

JOURNAL OF THE SENATE

NINETY-EIGHTH SESSION

SEVENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, January 19, 2023

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

The prayer was offered by the Chaplain, Rev. Mercy Hobbs, followed by the Pledge of Allegiance led by Senate page Zouhera Mahamed.

Roll Call: All members present.

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 6th 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.

1

REPORTS OF STANDING COMMITTEES

2 Mr. President:

3 The Committee on Senate Judiciary respectfully reports that it has had under consideration
4 **SB 46** and returns the same with the recommendation that said bill be amended as follows:

5 46C

6 On page 1, line 1, of the Introduced bill, delete "establish the crime of" and insert "enhance
7 the penalty for"

8 On page 1, line 1, of the Introduced bill, after "perjury" delete " and provide a penalty therefor"

9 On page 1, line 20, of the Introduced bill, delete " petition circulation perjury pursuant to
10 section 2 of this Act" and insert " a Class 6 felony"

11 On page 1, after line 22, of the Introduced bill, insert: "

12 **Section 2. That § 12-6-8 be AMENDED:**

13 **12-6-8.** No person may sign the nominating petition of a candidate before January first in the
14 year in which the election is to be held, nor for whom the person is not entitled to vote, nor for a
15 political candidate of a party of which the person is not a member, nor for more than the number of
16 candidates required to be nominated for the same office. The signer or circulator shall add the
17 signer's place of residence and the date of signing. The signer's post office box number may be
18 given in lieu of a street address if the signer lives within a municipality of the second or third class.
19 A formal declaration of the candidate shall be signed by the candidate before the circulation of
20 petitions. The signed declaration of the candidate shall accompany and be a part of the petition. An
21 original signed declaration shall accompany the group of petitions upon filing.

22 The petition shall be verified under oath by the persons circulating the petition. The verification
23 by the person circulating the petition may not be notarized by the candidate whom the petition is
24 nominating. Any person circulating a petition who falsely attests to the verification is guilty of a
25 Class 6 felony.

26 A nominating petition for any election shall be a self-contained sheet of paper in order to have
27 the candidate's name placed on the ballot. The provisions of this section may not prohibit a person
28 registered with party affiliation from signing either a petition nominating an independent or a
29 nonpolitical candidate for office if the person has not previously signed a petition for that office to
30 be filled."

31 On page 1, line 23, of the Introduced bill, after "misdemeanor." delete "Section 2. That chapter
32 22-29 be amended with a NEW SECTION:

33 "

34 On page 1, line 24, of the Introduced bill, after "SECTION:" delete "Any person who, having
35 taken an oath attesting to having personally circulated any petition to initiate an amendment to the
36 Constitution, initiated measure, referred law, or to nominate any candidate for any political office,
37 states, intentionally or contrary to the oath, any material matter that the person knows to be false,
38 is guilty of perjury pursuant to subdivision 22-29-5(3)."

39 And that as so amended, **SB 46** do pass, and having been certified as uncontested, be placed
40 on the consent calendar.

1 Also Mr. President:

2 The Committee on Senate Judiciary respectfully reports that it has had under consideration
3 **SB 47** and returns the same with the recommendation that said bill do pass.

4 Also Mr. President:

5 The Committee on Senate Judiciary respectfully reports that it has had under consideration the
6 nomination of Patricia A. Meyers of Rapid City, South Dakota, to the Board of Pardons and Paroles
7 and returns the same with the recommendation that the Senate advise and consent to the
8 confirmation of said appointment.

9 Respectfully submitted,
10 Helene Duhamel, Chair

11 Mr. President:

12 The Committee on Senate Education respectfully reports that it has had under consideration
13 **SB 24** with the recommendation that said bill be referred to the Joint Committee on Appropriations
14 with a Do Pass recommendation.

15 Also Mr. President:

16 The Committee on Senate Education respectfully reports that it has had under consideration
17 the nomination of Brock Brown of Hamlin County, Lake Norden, South Dakota, to the State Board
18 of Regents and returns the same with the recommendation that the Senate advise and consent to
19 the confirmation of said reappointment, and that said reappointment having been certified as
20 uncontested, be placed on the consent calendar.

21 Respectfully submitted,
22 Kyle Schoenfish, Chair

23 Mr. President:

24 The Committee on Senate Commerce and Energy respectfully reports that it has had under
25 consideration **SB 11** and returns the same with the recommendation that said bill be amended as
26 follows:

27 11A

28 On page 1, line 4, of the Introduced bill, after "Dakota:" delete "Section 1. That § 49-41B-12
29 be AMENDED:

30 "

31 On page 1, line 5, of the Introduced bill, after "AMENDED:" delete "49-41B-12. At the time of
32 filing an application as required in § 49-41B-11 or as subsequently required by the commission, an
33 applicant shall deposit with the commission an initial amount to be determined by the commission
34 based upon the estimated cost of processing, investigating, and reviewing, processing, an
35 application and serving notice of an application for the estimated cost of litigating and enforcing a
36 permit if issued under this chapter. The amount shall be deposited with the state treasurer and
37 credited to a subfund within the designated revenue fund and shall be disbursed on vouchers
38 approved by the commission for the actual cost of processing, investigating, and reviewing,
39 processing, and serving notice of the application. an application and for the actual cost of litigating
40 and enforcing a permit if issued under this chapter. The maximum fee chargeable may not exceed
41 one-quarter of one percent of the first one hundred million dollars of estimated construction cost
42 plus one-twentieth of one percent of all additional estimated construction costs of the facility. five

1 hundred thousand dollars, unless the commission, after hearing from the applicant and parties, finds
2 that a higher fee is necessary to complete its review under this chapter. However, the minimum
3 total fee chargeable may not be less than eight thousand dollars.

4 If the commission determines that an environmental impact statement should be prepared as
5 provided under chapter 34A-9 before taking final action on an application under this chapter, the
6 maximum fee chargeable above may be increased to an amount not to exceed one-half of one
7 percent of the first one hundred million dollars of estimated construction cost plus one-twentieth of
8 one percent of all additional estimated construction costs of the facility. However, the provisions of
9 this paragraph do not apply in cases in which a detailed environment impact study has been
10 completed pursuant to the requirements of the National Environmental Policy Act of 1969 as
11 amended to January 1, 2009, and implementing regulations thereto if such a statement is available
12 to the commission at least thirty days prior to the time the commission is required to render a
13 decision under § 49-41B-24 or 49-41B-25. The provisions of this section apply to all pending permit
14 applications and future permit applications before the commission."

15 And that as so amended, **SB 11** do pass.

16 Also Mr. President:

17 The Committee on Senate Commerce and Energy respectfully reports that it has had under
18 consideration **SB 42** and returns the same with the recommendation that said bill do pass, and
19 having been certified as uncontested, be placed on the consent calendar.

20 Respectfully submitted,
21 David Wheeler, Chair

22 Mr. President:

23 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
24 had under consideration **SB 17** with the recommendation that said bill be referred to the Joint
25 Committee on Appropriations with a Do Pass recommendation.

26 Also Mr. President:

27 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
28 had under consideration **SB 20** and returns the same with the recommendation that said bill do
29 pass, and having been certified as uncontested, be placed on the consent calendar.

30 Respectfully submitted,
31 Herman Otten, Chair

32 **MESSAGES FROM THE HOUSE**

33 Mr. President:

34 I have the honor to transmit herewith **HB 1010, 1011, 1013, 1014, 1015, 1018, and 1019**
35 which have passed the House and your favorable consideration is respectfully requested.

36 Mr. President:

37 I have the honor to inform your honorable body that the House has adopted the report of the
38 Joint Committee on Legislative Procedure relative to the permanent joint rules for the Ninety-eighth
39 Legislative Session.

40 Respectfully,
41 Patricia Miller, Chief Clerk

1

MOTIONS AND RESOLUTIONS

2

SCR 601: A CONCURRENT RESOLUTION, Encouraging the Executive Board of the Legislature to authorize and form an interim legislative committee on nuclear power in South Dakota.

3

4

Introduced by: **Senator** Brent "B.R." Hoffman

5

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

6

SCR 602: A CONCURRENT RESOLUTION, Affirming the Legislature's support of the United States Supreme Court decision of Dobbs v. Jackson Women's Health Organization.

7

8

Introduced by: **Senator** Bolin

9

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

10

Sen. Crabtree moved that **SB 54** be deferred to Friday, January 20, 2023, the 8th legislative day.

11

12

Which motion prevailed.

13

Sen. Crabtree moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on Friday, January 20, 2023, the 8th legislative day.

14

15

Which motion prevailed.

16

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

17

The President declared that **SB 32** was withdrawn at the request of Sen. Schoenfish pursuant to JR 6B-1.1.

18

19

SB 72: FOR AN ACT ENTITLED, An Act to revise provisions related to the discharge of a defendant restored to competency.

20

21

Introduced by: **Senator** Wheeler

22

SB 74: FOR AN ACT ENTITLED, An Act to provide for the establishment of regional jail authorities.

23

24

Introduced by: **Senator** Stalzer

25

SB 75: FOR AN ACT ENTITLED, An Act to revise provisions related to parental support for expenses related to pregnancy and childbirth.

26

27

Introduced by: **Senator** Wheeler

28

Were read the first time and referred to the Committee on Judiciary.

1 The question being "Shall **SB 26 and 29** pass?"

2 And the roll being called:

3 Yeas 35, Nays 0, Excused 0, Absent 0

4 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,
5 Duhamel, Foster, Frye-Mueller, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck,
6 Steve Kolbeck, Larson, Maher, Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl,
7 Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

8 So the bills having received an affirmative vote of a majority of the members-elect, the
9 President declared the bills passed and the titles were agreed to.

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

11 **SB 1:** FOR AN ACT ENTITLED, An Act to modify debilitating medical conditions for medical
12 cannabis use.

13 Was read the second time.

14 The question being "Shall **SB 1** pass?"

15 And the roll being called:

16 Yeas 20, Nays 15, Excused 0, Absent 0

17 Yeas: Bordeaux, Breitling, Crabtree, Davis, Diedrich, Foster, Hunhoff, Klumb, Larson, Maher,
18 Nesiba, Herman Otten, Pischke, Reed, Rohl, Schoenfish, Tobin, Wheeler, Wink, and Zikmund

19 Nays: Beal, Bolin, Castleberry, Deibert, Duhamel, Frye-Mueller, Brent "B.R." Hoffman, David
20 Johnson, Jack Kolbeck, Steve Kolbeck, Mehlhaff, Novstrup, Schoenbeck, Stalzer, and Wiik

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

23 **SB 27:** FOR AN ACT ENTITLED, An Act to place certain substances on the controlled substances
24 schedule and to declare an emergency.

25 Was read the second time.

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

27 And the roll being called:

28 Yeas 28, Nays 2, Excused 5, Absent 0

29 Yeas: Beal, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel,
30 Frye-Mueller, David Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher, Mehlhaff, Nesiba,
31 Novstrup, Herman Otten, Reed, Rohl, Schoenfish, Tobin, Wheeler, Wiik, Wink, and Zikmund

32 Nays: Brent "B.R." Hoffman and Pischke

33 Excused: Bolin, Foster, Hunhoff, Schoenbeck, and Stalzer

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

3 Sen. Nesiba moved that the Senate do now adjourn, which motion prevailed and at 2:53 p.m.
4 the Senate adjourned.

5 Kay Johnson, Secretary

6 **JOINT SESSION**

7 Pursuant to the report of the Joint-Select Committee, as found on page 28 of the Senate
8 Journal, the Senate and the House of Representatives met in informal joint session in the House
9 Chamber for the purpose of having a memorial service for deceased former members and reading
10 of the following Joint Memorial Resolution:

11 **WHEREAS**, the Great Ruler of the Universe has ordered a final adjournment in the lives of
12 eleven former members of the South Dakota Legislature, namely: the *Honorable Carrol "Red" Allen*;
13 the *Honorable Debra Anderson*; the *Honorable O.L. "Larry" Anderson*; the *Honorable Henry Carlson*,
14 *Jr.*; the *Honorable Sheldon Cotton*; the *Honorable Gary Jerke*; the *Honorable Marguerite Kleven*;
15 the *Honorable Gordon J. Mydland*; the *Honorable James "Jim" Peterson*; the *Honorable John "Joe"*
16 *Reedy*; and the *Honorable Harvey Wollman*.

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

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

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

35 **BE IT FURTHER RESOLVED**, that this Resolution be printed in the journals of the Senate
36 and the House of Representatives of the Ninety-eighth Session of the Legislature of the State of
37 South Dakota, now assembled this 19th day of January, 2023, at Pierre, South Dakota.