encouraging the public to help in maintaining the park's primitive character;

(ii) necessary to designate camping sites, parking areas, rules, and other necessary management information within the primitive fishing access site; and

(iii) to inform the public of historical, cultural, natural, geographical, and geological features in the area;

(f) establishment of designated parking areas for vehicles and for boat trailers in primitive fishing access sites that have boat ramps;

(g) in-kind replacement of existing facilities or replacement of existing facilities with facilities that have less impact on the primitive fishing site;

(h) fire pits and tables;

(i) fencing; and

(j) at the discretion of the department of fish, wildlife, and parks, projects on the Missouri reach of the Missouri-Madison hydropower project or the Clark Fork basin hydropower project, undertaken pursuant to the federal energy

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

regulatory commission's hydropower relicensing requirements and in conjunction with private entities, political subdivisions of the state of Montana, and federal agencies.

(2) The following development of designated primitive fishing access sites is prohibited:

(a) installation of electric lines or facilities, except when necessary to comply with subsection (1)(a) or (1)(g);

(b) installation of recreational vehicle sanitary dumpsites where they do not presently exist;

(c) creation of new roads, except when necessary to establish camping access and to meet the requirements of subsection (1);

(d) installation of camping pads for recreational vehicles; and

(e) paving of existing but previously unpaved roads and parking lots."

Insert: "NEW SECTION. Section 4. Restrictions applicable to primitive fishing access sites. (1) The assignment of camp hosts to designated primitive fishing access sites is prohibited.

(2) The department shall institute and enforce a 7-day camping limit at designated primitive fishing access sites.

(3) The off-road operation of all-terrain vehicles at designated primitive fishing access sites is prohibited."

Renumber: subsequent sections

6. Page 6, line 21.

Following: "A"

Strike: "person who possesses a valid state parks passport"

Insert: "Montana resident"

7. Page 6, line 22.

Following: "camping"

Insert: "between September 10 and May 20"

8. Page 6, line 25.

Strike: "AND 2"

Insert: "through 4"

9. Page 6, line 27.

Strike: "AND 2"

Insert: "through 4"

For the House:

Molnar, Chairman

Raney

Shockley

For the Senate:

J. Wells, Chairman

T. Beck

Doherty

MESSAGES FROM THE GOVERNOR

April 14, 1999

The Honorable Bruce Crippen

President of the Senate

State Capitol

Helena, Montana 59620

Dear Senator Crippen:

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Please be informed that I have signed **Senate Bill 522** sponsored by Senator M. Cole et al. on April 14, 1999.

Sincerely,

MARC RACICOT
Governor

April 14, 1999

The Honorable Bruce Crippen
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable John Mercer
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Crippen and Speaker Mercer:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 356, "**AN ACT REQUIRING THAT ONE MEMBER OF THE TRANSPORTATION COMMISSION HAVE SPECIFIC KNOWLEDGE OF INDIAN CULTURE AND TRIBAL TRANSPORTATION NEEDS; AMENDING SECTION 2-15-2502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY PROVISION**" for the following reasons.

Senate Bill 356 amends the statute that creates the Montana Transportation Commission. It adds a requirement that at least one of the five Commission members be an individual with specific knowledge of Indian issues as they relate to transportation in Montana. While I am in complete agreement with the requirement, I am concerned about the amendment that requires the Governor to select this member from a list of nominees provided by the Montana members of the Montana-Wyoming Tribal Leaders Council.

A similar requirement exists in the current statute that establishes the State Coordinator of Indian Affairs. That statute requires that the Coordinator be appointed by the Governor from a list of five qualified Indian applicants agreed upon by the Tribal Councils of the respective Indian Tribes of the State. In the summer of 1995, the Coordinator resigned and I notified the Tribes of the need to submit a list so the position could be filled. The time required for the Tribal Leaders Council to meet, solicit applications and decide upon acceptable candidates took several months, and the position could not be filled until eleven months after the position became vacant. Even the Council understood the cumbersome nature of the process and we have discussed the need for a better way to handle the filling of the position in the future.

In order to avoid lengthy delays in the filling of the position that is required by Senate Bill 356, I am proposing an amendment that would require that the Governor consult with, rather than be provided a list by, the members of the Montana-Wyoming Tribal Leaders Council before making the appointment.

It is my understanding that Senator Mohl, the sponsor of Senate Bill 356, is aware of and agreeable to this amendment

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

Sincerely,

MARC RACICOT
Governor

**GOVERNOR'S AMENDMENTS
TO SENATE BILL 356**

1. Page 1, line 27.

Strike: "from a list of nominees provided by"

Insert: "after consultation with"

MOTIONS

HB 478 - Senator Harp moved that the Conference Committee on HB 478 be **dissolved** and that the President be authorized to appoint a **Free** Conference Committee. Motion carried. The President appointed the following members:

Senator Mesaros, Chairman
Senator Beck
Senator Doherty

SPECIAL ORDERS OF THE DAY

**A PROCLAMATION OF THE SENATE AND THE HOUSE
OF REPRESENTATIVES OF THE STATE OF MONTANA**

WHEREAS, spelling is essential to correct writing and communication; and

WHEREAS, the Treasure State Spelling Bee is a proud Montana tradition which brings recognition to the importance of spelling and to the top spellers in the state; and

WHEREAS, the winner of the Treasure State Spelling Bee has achieved a significant accomplishment which carries with it the honor of representing our state in the Scripps Howard National Spelling Bee held annually in Washington, D.C.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Ann Mary Olson, seventh grade student from Wolf Point, Montana, is hereby recognized and commended for her achievement as the winner of the Treasure State Spelling Bee.

AND BE IT FURTHER RESOLVED: that the original of this proclamation be delivered to the Superintendent of the Wolf Point School District for proper public display, and that a copy of this proclamation be delivered to Ann Mary Olson.

BRUCE CRIPPEN
President of the Senate

JOHN A. MERCER
Speaker of the House of Representatives

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 14, 1999

STEVE DOHERTY
Senate Minority Leader

EMILY SWANSON
House Minority Leader

LINDA NELSON
Senator, District 49

FRANK SMITH
Representative, District 98

Senator Nelson moved that the Proclamation honoring Ann Mary Olson be adopted. Motion carried as follows:

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

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Eck, Taylor.
Total 2

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Harp moved that the Senate adjourn until 10:00 a.m., Thursday, April 15, 1999. Motion carried.

Senate adjourned at 6:45 p.m.

ROSANA SKELTON
Secretary of Senate

BRUCE CRIPPEN
President of the Senate