

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 15, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTY-SEVENTH LEGISLATIVE DAY

Helena, Montana
February 15, 2005

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

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

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

Total 43

Nays: Balyeat, Gebhardt, O'Neil, Shockley.

Total 4

Absent or not voting: None.

Total 0

Excused: Black, Grimes, Williams.

Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

2/15/2005

Correctly printed: **SB 101, SB 177, SB 191, SB 207, SB 238, SB 239, SB 255, SB 353, SB 422, SB 433, SJR 18, SJR 19, SJR 23, SJR 24, HB 447.**

Correctly engrossed: **SB 88, SB 168, SB 185, SB 265, SB 287, SB 373, SB 401, SB 430, SJR 15, SJR 16.**

Correctly enrolled: **SB 240, SJR 1.**

Examined by the sponsor and found to be correct: **SJR 1.**

Signed by the Speaker at 4:30 p.m., February 15, 2005: **SJR 1.**

Signed by the President at 4:45 p.m., February 15, 2005: **SJR 1.**

Signed by the Secretary of the Senate at 4:15 p.m., February 15, 2005: **SJR 1.**

Delivered to the Secretary of State at 10:07 a.m., February 16, 2005: **SJR 1.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 168, introduced bill, be amended as follows:

2/15/2005

1. Page 2, line 2.

Strike: "a private, for-profit entity"

Insert: "an equity infusion board, provided for in [section 2],"

2. Page 2, line 4.

Following: "appropriate."

Insert: "Loan proceeds may not be used for the administrative expenses of the equity infusion board."

3. Page 2, line 9.

Following: "institutions."

Insert: "For the purposes of this section, local economic development groups include:

(a) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under

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section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);
(b) an entity certified by the department of commerce under 90-1-116; or
(c) an entity established by a local government."

And, as amended, do pass. Report adopted.

SB 265, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "REVISING"

Insert: "CLARIFYING"

2. Title, page 1, lines 5 through 6.

Strike: "CLARIFYING" on line 5 through "ELECTRICIANS;" on line 6

3. Title, page 1, line 7 through line 8.

Strike: "PROHIBITING" on line 7 through "BUILDINGS;" on line 8

4. Title, page 1, line 9 through line 10.

Strike: "REQUIRING" on line 9 through "CLARIFYING" on line 10

Insert: "; REQUIRING"

5. Title, page 1, line 11.

Strike: "CLARIFYING"

Insert: "REQUIRING"

6. Title, page 1, line 13.

Strike: "37-68-301,"

Following: "37-68-302"

Strike: ", "

Insert: "AND"

Following: "37-68-316,"

Strike: "AND"

7. Title, page 1, line 14.

Strike: "50-60-607,"

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

8. Page 1, line 21.

Strike: "One member"

Insert: "Two members"

9. Page 1, lines 22 through 23.

Strike: "Four" on line 22

Insert: "Two"

Strike: "There may not" on line 22 through "who are" on line 23

Insert: "One member must be a master"

Strike: "contractors"

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Insert: "contractor and may be the only licensed electrical contractor on the board"

10. Page 1, line 28 through page 2, line 13.

Strike: section 2 in its entirety

Renumber: subsequent sections

11. Page 3, line 2.

Strike: "\$500"

Insert: "\$250"

12. Page 3, line 3.

Strike: "\$1,000"

Insert: "\$500"

13. Page 3, line 4.

Strike: "\$1,500"

Insert: "\$750"

14. Page 3, line 15 through line 26.

Strike: section 5 in its entirety

Renumber: subsequent sections

15. Page 4, line 17 through line 21.

Strike: section 7 in its entirety

Renumber: subsequent sections

16. Page 4, line 29.

Following: "raceways."

Insert: "Demolition, if wiring is not to be reused, is not removal."

17. Page 5, line 1.

Strike: "6 through 8"

Insert: "4 and 5"

18. Page 5, line 3.

Strike: "6 through 8"

Insert: "4 and 5"

19. Page 5, line 5.

Following: "date"

Insert: "-- applicability"

Following: "2005"

Insert: ", and the amendments to 2-15-1764 apply to appointments made to fill vacancies on the state electrical board on or after [the effective date of this act]"

And, as amended, do pass. Report adopted.

SB 373, introduced bill, be amended as follows:

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1. Page 5, line 3.

Following: "statements"

Strike: "prepared"

Insert: "that have been independently audited"

2. Page 5, line 8.

Following: "wages or"

Strike: "payroll"

Insert: "payroll-related"

3. Page 5, line 18.

Following: "wages or"

Strike: "payroll"

Insert: "payroll-related"

4. Page 12, line 4.

Following: "any"

Strike: "payroll"

Insert: "payroll-related"

And, as amended, do pass. Report adopted.

SB 401, introduced bill, be amended as follows:

1. Page 15.

Following: line 7

Insert: "(e) Section 30-5-136;

(f) Section 30-8-120;"

Renumber: subsequent subsection

And, as amended, do pass. Report adopted.

SB 422, do pass. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman):

2/15/2005

SB 433, do pass. Report adopted.

SB 447, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

2/15/2005

SB 430, introduced bill, be amended as follows:

1. Title, line 5.

Following: "AN"

Strike: "IMMEDIATE"

2. Page 2, line 23.

Following: "effective"

Strike: "on passage and approval"

Insert: "July 1, 2005"

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And, as amended, do pass. Report adopted.

SJR 19, be adopted. Report adopted.

NATURAL RESOURCES (Roush, Chairman): 2/15/2005
SB 353, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman): 2/15/2005
SB 287, introduced bill, be amended as follows:

1. Title, line 9.
Following: "GRANTS;"
Strike: "AND"

2. Title, line 10.
Following: "PROGRAM"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 1, line 21.
Following: "Possession of"
Insert: "more than 9 grams of"
Following: "containing"
Strike: "more than 9 grams"
Insert: "any detectable quantity"

4. Page 2, line 8.
Strike: "business establishment that operates a"

5. Page 2, lines 9, 12, and 22.
Strike: "business establishment"
Insert: "licensed pharmacy"

6. Page 2, lines 13, 21, and in two places on line 24.
Strike: "establishment"
Insert: "licensed pharmacy"

7. Page 4.
Following: line 22
Insert: "NEW SECTION. Section 9. Effective date. [This act] is effective July 1, 2005."
Insert: "NEW SECTION. Section 10. Contingent voidness. If funds are not appropriated for the purposes of [section 6], then [this act] is void."

And, as amended, do pass. Report adopted.

SJR 15, introduced joint resolution, be amended as follows:

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1. Page 1, line 5.

Following: "OUT OF"

Insert: "THOSE"

Following: "(PBDES)"

Insert: "THAT ARE HARMFUL TO HUMANS"

2. Page 1, line 13.

Following: "WHEREAS,"

Insert: "certain"

3. Page 1, line 15.

Strike: ", non-Hodgkins lymphoma in humans,"

4. Page 2, line 15.

Following: "use of"

Insert: "those"

Following: "Montana"

Insert: "that have been shown to be harmful to humans"

And, as amended, be adopted. Report adopted.

SJR 16, be adopted. Report adopted.

SJR 18, be adopted. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

2/15/2005

SB 88, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "AND"

2. Title, page 1, line 6.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 1, line 28.

Following: "(4)"

Insert: "(a)"

4. Page 1, line 30.

Following: the first "vote"

Insert: "or only for each subsequent federal election in which the elector is eligible to vote"

5. Page 2.

Following: line 1

Insert: "(b) To ensure that the elector still resides at the address provided in the initial application, the election administrator shall mail an address confirmation form at least 75 days before the election to each elector who has requested an absentee ballot for subsequent elections. If the form is returned to the election administrator as undeliverable, the election administrator shall remove the elector from the register of

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electors who have requested an absentee ballot for each subsequent election.

(c) An elector who has been removed from the register may subsequently request to be mailed an absentee ballot for each subsequent election."

6. Page 2, line 18.

Following: "for"

Insert: "each subsequent federal election only or for all"

7. Page 3.

Following: line 6

Insert: "NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2005."

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/15/2005

HB 73, introduced by Buzzas

HB 97, introduced by Lange

HB 281, introduced by Wagman

HB 285, introduced by Taylor

HB 308, introduced by Malcolm

HB 321, introduced by Facey

HB 351, introduced by Butcher

HB 356, introduced by Noonan

HB 451, introduced by Sonju

HB 452, introduced by Windy Boy

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

2/15/2005

HJR 12, introduced by Hamilton

MOTIONS

Senator Larson moved his vote on **HB 194** be changed from "nay" to "aye". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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

SB 486, introduced by Cocchiarella, referred to Business, Labor, and Economic Affairs.

SB 487, introduced by Pease, referred to Highways and Transportation.

SB 488, introduced by Tropila, referred to Business, Labor, and Economic Affairs.

SB 489, introduced by Lind, referred to Natural Resources.

SB 490, introduced by Tropila, referred to State Administration.

SB 491, introduced by Gallus, Groesbeck, Larson, A. Olson, referred to State Administration.

SB 492, introduced by Weinberg, Wheat, referred to Natural Resources.

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

SJR 23, introduced by Elliott, Hendrick, Laible, McGee, Parker, Tester, Wanzenried, referred to Judiciary.

SJR 24, introduced by Barkus, Hawks, Lewis, McKenney, Perry, Roberts, Sonju, Stapleton, referred to Fish and Game.

SECOND READING OF BILLS

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(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 Harrington in the chair.

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

SB 177 - Senator Ryan moved consideration of **SB 177** be placed below SB 101 on the second reading board. Motion carried.

SB 101 - Senator Schmidt moved **SB 101** do pass. Motion carried as follows:
ey, Cromley, Ellingson, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gebhardt, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Ellingson moved the Committee of the Whole report be adopted. Report adopted unanimously.

SB 177 - Senator Ryan moved **SB 177** do pass. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Balyeat, Barkus, Curtiss, Gebhardt, Keenan, McGee, O'Neil, Perry, Shockley, Stapleton.
Total 10

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

SB 177 - Senator Schmidt assumed the chair.

SB 185 - Senator Mangan moved **SB 185** do pass.

SB 185 - Senator Mangan moved **SB 185**, second reading copy, be amended as follows:

1. Page 6, line 9.
Following: the first "fees"
Insert: "adopted on or before [the effective date of this act]"
Strike: "the imposition of"

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2. Page 6, line 20.

Following: "only to"

Insert: "the portion of"

3. Page 6, line 23.

Following: "affect"

Insert: "any portion of"

Amendment adopted unanimously.

SB 185 - Senator Mangan moved **SB 185**, as amended, do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Keenan, McGee, O'Neil, Shockley, Stapleton, Tash.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 191 - Senator Grimes moved **SB 191** do pass. Motion carried as follows:

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

Total 48

Nays: Hansen, Laslovich.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 207 - Senator Perry moved **SB 207** do pass. Motion carried unanimously.

SB 238 - Senator Wheat moved **SB 238** do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 19

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 239 - Senator Wheat moved **SB 239** do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 255 - Senator Gebhardt moved **SB 255** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Schmidt 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:

SB 131 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, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 293 passed as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 34

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Nays: Balyeat, Barkus, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Mangan, McGee, O'Neil, Perry, Shockley, Story, Tropila.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 296 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, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 337 passed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Cooney introduced the Carroll College Football Team and read a proclamation issued by President Tester and Speaker Matthews.

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

February 15, 2005

ANNOUNCEMENTS

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WHEREAS, on Saturday, December 18, 2004, at Jim Carroll Stadium in Savannah, Tennessee, the Carroll College Fighting Saints football team won its third-consecutive NAIA National Championship, the first three-time national crown in Montana history and in school history and, nationally, the first for the NAIA since incorporating all divisions into one; and

WHEREAS, the Saints won the December 18 championship victory over the University of St. Francis (Indiana) Cougars by a score of 15-13 in one of the most exciting football contests ever televised, including the Saints' game-winning field goal in the final seconds of the game; and

WHEREAS, the Saints amassed a season record of 11-2, including wins over Azusa Pacific (California) and Dickinson State; and

WHEREAS, the team included 5 NAIA First-Team All-Americans, 8 NAIA All-American Scholar-Athletes, 9 First-Team All-Conference Players and 22 Academic All-Conference players; and

WHEREAS, the team also included the 2003 NAIA National Player of the Year, the 2004 Frontier Conference Offensive and Defensive Most Valuable Players and the championship game's Most Valuable Player--Offense;

WHEREAS, since 2001, Carroll College has been consistently recognized by the NAIA as a Champion of Character institution emphasizing the five core values of respect, integrity, responsibility, leadership and sportsmanship; and

WHEREAS, Saints Head Coach Mike Van Diest was the 2003 American Football Coaches Association Division II Coach of the Year and the NAIA National Coach of the Year; and

WHEREAS, the Saints' Offensive Coordinator and Quarterback Coach Nick Howlett was named the NAIA National Assistant Coach of the Year for 2004.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA: That the congratulations of all Montanans be extended to the Carroll College Fighting Saints' players and coaching staff for their hard work and dedication to the sport, to the principles of sportsmanship and leadership, to academic excellence, and to their school, families and proud community, both locally and statewide.

President of the Senate

Speaker of the House

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:00 p.m., Wednesday, February 16, 2005.
Motion carried.

Senate adjourned at 2:55 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate