

# *JOURNAL OF THE HOUSE*

## *NINETY-EIGHTH SESSION*

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TENTH DAY

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STATE OF SOUTH DAKOTA  
House of Representatives, Pierre  
Tuesday, January 24, 2023

The House convened at 2:00 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Russell Jones, followed by the Pledge of Allegiance led by House page Ainsley Brink.

Roll Call: All members present.

### **APPROVAL OF THE JOURNAL**

Mr. Speaker:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House 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.

Which motion prevailed.

Respectfully submitted,  
Hugh M. Bartels, Chair

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**REPORTS OF STANDING COMMITTEES**

2 Mr. Speaker:

3 The Committee on House Military and Veterans Affairs respectfully reports that it has had under  
4 consideration **HB 1037 and 1045** and returns the same with the recommendation that said bills  
5 do pass.

6 Also Mr. Speaker:

7 The Committee on House Military and Veterans Affairs respectfully reports that it has had under  
8 consideration **HB 1038** and returns the same with the recommendation that said bill do pass, and  
9 having been certified as uncontested, be placed on the consent calendar.

10 Also Mr. Speaker:

11 The Committee on House Military and Veterans Affairs respectfully reports that it has had under  
12 consideration **HB 1051** which was deferred to the 41st Legislative Day.

13  
14

Respectfully submitted,  
Tim Reisch, Chair

15 Mr. Speaker:

16 The Committee on House Health and Human Services respectfully reports that it has had under  
17 consideration **HB 1053** and returns the same with the recommendation that said bill do pass.

18 Also Mr. Speaker:

19 The Committee on House Health and Human Services respectfully reports that it has had under  
20 consideration **HB 1079** with the recommendation that said bill be referred to the Joint Committee  
21 on Appropriations with a Do Pass recommendation.

22 Also Mr. Speaker:

23 The Committee on House Health and Human Services respectfully reports that it has had under  
24 consideration **HCR 6002** and returns the same with the recommendation that said resolution be  
25 adopted, and having been certified as uncontested, be placed on the consent calendar.

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27

Respectfully submitted,  
Kevin D. Jensen, Chair

28 Mr. Speaker:

29 The Committee on House Agriculture and Natural Resources respectfully reports that it has had  
30 under consideration **HB 1058** and returns the same with the recommendation that said bill do pass.

31 Also Mr. Speaker:

32 The Committee on House Agriculture and Natural Resources respectfully reports that it has had  
33 under consideration **HB 1090** and returns the same with the recommendation that said bill be  
34 amended as follows:

1 1090A

2 On page 1, line 5, of the Introduced bill, remove the overstrikes from "existing "

3 On page 1, line 5, of the Introduced bill, after "existing " delete "that has been in existence "

4 On page 1, line 17, of the Introduced bill, remove the overstrikes from " county, municipal"

5 On page 1, line 17, of the Introduced bill, after "municipal" delete " local"

6 On page 1, line 17, of the Introduced bill, remove the overstrikes from "codes,"

7 On page 2, line 21, of the Introduced bill, delete " a local" and insert " any county, municipal"

8 On page 3, line 8, of the Introduced bill, delete " local" and insert " any county, municipal"

9 On page 3, line 8, of the Introduced bill, delete " laws" and insert " law"

10 On page 3, line 8, of the Introduced bill, delete " regulations" and insert " regulation"

11 And that as so amended, **HB 1090** do pass.

12 Respectfully submitted,  
13 Roger Chase, Chair

14 Mr. Speaker:

15 The Committee on House Taxation respectfully reports that it has had under consideration  
16 **HB 1072** and returns the same with the recommendation that said bill be amended as follows:

17 1072B

18 On page 1, line 1, of the Introduced bill, after "lithium" delete " and pegmatite"

19 On page 1, line 1, of the Introduced bill, after "as" insert " an"

20 On page 1, line 1, of the Introduced bill, delete " minerals" and insert " mineral"

21 On page 1, line 7, of the Introduced bill, after "lithium," delete " pegmatite,"

22 On page 2, line 9, of the Introduced bill, after "lithium" delete " and pegmatite,"

23 On page 2, after line 14, of the Introduced bill, insert: "

24 **Section 4. That chapter 10-39A be amended with a NEW SECTION:**

25 The taxable value of severed and saved lithium-bearing material is the sales price per pound  
26 of the content of lithium contained in the severed and saved lithium ore, regardless of the form in  
27 which the product is actually disposed of. However, if the severed and saved lithium ore is not sold,  
28 the taxable value is the market value of the lithium in such material."

29 And that as so amended, **HB 1072** do pass.

30 Also Mr. Speaker:

31 The Committee on House Taxation respectfully reports that it has had under consideration  
32 **SB 26 and 29** and returns the same with the recommendation that said bills do pass, and having  
33 been certified as uncontested, be placed on the consent calendar.

1 \_\_\_\_\_ Respectfully submitted,  
 2 \_\_\_\_\_ Kirk Chaffee, Chair

3 Mr. Speaker:

4 The Committee on House Local Government respectfully reports that it has had under  
 5 consideration **HB 1060** and returns the same with the recommendation that said bill be amended  
 6 as follows:

7 \_\_\_\_\_ 1060B

8 On page 1, after line 3, of the Introduced bill, insert: "

9 **Section 1. That § 5-18A-1 be AMENDED:**

10 **5-18A-1.** Terms used in this chapter and chapters 5-18B, 5-18C, and 5-18D mean:

11 (1) "Acceptance," the formal resolution of a purchasing agency authorizing the  
 12 execution of a design-build contract;

13 (2) "Biobased," any materials composed wholly or in a significant part of biological  
 14 products including renewable agricultural materials or forestry materials;

15 (3) "Contract," any type of agreement, regardless of what the agreement may be called,  
 16 for the procurement of supplies, services, or construction;

17 (4) "Construction," and "constructed," in addition to their ordinary meaning, repair,  
 18 demolition, and alteration;

19 (5) "Construction management," any project delivery system based on an agreement  
 20 whereby a construction manager provides leadership to the construction process through a series  
 21 of services to the purchasing agency;

22 (6) "Construction manager," any person or entity that provides construction  
 23 management services for a purchasing agency, and is either a construction manager-agent or  
 24 construction manager-at-risk;

25 (7) "Construction manager-agent," any construction manager that provides  
 26 construction management services to a purchasing agency in a fiduciary capacity;

27 (8) "Construction manager-at-risk," any construction manager that assumes the risk for  
 28 construction, rehabilitation, alteration, or repair of a public improvement and that provides  
 29 construction management services to the purchasing agency;

30 (9) "Design-build contract," any contract between a purchasing agency and a design-  
 31 builder to furnish the architecture, engineering, and related services as required, and the labor,  
 32 materials, and other construction services for a public improvement. A design-build contract may  
 33 be conditioned upon future refinements in scope and price, and may permit the purchasing agency  
 34 to make changes in the scope of the project without invalidating the design-build contract;

35 (10) "Design-build proposal," an offer to enter into a design-build contract;

36 (11) "Design-build request for proposals," any document or publication whereby a  
 37 purchasing agency solicits proposals for a design-build contract;

38 (12) "Design-builder," any person that proposes to design and construct a public  
 39 improvement covered by the procedures of this chapter and chapters 5-18B, 5-18C, and 5-18D;

- 1 (13) "Environmentally preferable product," any cleaning or maintenance product having  
2 properties that minimize potential impacts to human health and the environment, any product  
3 designed to conserve energy and water, any biobased product, and any product containing recycled  
4 materials or recovered materials;
- 5 (14) "Internet," the international computer network of both federal and nonfederal  
6 interoperable packet switched data networks, including the graphical subnetwork called the world  
7 wide web;
- 8 (15) "Invitation for bids," any document, whether attached or incorporated by reference,  
9 used for soliciting bids;
- 10 (16) "Officer," any elected official or administrative officer appointed to that position by  
11 the governing body;
- 12 (17) "Performance criteria," requirements for the public improvement, including as  
13 appropriate, capacity, durability, production standards, ingress and egress requirements, building  
14 code requirements, or other criteria for the intended use of the public improvement, expressed in  
15 performance-oriented specifications or drawings suitable to allow the design-builder to make a  
16 proposal;
- 17 (18) "Performance criteria developer," any person and the person's subcontractors  
18 retained by the purchasing agency to develop performance criteria;
- 19 (19) "Professional services," services arising out of a vocation, calling, occupation, or  
20 employment involving specialized knowledge, labor, or skill, and the labor or skill involved is  
21 predominantly mental or intellectual, rather than physical or manual;
- 22 (20) "Proposal," any offer to enter into contract in response to a request for proposals;
- 23 (21) "Purchasing agency," any governmental body or officer authorized by law,  
24 administrative rule, or delegated authority, to enter into contracts;
- 25 (22) "Public improvement," the process of building, altering, repairing, improving, or  
26 demolishing any public infrastructure facility, including any utility infrastructure, structure, building,  
27 or other improvements of any kind to real property, the cost of which is payable from taxes or other  
28 funds under the control of the purchasing agency, and includes any local improvement for which a  
29 special assessment is to be levied;
- 30 (23) "Qualified agency," any public or private nonprofit corporation geographically  
31 located in the State of South Dakota that provides services for persons with disabilities and is  
32 certified by the Department of Human Services;
- 33 (24) "Request for proposals," any document, whether attached or incorporated by  
34 reference, utilized by a purchasing agency when soliciting proposals for contracts for the  
35 procurement of supplies, services, or construction;
- 36 (25) "Request for qualifications," the document or publication whereby a purchasing  
37 agency solicits interested design-builders to pre-qualify for a design-build contract;
- 38 (26) "Resident," any person, partnership, association, limited liability company, foreign  
39 limited liability company, corporation, or foreign corporation licensed to do business within this state  
40 that has maintained a substantial and bona fide place of business and has conducted business from  
41 within this state for at least one year prior to the date on which a contract was awarded. The  
42 members of the partnership or association shall have been bona fide residents of the state for one  
43 year or more immediately prior to bidding upon the contract. A foreign corporation licensed pursuant  
44 to §§ 47-1A-1501 to 47-1A-1532, inclusive, is not a resident as defined by this section if the state  
45 or country in which it is organized enforces or has a preference for resident bidders;

- 1 (26A) "Reverse auction," a purchasing process in which bidders submit bids in competing  
 2 to sell supplies or nonprofessional services in an open environment via the internet;
- 3 (27) "Sealed bid or proposal," a response to an invitation for bids or request for proposals  
 4 submitted in a manner where the contents of the bid or proposal cannot be opened or viewed before  
 5 the date and time of the formal opening without leaving evidence that the bid or proposal has been  
 6 opened or viewed;
- 7 (28) "Services," furnishing of labor, time, or effort by a contractor not involving the  
 8 delivery of a specific end product other than reports which are merely incidental to the required  
 9 performance;
- 10 (29) "Supplies," any property, including equipment, materials, and printing;
- 11 (30) "Surety," a bond or undertaking executed by a surety company authorized to do  
 12 business in the State of South Dakota and countersigned by an agent of the company resident in  
 13 the State of South Dakota. However, nothing in this subdivision requires countersignature of a bid  
 14 bond."

15 And that as so amended, **HB 1060** do pass, and having been certified as uncontested, be  
 16 placed on the consent calendar.

17 Respectfully submitted,  
 18 Becky J. Drury, Chair

19 Mr. Speaker:

20 The Committee on House Transportation respectfully reports that it has had under  
 21 consideration **HB 1042** and returns the same with the recommendation that said bill be amended  
 22 as follows:

23 1042A

24 On page 1, line 6, of the Introduced bill, delete "two dollars" and insert "one dollar and fifty  
 25 cents"

26 On page 1, line 7, of the Introduced bill, after "decals" delete " plus a one-dollar handling fee"

27 On page 1, line 14, of the Introduced bill, delete "two dollars" and insert "one dollar and fifty  
 28 cents"

29 On page 1, line 15, of the Introduced bill, after "decals " delete "plus a one-dollar handling fee  
 30 when decals are sent to the owner through the mail, "

31 On page 1, line 16, of the Introduced bill, delete "ten dollars" and insert "seven dollars and  
 32 fifty cents"

33 On page 1, line 16, of the Introduced bill, after "plates " delete "plus a two-dollar handling fee  
 34 "

35 On page 1, line 21, of the Introduced bill, delete "two dollars" and insert "one dollar and fifty  
 36 cents"

37 On page 1, line 21, of the Introduced bill, delete "ten dollars" and insert "seven dollars and  
 38 fifty cents"

39 On page 2, line 3, of the Introduced bill, delete "two dollars" and insert "one dollar and fifty  
 40 cents"

1 On page 2, line 8, of the Introduced bill, delete "two dollars" and insert "one dollar and fifty  
2 cents"

3 On page 2, line 8, of the Introduced bill, delete "ten dollars" and insert "seven dollars and fifty  
4 cents"

5 On page 2, line 14, of the Introduced bill, delete "two dollars" and insert "one dollar and fifty  
6 cents"

7 On page 2, line 27, of the Introduced bill, delete "two dollars plus a one-dollar handling fee "  
8 and insert "one dollar and fifty cents "

9 On page 3, line 15, of the Introduced bill, delete "ten dollars" and insert "seven dollars and  
10 fifty cents"

11 On page 3, line 16, of the Introduced bill, after "plates " delete "plus a two-dollar handling fee  
12 "

13 On page 3, line 17, of the Introduced bill, delete "two dollars" and insert "one dollar and fifty  
14 cents"

15 On page 3, line 17, of the Introduced bill, after "decals " delete "plus a one-dollar handling fee  
16 "

17 On page 4, line 8, of the Introduced bill, delete "ten dollars" and insert "seven dollars and fifty  
18 cents"

19 On page 4, line 9, of the Introduced bill, delete "two dollars" and insert "one dollar and fifty  
20 cents"

21 On page 4, after line 11, of the Introduced bill, insert: "

22 **Section 10. That chapter 32-1 be amended with a NEW SECTION:**

23 Mailing fees in chapters 32-3A, 32-5, 32-6B, 32-6C, 32-7A, 32-7B, 32-9, and 32-10 shall be  
24 reviewed by the Legislature every four years."

25 And that as so amended, **HB 1042** do pass.

26 Also Mr. Speaker:

27 The Committee on House Transportation respectfully reports that it has had under  
28 consideration **HB 1083** which was deferred to the 41st Legislative Day.

29 Respectfully submitted,  
30 Rocky Blare, Chair

31 **MESSAGES FROM THE SENATE**

32 Mr. Speaker:

33 I have the honor to transmit herewith **SB 9, 10, 11, 15, 20, 31, 68, and 69** which have  
34 passed the Senate and your favorable consideration is respectfully requested.

35 Respectfully,  
36 Kay Johnson, Secretary

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**CONSIDERATION OF REPORTS OF COMMITTEES**

2

Rep. Mortenson moved that the reports of the Standing Committees on

3

Commerce and Energy on **HB 1087** as found on page 78 of the House Journal; also

4

Commerce and Energy on **HB 1088** as found on page 79 of the House Journal be adopted.

5

Which motion prevailed and the reports were adopted.

6

**FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

7

The Speaker declared that **HB 1113** was withdrawn at the request of the prime sponsor pursuant to JR 6B-1.1.

8

9

**HB 1117:** FOR AN ACT ENTITLED, An Act to make an appropriation to support the small and mid-sized manufacturers, and to declare an emergency.

10

11

Introduced by: **Representative** Bartels

12

**HB 1118:** FOR AN ACT ENTITLED, An Act to make an appropriation to support the South Dakota Small Business Development Center and the South Dakota Procurement Technical Assistance Center, and to declare an emergency.

13

14

15

Introduced by: **Representative** Bartels

16

**HB 1120:** FOR AN ACT ENTITLED, An Act to establish provisions for the operation of automated motor vehicles.

17

18

Introduced by: **Representative** Chase

19

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

20

**HB 1119:** FOR AN ACT ENTITLED, An Act to classify 911 telecommunicators as Class B members of the South Dakota Retirement System.

21

22

Introduced by: **Representative** Kull

23

Was read the first time and referred to the Committee on Retirement Laws.

24

**HB 1114:** FOR AN ACT ENTITLED, An Act to revise the qualifications to be a member of a county recount board.

25

26

Introduced by: **Representative** Arlint

27

**HB 1115:** FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the destruction of ballots and pollbooks after an election.

28

29

Introduced by: **Representative** Sjaarda



1 **HB 1116:** FOR AN ACT ENTITLED, An Act to prohibit the use of state resources in hosting lewd  
2 or lascivious content.

3 Introduced by: **Representative** Karr

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

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

6 **SB 11:** FOR AN ACT ENTITLED, An Act to update certain application fees for actions related to  
7 energy transactions in utility chargeback dockets.

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

9 **SB 9:** FOR AN ACT ENTITLED, An Act to modify discharge notice procedures applicable to  
10 developmentally disabled persons.

11 **SB 10:** FOR AN ACT ENTITLED, An Act to expand certification options for interpreters for the  
12 deaf.

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

14 **SB 20:** FOR AN ACT ENTITLED, An Act to authorize the awarding of deobligated grants in  
15 accordance with policies of the Board of Water and Natural Resources.

16 **SB 68:** FOR AN ACT ENTITLED, An Act to modify the approval process for certain out-of-state  
17 travel and related costs by a legislative member.

18 **SB 69:** FOR AN ACT ENTITLED, An Act to modify the composition of the State-Tribal Relations  
19 Committee.

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

21 **SB 15:** FOR AN ACT ENTITLED, An Act to accept Uniformed Services ID as proof of veteran  
22 status to have veteran designation added to a state license or ID card.

23 **SB 31:** FOR AN ACT ENTITLED, An Act to create an off-road vehicle decal for non-residents  
24 visiting the state.

25 Were read the first time and referred to the Committee on Transportation.

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

27 **SB 22:** FOR AN ACT ENTITLED, An Act to streamline examination reports.

28 Was read the second time.

29 The question being "Shall **SB 22** pass?"

30 And the roll being called:

31 Yeas 70, Nays 0, Excused 0, Absent 0

1 Yeas: Arlint, Auch, Aylward, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot,  
2 Derby, Deutsch, Donnell, Drury, Duba, Duffy, Emery, Fitzgerald, Gross, Hansen, Healy, Heermann,  
3 Jamison, Kevin Jensen, Phil Jensen, Karr, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lems,  
4 Lesmeister, Massie, May, Mills, Moore, Mortenson, Mulally, Mulder, Nelson, Odenbach, Olson, Ernie  
5 Otten, Overweg, Perry, Drew Peterson, Sue Peterson, Pinnow, Pourier, Randolph, Rehfeldt, Reimer,  
6 Reisch, Sauder, Schaeffbauer, Schneider, Shorma, Sjaarda, Soye, St. John, Stevens, Teunissen,  
7 Tordsen, Venhuizen, Wangsness, Weisgram, Wittman, and Speaker Bartels

8 So the bill having received an affirmative vote of a majority of the members-elect, the Speaker  
9 declared the bill passed and the title was agreed to.

10 **SB 43:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding money  
11 transmission.

12 Was read the second time.

13 The question being "Shall **SB 43** pass?"

14 And the roll being called:

15 Yeas 70, Nays 0, Excused 0, Absent 0

16 Yeas: Arlint, Auch, Aylward, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot,  
17 Derby, Deutsch, Donnell, Drury, Duba, Duffy, Emery, Fitzgerald, Gross, Hansen, Healy, Heermann,  
18 Jamison, Kevin Jensen, Phil Jensen, Karr, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lems,  
19 Lesmeister, Massie, May, Mills, Moore, Mortenson, Mulally, Mulder, Nelson, Odenbach, Olson, Ernie  
20 Otten, Overweg, Perry, Drew Peterson, Sue Peterson, Pinnow, Pourier, Randolph, Rehfeldt, Reimer,  
21 Reisch, Sauder, Schaeffbauer, Schneider, Shorma, Sjaarda, Soye, St. John, Stevens, Teunissen,  
22 Tordsen, Venhuizen, Wangsness, Weisgram, Wittman, and Speaker Bartels

23 So the bill having received an affirmative vote of a majority of the members-elect, the Speaker  
24 declared the bill passed and the title was agreed to.

## 25 **COMMEMORATIONS**

26 Rep. Mulally objected to the approval of **HC 8004** pursuant to JR 6H-4.

27 The Speaker announced that **HC 8004** was disapproved.

28 Rep. Drury moved that the House do now adjourn, which motion prevailed and at 2:29 p.m.  
29 the House adjourned.

30 Patricia Miller, Chief Clerk