

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 24, 2005

SENATE JOURNAL
59TH LEGISLATURE
EIGHTEENTH LEGISLATIVE DAY

Helena, Montana
January 24, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Grimes and Smith, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/24/2005
Correctly printed: **SB 29, SB 38, SB 42, SB 44, SB 94, SB 105, SB 109, SB 150, SB 182, SB 286, SB 287, SB 288, SB 289, SB 290.**
Correctly engrossed: **SB 46, SB 72, SB 119.**

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman): 1/24/2005
SB 119, introduced bill, be amended as follows:

1. Page 4, line 24.

Following: the first "court"

Strike: remainder of line 24

Insert: "and to the parties. If a party objects to the findings and recommendations, the party may within 10 days serve written objections upon the other party and file them with the court. A request for a hearing upon the objections may be made by a party by motion. The court, after hearing the objections or upon its own motion and without objection, may adopt the findings and recommendations and shall issue an appropriate order."

And, as amended, do pass. Report adopted.

SB 150, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman): 1/24/2005
SB 72, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: ";

Insert: "PROVIDING THAT THE COST OF THE RETIREMENT INCENTIVE BE OFFSET TO THE EXTENT POSSIBLE BY VACANCY SAVINGS;"

2. Page 1, line 19.

Following: "intent."

Insert: "(1)"

3. Page 1, line 21 through line 23.

Strike: "and" on line 21 through "level" on line 23

Following: line 23

Insert: "(2) If personnel vacancies do not occur, retirement costs exceed agency resources, or other contingencies arise in an agency, the office of budget and program planning shall allocate sufficient funds to the agency from the funds appropriated in [section 5(2)] of House Bill No. 13 for the personal services contingency."

4. Page 1, line 25.

Following: "If"

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Insert: "House Bill No. 13 is not passed and approved or if"

5. Page 1, line 26.

Following: the first "No."

Strike: "2"

Insert: "13"

6. Page 1, line 26 through line 28.

Following: "approved" on line 26

Strike: remainder of line 26 through line 28 in its entirety

Insert: "but House Bill No. 13 does not contain an appropriation for the personal services contingency included in [section 5(2)] of House Bill No. 13, first reading copy, then [section 2(2)] of [this act] is void."

And, as amended, do pass. Report adopted.

SB 109, do pass. Report adopted.

SB 182, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/24/2005

HB 43, introduced by Musgrove

HB 56, introduced by Warden

HB 77, introduced by B. Olson

HB 119, introduced by Golie

HB 126, introduced by Mendenhall

HB 135, introduced by D. Brown

HB 144, introduced by Kaufmann

HB 226, introduced by McAlpin

HB 142, introduced by Ripley, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

1/24/2005

Yeas - 91

Nays - 3

MOTIONS

Senator Squires introduced the new pages by reading the following remarks:

"Katie Baldwin:

Katie is a senior at Bozeman High School and is sponsored by Senator Hawks. She is the president of National Honors Society; she plays the cello with the school Orchestra, and is involved in Leo Club and German Club. Katie has participated in Model UN and is working with a team of 15 girls from across the nation planning a federally sponsored International Girls Summit focusing on the improvement of female education and AIDS prevention. In her spare time she loves to ski, hike, backpack and travel."

"Chelsea Bissell:

Chelsea is a senior at Bozeman High School and is sponsored by Senator Hawks. She participates in track, tennis, Model UN, Latin Club, French Club, and Amnesty International. She enjoys traveling most. She has spent time in France, and recently participated in the Governor's Exchange Program to Japan."

"Molly Meyer:

Senator Cooney sponsors Molly. She is a senior at Helena High School. She plans on going into Elementary Education. She is involved in Big Brothers and Big Sisters, and is the Student Body Vice President. She is also on the girl's soccer team."

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"Hannah Gilbert:

Hannah is sponsored by Senator Toole. She is a junior at Capital High School. She has a two-year-old brother with whom she enjoys spending her spare time. She is involved in Model UN, Student Council, Youth Legislature and Respect Club. After high school Hannah would like to study Political Science."

"Caitlin Watson:

Caitlin is sponsored by Senator Larson. She is a senior at Forsyth High School. She is in FCCLA, Matadors and 4-H. She is also a teacher's aide for a local 1st grade and kindergarten. After high school she would like to major in education."

"Erik Emery:

Erik is sponsored by Senator Curtiss and is a junior in home schooling. He was a camp counselor for 2 weeks; he helped raise money for World Vision to help feed starving children. He is an avid skier and helps with the Dream program on Big Mountain."

"Breanna Hughes:

Breanna is sponsored by Senator Keenan and is a sophomore at Big Fork High School. Her activities include volleyball, tennis, and she is very involved with her youth group. She loves to hike, cross-country ski, and laugh with her friends. After high school Breanna would like to go to Carroll College and study political science."

"Amanda Siloti:

Senator Keenan sponsors Amanda. She attends Big Fork High School. She is a volunteer for Habitat for Humanity, and is involved with Upward Bound. She enjoys reading and cooking. This summer she plans on traveling throughout Europe."

Majority Leader Ellingson moved SB 86 be passed for the day and moved further, that it be placed on 2nd reading for consideration on the 19th Legislative Day. Motion carried.

Senator Cooney moved action on SB 108 be reconsidered and moved further, that SB 108 be re-referred to the Senate Finance and Claims committee.

FIRST READING AND COMMITMENT OF BILLS

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

SB 286, introduced by Ryan, McGillvray, Musgrove, referred to Business, Labor, and Economic Affairs.

SB 287, introduced by Schmidt, Arntzen, Barkus, Becker, Bergren, Black, Branae, Cobb, Cocchiarella, Dickenson, Dowell, Esp, Franklin, Gallik, Gallus, Galvin-Halcro, Gebhardt, Gillan, Golie, Grimes, Hamilton, Henry, Jent, Kaufmann, Keane, Kitzenberg, Laible, Lenhart, Lind, Mangan, Moss, Parker, Pease, Raser, Roush, Ryan, Shockley, Smith, Story, Tash, Tester, Toole, Tropila, Wanzenried, Weinberg, Williams, Wilson, Windy Boy, Wiseman, Witt, referred to Public Health, Welfare and Safety.

SB 288, introduced by Cooney, referred to Finance and Claims.

SB 289, introduced by Laible, referred to Local Government.

SB 290, introduced by Mangan, referred to Local Government.

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

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

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

SB 29 - Senator Schmidt moved **SB 29** do pass. Motion carried with Senators Balyeat and McGee voting nay.

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SB 38 - Senator Schmidt moved **SB 38** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Curtiss, Esp, Gebhardt, Keenan, McGee, O'Neil, Shockley, Steinbeisser, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: Smith.

Total 1

SB 42 - Senator Keenan moved **SB 42** do pass. Motion carried with Senator Shockley voting nay.

SB 44 - Senator McGee moved **SB 44** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg.

Total 28

Nays: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Ryan, Schmidt, Squires, Toole, Wheat, Williams, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: Smith.

Total 1

SB 46 - Senator Schmidt moved **SB 46**, second reading copy, be amended as follows:

1. Page 2, line 6.

Following: "SERVICES."

Insert: "The written agreement must address ombudsman training on and knowledge of state and federal health care information privacy laws."

Amendment adopted unanimously.

SB 46 - Senator O'Neil moved **SB 46** do pass. Motion carried unanimously.

SB 86 - Senator Smith moved consideration of **SB 86** be passed for the day. Motion carried.

SB 94 - Senator Cromley moved **SB 94** do pass. Motion carried unanimously.

SB 105 - Senator Cobb moved **SB 105** do pass. Motion carried with Senators Lind and Weinberg voting nay.

SB 108 - Senator Lewis moved **SB 108** do pass. Motion carried with Senators Gebhardt and Shockley voting nay.

SB 115 - Senator Tester moved consideration of **SB 115** be passed for the day. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed.

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President Tester in the chair. Chairman Stapleton moved the Committee of the Whole report be adopted. Report adopted unanimously.

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 1 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 39 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 57 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

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SB 76 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Ryan.
Total 1

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 95 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 97 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 45

Nays: Esp, McGee, Story, Mr. President.
Total 4

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 118 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 120 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Esp, Mangan.
Total 3

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 129 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 142 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Elliott.
Total 1

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

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SB 164 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 165 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 175 passed as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Bales, Barkus, Curtiss, Esp, Essmann, Gebhardt, McGee, Stapleton, Steinbeisser, Story.
Total 10

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 186 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Larson, Laslovich, Lewis, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Weinberg, Wheat, Mr. President.
Total 39

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Nays: Cobb, Cooney, Elliott, Kitzenberg, Laible, Lind, Mangan, Toole, Tropila, Williams.
Total 10

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 189 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 212 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 214 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

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SB 215 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Tuesday, January 25, 2005. Motion carried.

Senate adjourned at 3:02 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate