

**SENATE JOURNAL**  
**59TH LEGISLATURE / SPECIAL SESSION DECEMBER 2005**  
**SECOND LEGISLATIVE DAY**

Helena, Montana  
December 15, 2005

Senate Chambers  
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, 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, Williams, Mr. President.  
Total 46

Nays: Balyeat, Gebhardt, O'Neil, Shockley.  
Total 4

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**MESSAGES FROM THE OTHER HOUSE**

**House bills** passed and transmitted to the Senate for concurrence: 12/14/2005

**HB 1**, introduced by Wanzenried

**HB 2**, introduced by Jackson

**FIRST READING AND COMMITMENT OF BILLS**

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

**HB 1**, introduced by Wanzenried (by request of the Governor), referred to Finance and Claims.

**HB 2**, introduced by Jackson (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

**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 Tropila in the chair.

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

**SB 1** - Senator Ryan moved **SB 1** do pass.

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**SB 1** - Senator Ryan moved **SB 1**, second reading copy, be amended as follows:

1. Title, line 13.

**Strike:** "SMALL SCHOOL,"

2. Page 2, line 22.

**Strike:** "[SECTION 1]"

**Insert:** "subsection (1)"

Amendment adopted unanimously.

**SB 1** - Senator Cobb moved **SB 1**, second reading copy, be further amended as follows:

1. Title, line 16.

**Following:** "ENTITLEMENT AND"

**Insert:** "INCREASING"

2. Title, line 17.

**Following:** "ENTITLEMENT;"

**Insert:** "INCREASING DIRECT STATE AID FROM 44.7 PERCENT TO 45.3 PERCENT AND DECREASING  
GUARANTEED TAX BASE AID FOR BASE AID FROM 35.3 PERCENT TO 34.7 PERCENT;"

3. Page 8, line 3.

**Strike:** "44.7%" in 2 places

**Insert:** "45.3%" in both places

4. Page 8, line 5.

**Strike:** "35.3%"

**Insert:** "34.7%"

5. Page 8, line 6.

**Strike:** "35.3%"

**Insert:** "34.7%"

6. Page 8, line 24.

**Strike:** "\$230,199"

**Insert:** "\$260,199"

7. Page 8, line 25.

**Strike:** "\$20,718"

**Insert:** "\$30,718"

8. Page 8, line 30.

**Strike:** "\$20,718"

**Insert:** "\$30,718"

9. Page 9, line 2.

**Strike:** "\$230,199"

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**Insert:** "\$260,199"

10. Page 9, line 6.

**Strike:** "44.7%" in 2 places

**Insert:** "45.3%" in both places

11. Page 10, line 21.

**Strike:** "44.7%" in 2 places

**Insert:** "45.3%" in both places

12. Page 10, line 23.

**Strike:** "35.3%"

**Insert:** "34.7%"

13. Page 10, line 24.

**Strike:** "35.3%"

**Insert:** "34.7%"

14. Page 11, line 12.

**Strike:** "\$230,199"

**Insert:** "\$260,199"

15. Page 11, line 13.

**Strike:** "\$20,718"

**Insert:** "\$30,718"

16. Page 11, line 18.

**Strike:** "\$20,718"

**Insert:** "\$30,718"

17. Page 11, line 20.

**Strike:** "\$230,199"

**Insert:** "\$260,199"

18. Page 11, line 24.

**Strike:** "44.7%" in 2 places

**Insert:** "45.3%" in both places

Amendment **not** adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.  
Total 23

Nays: Balyeat, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

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Total 27

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 1** - Senator Cobb moved **SB 1**, second reading copy, be further amended as follows:

1. Title, line 16.

**Following:** "ENTITLEMENT AND"  
**Insert:** "INCREASING"

2. Title, line 17.

**Following:** "ENTITLEMENT;"  
**Insert:** "INCREASING DIRECT STATE AID FROM 44.7 PERCENT TO 45.1 PERCENT AND DECREASING  
GUARANTEED TAX BASE AID FOR BASE AID FROM 35.3 PERCENT TO 34.9 PERCENT;"

3. Page 8, line 3.

**Strike:** "44.7%" in 2 places  
**Insert:** "45.1%" in both places

4. Page 8, line 5.

**Strike:** "35.3%"  
**Insert:** "34.9%"

5. Page 8, line 6.

**Strike:** "35.3%"  
**Insert:** "34.9%"

6. Page 8, line 24.

**Strike:** "\$230,199"  
**Insert:** "\$250,199"

7. Page 8, line 25.

**Strike:** "\$20,718"  
**Insert:** "\$25,718"

8. Page 8, line 30.

**Strike:** "\$20,718"  
**Insert:** "\$25,718"

9. Page 9, line 2.

**Strike:** "\$230,199"  
**Insert:** "\$250,199"

10. Page 9, line 6.

**Strike:** "44.7%" in 2 places

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**Insert:** "45.1%" in both places

11. Page 10, line 21.

**Strike:** "44.7%" in 2 places

**Insert:** "45.1%" in both places

12. Page 10, line 23.

**Strike:** "35.3%"

**Insert:** "34.9%"

13. Page 10, line 24.

**Strike:** "35.3%"

**Insert:** "34.9%"

14. Page 11, line 12.

**Strike:** "\$230,199"

**Insert:** "\$250,199"

15. Page 11, line 13.

**Strike:** "\$20,718"

**Insert:** "\$25,718"

16. Page 11, line 18.

**Strike:** "\$20,718"

**Insert:** "\$25,718"

17. Page 11, line 20.

**Strike:** "\$230,199"

**Insert:** "\$250,199"

18. Page 11, line 24.

**Strike:** "44.7%" in 2 places

**Insert:** "45.1%" in both places

Amendment **not** adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 23

Nays: Balyeat, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Lind, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

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Excused: None.  
Total 0

**SB 1** - Senator Lewis moved **SB 1**, second reading copy, be further amended as follows:

1. Page 2, line 14.  
**Strike:** "\$2,000"  
**Insert:** "\$2,750"

2. Page 10, line 13.  
**Strike:** "\$2,000"  
**Insert:** "\$2,750"

3. Page 13, line 1.  
**Strike:** "\$2,000"  
**Insert:** "\$2,750"

Amendment **not** adopted as follows:

Yeas: Barkus, Brueggeman, Cobb, Curtiss, Gebhardt, Grimes, Kitzenberg, Laible, Lewis, Mangan, McGee, Perry, Smith, Steinbeisser, Story, Tash.  
Total 16

Nays: Bales, Balyeat, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Larson, Laslovich, Lind, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.  
Total 34

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

**SB 1** - Senator Ryan moved **SB 1**, as amended, do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, 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, Kitzenberg, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 22

Absent or not voting: None.  
Total 0

Excused: None.  
Total 0

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**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 1** passed as follows:

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

Total 29

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

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate recess until 2:00 p.m. Motion carried.

**Senate recessed at 10:35 a.m.**

**Senate reconvened 2:03 p.m.**

Roll Call. Senators Cobb, Ryan, and Shockley, excused. Quorum present.

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

Total 42

Nays: Balyeat, Essmann, Gebhardt, McGee, O'Neil.

Total 5

Absent or not voting: None.

Total 0

Excused: Cobb, Ryan, Shockley.

Total 3

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**REPORTS OF STANDING COMMITTEES**

**FINANCE AND CLAIMS** (Cooney, Chairman):  
**HB 1**, be amended as follows:

12/15/2005

1. Title, line 6.

**Following:** "SESSION"

**Insert:** "AND FOR OTHER PURPOSES RELATED TO THE ITEMS SPECIFIED IN THE CALL"

2. Title, line 7.

**Following:** "ASSESSMENT"

**Insert:** "AND ENERGY AUDIT"

3. Title, line 11.

**Following:** "PAYMENTS,"

**Insert:** "FOR TRANSPORTATION PAYMENTS,"

**Following:** "AID;"

**Insert:** "APPROPRIATING MONEY FROM THE GENERAL FUND TO THE MONTANA SCHOOL FOR THE DEAF AND BLIND AND TO THE DEPARTMENT OF CORRECTIONS;"

4. Page 1, line 18

**Following:** "(1)"

**Insert:** "(a)"

5. Page 1, line 20.

**Following:** "assessment"

**Insert:** "and energy audit"

6. Page 1, line 21.

**Following:** "assessment"

**Insert:** "and energy audit"

**Following:** "state." on line 21

**Insert:** "(b) The department shall work in conjunction with the legislative finance committee to design the process for collecting and analyzing data, including data related to the total square footage, the percentage of the total square footage that is being utilized for educational programs, and the square footage per student, to be used in the facility condition and needs assessment and energy audit.

(c)"

7. Page 1, line 23.

**Following:** "assessment"

**Insert:** "and energy audit"

8. Page 2, line 5.

**Strike:** "\$1 million"

**Insert:** "\$2 million"

9. Page 2, line 16.

**Strike:** "\$2.5 million"

**Insert:** "\$5 million"



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10. Page 2, line 18.

**Following:** line 17

**Insert:** "(7) The following is appropriated from the general fund to provide funding for the quality educator, Indian education for all, and American Indian achievement gap components at the Montana school for the deaf and blind and Pine Hills and Riverside youth correctional facilities:

Montana school for the deaf and blind     \$85,000

Department of corrections                     \$63,800

(8) There is appropriated \$130,000 from the general fund to the office of public instruction for transportation payments."

**Renumber:** subsequent subsections

11. Page 2, line 28.

**Strike:** "(7), and (8)"

**Insert:** "(3), (9), and (10)"

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

**STATE ADMINISTRATION** (Squires, Chairman):

12/19/2005

**HB 2**, be concurred in. Report adopted.

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate recess until 5:00 p.m. Motion carried.

**Senate recessed at 2:11 p.m.**

**Senate reconvened 5:01 p.m.**

Roll Call. Senator Williams, excused. Quorum present.

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, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 46

Nays: Balyeat, O'Neil, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: Williams.

Total 1

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**REPORTS OF STANDING COMMITTEES**

**FINANCE AND CLAIMS** (Cooney, Chairman):  
**HB 5**, be concurred in. Report adopted.

12/15/2005

**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 Tropila in the chair.

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

**HB 1** - Senator Laslovich moved **HB 1** be concurred in. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, 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, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 19

Absent or not voting: None.  
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 1** concurred in as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, 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, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.  
Total 19

Absent or not voting: None.  
Total 0

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Excused: None.  
Total 0

**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 Tropila in the chair.

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

**HB 2** - Senator Bales moved **HB 2** be concurred in. Motion carried 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

**HB 5** - Senator Cooney moved **HB 5** be concurred in.

**HB 5** - Senator Cooney moved **HB 5**, second reading copy, be amended as follows:

1. Page 1, line 14.  
**Strike:** "\$65,580"  
**Insert:** "\$14,538"

2. Page 1, line 15.  
**Strike:** "121,326"  
**Insert:** "33,019"

3. Page 1, line 16.  
**Strike:** "32,673"  
**Insert:** "17,649"

Amendment adopted unanimously.

**HB 5** - Senator Cooney moved **HB 5**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott,

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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

**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 2** concurred in 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

**HB 5** concurred in 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

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**MOTIONS**

Senator Grimes moved his vote on SB 1 be changed from 'aye' to 'nay'. Motion carried.

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate recess until 7:00 p.m. Motion carried.

**Senate recessed at 5:45 p.m.**

**Senate reconvened 7:00 p.m.**

Roll Call. Senator Elliott, excused. Quorum present.

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

Total 44

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

Total 5

Absent or not voting: None.

Total 0

Excused: Elliott.

Total 1

President Tester called for the Senate to stand at ease subject to the call of the Chair.

Majority Leader Ellingson moved the Senate recess for the purpose of caucus. Motion carried.

**Senate recessed 7:10 p.m.**

**Senate reconvened 7:22 p.m.**

Roll Call. Senator O'Neil, excused. Quorum present.

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, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Balyeat, Shockley.

Total 2

Absent or not voting: None.

Total 0

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Excused: O'Neil.  
Total 1

Majority Leader Ellingson moved that the Senate adjourn sine die. Motion carried.

**Senate adjourned Sine Die 7:25 p.m.**