

**SENATE JOURNAL
63RD LEGISLATURE
THIRTY-SECOND LEGISLATIVE DAY**

Helena, Montana
February 13, 2013

Senate Chambers
State Capitol

Senate convened at 1:01 p.m. President Essmann presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Jent, Priest and Vuckovich, excused. Quorum present.

BILLS AND JOURNALS (Buttrey, Chair): 2/13/2013

Correctly printed: **SB 9, SB 106, SB 149, SB 153, SB 171, SB 225, SB 292, SB 293, SB 294, SB 295, SB 296, SB 297, SJR 13, HB 40, HB 52, HB 148.**

Correctly engrossed: **SB 209.**

Correctly enrolled: **SB 111.**

Examined by the sponsor and found to be correct: **SB 111.**

Transmitted to the House: **SB 86, SB 179, SB 202, SB 211, HB 32, HB 55, HB 60, HB 111.**

Signed by the Secretary of the Senate at 3:00 p.m., February 12, 2013: **SB 15, SB 16, SB 30, SB 32, SB 39, SB 52, SB 60, SB 72, SB 87, SB 121.**

Signed by the President at 4:38 p.m., February 12, 2013: **SB 15, SB 16, SB 30, SB 32, SB 39, SB 52, SB 60, SB 72, SB 87, SB 121.**

Signed by the Speaker at 8:40 a.m., February 13, 2013: **SB 15, SB 16, SB 30, SB 32, SB 39, SB 52, SB 60, SB 72, SB 87, SB 121.**

Delivered to the Governor for approval at 9:45 a.m., February 13, 2013: **SB 15, SB 16, SB 30, SB 32, SB 39, SB 52, SB 60, SB 72, SB 87, SB 121.**

President Essmann reviewed rules related to disclosures of conflicts of interest.

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Brown, Chair): 2/12/2013

SB 252, do pass. Report adopted.

HB 114, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Sonju, Chair): 2/12/2013

SB 139, introduced bill, be amended as follows:

1. Page 1, line 14.

Following: "businesses"

Insert: "and if subsection (4) does not apply"

2. Page 1.

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Following: line 24

Insert: "(4) An agency is not required to prepare a separate small business impact analysis under this section if the agency pursuant to 2-4-405 is preparing or has prepared an economic impact statement regarding adoption, amendment, or repeal of a rule."

And, as amended, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Sonju, Chair): 2/13/2013
HB 63, be concurred in. Report adopted.

FINANCE AND CLAIMS (Ripley, Chair): 2/12/2013
SB 58, introduced bill, be amended as follows:

1. Page 1, line 26.

Following: "transfer."

Strike: "There is transferred \$10"

Insert: "The department of administration shall transfer \$1"

And, as amended, do pass. Report adopted.

SB 114, do pass. Report adopted.
SB 192, introduced bill, be amended as follows:

1. Page 1, line 25.

Strike: "audit committee"

Insert: "fiscal division, in electronic form,"

2. Page 1, line 27.

Following: "number of"

Insert: "vacant"

3. Page 1, line 28.

Following: "number of"

Strike: "vacancies"

Insert: "positions in which a vacancy was"

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Arntzen, Chair): 2/12/2013
SB 166, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "FIREFIGHTERS;"

Insert: "REQUIRING THE ATTORNEY GENERAL TO ASSIST IN IMPLEMENTING THE FEE WAIVER FOR PURPLE HEART-TYPE AWARDS AND TO PROVIDE GUIDANCE TO

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PUBLIC SAFETY OFFICER'S OR FIREFIGHTER'S ORGANIZATIONS; PROVIDING
RULEMAKING AUTHORITY;"

2. Title, page 1, line 6.

Strike: "A DELAYED"

Insert: "AN"

3. Page 1, line 11.

Following: "definitions"

Insert: "-- rules"

4. Page 1, line 16.

Strike: "the"

Insert: "a"

Strike: "heart"

Insert: "heart-type award,"

5. Page 1.

Following: line 29

Insert: "(d) "Purple heart-type award" means an award that is similar to the purple heart medal awarded by the armed forces and that is issued by a recognized public safety officer's or firefighter's organization to any public safety officer or firefighter who is disabled as a result of a duty-connected injury."

ReNUMBER: subsequent subsection

6. Page 1, line 30.

Following: "means"

Insert: "the employer or governing body that employs a public safety officer or firefighter and"

7. Page 2.

Following: line 2

Insert: "(4) The attorney general shall:

(a) adopt rules to implement the provisions of this section, including describing:

(i) the types of duty-connected injuries that may be considered when determining eligibility for a purple heart-type award; and

(ii) the type of recognized public safety officer's or firefighter's organization that the attorney general may designate as an organization that represents and is dedicated to honoring the service of public safety officers or firefighters; and

(b) maintain and make readily available lists of the types of duty-connected injuries described in subsection (4)(a) and the recognized public safety officer's and firefighter's organizations designated by the attorney general; and

(c) assist public safety officer's and firefighter's organizations in designing criteria or programs for purple heart-type awards."

8. Page 6, line 4.

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Strike: "January 1, 2014"

Insert: "July 1, 2013"

And, as amended, do pass. Report adopted.

HB 155, be concurred in. Report adopted.

JUDICIARY (Murphy, Chair):

2/13/2013

SB 189, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Following: "DATE"

Strike: "AND A RETROACTIVE APPLICABILITY DATE"

2. Page 4, line 4 through line 7.

Strike: section 3 in its entirety

And, as amended, do pass. Report adopted.

SB 195, introduced bill, be amended as follows:

1. Title, page 1, lines 4 and 5.

Following: "PRIVATE" on line 4

Insert: "ELECTRONIC"

Following: "INFORMATION" on line 4

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

Insert: "OF JOB APPLICANTS AND EMPLOYEES"

2. Page 1, lines 5 and 6.

Following: "MEDIA" on line 5

Insert: "AND E-MAIL"

Following: "ACCOUNTS" on line 5

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

3. Page 1, line 6 and 7.

Strike: "DEFINITIONS" on line 6 through EXCEPTIONS on line 7

Insert: " A DEFINITION"

4. Page 1, line 9 through page 3, line 8.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Employer access to applicant or employee social media. (1) An employer may not require or request an employee or applicant for employment to:

(a) disclose a user name or password for the purpose of allowing the employer to access personal social media;

(b) access personal social media in the presence of the employer; or

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(c) divulge any personal social media or information contained on personal social media.

(2) Nothing in this section precludes an employer from requiring or requesting an employee to disclose a user name, password, or other information for the purpose of accessing an employer-issued electronic device, including but not limited to cell phones, computers, or tablet computers.

(3) An employer may not discharge, discipline, threaten to discharge or discipline, or otherwise retaliate against an employee or applicant for not complying with a request or demand by the employer that violates this section.

(4) As used in this section, "personal social media" means a password-protected electronic service or account or electronic content, including but not limited to videos, still photographs, blogs, video blogs, podcasts, instant and text messages, e-mail, online services or accounts, or internet website profiles or locations."

Insert: "NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 39, chapter 2, part 3, and the provisions of Title 39, chapter 2, part 3, apply to [section 1]."

And, as amended, do pass. Report adopted.

SB 238, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate: 2/12/2013

SB 111, introduced by Rosendale

House bills passed and transmitted to the Senate for concurrence: 2/12/2013

HB 100, introduced by Ehli

HB 146, introduced by Hansen

HB 147, introduced by Redfield

HB 247, introduced by Lavin

HB 278, introduced by Washburn

FIRST READING AND COMMITMENT OF BILLS

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

SB 298, introduced by Windy Boy, Brockie, Caferro, Dudik, Hamlett, Pease-Lopez, referred to Public Health, Welfare and Safety.

SB 299, introduced by F. Moore, referred to Judiciary.

SB 300, introduced by F. Moore, Arthun, Debby Barrett, Berry, Boulanger, Brenden, D. Brown, T. Brown, Clark, Connell, Doane, Flynn, Galt, Glimm, Halvorson, Hamlett, Harris, Howard, L. Jones, Knudsen, Larsen, Lenz, McChesney, Murphy, Olson, Osmundson, Peterson, Randall, Redfield, Ripley, Rosendale, Salomon, Taylor, Thomas, Vincent, Webb, Welborn, referred to Agriculture,

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Livestock and Irrigation.

SB 301, introduced by Murphy, T. Brown, Kary, Peterson, Shaw, Welborn, referred to Agriculture, Livestock and Irrigation.

SB 302, introduced by Arntzen, referred to Education and Cultural Resources.

SB 303, introduced by Wittich, referred to Taxation.

SB 304, introduced by Webb, Ballance, G. Bennett, Blasdel, Blyton, Boulanger, Clark, Connell, Doane, Edmunds, Ehli, Fielder, Fiscus, Flynn, Glimm, Greef, Hagan, Halvorson, Jackson, Kary, Kerns, Knudsen, Lenz, McChesney, Miller, Murphy, O'Neil, Randall, Redfield, Reichner, Ripley, Schwaderer, Shaw, C. Smith, Sonju, Taylor, Thomas, Vance, Washburn, Webb, Welborn, White, Wittich, Zolnikov, referred to Judiciary.

SB 305, introduced by Peterson, referred to Fish and Game.

SB 306, introduced by Olson, Kaufmann, Larsen, referred to Judiciary.

SB 307, introduced by Jergeson, referred to Taxation.

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

SJR 14, introduced by Olson, Wittich, referred to Local Government.

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

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

Senator Vuckovich present at this time.

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

SB 196 - Senator Rosendale moved **SB 196** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Dick, Blewett, Boulanger, D. Brown, Caferro, Driscoll, Facey, Fielder, Hamlett, Jergeson, Larsen, Moore, Murphy, Rosendale, Sales, Sonju, Stewart-Peregoy, Taylor, Van Dyk, Vincent, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 29

Nays: Barrett Debby, Brenden, T. Brown, Buttrey, Jackson, Jones, Kaufmann, Keane, Lewis, Malek, Olson, Peterson, Phillips, Ripley, Sesso, Thomas, Tropila, Tutvedt, Vuckovich.

Total 19

Absent or not voting: None.

Total 0

Excused: Jent, Priest.

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Total 2

SB 201 - Senator Hamlett moved **SB 201** do pass.

SB 201 - Senator Hamlett moved **SB 201**, second reading copy, be amended as follows:

1. Title, page 1, line 8.

Following: "RISK"

Insert: "AND INTENSITY"

2. Page 2, line 24.

Strike: "cooperative"

Insert: "cooperating and coordinating"

Following: "management"

Insert: "and education"

3. Page 2, line 25.

Following: "risk"

Insert: "and intensity"

4. Page 2, line 26.

Following: "risk"

Insert: "and intensity"

Amendment adopted as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent, Priest.

Total 2

SB 201 - Senator Hamlett moved **SB 201**, second reading copy, be amended as follows:

1. Page 3, line 7 through line 8.

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Strike: "that" on line 7 through "interface" on line 8

Amendment adopted as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 47

Nays: Kaufmann.

Total 1

Absent or not voting: None.

Total 0

Excused: Jent, Priest.

Total 2

SB 201 - Senator Hamlett moved **SB 201**, as amended, do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 47

Nays: Kaufmann.

Total 1

Absent or not voting: None.

Total 0

Excused: Jent, Priest.

Total 2

HB 164 - Senator Blewett moved **HB 164** be concurred in. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

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Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent, Priest.

Total 2

Senator Wittich moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Essmann presiding. Chair Boulanger moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 47

Nays: Sales.

Total 1

Absent or not voting: None.

Total 0

Excused: Jent, Priest.

Total 2

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 171 failed as follows:

Yeas: Augare, Barrett Dick, Blewett, T. Brown, Driscoll, Facey, Fielder, Hamlett, Jergeson, Jones, Kaufmann, Keane, Larsen, Peterson, Phillips, Sesso, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Webb, Windy Boy, Mr. President.

Total 24

Nays: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, Buttrey, Caferro, Jackson, Lewis, Malek, Moore, Murphy, Olson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor,

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Thomas, Tutvedt, Vincent, Walker, Wittich.

Total 25

Paired: Augare, Aye; Priest, No.

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

HB 40 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Sesso, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Webb, Windy Boy, Mr. President.

Total 40

Nays: Boulanger, Brenden, Priest, Rosendale, Sales, Sonju, Vincent, Walker, Wittich.

Total 9

Paired: Augare, Aye; Priest, No.

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

HB 52 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Rosendale, Sesso, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 43

Nays: Boulanger, Priest, Ripley, Sales, Sonju, Walker.

Total 6

Paired: Augare, Aye; Priest, No.

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Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 106 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Mr. President.

Total 43

Nays: Boulanger, Brenden, D. Brown, Sales, Wittich.

Total 5

Absent or not voting: None.

Total 0

Excused: Jent, Priest.

Total 2

Vote reflects vote change on motion on the following legislative day.

SB 225 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Webb, Windy Boy, Mr. President.

Total 43

Nays: Ripley, Sales, Vincent, Walker, Wittich.

Total 5

Absent or not voting: None.

Total 0

Excused: Jent, Priest.

Total 2

SB 9 passed as follows:

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Yeas: Arthun, Augare, Barrett Dick, Blewett, T. Brown, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Kaufmann, Keane, Larsen, Lewis, Malek, Murphy, Peterson, Phillips, Sesso, Stewart-Peregoy, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy, Wittich.

Total 29

Nays: Arntzen, Barrett Debby, Boulanger, Brenden, D. Brown, Buttrey, Jones, Moore, Olson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Vincent, Walker, Webb, Mr. President.

Total 20

Paired: Augare, Aye; Priest, No.

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

HB 148 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 47

Nays: Peterson.

Total 1

Absent or not voting: None.

Total 0

Excused: Jent, Priest.

Total 2

SB 149 passed as follows:

Yeas: Arntzen, Augare, Barrett Debby, Boulanger, Brenden, T. Brown, Buttrey, Driscoll, Facey, Hamlett, Jackson, Jergeson, Jones, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Walker, Webb, Wittich, Mr. President.

Total 36

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Nays: Arthun, Barrett Dick, Blewett, D. Brown, Caferro, Fielder, Kaufmann, Keane,
Stewart-Peregoy, Vuckovich, Wanzenried, Windy Boy.
Total 12

Absent or not voting: None.
Total 0

Excused: Jent, Priest.
Total 2

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Wittich moved that the Senate adjourn until 1:00 p.m., Thursday, February 14, 2013, the thirty-third legislative day. Motion carried.

Senate adjourned at 2:00 p.m.

MARILYN MILLER
Secretary of the Senate

JEFF ESSMANN
President of the Senate