

**SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
February 13, 1999

Senate Chambers
State Capitol

Senate convened at 9:00 a.m. President Crippen presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Ellis, Grimes, Jergeson, Miller, Stang and Wilson, excused. Quorum present.

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

Thomas, Majority Whip

SPECIAL ORDERS OF THE DAY

Senator Harp moved that the President be authorized to appoint a committee of four to escort The Honorable Rick Hill, Congressman for Montana into the Senate. Motion carried.

The President appointed Senators Bartlett, Keenan, McNutt and Tester. The committee escorted Congressman Hill to the well of the Senate, where he presented the following speech:

President Crippen, Majority Leader Harp, Minority Leader Doherty and members of the Montana Senate. Thank you for giving me this opportunity to speak with you this morning.

As many of you know, I got my first real look at the workings of the legislative process right here in the Montana Legislature. I had the privilege of working with some of you when I served as one of Governor Racicot's emissaries to the third floor during the 1993 Session. It was often like visiting a foreign country.

I realized as I prepared my remarks that some of you seldom listened to me then - so I hold out no great hope that you will listen to me now. And, I remember how packed the calendar got as transmittal approached. As a result, I'll keep my remarks brief.

I can empathize with those of you who are new to the Legislature, trying to get a handle on how everything operates. I discovered when I got to Washington, DC that my life in Congress would be run by lights and bells.

We have wall clocks in every office that have a series of lights and what are quaintly called bells to tell us when we need to be on the floor. Actually the bells sound more like a cheap alarm clock.

The pattern of the lights and bells tells us the nature of the vote.

The opportunity the people of Montana have given me to serve you as your Congressman is one of the most humbling and gratifying experiences of my life. Betti and I try to get home every chance we get because it helps us stay grounded.

Since I began my tenure as your Congressman a little over two years ago, we have had about 120 town meetings and forums. We leave Monday morning to do several more - out along the high line in Havre, Chinook, Malta, Glasgow and Plentywood, and then back through Sidney, Circle, Glendive and Miles City.

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But regardless of where I go I hear pretty much the same kinds of concerns. Whether I'm in Montana's bigger communities or smaller towns, whether I'm in the east or the west, people want to talk about what we can do to increase the number of good paying jobs.

They want to talk with me about what we can do to strengthen the economy, improve education and lower their taxes. And so that is what I want to visit with you about today.

I sometimes have a hard time explaining to my colleagues in Congress just how big Montana really is. So I ask them to imagine juxtaposing a map of Montana on the eastern United States. I tell them if they placed the town of Troy, in our northwestern corner, over the city of Chicago, then the town of Alzada, in our southeastern corner, would be out in the Atlantic, south and east of Washington, DC.

I try to explain to my colleagues the economic challenges with which the 865,000 of us who live in this vast place must contend.

I try to explain the economy of Montana is like a table with four legs - agriculture, tourism, natural resources and high tech.

Make no mistake about it. Agriculture remains central to Montana's economy, and Montana agriculture is under pressure.

We've accomplished a lot for Montana agriculture in the Congress - both short term economic relief and longer term tax relief. I helped lead the fight to reduce unfair taxes on our farming and ranching families by winning the battle for income averaging and reducing capital gains taxes. Senator Burns and I voted to ensure adequate disaster relief for our hard hit producers by backing the Omnibus Budget Bill at the end of the last Congress.

But I know there is still much work to do, particularly since the farm economy has not seen much improvement. We must work for agricultural trade reciprocity with our neighbors to the north. There was much fanfare about the Record of Understanding between the US and Canada announced in early December. The people who negotiated this agreement either don't understand the trade problem or they intentionally disregarded critical issues.

We need to improve the transparency of wheat pricing in Canada. It is not acceptable to me that the Canadian Wheat Board continues to resist opening their books while American producers suffer from a steady influx of Canadian grain.

I am a strong advocate of nation of origin labeling and I am a co-sponsor of legislation mandating it. If we can put a label on a package of ground beef telling the customer how to cook it, there is no reason we can't also tell them the country of origin. I believe the U.S. Beef brand has value in the global marketplace, and we ought to help our producers capture that value.

We need to continue looking for ways to reduce our tax burdens and to eliminate death taxes on family businesses. To that end, I will reintroduce legislation in this Congress to convert estate taxes to capital gains, forever ending the death tax.

We must work to improve the crop insurance program so it can make it a more widely available and applicable risk management tool. I have discussed developing a bipartisan approach to this issue with Congressman Pomeroy of North Dakota. I am deeply disappointed the President failed to include any funding for crop insurance reform in his budget.

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Finally, I am pleased to announce that the Small Business Committee on which I serve has formed a new subcommittee at my request to look at the central importance of agriculture to the small rural communities across our country. We understand here in Montana that when agriculture coughs, Main Street catches the cold.

I have been named vice-chairman of this Rural Enterprise Subcommittee, and I will use that position to work to secure the future of our rural communities.

Tourism is the second leg of Montana's economic table. I believe we have some truly unique opportunities ahead of us in the area of tourism and outdoor recreation. Let me talk about just two of them.

We are coming up on the bicentennial of the Lewis and Clark Expedition early in the next century. The Lewis and Clark Expedition is one of the seminal events in the history of our great nation. The bicentennial celebration has already captured the imagination of the American people. Witness the popularity of Stephen Ambrose's book "Undaunted Courage" or Ken Burn's documentary series on PBS.

I have the honor of co-chairing, along with Congressman Pomeroy, the bipartisan Lewis and Clark Caucus. We intend to work with our colleagues in the Congress on directing adequate federal resources to celebrate the bicentennial in the manner it deserves, including money for promoting tourism along the route.

President Clinton and Secretary Babbitt have already tipped their hand. They intend to use the bicentennial as an excuse for more land withdrawals and higher spending for federal agencies. While there may well be currently unprotected sites along the route that deserve protection, I would much rather see the federal dollars allocated to preserving and expanding existing sites, and on local and regional celebrations.

If we fail to take the initiative now, these federal plans may prevail. Other states are looking for state and local resources to contribute to this effort. North Dakota for example is asking to spend about \$2 million to promote the bicentennial. I would hope the Montana Legislature would look favorably on funding requests here.

A big part of our attraction for tourists, as well as for those of us who live here, is the hunting and fishing and outdoor recreation we have to offer. We have an opportunity to create an \$18 to \$20 million trust fund to be used for improving wildlife habitat and recreational access throughout the state, but we need your help.

The last Congress passed legislation authorizing homeowners at Canyon Ferry to purchase certain property currently under lease. The next step in the process involves establishing and funding a \$3 million Canyon Ferry - Broadwater County Trust.

Establishing this County Trust was essential to my support for the legislation. Many of the benefits gained by the construction of Canyon Ferry came at the expense of the folks on the south end of the lake. They have waited decades to see some economic benefit. It was time we treated them fairly.

In the process of crafting the legislation, I sought to fund the County Trust with a small portion of the proceeds of the sales. My point of view did not prevail. So we need to find alternate sources of revenue.

The authorizing legislation permits funding part of the County Trust through in-kind contributions, and the Broadwater County Commissioners have indicated at least a preliminary willingness to consider a sizable in-kind component. But, they have also indicated that discharging their operation and maintenance obligations also requires a significant unencumbered cash component.

Once the Commissioners have identified the amount and kind of in-kind projects they might accept, I am prepared

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to work with other members of the Congressional delegation to obtain the necessary funding. The sooner we can identify the federal contributions, the better chance we have of working through the federal appropriations process.

However, I do not anticipate federal funding alone can meet our goals. I fully expect funding the County Trust will also require significant state and private participation.

The sportsmen and women of Montana have a large stake in seeing this transfer through to completion. Instead of carping from the sidelines, I hope the organizations claiming to represent their interests will step forward to help realize this opportunity. I also urge Governor Racicot and the Legislature to support substantial state funding for the County Trust, so that we can move forward with the transfers and creation of the wildlife account.

The third significant leg to our economic table is responsible resource development. All of us who live here share a deep and abiding love for this place we call home. Our attachment to the land runs nearly as strong in us as our attachment to family. We know we are blessed with an abundance of resources which makes this a special place.

Most of us also understand that our economic heritage is rooted in the development of those resources. While perhaps not as central as it once was, responsible resource development remains a leg without which our economic table becomes shaky. The crux, of course, comes in defining what constitutes responsible development.

Let me give you an example of the potential for responsible resource development. Montana has an unparalleled economic opportunity as a result of the Crown Butte mine buyout several years ago. You will recall President Clinton struck a deal to prevent development of a mine on the northern edge of Yellowstone Park.

As part of that buyout, I insisted on - and the President eventually agreed to - providing funds for the maintenance of the Beartooth Highway, and the transfer of other federal mineral rights to compensate the people of Montana for the foregone economic opportunity of developing the mine at Crown Butte.

The federal land managers here on the ground identified these tracts of coal land for exchange. These land managers, the people who know the resource the best, said these tracts had the greatest potential for development with the least likelihood for environmental impact.

The economic potential from developing these tracts, if they could pass muster under our stringent environmental laws, is truly staggering. Independent economic analysis indicates developing these tracts would create thousands of good paying jobs and return hundreds of millions to the coal tax trust over the next several decades.

To be sure, this isn't a done deal. Perhaps development on these tracts would not pass environmental muster. Perhaps the market for supercompliant coal is not as strong as the forecasters predict.

Unfortunately, we may never have a chance to find out. The President apparently has decided to renege on his side of the deal. His most recent budget repeals the mineral rights transfer language. I will do everything I can to block this repeal, but I urge the Legislature to encourage Governor Racicot and Secretary Babbitt to complete the transfer before the end of the federal fiscal year.

In my mind, the fourth and final leg of the economic table is high tech. That is not as far fetched as it may initially sound. And it's not just big projects like the Venture Star, although I do want to commend the Governor and the Legislature for taking steps to remove possible impediments to this project. In addition, Montana's high tech future depends upon dozens of smaller research endeavors, many of them already bubbling inside our universities.

When I visit with my friends from the university system, I remind them that, as publicly funded institutions, they

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have a responsibility to direct at least some portion of their research efforts into projects that have the near term potential of enhancing job creation. They know they will have a better chance of receiving my support for federal funding if they can demonstrate that potential. But I can also tell you, if researchers don't have support at the state level, federal support becomes immeasurably more difficult.

I served for several years on the Montana Science and Technology Alliance. I know that not every research project results in a technology transferable to the private sector for job creation. And I know that not every technology transfer ultimately results in development of a viable business that actually results in new good paying jobs. But, I also know that if we don't do the research, we certainly won't be able to create high tech jobs.

Let me take just a few more minutes to talk about three major issues that we all must wrestle with in the months ahead - you here in Helena, as well as those of us detailed to Washington, D.C. One of those issues is a problem almost none of us saw coming: the politics of budget surpluses.

When I first decided to run for the Congress, I said our biggest challenge was finding a way to balance the budget and begin reducing the deficit. When I first got to Congress, all the debate centered on whether we ought to try to balance the budget in seven years, or should we take a little longer. Two short years later, the federal budget shows a surplus - at least temporarily.

The politics of the budget surplus are instructive. When we were facing hundred million deficits for as far as the eye could see, no one wanted to accept the responsibility. Now that we have the first surplus in recent memory, everyone is ready to claim credit.

President Clinton says it was his "revenue enhancement" proposals adopted by the Democratic Congress in 1993 that caused the surplus. My Republican colleagues in Congress say no, it was their fiscal responsibility in holding down spending.

In truth, neither had very much to do with it. In truth, we have a federal budget surplus today because of the ingenuity and hard work of American people. We have a budget surplus today largely because the American economy grew faster, stronger and longer than anyone forecast. The surest way to continue the federal budget surplus is for Congress to stay out of the way of American entrepreneurship.

How we deal with the surplus will be just as instructive. I read a recent report from the Joint Economic Committee that looked at the 108 times we have actually run a federal budget surplus in our nation's history. The news is not encouraging.

The average duration of federal surpluses in this century has been 18 months. No federal budget surplus since World War II has lasted more than 3 years. As the report put it, "If a surge in tax revenues is not returned to the taxpayers, the tendency of the government will be to dissipate it on increased spending." It seems we just can't stand to have any extra money burning a hole in our collective pockets.

In 1998, federal government spending passed the \$2 trillion mark for the first time, and federal tax collections grew twice as fast as the economy as a whole. The federal government collected \$300 billion more in taxes in 1998 than it did in 1996 - not \$300 billion total, \$300 billion more. As my friend Congressman Cox points out, that's enough to pay for a second Department of Defense, with three new NASA's to spare.

Today the combined tax bite of government at all levels - local, state and national - is close to 40 percent - higher than it has been at any time in our history except during World War II. Last September, the Congressional Policy Advisory Board - a who's who of Nobel prize winners, economists and academics from across the political spectrum

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- advised us that we cannot expect to sustain long run economic growth in the face of such a high combined tax burden. They told us the only way to lock in economic prosperity was through growth enhancing tax rate reductions.

But quite frankly, at least for me, the economic argument for tax cuts pales beside the moral argument. The question is: whose money is it? Is the surplus the government's money, for us to decide how much to spend and how much to give back? Or is it the people's money?

Several years ago, when Governor Racicot was asked to explain why he wanted to provide a tax rebate, he said, "Because the Montana taxpayer never told us to keep the change." That's a great line. I have unabashedly borrowed it for my own use.

Because whether the source of the surplus is better than expected tax collections, or revenues off the sale of the Montana Power generating assets, or tobacco settlement dollars, Governor Racicot was right then, and the same viewpoint is right now.

It is not the government's money. It's the people's money. And they never told us to keep the change.

Having said that, let me also say there are some things on which the public expects us to spend their hard earned dollars, and one of those is good quality public education.

I believe every child in Montana has the right to a quality education. On that score, we Montanans can be proud of our public schools. Our schools rank right around the national average on per pupil expenditure and classroom size. Our students do well when it comes to most measures of educational success.

No one in this chamber is more ready than I am to spend whatever it takes to ensure Montana kids receive a world class public education, so long as we spend those dollars effectively.

That's why I supported, and continue to support, the Dollars to the Classroom Act. The principle behind this legislation is a simple one: it says let's make sure that 90% of every federal dollar we spend on education, we spend in public grade school and high school classrooms.

I trust Montana educators - teachers and principals and local school boards - to know what is best for Montana kids. I have a big map of Montana on the wall in my office. When Montana educators stop by, I'll sometimes ask them to point out Culbertson, or Plevna, or Hot Springs. Almost invariably, they get it right.

But when I ask the same question of one of the so-called experts at the Department of Education, all I get back is a blank stare. And my question for them is this: If you can't even tell me where Culbertson is, why should I trust you to tell me what is best for Culbertson schools?

In his State of the Union speech a couple of weeks ago, President Clinton offered several new education initiatives. I am prepared to consider some of them. But not until we fully fund the educational mandates we already have in place.

I.D. E. A. is a good example. The last Congress preauthorized this program for specially challenged kids. We thought in doing so we reduced the regulatory burden on our schools. That's not how the Clinton administration interpreted our actions. Their rules place additional financial stress on our local districts.

I intend to fight in this Congress for full funding for I. D. E. A. As soon as the President and the Congress fully fund existing mandates, and as soon as we make sure we are getting the dollars we already spend into the classroom

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where we can actually use them to teach our children, then I'll be prepared to talk about the President's new proposals.

I believe we need to continually look for ways to maintain, and improve on, our educational edge. We need to look for ways to expand parental involvement in their children's education. And we need to look for ways to ensure we get the biggest bang for our education dollar.

In my opinion, one of the best ways to improve Montana education, and one of the best ways to expand parental involvement, is for you to authorize charter public schools.

Open the public school system to choice and competition. Give parents the freedom to send their children to the public school they choose. Eliminate burdensome state regulations. Allow parents and teachers and local communities to develop innovative ways of delivering more services for the dollar, then hold them accountable.

Some opponents of charter schools worry that passage of legislation will divert scarce resources away from education. This debate isn't about how much we spend on schools. The question is how we spend it. I firmly believe the closer to the family we can push the decision making, the more dynamic and more responsive our schools will be.

Thirty-four states have adopted some form of charter school legislation. I urge my friends in the Montana Legislature to do the same.

Finally, I want to talk about retirement security - saving Social Security now. Our Social Security system faces an unfunded liability of \$13 trillion. By most estimates, the system that millions of Americans depend upon for economic security in their golden years will start to go broke in the next couple of decades.

For those of you who participated in the debates about Workers Comp in 1993 and 1995, that phrase - unfunded liability - ought to bring a sense of *deja vu* all over again. The steps we need to take to repair our Social Security system are substantially different than what we needed to do to fix Workers Comp., But, I think the process is the same.

Workers Comp is truly one of the public policy success stories in Montana. Sometimes it seems like the legislative process is only equipped to handle the problems that are so big we can't afford not to fix them. We fixed Workers Comp because we had to.

We fixed Workers Comp by working together - Governor Racicot, the staff at the State Fund, private sector participants and legislators on both sides of the aisle. And, if you will indulge me, I am proud of whatever small part I may have played as volunteer chairman of Workers Comp during those years.

What I learned from my experience at Workers Comp is that the best policy solutions require neither liberals nor conservatives, neither Democrats nor Republicans, to abandon their principles. Rather, the best policy solutions vindicate our shared principles.

If we continue to frame our debates in the same old terms, that will be the result: more debate, more differences. Instead let's reframe the debate. Let's look for principles we can all agree upon, and then let's act on those principles. I suggest that is not as monumental a task as it may seem.

Although I often think you do it more effectively and with much less gnashing of teeth, there really isn't all that

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much difference between what you do here in this chamber and what we do in the Congress.

Much of what I know about the legislative process, I learned here. Or perhaps more accurately, much of what I know about the legislative process, you taught me here. And, for every day I participate, I gain a new found respect for the process and a better appreciation for what you do in it.

For better or for worse, I'm the only Congressman you have, at least for the next couple of years. Please know that I stand ready to do whatever I can to assist you any way you think I can.

Thank you for your attention. Good luck in your deliberations. May God bless you and the state of Montana.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 2/13/1999

Correctly printed: SB 139, SB 199, SB 239, SB 250, SB 267, SB 268, SB 292, SB 294, SB 305, SB 321, SB 327, SB 333, SB 346, SB 347, SB 397, SB 442, SB 460, SB 462, SB 463, SB 464, SB 465, SB 466, SB 467, SB 468, SB 469, SB 470.

Correctly engrossed: SB 16, SB 137, SB 243, SB 260, SB 266, SB 330, SB 387, SB 396.

Correctly enrolled: SR 3.

Signed by the Speaker at 10:30 a.m., February 13, 1999: SB 21, SB 55, SB 77.

Signed by the Speaker at 5:55 p.m., February 12, 1999: SB 6, SB 76.

Signed by the Speaker at 9:00 a.m., February 13, 1999: SB 62.

Signed by the President at 9:30 a.m., February 13, 1999: SB 11, SJR 2.

BUSINESS AND INDUSTRY (Hertel, Chairman): 2/12/1999

SB 123, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "A NEW"

Insert: "YEARLY"

Strike: "FEE"

Insert: "FEES"

2. Title, page 1, line 6.

Strike: "A PERSON"

Insert: "PERSONS"

3. Page 1, line 12.

Following: "term"

Insert: ", renewal,"

4. Page 1, line 13.

Following: "year."

Insert: "A license is renewable in accordance with procedures established in rules adopted pursuant to [section 2 of Senate Bill No. 126] and upon receipt of the application provided for in subsection (2)."

5. Page 1, following line 14.

Insert: "(2) An application for renewal of a license must be made on a form provided by the department. The

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application must contain:

- (a) the full name and address of the licensee;
- (b) a list of counties in which business is to be conducted during the renewal term;
- (c) a list of disposal sites that the licensee intends to use during the renewal term;
- (d) for each disposal site listed pursuant to subsection (2)(c), but not previously listed by the licensee for the year immediately preceding the renewal year:
 - (i) a certification by the local health officer or the local health officer's representative in the county in which the site is located that the site meets all applicable state and local requirements; and
 - (ii) written permission to use the site signed by the owner, manager, or other person authorized to give permission to use the site; and
- (e) any additional information required by the department by rule."

Renumber: subsequent subsections

6. Page 1, line 15.

Following: "a"

Insert: "yearly"

Following: "license"

Insert: ", including renewal of a license,"

7. Page 1, line 16.

Following: "license"

Insert: "or renewal"

8. Page 1, line 19.

Strike: "20%"

Insert: "40%"

9. Page 1, line 23.

Strike: "(2)"

Insert: "(3)"

10. Page 1, line 24.

Following: "license"

Strike: "renewal"

11. Page 1, line 24 through line 25.

Following: "renewal fee" on line 24

Strike: "prior" on line 24 through "license" on line 25

Insert: "between January 31 and April 1 of a renewal year"

12. Page 1, line 26.

Strike: "licensing"

Insert: "renewal"

13. Page 1, line 27.

Following: "."

Insert: "The late fee is the exclusive remedy for the late payment of a renewal fee."

14. Page 2, line 3.

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Following: "establishing"
Strike: "a new"
Insert: "yearly"
Strike: "fee"
Insert: "fees"
Strike: "a person"
Insert: "persons"

15. Page 2, line 5.
Following: "establishing"
Strike: "a new"
Insert: "yearly"
Strike: "fee"
Insert: "fees"
Strike: "a person"
Insert: "persons"

And, as amended, do pass. Report adopted.

SB 125, introduced bill, be amended as follows:

1. Title, page 1, line 5.
Following: "LATE"
Insert: "RENEWAL"

2. Page 1, line 14.
Following: "term"
Insert: ", renewal,"

3. Page 1, line 15.
Following: "year."
Insert: "A license is renewable in accordance with procedures established in rules adopted pursuant to [section 2 of Senate Bill No. 126] and upon receipt of the application provided for in subsection (2)."

4. Page 1, following line 16.
Insert: "(2) An application for renewal of a license must be made on a form provided by the department. The application must contain:
(a) the full name and address of the licensee;
(b) a list of counties in which business is to be conducted during the renewal term;
(c) a list of disposal sites that the licensee intends to use during the renewal term;
(d) for each disposal site listed pursuant to subsection (2)(c), but not previously listed by the licensee for the year immediately preceding the renewal year:
(i) a certification by the local health officer or the local health officer's representative in the county in which the site is located that the site meets all applicable state and local requirements; and
(ii) written permission to use the site signed by the owner, manager, or other person authorized to give permission to use the site; and
(e) any additional information required by the department by rule."

Renumber: subsequent subsections

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5. Page 1, line 17.

Following: "license"

Insert: ", including renewal of a license,"

6. Page 1, line 18.

Following: "license"

Insert: "or renewal"

7. Page 1, line 21.

Strike: "20% "

Insert: "40% "

8. Page 1, line 25.

Strike: "(2)"

Insert: "(3)"

9. Page 1, line 26.

Following: "license"

Strike: "renewal"

10. Page 1, line 26 through line 27.

Following: "renewal fee" on line 26

Strike: "prior" on line 26 through "license" on line 27

Insert: "between January 31 and April 1 of a renewal year"

11. Page 1, line 28.

Strike: "licensing"

Insert: "renewal"

12. Page 1, line 29.

Following: "."

Insert: "The late fee is the exclusive remedy for the late payment of a renewal fee."

13. Page 2, lines 5 through line 8.

Strike: "new"

Insert: "septic disposal"

Following: "late"

Insert: "renewal"

Following: "\$125"

Strike: remainder of line 5 through "license" on line 8

14. Page 2, lines 9 through line 12.

Strike: "new"

Insert: "septic disposal"

Following: "late"

Insert: "renewal"

Following: "\$125"

Strike: remainder of line 9 through "license" on line 12

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And, as amended, do pass. Report adopted.

SB 126, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: "LICENSE"

Insert: " AND LICENSE RENEWAL "

2. Page 2, line 7.

Strike: "The"

Insert: "Except as provided in subsection (4), the"

3. Page 2, line 23.

Strike: "and"

4. Page 2, line 24.

Following: "site"

Strike: ". "

Insert: "; and

(d) requirements for the disposal of waste from:

(i) cesspools, septic tanks, portable toilets, and other similar treatment works that receive industrial wastewater or grease removed from grease traps; and

(ii) grease traps.

(4) The department may not adopt rules pertaining to the business operations of persons engaged in the business of cleaning cesspools, septic tanks, and privies or disposing of septage, including the fees charged for cleaning or leasing portable toilets."

5. Page 2, line 29 through line 30.

Following: "removed" on line 29

Strike: "is" on line 29 through "contract to" on line 30

Insert: "may"

6. Page 2, line 30.

Following: "on that"

Insert: "person's"

Following: "if"

Insert: ": (a) the person pumps the septage with the person's equipment or retains a person licensed pursuant to the provisions of subsection (1) to pump the septage; and (b)"

7. Page 3, line 7.

Following: "conducted"

Insert: "and a list of disposal sites that the applicant intends to use during the permit year"

8. Page 3, line 8.

Following: "(3)"

Insert: "for each disposal site listed pursuant to subsection (2), a"

9. Page 3, line 9 through line 10.

Strike: "each" on line 9 through "meet" on line 10

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Insert: "the county in which the disposal site is located that the site meets"

10. Page 3, line 10.

Following: " ; "

Strike: "and"

Insert: "(4) written permission to use each proposed disposal site signed by the owner, manager, or other person authorized to give permission to use the disposal site; and"

ReNUMBER: subsequent subsection

11. Page 3, line 13.

Following: "term"

Insert: ", renewal,"

12. Page 3, line 14.

Following: "year."

Insert: "A license is renewable in accordance with procedures established in rules adopted pursuant to [section 2] and upon receipt of the application provided for in subsection (2) of this section."

13. Page 3, following line 15.

Insert: "(2) An application for renewal of a license must be made on a form provided by the department. The application must contain:

(a) the full name and address of the licensee;

(b) a list of counties in which business is to be conducted during the renewal term;

(c) a list of disposal sites that the licensee intends to use during the renewal term;

(d) for each disposal site listed pursuant to subsection (2)(c) but not previously listed by the licensee for the year immediately preceding the renewal year:

(i) a certification by the local health officer or the local health officer's representative in the county in which the disposal site is located that the site meets all applicable state and local requirements; and

(ii) written permission to use the site signed by the owner, manager, or other person authorized to give permission to use the site; and

(e) any additional information required by the department by rule."

ReNUMBER: subsequent subsections

14. Page 3, line 16.

Following: "license"

Insert: ", including renewal of a license,"

15. Page 3, line 17.

Following: "license"

Insert: "or renewal"

16. Page 3, line 20.

Strike: "20%"

Insert: "40%"

17. Page 3, line 23.

Strike: "(2)"

Insert: "(3)"

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18. Page 3, line 24.

Following: "license"

Strike: "renewal"

19. Page 3, line 24 through line 25.

Strike: "prior" on line 24 through "license" on line 25

Insert: "between January 31 and April 1 of a renewal year"

20. Page 3, line 25.

Strike: "licensing"

Insert: "renewal"

21. Page 3, line 26.

Following: ". "

Insert: "The late fee is the exclusive remedy for the late payment of a renewal fee."

And, as amended, do pass. Report adopted.

JUDICIARY (Grosfield, Chairman):

2/12/1999

SB 303, introduced bill, be amended as follows:

1. Page 2, line 29.

Following: line 28

Insert: "(b) The discount factor for a hospital formed by the merger of two or more existing hospitals is computed by using the weighted average of the discount factors in effect at the time of the merger."

Renumber: subsequent subsections

2. Page 2, line 29.

Strike: "(3)(f)"

Insert: "(3)(g)"

3. Page 4, line 7.

Insert: "(9)(a) For medical benefit payments made pursuant to this section, the insurer shall pay reasonable costs and attorney fees as established by the workers' compensation court if:

(i) the insurer denies liability for a claim for medical benefits or terminates medical benefits and the medical benefits are later adjudged compensable by the workers' compensation court;

(ii) the insurer denies liability for a claim for medical benefits or terminates medical benefits and the medical benefits are later settled less than 60 days prior to the scheduled date of hearing before the workers' compensation court; or

(iii) the insurer pays or submits a written offer of payment of medical benefits under chapter 71 or 72 of this title and the controversy relates to the amount of benefits due, the case is brought before the workers' compensation judge for adjudication of the controversy, and the award granted by the judge is greater than the amount paid or offered by the insurer. (b) A written offer of payment made 60 days or more before the date of hearing must be considered a valid offer of payment for the purposes of this section."

And, as amended, do pass. Report adopted.

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LEGISLATIVE ADMINISTRATION (Beck, Chairman):

2/13/1999

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 5:00 p.m., Saturday, February 13, 1999:

<u>TITLE</u>	<u>NAME</u>
Pages:	Tucker Kalberg Shana Berry Ryan Heimbuch Clancy Casey Carius Steward Corey Shott Abby Sather Kelly Seilstad

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 15, 1999:

<u>TITLE</u>	<u>NAME</u>
Pages:	Jason Bryhn, Glendive, MT Kimberly Hargrove, Bozeman, MT Casey Hollern, Great Falls, MT Merrill McKamey, Great Falls, MT Michael Mesaros, Cascade, MT Michael More, Cut Bank, MT Solomon Redfern, Missoula, MT Ben Springer, Missoula, MT

Report Adopted.

MESSAGES FROM THE GOVERNOR

February 11, 1999

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

Dear Senator Crippen:

Please be informed that I have signed **Senate Bill 7** sponsored by Senator R. Jabs, **Senate Bill 17** sponsored by Senator E. Franklin, **Senate Bill 26** sponsored by Senator D. Hargrove, et al and **Senate Bill 50** sponsored by Senator C. Swysgood on February 11, 1999.

Sincerely,

MARC RACICOT

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Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/12/1999

HB 248, introduced by D. Harrington

HB 269, introduced by B. Molnar

HB 340, introduced by S. Anderson

HB 374, introduced by J. Hurdle

HB 396, introduced by G. Masolo

MOTIONS

SB 467 - Senator Bartlett moved that SB 467 be taken from the committee on Labor and Employment Relations and rereferred to the committee on Public Health, Welfare and Safety. Motion carried.

SB 387 - Senator Doherty moved that the Senate pass consideration on SB 387 on second reading this legislative day because of Senator Wilson's excused absence. Motion carried.

SB 240 - Senator Harp moved that SB 240, on second reading this day, be placed below SB 243 on the second reading board for purpose of amendments. Motion carried.

HB 85 - Senator Christiaens moved that the Senate pass consideration on HB 85 until the 37th legislative day, February 15, 1999. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 471, introduced by M. Cole, referred to State Administration.

SB 472, introduced by J. Wells, M. Brainard, R. Clark, referred to Judiciary.

SB 473, introduced by S. Doherty, referred to Judiciary.

SB 474, introduced by A. Bishop, referred to Fish and Game.

SB 475, introduced by A. Bishop, referred to Highways and Transportation.

SB 476, introduced by A. Bishop, referred to Judiciary.

SB 477, introduced by D. Mahlum, R. Buzzas, T. Dell, B. DePratu, R. Erickson, G. Gutsche, S. Kitzenberg, L. McCulloch, M. Taylor, F. Thomas, referred to Judiciary.

SB 478, introduced by C. Christiaens, A. Bishop, P. Clark, E. Franklin, D. Hargrove, B. Lawson, G. Matthews, K. Mesaros, C. Tuss, B. Wilson, D. Wyatt, referred to Public Health, Welfare and Safety.

SB 479, introduced by E. Franklin, S. Bartlett, T. Beck, S. Doherty, J. Ellingson, T. Facey, M. Guggenheim, D. Harrington, C. Juneau, J. Lynch, L. McCulloch, C. Squires, B. Wilson, referred to Labor and Employment Relations.

SB 480, introduced by E. Franklin, referred to Public Health, Welfare and Safety.

SB 481, introduced by F. Thomas, J. Shockley, referred to Judiciary.

SB 482, introduced by K. Mesaros, referred to Business and Industry.

SB 483, introduced by K. Mesaros, referred to Business and Industry.

SB 484, introduced by K. Mesaros, referred to Business and Industry.

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SB 485, introduced by K. Mesaros, referred to Business and Industry.
SB 486, introduced by M. Halligan, J. Bohlinger, referred to Judiciary.
SB 487, introduced by G. Roush, R. Brown, P. Ekegren, D. Hedges, J. Holden, T. Keating, referred to Taxation.
SB 488, introduced by S. Bartlett, referred to State Administration.
SB 489, introduced by J. Bohlinger, G. Gutsche, referred to Public Health, Welfare and Safety.
SB 490, introduced by B. Glaser, referred to Highways and Transportation.
SB 491, introduced by D. Grimes, referred to Public Health, Welfare and Safety.

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

SJR 11, introduced by G. Jergeson, T. Beck, G. Devlin, P. Ekegren, M. Halligan, R. Holden, R. Jabs, W. McNutt, K. Mesaros, L. Nelson, J. Tester, referred to Agriculture, Livestock and Irrigation.

Senator Grimes present at this time.

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 199 passed as follows:

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

Total 42

Nays: Keenan, Mohl, Swysgood, Taylor.

Total 4

Paired: Stang, Aye; Swysgood, No.

Absent or not voting: None.

Total 0

Excused: Ellis, Jergeson, Miller, Wilson.

Total 4

SB 239 passed as follows:

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

Total 45

Nays: Wells.

Total 1

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Paired: Jergeson, Aye; Wells, No.

Absent or not voting: None.

Total 0

Excused: Ellis, Miller, Stang, Wilson.

Total 4

SB 260 passed as follows:

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

Total 42

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

Total 8

Paired: Ellis, Miller, Nelson, Stang, Wells, Ayes; Eck, Ellingson, Halligan, Jergeson, Wilson, Noes.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 292 passed as follows:

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

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Ellis, Jergeson, Miller, Stang, Wilson.

Total 5

SB 294 passed as follows:

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

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

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Ellis, Jergeson, Miller, Stang, Wilson.

Total 5

SB 321 passed as follows:

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

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Ellis, Jergeson, Miller, Stang, Wilson.

Total 5

SB 327 passed as follows:

Yeas: Bartlett, Beck, Berry, Bohlinger, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Franklin, Glaser, Grimes, Grosfield, Halligan, Harp, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Nelson, Roush, Shea, Swysgood, Taylor, Tester, Waterman, Mr. President.

Total 37

Nays: Bishop, Christiaens, Hargrove, Hertel, Miller, Mohl, Sprague, Thomas, Toews, Wells.

Total 10

Paired: Doherty, Jergeson, Ayes; Miller, Wells, Noes.

Absent or not voting: None.

Total 0

Excused: Ellis, Stang, Wilson.

Total 3

SB 347 passed as follows:

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

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Ellis, Jergeson, Miller, Stang, Wilson.

Total 5

SPECIAL ORDERS OF THE DAY

A group of more than 50 Eagle Scouts from various towns in Montana were introduced to the Senate by Chief Justice John C. Harrison.

**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 Bishop in the chair.

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

SB 356 - Senator A. Mohl moved SB 356, second reading copy, be amended as follows :

1. Title, lines 6 and 7.

Strike: "REQUIRING" on line 6 through "CONTRACTOR;" on line 7

2. Page 1.

Following: line 26

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

Amendment **adopted** as follows:

Yeas: Bartlett, Beck, Bishop, Christiaens, Cocchiarella, Crismore, Doherty, Eck, Ellingson, Franklin, Glaser, Grosfield, Halligan, Hertel, Holden, Jabs, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Nelson, Roush, Shea, Sprague, Tester, Waterman.

Total 27

Nays: Berry, Bohlinger, Cole, DePratu, Devlin, Ekegren, Grimes, Hargrove, Harp, Keating, Keenan, Mohl, Swysgood, Taylor, Thomas, Toews, Wells, Mr. President.

Total 18

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Absent or not voting: None.
Total 0

Excused: Ellis, Jergeson, Miller, Stang, Wilson.
Total 5

SB 356 - Senator A. Mohl moved SB 356, as amended, do pass. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Eck, Ekegren, Ellingson, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Jabs, Keating, Keenan, Mahlum, McCarthy, McNutt, Mohl, Nelson, Roush, Shea, Sprague, Swysgood, Taylor, Tester, Thomas, Waterman, Wells, Mr. President.
Total 39

Nays: Devlin, Hertel, Holden, Lynch, Mesaros, Toews.
Total 6

Absent or not voting: None.
Total 0

Excused: Ellis, Jergeson, Miller, Stang, Wilson.
Total 5

SB 331 - Senator D. Shea moved SB 331, second reading copy, be amended as follows:

1. Title, line 7.
Following: "61-4-222,"
Insert: "AND"
Strike: "AND 61-4-501,"

2. Page 12, line 25 through page 13, line 22.
Strike: section 10 in its entirety
Renumber: subsequent section

Amendment **adopted** unanimously.

SB 331 - Senator D. Shea moved SB 331, as amended, do pass. Motion carried unanimously.

SB 16 - Senator B. Keenan moved SB 16 do pass. Motion carried with Senator Doherty voting nay.

SB 137 - Senator E. Franklin moved SB 137 do pass. Motion carried unanimously.

SB 139 - Senator E. Franklin moved SB 139 do pass. Motion carried unanimously.

SB 243 - Senator F. Thomas moved SB 243 do pass. Motion carried with Senators Swysgood and Waterman voting nay.

SB 240 - Senator D. Grimes requested that SB 240 be placed below SB 250. Request granted.

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SB 250 - Senator S. Bartlett moved SB 250 do pass. Motion carried unanimously.

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

1. Page 1.

Strike: "Committee of the Whole Amendment #351137CW"

Amendment **adopted** unanimously.

SB 240 - Senator D. Grimes moved SB 240, second reading copy, be further amended as follows:

1. Title, lines 4 and 5.

Following: "REQUIRING"

Strike: remainder of line 4 through "ANOTHER" on line 5

Insert: "A"

Following: "GOVERNMENT ENTITY"

Strike: "OR A PRIVATE BUSINESS ENTITY"

2. Title, lines 7 and 8.

Following: "TO" on line 7

Strike: remainder of line 7 through the first "THE" on line 8

Insert: "PAY"

Strike: "TO BE PAID"

3. Page 2, line 28.

Following: "subcontractors."

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

4. Page 3, lines 11 through 24.

Strike: section 3 in its entirety

Renumber: subsequent sections

5. Page 3, line 30.

Strike: "(1)"

6. Page 4, lines 3 and 4.

Strike: subsection (2) in its entirety

Amendment **adopted** unanimously.

SB 240 - Senator D. Grimes moved SB 240, as amended, do pass. Motion carried unanimously.

SB 266 - Senator J. Lynch moved SB 266 do pass. Motion carried unanimously.

SB 267 - Senator J. Lynch moved SB 267 do pass. Motion carried unanimously.

SB 268 - Senator J. Lynch moved SB 268 do pass. Motion carried unanimously.

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SB 305 - Senator F. Thomas moved SB 305 do pass. Motion carried as follows:

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

Total 29

Nays: Bartlett, Christiaens, Cocchiarella, Doherty, Eck, Ellingson, Franklin, Halligan, Harp, Lynch, McCarthy, Nelson, Roush, Shea, Sprague, Waterman.

Total 16

Absent or not voting: None.

Total 0

Excused: Ellis, Jergeson, Miller, Stang, Wilson.

Total 5

SB 330 - Senator A. Mohl moved SB 330 do pass. Motion carried with Senators Bartlett and Waterman voting nay.

SB 333 - Senator C. Swysgood moved SB 333 do pass. Motion carried unanimously.

SB 346 - Senator D. Hargrove moved SB 346 do pass. Motion carried with Senator Toews voting nay.

SB 396 - Senator S. Bartlett moved SB 396 do pass. Motion carried unanimously.

HB 66 - Senator F. Thomas moved HB 66 be concurred in. Motion carried unanimously.

HB 82 - Senator D. Eck moved HB 82 be concurred in. Motion carried unanimously.

HB 137 - Senator J. Harp moved that consideration of HB 137 be passed for the day due to Senator Ellis's excused absence. Motion carried.

HB 138 - Senator B. Glaser moved HB 138 be concurred in. Motion carried unanimously.

HB 197 - Senator F. Thomas moved consideration of HB 197 be passed for the day. Motion carried.

HB 139 - Senator B. Glaser moved HB 139 be concurred in. Motion carried unanimously.

HB 175 - Senator J. Tester moved HB 175 be concurred in. Motion carried unanimously.

HB 194 - Senator F. Thomas moved HB 194 be concurred in. Motion carried unanimously.

HB 93 - Senator J. Lynch moved HB 93 be concurred in. Motion carried unanimously.

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

ANNOUNCEMENTS

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Committee meetings were announced by committee chairmen.

Majority Leader Harp moved that the Senate adjourn until 1:00 p.m., Monday, February 15, 1999. Motion carried.

Senate adjourned at 12:08 p.m.

ROSANA SKELTON
Secretary of Senate

BRUCE CRIPPEN
President of the Senate