

JOURNAL OF THE SENATE

NINETY-SEVENTH SESSION

TENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, January 25, 2022

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Fr. Ron Garry, followed by the Pledge of Allegiance led by Senate page Masey Chapin.

Roll Call: All members present except Sen. Schoenbeck who was excused and Sens. Rusch and V. J. Smith who were present remotely.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the 9th day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Lee A. Schoenbeck, Chair

Which motion prevailed.

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REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 7, 16, and 72** and returns the same with the recommendation that said bills do pass.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 22** and returns the same with the recommendation that said bill do pass, and having been certified as uncontested, be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 82** which was tabled.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 83** and returns the same with the recommendation that said bill be amended as follows:

83A

On page 1, line 8, of the Introduced bill, remove the overstrikes from "After one year from the date"

On page 1, line 8, of the Introduced bill, after "date" delete "At any time after"

On page 1, line 9, of the Introduced bill, after "record;" delete " or"

On page 1, line 10, of the Introduced bill, delete the period and insert "; or

(4) Within one year from the date the prosecuting attorney formally dismisses the entire criminal case on the record upon a showing of good cause."

83B

On the previously adopted amendment (83A), On page 1, line 12, delete " good cause" and insert " compelling necessity"

83C

On the previously adopted amendment (83B), On page 1, line 1, after "made" insert " and to declare an emergency"

On the previously adopted amendment (83B), On page 1, after line 13, insert: "

Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval."

And that as so amended, said bill do pass.

Respectfully submitted,
Helene Duhamel, Vice-Chair

1 MR. PRESIDENT:

2 The Committee on Senate Education respectfully reports that it has had under consideration
3 the nomination of Brian Sandvig of Grant County, Milbank, South Dakota, to the South Dakota Board
4 of Technical Education and returns the same with the recommendation that the Senate advise and
5 consent to the confirmation of said appointment.

6 Also MR. PRESIDENT:

7 The Committee on Senate Education respectfully reports that it has had under consideration
8 the nomination of Brad Greenway of Davison County, Mitchell, South Dakota, to the South Dakota
9 Board of Technical Education and returns the same with the recommendation that the Senate advise
10 and consent to the confirmation of said appointment.

11 Also MR. PRESIDENT:

12 The Committee on Senate Education respectfully reports that it has had under consideration
13 the nomination of Kay Schallenkamp of Lawrence County, Spearfish, South Dakota, to the South
14 Dakota Board of Technical Education and returns the same with the recommendation that the Senate
15 advise and consent to the confirmation of said appointment.

16 Also MR. PRESIDENT:

17 The Committee on Senate Education respectfully reports that it has had under consideration
18 the nomination of Joy Nelson of Codington County, Watertown, South Dakota, to the South Dakota
19 Board of Technical Education and returns the same with the recommendation that the Senate advise
20 and consent to the confirmation of said appointment.

21 Respectfully submitted,
22 R. Blake Curd, Chair

23 MR. PRESIDENT:

24 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
25 had under consideration the nomination of Kevin Robling of Hughes County, Pierre, South Dakota,
26 to the position of Secretary of Game, Fish and Parks and returns the same with the recommendation
27 that the Senate advise and consent to the confirmation of said appointment, and that said
28 appointment be placed on the consent calendar.

29 Respectfully submitted,
30 Joshua Klumb, Chair

31 MR. PRESIDENT:

32 The Committee on Senate Commerce and Energy respectfully reports that it has had under
33 consideration **SB 40** and returns the same with the recommendation that said bill be amended as
34 follows:

35 40C

36 On the Introduced bill, delete everything after the enacting clause and insert:

37 "

38 **Section 1. That a NEW SECTION be added to title 49:**

39 Terms used in this chapter mean:

1 (1) "Biogas gathering line," new and existing gathering pipeline facilities in South Dakota that
2 transport gas from a bio-methane producer to an interstate or intrastate gas pipeline;

3 (2) "Commission," the Public Utilities Commission;

4 (3) "Gas," natural gas, liquefied natural gas, flammable gas, gas which is toxic or corrosive, or
5 liquefied petroleum gas in distribution systems.

6 **Section 2. That a NEW SECTION be added to title 49:**

7 Any person who operates an intrastate biogas gathering line shall prior to operation provide
8 written notice of the location and existence of the biogas gathering line to:

9 (1) Any county and township where the biogas gathering line is located;

10 (2) Any municipality located in those counties and townships;

11 (3) South Dakota One-Call;

12 (4) The Commission;

13 (5) All landowners of record who own land within one-quarter mile of the biogas
14 gathering line.

15 All notices must warn of the hazards and dangers associated with the biogas gathering line
16 and its contents.

17 **Section 3. That a NEW SECTION be added to title 49:**

18 Any person who operates a biogas gathering line on an easement or in public right of way must
19 place and maintain signage marking the biogas gathering line for the life of the biogas gathering
20 line. Signage must be in the rights-of-way and placed at all public road crossings and railroad
21 crossings and in sufficient numbers so that the biogas gathering line location is accurately and easily
22 known. Signage must prominently display the operator's name, a twenty-four-hour emergency
23 telephone number for the operator, the word, warning, or danger, and the phrase, biogas pipeline.
24 Prior to commencement of operation, the operator shall certify to the Commission that the operator
25 has completed the requirements of this chapter.

26 **Section 4. That a NEW SECTION be added to title 49:**

27 If the Commission finds, after notice and opportunity for hearing, that a person has failed to
28 comply with any requirement of this chapter, the Commission may suspend or restrict the operation
29 of the pipeline and may order the person to comply with this chapter. The Commission may issue a
30 temporary ex parte order to suspend or restrict operation if the Commission determines a likelihood
31 of immediate serious harm to life, health, environment, or property exists. The operator has the
32 right of appeal from such decisions as provided by chapter 1-26. The Commission may apply to the
33 circuit court in any county in which the biogas gathering line operates for orders that enjoin
34 operation.

35 **Section 5. That a NEW SECTION be added to title 49:**

36 Any person who operates a biogas gathering line other than in compliance with this chapter is
37 guilty of a Class 1 misdemeanor and is subject to a civil penalty of not more than ten thousand
38 dollars."

39 And that as so amended, said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Senate Commerce and Energy respectfully reports that it has had under
3 consideration **SB 92** which was deferred to the 41st Legislative Day.

4 Also MR. PRESIDENT:

5 The Committee on Senate Commerce and Energy respectfully reports that it has had under
6 consideration **HB 1059 and 1062** and returns the same with the recommendation that said bills
7 do pass, and having been certified as uncontested, be placed on the consent calendar.

8 Respectfully submitted,
9 Casey Crabtree, Chair

10 **MESSAGES FROM THE HOUSE**

11 MR. PRESIDENT:

12 I have the honor to transmit herewith **HB 1004, 1025, 1028, 1035, 1041, 1056, 1063,**
13 **1065, 1075, and 1076** which have passed the House and your favorable consideration is
14 respectfully requested.

15 Respectfully,
16 Patricia Miller, Chief Clerk

17 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

18 **SB 104:** FOR AN ACT ENTITLED, An Act to modify certain provisions related to school district
19 elections.

20 Introduced by: **Senator** Maher

21 **SB 105:** FOR AN ACT ENTITLED, An Act to require renovation estimates on certain school
22 facilities before replacement.

23 Introduced by: **Senator** Maher

24 **SB 106:** FOR AN ACT ENTITLED, An Act to require school boards to consult with law
25 enforcement on the design of new school facilities.

26 Introduced by: **Senator** Maher

27 **SB 108:** FOR AN ACT ENTITLED, An Act to modify and repeal certain reporting requirements
28 to the Executive Board of the Legislative Research Council.

29 Introduced by: **Senator** Schoenbeck

30 **SB 110:** FOR AN ACT ENTITLED, An Act to transfer funds to the South Dakota postsecondary
31 scholarship grant fund for the South Dakota need-based grant program and to declare an
32 emergency.

33 Introduced by: **Senator** Nesiba

34 Were read the first time and referred to the Committee on Education.

1 **HB 1028:** FOR AN ACT ENTITLED, An Act to update certain provisions related to the licensure
2 of optometrists.

3 Was read the first time and referred to the Committee on Commerce and Energy.

4 **HB 1004:** FOR AN ACT ENTITLED, An Act to prohibit cardholder cultivation of medical
5 cannabis.

6 **HB 1056:** FOR AN ACT ENTITLED, An Act to revise provisions related to medical cannabis data
7 maintained by the Department of Health.

8 Were read the first time and referred to the Committee on Health and Human Services.

9 **HB 1065:** FOR AN ACT ENTITLED, An Act to repeal references to nonresident holders of
10 concealed pistol permits.

11 Was read the first time and referred to the Committee on Judiciary.

12 **HB 1075:** FOR AN ACT ENTITLED, An Act to modify legal and official notice publication
13 requirements.

14 **HB 1076:** FOR AN ACT ENTITLED, An Act to permit certain municipalities to elect aldermen at
15 large.

16 Were read the first time and referred to the Committee on Local Government.

17 **HB 1025:** FOR AN ACT ENTITLED, An Act to update legal holidays in South Dakota.

18 **HB 1041:** FOR AN ACT ENTITLED, An Act to facilitate legislative oversight of settlement
19 agreements involving a state entity or official.

20 **HB 1063:** FOR AN ACT ENTITLED, An Act to revise the approval process for state employee
21 household moving allowances.

22 Were read the first time and referred to the Committee on State Affairs.

23 **SECOND READING OF CONSENT CALENDAR ITEMS**

24 Sen. Wiik requested that **SB 19** be removed from the Consent Calendar.

25 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

26 Sen. Cammack moved that **SB 11 and 12** be deferred to Wednesday, January 26, 2022, the
27 11th legislative day.

28 Which motion prevailed.

1 **SB 23:** FOR AN ACT ENTITLED, An Act to revise the definition of bona fide practitioner-patient
2 relationship.

3 Was read the second time.

4 The question being "Shall **SB 23** pass as amended?"

5 And the roll being called:

6 Yeas 31, Nays 3, Excused 1, Absent 0

7 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Frye-
8 Mueller, Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Novstrup,
9 Herman Otten, Rohl, Rusch, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton, Symens, Tobin,
10 Wheeler, Wiik, and Zikmund

11 Nays: Foster, Heinert, and Nesiba

12 Excused: Schoenbeck

13 So the bill having received an affirmative vote of a majority of the members-elect, the President
14 declared the bill passed and the title was agreed to.

15 **SB 4:** FOR AN ACT ENTITLED, An Act to revise provisions related to a written certification for
16 the medical use of cannabis.

17 Was read the second time.

18 The question being "Shall **SB 4** pass as amended?"

19 And the roll being called:

20 Yeas 34, Nays 0, Excused 1, Absent 0

21 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall,
22 Foster, Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck,
23 Maher, Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenfish, V. J. Smith, Stalzer, Steinhauer,
24 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

25 Excused: Schoenbeck

26 So the bill having received an affirmative vote of a majority of the members-elect, the President
27 declared the bill passed and the title was agreed to.

28 **SB 14:** FOR AN ACT ENTITLED, An Act to revise provisions related to the confidential list of
29 medical cannabis cardholders maintained by the Department of Health.

30 Was read the second time.

31 The question being "Shall **SB 14** pass as amended?"

32 And the roll being called:

33 Yeas 34, Nays 0, Excused 1, Absent 0

1 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall,
2 Foster, Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck,
3 Maher, Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenfish, V. J. Smith, Stalzer, Steinhauer,
4 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

5 Excused: Schoenbeck

6 So the bill having received an affirmative vote of a majority of the members-elect, the President
7 declared the bill passed and the title was agreed to.

8 **SB 17:** FOR AN ACT ENTITLED, An Act to revise provisions regarding cost reimbursement
9 associated with medical cannabis.

10 Was read the second time.

11 The question being "Shall **SB 17** pass?"

12 And the roll being called:

13 Yeas 34, Nays 0, Excused 1, Absent 0

14 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall,
15 Foster, Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck,
16 Maher, Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenfish, V. J. Smith, Stalzer, Steinhauer,
17 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

18 Excused: Schoenbeck

19 So the bill having received an affirmative vote of a majority of the members-elect, the President
20 declared the bill passed and the title was agreed to.

21 **SB 18:** FOR AN ACT ENTITLED, An Act to revise rulemaking authority related to medical
22 cannabis.

23 Was read the second time.

24 The question being "Shall **SB 18** pass?"

25 And the roll being called:

26 Yeas 18, Nays 16, Excused 1, Absent 0

27 Yeas: Breitling, Cammack, Castleberry, Crabtree, Diedrich, Duhamel, Duvall, Hunhoff, Johns,
28 David Johnson, Novstrup, Rusch, V. J. Smith, Stalzer, Steinhauer, Sutton, Wiik, and Zikmund

29 Nays: Bolin, Curd, Foster, Frye-Mueller, Brock Greenfield, Heinert, Klumb, Kolbeck, Maher,
30 Nesiba, Herman Otten, Rohl, Schoenfish, Symens, Tobin, and Wheeler

31 Excused: Schoenbeck

32 So the bill having received an affirmative vote of a majority of the members-elect, the President
33 declared the bill passed and the title was agreed to.

34 Sen. Klumb now presiding.

1 **SB 21:** FOR AN ACT ENTITLED, An Act to revise provisions related to the revocation of a
2 medical cannabis registry identification card.

3 Was read the second time.

4 The question being "Shall **SB 21** pass?"

5 And the roll being called:

6 Yeas 34, Nays 0, Excused 1, Absent 0

7 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall,
8 Foster, Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck,
9 Maher, Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenfish, V. J. Smith, Stalzer, Steinhauer,
10 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

11 Excused: Schoenbeck

12 So the bill having received an affirmative vote of a majority of the members-elect, the President
13 declared the bill passed and the title was agreed to.

14 **SB 27:** FOR AN ACT ENTITLED, An Act to revise the provisions regarding the denial or
15 nonrenewal of a patient registry identification card.

16 Was read the second time.

17 The question being "Shall **SB 27** pass?"

18 And the roll being called:

19 Yeas 34, Nays 0, Excused 1, Absent 0

20 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall,
21 Foster, Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck,
22 Maher, Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenfish, V. J. Smith, Stalzer, Steinhauer,
23 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

24 Excused: Schoenbeck

25 So the bill having received an affirmative vote of a majority of the members-elect, the President
26 declared the bill passed and the title was agreed to.

27 **SB 26:** FOR AN ACT ENTITLED, An Act to revise the definition of practitioner for purposes of
28 the medical cannabis program.

29 Was read the second time.

30 The question being "Shall **SB 26** pass as amended?"

31 And the roll being called:

32 Yeas 30, Nays 4, Excused 1, Absent 0

33 Yeas: Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duvall, Foster, Frye-Mueller,
34 Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Nesiba,
35 Novstrup, Herman Otten, Rohl, Rusch, Schoenfish, V. J. Smith, Steinhauer, Symens, Tobin, Wheeler,
36 Wiik, and Zikmund

1 Nays: Bolin, Duhamel, Stalzer, and Sutton

2 Excused: Schoenbeck

3 So the bill having received an affirmative vote of a majority of the members-elect, the President
4 declared the bill passed and the title was agreed to.

5 Sen. David Johnson moved that the Senate do now adjourn, which motion prevailed and at
6 2:55 p.m. the Senate adjourned.

7 Kay Johnson, Secretary

8 Pursuant to the report of the Joint-Select Committee, as found on page 34 of the Senate
9 Journal, the Senate and the House of Representatives met in informal joint session in the House
10 Chamber for the purpose of having a memorial service for deceased former members and reading
11 of the following Joint Memorial Resolution:

12 **WHEREAS**, the Great Ruler of the Universe has ordered a final adjournment in the lives of
13 thirteen former members of the South Dakota Legislature, namely: the *Honorable Gerald "Jerry" F.*
14 *Apa*; the *Honorable Kathryn "Kay" Davis-Sturzenbecher*; the *Honorable James "Jim" Emery*; the
15 *Honorable Robert "Bob" Faehn*; the *Honorable Wendell H. Hanson*; the *Honorable David E. Lust*; the
16 *Honorable Elaine McCart*; the *Honorable Roger R. Moore*; the *Honorable James Sperry*; the
17 *Honorable Dale Slaughter*; the *Honorable Carveth "Carv" Thompson*; the *Honorable Robert R. "Bob"*
18 *Weber*; and the *Honorable Charles B. Welke*.

19 **WHEREAS**, in the lives of all of these eminent public servants there was noted a profound
20 urgency in an unselfish manner, with trials and vicissitudes often far outweighing honors, but with
21 a consciousness that here in a land of freedom the dignity of the individual is supreme, that justice
22 must be dispensed, and that only by eternal vigilance and unrelenting effort can self-government of
23 a people be preserved; and

24 **WHEREAS**, it is fitting that we humbly honor the memory of those who have thus contributed
25 to the orderly process of government under the Constitution:

26 **NOW, THEREFORE, BE IT RESOLVED**, by the Senate and the House of Representatives of
27 the Ninety-seventh Session of the Legislature of the State of South Dakota duly convened in recess
28 session in recognition of the useful lives and unflinching devotion to the interests of the State of South
29 Dakota, as well as the rectitude of thought and action and fidelity to the highest principles of
30 American citizenship by these honorable people, that the Senate and the House of Representatives
31 do now pause in their labors out of respect for the memory of their late fellow associates in the
32 functions of government, and note that in their passing, the state they have served so well has
33 suffered a distinct loss, and though their labors have ceased and they have been laid to rest, the
34 people of this great state have benefited greatly from the services rendered by them and they have
35 left upon the sands of time an inspiring record of devotion to their fellow citizens under the guiding
36 hand of Almighty God; and

37 **BE IT FURTHER RESOLVED**, that this Resolution be printed in the journals of the Senate
38 and the House of Representatives of the Ninety-seventh Session of the Legislature of the State of
39 South Dakota, now assembled this 20th day of January, 2022, at Pierre, South Dakota.

