

**SENATE JOURNAL
63RD LEGISLATURE
FIFTIETH LEGISLATIVE DAY**

Helena, Montana
March 8, 2013

Senate Chambers
State Capitol

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

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS (Buttrey, Chair):

3/8/2013

Mr. President: We, your committee on Bills and Journals, having examined the daily journals for the thirty-sixth through fortieth legislative days, find the same to be correct.

Correctly printed: **SB 380, SB 381, SR 16, SR 17, SR 18, SR 19, HB 45, HB 129, HB 131, HB 172, HB 205.**

Correctly engrossed: **HB 50, HB 194, HB 199, HB 243, HB 258, HB 302.**

Transmitted to the House: **SB 58, SB 191, SB 231, SB 294, HB 261.**

Signed by the Secretary of the Senate at 2:20 p.m., March 7, 2013: **SR 9.**

Signed by the President at 3:08 p.m., March 7, 2013: **SR 9.**

Delivered to the Secretary of State at 11:30 a.m., March 8, 2013: **SR 9.**

MOTIONS

Senator Wittich moved the Senate recess and proceed to the House of Representatives to meet in joint session for the purpose of receiving the State of the Tribal Nations address and, upon adjournment of the joint session, the Senate reconvene. The motion carried.

The Senate recessed at 1:05 p.m.

After the Senate was introduced in the House Chambers, President Essmann assumed the chair.

Majority Leader Wittich moved the Senate and House of Representatives resolve into a joint session for the purpose of receiving the State of the Tribal Nations address. Motion carried.

Majority Leader Wittich moved the President be authorized to appoint a committee of four to notify Chairman Joe Durglo, of the Confederated Salish and Kootenai Tribes, that the body was in joint session and ready to receive his address. Motion carried.

President Essmann appointed Senators Windy Boy and Augare, and Representatives Schwaderer and Calf Boss Ribs to escort Chairman Durglo into the House Chambers.

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President Essmann introduced Chairman Durglo of the Confederated Salish and Kootenai Tribes who gave the following address:

Members of the Montana Indian Caucus, members of the 63rd session of the Montana Legislature, elders, tribal leaders, state officials, and my fellow citizens. As Chairman of the Confederated Salish and Kootenai Tribes, one of the eight Tribes that call Montana home, it's an honor to be here today to deliver the State of the Indian Nation address.

Eight diverse Indian Nations conduct business daily within the boundaries of the state of Montana. From the coal fields of the Crow, to the microchips manufactured at S&K Electronics on the Flathead Reservation, our people are pursuing their dream one step at a time. Our world today is much different than when our sustenance came from the open prairies, mountainsides and streams. We took game, high mountain berries, and native Bull trout. As a people, the Indians of this region have been conducting business for centuries on our homelands.

As the territory evolved, and Montana was established, and we became neighbors, we have come a long ways together. We've watched each other grow and develop. Like so many neighbors before us, we had a choice. Dig in and fight each other, or find a way to co-exist. Montanans were not our first neighbors. We first sorted out Nation to Nation issues with the Blackfeet, the Nez Perce and the Spokane. We found a way to make it work, to thrive in each other's company.

As Montana developed, we again found a way to work together. In 2012, there were 450 partnerships and collaborative projects between the state of Montana and Tribal nations. There is strength in joining forces. Tribes across the country have banded together both regionally and nationally. We are members of the National Congress of American Indians, and members of the Affiliated Tribes of the Northwest Indians, and we are members of the Montana Wyoming Tribal Leaders Council of Montana and Wyoming. We are also US citizens, defenders of our country in the armed services in the highest percentage of any group of Americans, and we are valuable members of Montana's community. We will continue to be viable partners with Montana, for the good of all of our communities. To ensure our ties remain strong, I want to suggest that the members of this legislature embrace tribal sovereignty, not be wary or suspicious of it. This sovereignty allows us to prosper in a manner that helps the State prosper. As the expression goes; as the financial waters rise for the Tribal nations, the waters rise for everyone.

Today, all eight nations are experiencing successes our ancestors would hardly believe. Yet there is much work remaining. We must focus on economic development, job creation, education, and health care. Continued cooperative agreements between the tribes and state will help improve the economic conditions of the reservations, which will in turn benefit Montana's economy and communities.

The University of Montana study, Uncovering Economic Contributions of Montana's Indian Tribes, revealed that reservations are economic engines that infuse \$1 billion annually into the state economy. As our reservation conditions improve, so does Montana.

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The work to improve reservation conditions has been a focus of the Montana American Indian Caucus through efforts to improve academic achievement in our communities and support for our native language preservation. Senator Jonathan Windy Boy's Senate Bill 342 is a much needed step toward preserving our languages.

In the previous legislative session, great strides were made to ensure tribal governments were taxed equally with state governments. Those efforts continue this session, which need support. Senate Bill 231 would increase the tax threshold for tribal recreational property, a step of putting tribal government lands on the same status as state lands.

All of the Tribal Nations that call Montana home are very different, however, we have similar challenges remaining for our people in areas of unemployment and standards of living. Thank you for the continued training you provide state employees on best ways to work within Indian Country. The next update of a Government-to-Government Proclamation could expand into Tribal languages, histories, and culture that reinforces and enriches Montana further. This will help the work needed to protect our sacred sites and historical areas.

Throughout our Tribal nations, we welcome partners willing to listen to our vision for our people, and work to create a world rich with our traditional values. We need to continue supporting the tribal colleges, which turn out a skilled workforce. Meeting the challenges of our homelands requires some focused strategy, but we can get there together.

In our community, many people talk about the formula for success. The method is simple. It's collaborating and finding the best ways that work for our communities. That is easier said than done. We value the friendships that have developed through the years. These connections help us weather the conflicts that rise. Sometimes our values fight to co-exist and we must work through these tensions.

As a tribal people, we have not forgotten our past. We embrace our traditional ways, our languages, and our culture that has enabled our people to thrive on this land for thousands of years. But we also look toward the future.

The national economic horizon has been murky. We're all looking forward to brighter days. Much state effort has been put toward tourism, an effort the tribes joined. We're seeking the same goals, more jobs, more opportunities, a thriving economy where none are left wanting. It is a wise path to continue seeking these mutually beneficial partnerships.

For example, the oil exploration and production in Northeast Montana is impacting all the neighboring communities including the Fort Peck Reservation. Tribal infrastructure and services face overwhelming demands. This is an opportunity to partner with Montana in addressing shortages of law enforcement and emergency response personnel. With the oil boom comes a need to meet these demands together.

Further to the west, the Salish and Kootenai people are pursuing an enormous economic development plan, with state and federal partners. If successful, it will ensure the economic engine in Western Montana continues to run. I'm talking about the water rights compact.

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We are the final tribe seeking quantification of our water rights through the Montana state system. We are the only reservation in Montana with a Stevens Treaty, which includes off-reservation rights, a type of Treaty common in the Columbia River basin. Our negotiations with the Reserved Water Right Compact Commission resulted in a completed compact. We endeavored to bring a bright spot to the Mission Valley and Western Montana in the form of a completed compact that could pass through this session of the state legislature, and bring certainty after decades of fighting.

However, there are forces that wish to tie up the Western Montana economy with unnecessary court battles that will drag down all of our businesses. We agreed to this state process of seeking a compact. We've been at public meetings for decades in an effort that has been intense for the past four years. Our efforts have been met with suspicion by those that refuse to trust the Tribes, even though this is a state process. We are in danger of allowing our differences to define us when we should be using our differences to make us stronger.

We look forward to a day when we can conduct business in a mutually respectful environment. Be the topic water, buffalo or extended medical care, there must be respect. We are Native, and we are proud, and we are strong, and we offer our partnership to you for the greater good of the community. Support the agreed upon water compact. That compact contains the very progressive concept of unitary management of water that will make water rights transparent and will benefit both the environment and agriculture community.

We are sovereign nations, empowered to determine how best to govern ourselves. Our history goes back more than 14,000 years on our homeland. We've endured many changes. As a people, we expect to continue our long running success.

We'll continue as your colleague, your neighbor, business partner, educator and your friend. We'll continue to run our colleges, our law enforcement teams, courts, and businesses. We'll tend to the social service programs, wildlife, and forestry management. We'll still watch the lakes and streams for signs of trouble and plan for road expansions and infrastructure developments. There are projects to administer, meetings to take, and letters to send. We all know about getting business done. We look forward to another bright morning where you trust we will be there at the table when you need us, and, in return, the Tribal nations can count of your growing understanding of working with us as your partners.

Lemlmts, Pesya

President Essmann directed the committee of four to escort Chairman Durglo from the joint session.

Majority Leader Wittich moved the joint session be adjourned. The motion carried. The joint session adjourned at 1:26 p.m.

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The Senate reconvened at 1:32 p.m.

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (T. Brown, Chair): 3/7/2013
HB 337, be concurred in. Report adopted.
HB 356, be concurred in. Report adopted.
HB 389, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Sonju, Chair): 3/7/2013
HB 82, be concurred in. Report adopted.
HB 305, be concurred in. Report adopted.
HB 308, be concurred in. Report adopted.
HB 463, be amended as follows:

1. Page 2, line 13.
Strike: "more than"
Following: "\$1,500"
Insert: "or more"

And, as amended, be concurred in. Report adopted.

FISH AND GAME (Brenden, Chair): 3/7/2013
HB 26, be concurred in. Report adopted.
HB 27, be concurred in. Report adopted.
HB 136, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Arntzen, Chair): 3/7/2013
HB 270, be concurred in. Report adopted.

JUDICIARY (Murphy, Chair): 3/8/2013
HB 68, be concurred in. Report adopted.
HB 70, be concurred in. Report adopted.
HB 206, be amended as follows:

1. Page 1, line 15.
Strike: "IN"
Insert: "beginning July 1,"

2. Page 1, line 16.
Strike: "IN"
Insert: "beginning July 1,"

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3. Page 1, line 17.

Strike: "IN"

Insert: "beginning July 1,"

Strike: "AND SUBSEQUENT YEARS"

4. Page 1, line 21 through page 1, line 23.

Following: "rendered."

Strike: line 21 through line 23 in their entirety

And, as amended, be concurred in. Report adopted.

TAXATION (Tutvedt, Chair):

3/7/2013

HB 66, be concurred in. Report adopted.

HB 89, be concurred in. Report adopted.

MOTIONS

Senator Arntzen moved **HB 259** be moved from the Highways and Transportation committee to the Business, Labor, and Economic Affairs committee. Without objection, so ordered.

FIRST READING AND COMMITMENT OF BILLS

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

HB 61, introduced by Lynch (by request of the Department of Corrections), referred to Public Health, Welfare and Safety.

HB 171, introduced by C. Smith, Bangerter, Debby Barrett, G. Bennett, Blasdel, Brenden, T. Brown, Clark, Doane, Edmunds, Ehli, Fiscus, Flynn, Galt, Halvorson, Hansen, Hill, Howard, Ingraham, Jackson, D. Jones, Kary, Kerns, Knudsen, Lenz, Lewis, Miller, O'Hara, Priest, Redfield, Regier, Sales, Salomon, Schreiner, Schwaderer, Taylor, Vance, Vincent, Walker, Warburton, Webb, Zolnikov, referred to Public Health, Welfare and Safety.

HB 297, introduced by Howard, Arthun, Boulanger, Brodehl, Hagan, Harris, Kary, Warburton, Washburn, Webb, referred to Business, Labor, and Economic Affairs.

HB 322, introduced by Cuffe, referred to Agriculture, Livestock and Irrigation.

HB 421, introduced by Blyton, Clark, Galt, Greef, Hagan, Hollandsworth, McChesney, Rosendale, Schwaderer, Steenberg, Wagoner, Washburn, Webb, referred to Judiciary.

HB 431, introduced by Knudsen, Doane, Halvorson, Lang, Randall, Rosendale, referred to Energy and Telecommunications.

HB 433, introduced by O'Hara, Bangerter, Boland, Boulanger, Curtis, Edmunds, Fitzpatrick, Gursky, Hill, Hollenbaugh, Jacobson, Larsen, Lavin, Mehlhoff, Pierson, Pomnichowski, Shaw, Thomas, Tropila, Welborn, Zolnikov, referred to Judiciary.

HB 435, introduced by McChesney, referred to Local Government.

HB 437, introduced by McNiven, T. Brown, Kary, D. Moore, referred to Local Government.

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- HB 438**, introduced by Ballance, referred to Judiciary.
- HB 442**, introduced by Randall, Lavin, referred to Highways and Transportation.
- HB 451**, introduced by Galt, Ehli, Flynn, Lenz, Randall, referred to Natural Resources.
- HB 455**, introduced by Blyton, Ballance, Glimm, Hertz, Laszloffy, referred to Business, Labor, and Economic Affairs.
- HB 457**, introduced by Price, referred to State Administration.
- HB 459**, introduced by Kerns, referred to Judiciary.
- HB 462**, introduced by D. Jones, Knudsen, C. Smith, referred to Business, Labor, and Economic Affairs.
- HB 473**, introduced by Reichner, referred to Public Health, Welfare and Safety.
- HB 485**, introduced by Lavin, referred to Judiciary.
- HB 494**, introduced by Glimm, G. Bennett, Fitzpatrick, Halvorson, Hollenbaugh, Regier, referred to Highways and Transportation.
- HB 497**, introduced by White, Glimm, Harris, Howard, Knudsen, Redfield, Regier, Schwaderer, Shaw, Washburn, referred to Local Government.
- HB 499**, introduced by Hill, Arntzen, Edmunds, Gursky, Hansen, Knudsen, Larsen, Rosendale, referred to Local Government.
- HB 502**, introduced by Brodehl, referred to Agriculture, Livestock and Irrigation.
- HB 505**, introduced by Kerns, referred to Judiciary.
- HB 508**, introduced by Edmunds, Arntzen, referred to Highways and Transportation.
- HB 510**, introduced by Ingraham, referred to Judiciary.
- HB 513**, introduced by McChesney, Ankney, Arntzen, Blasdel, Cuffe, Glimm, Hollandsworth, Keane, Thomas, Vincent, referred to Natural Resources.
- HB 522**, introduced by Schwaderer, Ballance, B. Bennett, Coffin, Doane, Edmunds, Fielder, Fiscus, Galt, Gursky, Harris, Hill, Jacobson, D. Jones, Kary, Kerns, Knudsen, Miller, D. Moore, O'Neil, Redfield, Sales, Salomon, C. Smith, Steenberg, White, Zolnikov, referred to Judiciary.
- HB 534**, introduced by Williams, Hunter, McNally, referred to Judiciary.
- HB 545**, introduced by Reichner, referred to Business, Labor, and Economic Affairs.
- HB 547**, introduced by Glimm, Ballance, G. Bennett, Blasdel, Doane, Fitzpatrick, Knudsen, McChesney, Redfield, Shaw, C. Smith, Vance, Welborn, referred to Natural Resources.
- HB 548**, introduced by Zolnikov, referred to Highways and Transportation.
- HB 552**, introduced by Neill, referred to State Administration.
- HB 553**, introduced by Halvorson, Brenden, Doane, Knudsen, Rosendale, referred to Natural Resources.
- HB 558**, introduced by Lenz, referred to Highways and Transportation.
- HB 560**, introduced by Pierson, referred to State Administration.

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

- HJR 12**, introduced by Blasdel, Hollenbaugh, Hunter, Knudsen, McClafferty, Sesso, Sonju, Vance, Howard, referred to Agriculture, Livestock and Irrigation.
- HJR 13**, introduced by Calf Boss Ribs, Brockie, Coffin, Dudik, Hill, Jacobson, MacDonald, McCarthy, McClafferty, Neill, Noonan, Pease-Lopez, Schreiner, Squires, Swanson, Wilmer, referred to Judiciary.

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HJR 14, introduced by Jacobson, Blasdel, Eck, Hansen, Hunter, Knudsen, McClafferty, Mehlhoff, Miller, Price, C. Smith, Wilson, Zolnikov, referred to Education and Cultural Resources.

**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 Caferro in the chair.

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

HB 264 - Senator Fielder moved **HB 264** be concurred in. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: Boulanger.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 142 - Senator Ripley moved **HB 142** 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, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: None.

Total 0

HB 179 - Senator Fielder moved **HB 179** 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, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 84 - Senator Kaufmann moved **SB 84** do pass.

SB 84 - Senator Kaufmann moved **SB 84**, second reading copy, be amended as follows:

1. Page 8, line 16.

Following: "PROVIDERS"

Insert: "and payers"

2. Page 8, line 17.

Following: "PARTICIPATION,"

Insert: "collectively"

Strike: "AN"

Insert: "one"

3. Page 8, line 19.

Strike: "DURING" through "IN"

Insert: "no later than September 30,"

Amendment adopted as follows:

Yeas: Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Sesso, Stewart-Peregoy, Thomas,

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Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Webb, Windy Boy.
Total 38

Nays: Arntzen, Boulanger, Brenden, D. Brown, Jackson, Rosendale, Sales, Sonju, Taylor,
Walker, Wittich, Mr. President.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 84 - Senator Kaufmann moved **SB 84**, as amended, do pass. Motion carried as follows:

Yeas: Arthun, Augare, Barrett Dick, Blewett, Boulanger, T. Brown, Buttrey, Caferro, Driscoll,
Facey, Fielder, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Malek, Moore, Olson,
Peterson, Phillips, Priest, Rosendale, Sesso, Stewart-Peregoy, Taylor, Thomas, Tropila,
Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy.
Total 37

Nays: Arntzen, Barrett Debby, Brenden, D. Brown, Hamlett, Jackson, Lewis, Murphy, Ripley,
Sales, Sonju, Wittich, Mr. President.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Wittich moved the committee rise and report. Motion carried. Committee arose.
Senate resumed. President Essmann presiding. Chair Caferro 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, Jackson, Jent, Jergeson, Jones,
Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest,
Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt,
Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 49

Nays: Hamlett.
Total 1

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

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 199 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, Jent, Jergeson, Jones, Keane, Larsen, Lewis, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Vincent, Vuckovich, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 45

Nays: Kaufmann, Malek, Sales, Van Dyk, Walker.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 243 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, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

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Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Wittich moved that the Senate adjourn until 8:00 a.m., Saturday, March 9, 2013, the fifty-first legislative day. Motion carried.

Senate adjourned at 2:17 p.m.

MARILYN MILLER
Secretary of the Senate

JEFF ESSMANN
President of the Senate