

**HOUSE JOURNAL
57TH LEGISLATURE
THIRTY-SECOND LEGISLATIVE DAY**

Helena, Montana
February 8, 2001

House Chambers
State Capitol

House convened at 1:00 p.m. Mr. Speaker in the Chair. Invocation by Representative Laslovich. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS (Bookout-Reinicke, Chairman): 2/8/2001
Correctly printed: **HB 146, HB 186, HB 292, HB 294, HB 346, HB 368, HB 389, HJR 11, SB 11, SB 30, SB 59, SB 75, SB 112, SB 156, SB 157.**
Correctly engrossed: **HB 156, HB 306.**
Correctly enrolled: **HB 22, HB 50, HB 93, HB 180.**
Examined by the sponsor and found to be correct: **HB 34, HB 36, HB 56.** 2/2/2001
Examined by the sponsor and found to be correct: **HB 24, HB 26, HB 51, HB 91, HB 115, HB 117.** 2/5/2001
Examined by the sponsor and found to be correct: **HB 99, HB 194.** 2/6/2001

EDUCATION (Masolo, Chairman): 2/8/2001
HB 265, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "THE COLLEGES OF TECHNOLOGY"

Insert: "POSTSECONDARY INSTITUTIONS"

2. Title, line 7.

Strike: "COLLEGES OF TECHNOLOGY"

Insert: "POSTSECONDARY INSTITUTIONS"

Strike: "TUITION"

Insert: "FEES"

3. Title, line 8.

Strike: "FROM ANB PAYMENTS"

4. Title, line 8.

Strike: "SECTIONS"

Insert: "SECTION"

Strike: "AND 20-7-301"

5. Page 1, lines 13 and 14.

Strike: "college" on line 13 through "technology" on line 14

Insert: "postsecondary institution"

6. Page 1, line 14.

Following: "credits."

Insert: "(1) As used in this section, "postsecondary institution" means a unit of the Montana university system, a

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public community college, or a tribal college."

Strike: "cooperative"

Renumber: subsequent subsections

7. Page 1, lines 15, 18, and 30.

Strike: "college of technology"

Insert: "postsecondary institution"

8. Page 1, lines 16 and 17.

Strike: "college of technology tuition-free"

Insert: "postsecondary institution at a cost determined by the interlocal agreement"

9. Page 1, line 19.

Following: "paid"

Insert: "to the postsecondary institution"

10. Page 1, line 19 through line 24.

Strike: "from" on line 19 through "credits" on line 24

11. Page 1, line 25.

Strike: "to"

Insert: "by"

12. Page 1, lines 26 and 27.

Strike: the first "by" on line 26 through the first "to" on line 27

Insert: ". The district shall"

13. Page 1, line 27.

Following: "in"

Insert: "the proposed"

Following: "college"

Insert: "coursework"

14. Page 1, lines 28 and 29.

Following: "credits" on line 28

Strike: ", " on line 28 through "credit" on line 29

Insert: "as determined by the interlocal agreement"

15. Page 2, line 1.

Strike: "college"

Insert: "postsecondary institution"

16. Page 2, lines 4 and 5.

Strike: "college" on line 4 through the first "technology" on line 5

Insert: "postsecondary institution"

17. Page 2, line 5.

Strike: "college of technology" in both places

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Insert: "postsecondary institution"

18. Page 2, line 6.

Following: "credits"

Insert: "as determined by the interlocal agreement"

19. Page 4, line 14.

Following: "(26)"

Insert: "consider and may"

20. Page 4, line 14.

Strike: "college of technology"

Insert: "postsecondary institution, as defined in [section 1],"

21. Page 4, line 15.

Strike: "college of technology"

Insert: "postsecondary institution"

22. Page 4, line 20 through page 5, line 15.

Strike: section 3 in its entirety

Insert: "NEW SECTION. Section 3. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the president of each tribal college."

And, as amended, do pass. Report adopted.

HB 353, introduced bill, be amended as follows:

1. Title, lines 5 and 6.

Strike: "REQUIRING" on line 5 through "PROGRAMS;" on line 6

2. Page 1, line 11.

Following: "program"

Strike: "--" through "reports"

3. Page 1, line 13 through line 15.

Strike: "Beginning" on line 13 through "breakfasts" on line 15

Insert: "A school district that wishes to participate in the school breakfast program may apply to the superintendent of public instruction for startup funds to establish the program. If there is more than one school in the district, the trustees shall select the schools to be included in the program"

4. Page 1, line 16.

Strike: "school districts"

Insert: "schools"

5. Page 1, line 17.

Strike: "district"

Insert: "school"

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6. Page 1, line 20 through line 26.

Strike: subsections (3) and (4) in their entirety

7. Page 1, line 29.

Strike: "department" through "services"

Insert: "superintendent of public instruction"

And, as amended, do pass. Report adopted.

HB 358, introduced bill, be amended as follows:

1. Page 2, line 16.

Strike: "prorate" through "reflect"

Insert: "shall fund the budget for"

And, as amended, do pass. Report adopted.

FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS (Curtiss, Chairman):

2/7/2001

HB 167, introduced bill, be amended as follows:

1. Page 2, line 11.

Strike: subsection (A) in its entirety

Renumber: subsequent subsections

2. Page 2, line 15.

Following: ";

Strike: "or"

3. Page 2, line 16.

Strike: ";"

Insert: ";

(F) a community college as provided in Title 20, chapter 15."

And, as amended, do pass. Report adopted.

HUMAN SERVICES (Thomas, Chairman):

2/8/2001

HB 324, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "AN"

Insert: "A REGULAR OR"

2. Title, lines 5 and 6.

Strike: " ANY NUMBER OF"

Insert: "13 OR MORE"

3. Page 1, line 20.

Strike: ";"

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4. Page 1, line 21.

Strike: "(i)"

Following: "regular"

Insert: "or irregular"

Strike: " ; or "

Insert: " . "

5. Page 1, line 22.

Strike: subsection (ii) in its entirety

6. Page 1, line 27.

Strike: "(ii)"

And, as amended, do pass. Report adopted.

HB 456, introduced bill, be amended as follows:

1. Title, line 6.

Following: " ; "

Insert: "PROVIDING AN APPROPRIATION FROM THE INCOME ON THE TOBACCO SETTLEMENT TRUST FUND;"

2. Page 4, following line 8.

Insert: "NEW SECTION. Section 2. Appropriation. There is appropriated, from the income on the tobacco settlement trust fund provided for in Article XII, section 4, of the Montana constitution, to the department of public health and human services \$129,270 in fiscal year 2002 and \$258,540 in fiscal year 2003 for the purposes of matching with federal medicaid money to treat victims of breast and cervical cancer, as provided in [section 1]."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

JUDICIARY (Shockley, Chairman):

2/7/2001

HB 402, do pass. Report adopted.

HB 412, do pass. Report adopted.

TAXATION (Story, Chairman):

2/8/2001

HB 57, introduced bill, be amended as follows:

1. Page 1, line 11.

Strike: "\$1.6"

2. Page 1, line 12.

Strike: "million"

Insert: "\$500,000"

And, as amended, do pass. Report adopted.

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HB 273, do pass. Report adopted.

SB 61, be concurred in. Report adopted.

SB 172, be concurred in. Report adopted.

TRANSPORTATION (Somerville, Chairman):

2/8/2001

HB 33, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "SALE OR"

2. Title, line 7.

Following: "SECTIONS"

Insert: "85-2-122,"

3. Page 1, line 12.

Strike: "sale or"

4. Page 1, line 13.

Strike: "sell or"

5. Page 1, line 15.

Strike: "sale or"

6. Page 1, line 16.

Strike: "buyer or"

7. Page 1, line 19.

Strike: "sale or"

8. Page 1, line 22.

Strike: subsection (g) in its entirety

ReNUMBER: subsequent subsections

9. Page 1, line 24.

Strike: "and"

10. Page 1.

Following: line 24

Insert: "(i) the diversion flow rate and volume of water to be used during the period of use; and"

ReNUMBER: subsequent subsection

11. Page 1, line 28.

Strike: "sale or"

Strike: "40,000"

Insert: "60,000"

12. Page 1, line 29.

Following: "less."

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Insert: "Any combination of short-term leases cannot exceed 120,000 gallons a day for one project."

13. Page 1, line 30.

Strike: "10"

Insert: "2"

14. Page 2, line 1.

Strike: "appropriation"

Insert: "use"

Strike: "buyer or"

15. Page 2, line 2.

Following: "notice"

Insert: "or copies of the individual notice"

Strike: "and"

16. Page 2, line 3.

Strike: "sale or"

17. Page 2, line 3.

Following: "agreement"

Insert: "; and

(c) for a combination of short-term leases greater than 60,000 gallons a day for one project, an analysis by the lessee of any potential adverse effects and a description of planned actions to mitigate any potential adverse effects to appropriators in the area of the proposed point of diversion"

18. Page 2, line 4.

Strike: "buyer or"

19. Page 2, line 6.

Strike: "appropriation"

Insert: "use"

Following: "water"

Insert: "or shall mail individual notice to potentially affected appropriators in the area of the proposed point of diversion"

20. Page 2, line 6.

Following: "The"

Insert: "published notice or the individual"

21. Page 2, line 7.

Following: "(1)(j)"

Insert: "and (3)(c)"

22. Page 2.

Following: line 7

Insert: "(5) (a) The owner of a water right, whether the right is prior or subsequent in priority to the short-term lease acquired by a person under this section, who cannot satisfy in full the owner's right during the time that the

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short-term lessee is diverting water may make a complaint to the department and cause the short-term lessee's diversion to be discontinued.

(b) The diversion is discontinued until the owner's right is satisfied or until the lessee establishes to the department that the discontinuance has had no effect on the owner's water right. Upon establishment that discontinuance has not had an effect, the department shall enter an order allowing the diversion to continue.

(6) If a person purposely, with malicious intent, causes the discontinuance of a short-term diversion through the complaint process provided in subsection (5)(a) and the complaint is found to be invalid and frivolous, the person is, upon conviction, guilty of a misdemeanor and shall be fined in an amount not to exceed \$500."

Renumber: subsequent subsection

23. Page 2, line 8.

Strike: "a prior"

Insert: "an"

24. Page 2.

Following: line 9

Insert: "(8) A civil action instituted to enjoin or seek damages from a person appropriating water pursuant to this section must be commenced against the lessee. The lessor is not a necessary party to a civil action. The lessee has the burden of establishing that the lessee's use does not have an adverse effect on a prior appropriator of water."

25. Page 2.

Following: line 9

"Section 2. Section 85-2-122, MCA, is amended to read:

"85-2-122. Penalties. (1) A person who violates or refuses or neglects to comply with the provisions of this chapter, any order of the department, or any rule of the department is guilty of a misdemeanor.

(2) ~~★ Except as provided in [section 1(6)],~~ a person who violates or refuses or neglects to comply with the provisions of 85-2-114, any order of the department, or any rule of the department is subject to a civil penalty not to exceed \$1,000 per violation. Each day of violation constitutes a separate violation.

(3) Fines collected by the department or a district court under subsection (2) must be deposited in the account established in 85-2-318 for use by the department in the enforcement of 85-2-114."

Renumber: subsequent sections

26. Page 15, line 1.

Strike: "sale or"

27. Page 15, line 5.

Strike: "or [section 1]"

And, as amended, do pass. Report adopted.

HB 401, introduced bill, be amended as follows:

1. Page 1, line 18.

Strike: "unlawfully"

2. Page 2, line 2.

Strike: "any of the following"

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Insert: "vandalism or other unlawful activity"

3. Page 2, lines 3 through 5.

Following: "property" on line 3

Strike: remainder of line 3 through "riding" on line 5

And, as amended, do pass. Report adopted.

HB 432, do pass. Report adopted.

MESSAGES FROM THE SENATE

Senate bills passed and transmitted to the House for concurrence: 2/7/2001

SB 81, introduced by Hargrove

SB 197, introduced by Tester

SB 290, introduced by Franklin

Senate joint resolution passed and transmitted to the House for concurrence: 2/7/2001

SJR 8, introduced by Christiaens

House bills concurred in and returned to the House: 2/7/2001

HB 22, introduced by Lindeen

HB 50, introduced by Juneau

HB 93, introduced by Gillan

HB 180, introduced by Callahan

House bill concurred in as amended and returned to the House for concurrence in Senate amendments: 2/7/2001

HB 40, introduced by Witt

MESSAGES FROM THE GOVERNOR

February 7, 2001

The Honorable Dan McGee
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Representative McGee:

Please be informed that I have signed **House Bill 39** sponsored by Representative Fuchs, **House Bill 52** sponsored by Representative Gallik, and **House Bill 98** sponsored by Representative Lewis on February 7, 2001.

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Sincerely,

JUDY MARTZ
Governor

FIRST READING AND COMMITMENT OF BILLS

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

HB 513, introduced by Fuchs, referred to Natural Resources.

HB 514, introduced by Jent, Stapleton, referred to Business and Labor.

HB 515, introduced by Lehman, Lawson, referred to Business and Labor.

HB 516, introduced by Jent, referred to Appropriations.

HB 517, introduced by Mangan, referred to Business and Labor.

HB 518, introduced by Masolo, referred to State Administration.

HB 519, introduced by Forrester, Cocchiarella, Jacobson, Matthews, Shea, Sliter, Somerville, Sprague, Story, referred to Taxation.

HB 520, introduced by P. Clark, Bohlinger, Bookout-Reinicke, Clancy, Curtiss, Dale, Davies, Elliot, Fuchs, Gallus, Grimes, Kitzenberg, Laszloffy, Lenhart, Mahlum, Matthews, Mood, O'Neil, Rome, Shockley, Sprague, Steinbeisser, Tester, F. Thomas, Wells, referred to Fish, Wildlife and Parks.

HB 521, introduced by Newman, referred to Judiciary.

HB 522, introduced by Gutsche, Cocchiarella, Erickson, Gallus, Golie, Harrington, Hedges, Juneau, Kaufmann, Rome, referred to Transportation.

HB 523, introduced by Whitaker, Berry, Ekegren, Lawson, referred to State Administration.

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

HJR 22, introduced by Curtiss, referred to Federal Relations, Energy, and Telecommunications.

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

Representative Sliter moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Speaker McGee in the chair.

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

HJR 11 - Representative Tropila moved **HJR 11** be adopted. Motion carried as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Davies, Dell, Devlin, Eggers, Erickson, Esp, Facey, Fisher, Forrester, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Hurdle, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laible, Laslovich, Laszloffy, Lawson, Lee, Lehman, Lenhart, Lewis, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Raser, Rice, Ripley, Rome, Schmidt, Schrupf, Shockley, Sliter, Smith, Somerville, Steinbeisser, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Wanzenried, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.

Total 100

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Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Representative Sliter moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Representative Tropila moved the Committee of the Whole report be adopted. Report adopted as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Davies, Dell, Devlin, Eggers, Erickson, Esp, Facey, Fisher, Forrester, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Hurdle, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laible, Laslovich, Laszloffy, Lawson, Lee, Lehman, Lenhart, Lewis, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Raser, Rice, Ripley, Rome, Schmidt, Schrumpf, Shockley, Sliter, Smith, Somerville, Steinbeisser, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Wanzenried, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.
Total 100

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

MOTIONS

Representative Sliter moved that the rules be suspended to place **HJR 11** on third reading today. There being no objections, so ordered.

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:

HB 382 passed as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, Clancy, E. Clark, Dale, Davies, Dell, Devlin, Esp, Fisher, Forrester, Fuchs, Gallik, Gillan, Golie, Haines, Hedges, Himmelberger, Holden, Laible, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Olson, A. Peterson, Price, Raser, Rice, Ripley, Rome, Schrumpf, Shockley,

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Sliter, Smith, Somerville, Steinbeisser, Thomas, Tramelli, Tropila, Vick, Waitschies, Walters, Whitaker, Witt, Wolery, Mr. Speaker.
Total 63

Noes: Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Curtiss, Cyr, Eggers, Erickson, Facey, Fritz, Gallus, Galvin-Halcro, Gutsche, Harris, Hurdle, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laslovich, Lee, Lindeen, Newman, Pattison, K. Peterson, Schmidt, Story, Waddill, Wanzenried, Younkin.
Total 36

Excused: None.
Total 0

Absent or not voting: Noennig.
Total 1

HJR 11 adopted as follows:

Ayes: Adams, Andersen, Bales, Balyeat, Barrett, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, Clancy, E. Clark, P. Clark, Curtiss, Cyr, Dale, Davies, Dell, Devlin, Eggers, Erickson, Esp, Facey, Fisher, Forrester, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Himmelberger, Holden, Hurdle, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Laible, Laslovich, Laszloffy, Lawson, Lee, Lehman, Lenhart, Lewis, Lindeen, Mangan, Masolo, Matthews, McCann, McKenney, Mood, Musgrove, Newman, Noennig, Olson, Pattison, A. Peterson, K. Peterson, Price, Raser, Rice, Ripley, Rome, Schmidt, Schrupf, Shockley, Sliter, Smith, Somerville, Steinbeisser, Story, Thomas, Tramelli, Tropila, Vick, Waddill, Waitschies, Walters, Wanzenried, Whitaker, Witt, Wolery, Younkin, Mr. Speaker.
Total 100

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Representative Sliter moved to proceed to Special Orders of the Day for the purpose of a joint session and that following the joint session, the House adjourn and reconvene at 1:00 p.m. Friday, Legislative Day 33, February 9, 2001. Motion carried.

House recessed at 1:16 p.m.

House reconvened at 1:19 p.m. All members present. Quorum present.

SPECIAL ORDERS OF THE DAY

Sergeant-at-Arms Ahner escorted the Senate into the House Chamber.

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Speaker McGee introduced President Beck and yielded the Chair to him.

Senator Beck moved that the body resolve itself into a joint session for the purpose of receiving the State of Indian Nations Address from the Honorable Earl Old Person, Chairman of the Tribal Council of the Blackfeet Nation. Motion carried.

Senator Thomas moved that President Beck be authorized to appoint a committee of four to notify the tribal leaders that the House was in joint session and ready to receive the State of Indian Nations Address. Motion carried.

President Beck appointed Senators Pease and Taylor and Representatives Brueggeman and Smith and discharged them to escort the Chairman and dignitaries into the House Chamber.

Sergeant-at-Arms Cramer escorted the Chairman of the Tribal Council of the Blackfeet Nation, dignitaries and committee into the House Chamber.

Charles Gopher, a respected elder, cultural and religious leader of the Rocky Boy Tribal Council, gave the Invocation accompanied by the Rocky Boy Singers.

President Beck welcomed and introduced the representatives of the Tribal Nations: Ervin Carlson and Leo Kennerly of the Blackfeet Tribe; Joe McConnell and Ben Speakthunder of the Fort Belknap Tribe; Clifford Birdinground and Larney Little Owl of the Crow Tribe; Geri Small and Hilda Moss of the Northern Cheyenne Tribe; Roxanne Gorneau and Tom Christian of the Fort Peck Tribe; Tim Zimmerman and Toby Whitacker of the Little Shell Tribe; Fredd Matt and Jamie Hamel of the Salish and Kootenai Tribe and Alvin Windy Boy and Jonathan Windy Boy of the Rocky Boy Tribe.

President Beck introduced the Honorable Earl Old Person, respected cultural leader and chairman of the Blackfeet Tribe, who gave the State of Tribal Nations Address after performing two traditional native songs accompanied by the Rawhide Drummers.

President Beck introduced Dr. Henrietta Mann, Chairperson of the Native American Studies Program at MSU, who addressed the joint session.

Charles Gopher, Rocky Boy Singers and the Rawhide Drummers performed the closing ceremony.

The escort committee escorted Chairman Old Person and other dignitaries from the joint session.

Senator Beck moved that the joint session of the 57th legislature be adjourned. Motion carried.

House adjourned at 2:29 p.m.

MARILYN MILLER
Chief Clerk of the House

DAN MCGEE
Speaker of the House