

JOURNAL OF THE SENATE

NINETY-EIGHTH SESSION

ELEVENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, January 25, 2023

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

The prayer was offered by the Chaplain, Rev. Russell Jones, followed by the Pledge of Allegiance led by Senate page Benjamin Daggett.

Roll Call: All members present except Sens. Foster and Wink who were excused.

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 10th 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

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The President Pro Tempore removed Sen. Frye-Mueller from the Senate Committee on Health and Human Services and the Senate Committee on Local Government.

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Mr. President:

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The Committee on Senate Transportation respectfully reports that it has had under consideration **SB 71** and returns the same with the recommendation that said bill do pass.

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Also Mr. President:

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The Committee on Senate Transportation respectfully reports that it has had under consideration **SB 61** and returns the same with the recommendation that said bill do pass, and having been certified as uncontested, be placed on the consent calendar.

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Also Mr. President:

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The Committee on Senate Transportation respectfully reports that it has had under consideration **SB 66** which was deferred to the 41st Legislative Day.

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Respectfully submitted,
Joshua Klumb, Chair

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Mr. President:

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The Committee on Senate Health and Human Services respectfully reports that it has had under consideration **SB 67** and returns the same with the recommendation that said bill be amended as follows:

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67A

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On page 2, after line 25, of the Introduced bill, insert: "

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Section 2. That chapter 34-20A be amended with a NEW SECTION:

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For the purposes of this chapter, the term, next of kin, means, in order of priority stated, the person's:

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(1) Spouse, if not legally separated;

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(2) Adult son or daughter;

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(3) Parent; and

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(4) Adult brother or sister."

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On page 3, line 27, of the Introduced bill, delete " the" and insert " a request for an examination of the person by a licensed physician or addiction counselor must be filed with the court. The"

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On page 3, line 28, of the Introduced bill, after "counselor" insert " and shall provide notice to the person whose commitment is sought of the request for an examination"

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On page 3, line 30, of the Introduced bill, after "shall" insert " for a person who is detained under § 34-20A-63"

1 On page 4, line 1, of the Introduced bill, after "person " delete "whose commitment is sought
2 "

3 On page 4, after line 27, of the Introduced bill, insert: "

4 **Section 9. That § 34-20A-75 be AMENDED:**

5 **34-20A-75.** At the hearing the court shall hear all relevant testimony, including, if possible,
6 the testimony of at least one licensed physician ~~and~~ or one addiction counselor who ~~have~~ has
7 examined the person whose commitment is sought."

8 And that as so amended, **SB 67** do pass, and having been certified as uncontested, be placed
9 on the consent calendar.

10 Also Mr. President:

11 The Committee on Senate Health and Human Services respectfully reports that it has had
12 under consideration **SCR 602** and returns the same with the recommendation that said resolution
13 be adopted.

14 Also Mr. President:

15 The Committee on Senate Health and Human Services respectfully reports that it has had
16 under consideration **HB 1014** and returns the same with the recommendation that said bill do pass.

17 Also Mr. President:

18 The Committee on Senate Health and Human Services respectfully reports that it has had
19 under consideration **HB 1010** and returns the same with the recommendation that said bill do pass,
20 and having been certified as uncontested, be placed on the consent calendar.

21 Respectfully submitted,
22 Erin Tobin, Chair

23 Mr. President:

24 The Committee on Senate Taxation respectfully reports that it has had under consideration
25 **SB 73** and returns the same with the recommendation that said bill be amended as follows:

26 73A

27 " On page 1, line 1, of the Introduced bill, after "exclude " insert "road improvement district and
28 "

29 On page 1, line 9, of the Introduced bill, after "municipality," delete " or"

30 On page 1, line 9, of the Introduced bill, after "township" insert ", or road improvement district"

31 And that as so amended, **SB 73** do pass, and having been certified as uncontested, be placed
32 on the consent calendar.

33 Also Mr. President:

34 The Committee on Senate Taxation respectfully reports that it has had under consideration
35 **HB 1033** and returns the same with the recommendation that said bill do pass, and having been
36 certified as uncontested, be placed on the consent calendar.

37 Respectfully submitted,
38 Jim Stalzer, Chair

1 Mr. President:

2 The Committee on Senate State Affairs respectfully reports that it has had under consideration
3 **SB 82** and returns the same with the recommendation that said bill be amended as follows:

4 82B

5 On page 1, line 4, of the Introduced bill, after "12-18-9. " delete "Any person, except a
6 candidate who is on the ballot being voted on at that polling place, may be present at any polling
7 place for the purpose of observing the voting process. Any person may be present to observe the
8 counting process. A candidate who is on the ballot being voted on at a polling place may only be
9 present to cast the candidate's vote during voting hours. A number of poll watchers shall be
10 permitted for each candidate at At a primary election, pursuant to § 12-18-8. 1, a number of poll
11 watchers must be permitted for each candidate. or political party and independent candidate at At
12 a general or special election, pursuant to § 12-18-8. 1, a number of poll watchers must be permitted
13 for each political party and independent candidate. A number of poll watchers must be permitted
14 from each ballot question committee for an initiated or referred measure or initiated constitutional
15 amendment at any election in which the measure or amendment appears on the ballot, pursuant to
16 § 12-18-8. 1. "

17 On page 1, line 18, of the Introduced bill, after "place." insert "At a general, primary, or special
18 election pursuant to § 12-18-8. 1, any candidate, party or ballot question committee as defined in
19 § 12-27-1 is entitled to have a poll watcher present at any polling place for the purpose of observing
20 the voting and counting process. This section may not apply to a candidate who is on the ballot
21 being voted on at a polling place, and the candidate may only be present to cast the candidate's
22 vote during voting hours.

23 "

24 On page 2, line 1, of the Introduced bill, after "mean:

25 (1)" delete ""Ballot question committee," a person or entity that raises, collects, or distributes
26 contributions as one of the following:

27 (a) A proponent for placement on the ballot of one or more initiated or referred measures or
28 initiated constitutional amendments;

29 (b) An opponent to placement on the ballot of one or more initiated or referred measures or
30 initiated constitutional amendments;

31 (c) A proponent for the adoption of one or more initiated or referred measures or initiated
32 constitutional amendments on the ballot;

33 (d) An opponent to the adoption of one or more initiated or referred measures or initiated
34 constitutional amendments on the ballot;"

35 On page 2, line 11, of the Introduced bill, after "ballot;" delete "(2)"

36 On page 2, line 13, of the Introduced bill, delete "(3)" and insert "(2)"

37 On page 2, line 14, of the Introduced bill, delete "(4)" and insert "(3)"

38 On page 2, line 16, of the Introduced bill, delete "(5)" and insert "(4)"

39 On page 2, line 18, of the Introduced bill, delete "(6)" and insert "(5)"

40 On page 2, line 20, of the Introduced bill, delete "(7)" and insert "(6)"

41 On page 2, line 23, of the Introduced bill, delete "(8)" and insert "(7)"

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- 1 On page 2, line 25, of the Introduced bill, delete "(9)" and insert "(8)"
- 2 On page 2, line 27, of the Introduced bill, delete "(10)" and insert "(9)"
- 3 On page 2, line 32, of the Introduced bill, delete "(11)" and insert "(10)"
- 4 On page 3, line 3, of the Introduced bill, delete "(12)" and insert "(11)"
- 5 On page 3, line 7, of the Introduced bill, delete "(13)" and insert "(12)"
- 6 On page 3, line 11, of the Introduced bill, delete "(14)" and insert "(13)"
- 7 On page 3, line 13, of the Introduced bill, delete "(15)" and insert "(14)"
- 8 On page 3, line 14, of the Introduced bill, delete "(16)" and insert "(15)"
- 9 On page 3, line 16, of the Introduced bill, delete "(17)" and insert "(16)"
- 10 On page 3, line 18, of the Introduced bill, delete "(18)" and insert "(17)"
- 11 On page 3, line 19, of the Introduced bill, delete "(19)" and insert "(18)"
- 12 On page 3, line 20, of the Introduced bill, delete "(20)" and insert "(19)"
- 13 On page 3, line 21, of the Introduced bill, delete "(21)" and insert "(20)"
- 14 On page 3, line 23, of the Introduced bill, delete "(22)" and insert "(21)"
- 15 On page 3, line 25, of the Introduced bill, delete "(23)" and insert "(22)"
- 16 On page 3, line 27, of the Introduced bill, delete "(24)" and insert "(23)"
- 17 On page 3, line 32, of the Introduced bill, delete "(25)" and insert "(24)"
- 18 On page 4, line 1, of the Introduced bill, delete "(26)" and insert "(25)"
- 19 And that as so amended, **SB 82** do pass.

20 Also Mr. President:

21 The Committee on Senate State Affairs respectfully reports that it has had under consideration
22 the nomination of Jeff Marlette of Pennington County, Rapid City, South Dakota, to the position of
23 Adjutant General and returns the same with the recommendation that the Senate advise and
24 consent to the confirmation of said appointment, and that said appointment having been certified
25 as uncontested, be placed on the consent calendar.

26 Also Mr. President:

27 The Committee on Senate State Affairs respectfully reports that it has had under consideration
28 the nomination of David Flute of Roberts County, Sisseton, South Dakota, to the position of
29 Secretary of the Department of Tribal Relations and returns the same with the recommendation that
30 the Senate advise and consent to the confirmation of said appointment, and that said appointment
31 having been certified as uncontested, be placed on the consent calendar.

32 Also Mr. President:

33 The Committee on Senate State Affairs respectfully reports that it has had under consideration
34 **HB 1003** and returns the same with the recommendation that said bill do pass.

1 Also Mr. President:

2 The Committee on Senate State Affairs respectfully reports that it has had under consideration
3 **HB 1062** and returns the same with the recommendation that said bill do pass, and having been
4 certified as uncontested, be placed on the consent calendar.

5 Respectfully submitted,
6 Casey Crabtree, Chair

7 **MESSAGES FROM THE HOUSE**

8 Mr. President:

9 I have the honor to return herewith **SB 22 and 43** which have passed the House without
10 change.

11 Respectfully,
12 Patricia Miller, Chief Clerk

13 **MOTIONS AND RESOLUTIONS**

14 Sen. Crabtree moved that **HCR 6007** be deferred to Thursday, January 26, 2023, the 12th
15 legislative day.

16 Which motion prevailed.

17 Sen. Crabtree moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on
18 Thursday, January 26, 2023 the 12th legislative day.

19 Which motion prevailed.

20 **CONSIDERATION OF REPORTS OF COMMITTEES**

21 Sen. Crabtree moved that the reports of the Standing Committees on

22 Judiciary on **SB 50 and 64** as found on page 98 of the Senate Journal; also

23 Education on **SB 3** as found on page 99 of the Senate Journal; and

24 Commerce and Energy on **SB 62, and HB 1015** as found on page 100 of the Senate Journal
25 be adopted.

26 Which motion prevailed and the reports were adopted.

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

28 **SB 109:** FOR AN ACT ENTITLED, An Act to require employers to disclose compensation or
29 range of compensation to applicants and employees.

30 Introduced by: **Senator** Nesiba

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- 1 **SB 110:** FOR AN ACT ENTITLED, An Act to ensure contracts made for construction and
2 maintenance on public works be compensated to the real value of the services performed.
- 3 Introduced by: **Senator** Nesiba
- 4 **SB 117:** FOR AN ACT ENTITLED, An Act to increase dollar limits related to play on video lottery
5 machines.
- 6 Introduced by: **Senator** Maher
- 7 **SB 120:** FOR AN ACT ENTITLED, An Act to increase an amount of property value owned by a
8 local industrial development corporation that is exempt from taxation.
- 9 Introduced by: **Senator** Reed
- 10 Were read the first time and referred to the Committee on Commerce and Energy.
- 11 **SB 104:** FOR AN ACT ENTITLED, An Act to make an appropriation to enhance the economic
12 viability and sustainability of South Dakota and to declare an emergency.
- 13 Introduced by: **Senator** Hunhoff
- 14 **SB 105:** FOR AN ACT ENTITLED, An Act to make an appropriation for improving the social and
15 economic viability of South Dakota and to declare an emergency.
- 16 Introduced by: **Senator** Hunhoff
- 17 Were read the first time and referred to the Senate Committee on Appropriations.
- 18 **SB 108:** FOR AN ACT ENTITLED, An Act to provide an educational exception to consumption
19 prohibitions for persons over eighteen years of age who are required to taste an alcoholic beverage
20 as part of a course.
- 21 Introduced by: **Senator** Nesiba
- 22 **SB 118:** FOR AN ACT ENTITLED, An Act to expand eligibility for certain teachers who receive
23 reduced tuition at Board of Regents institutions.
- 24 Introduced by: **Senator** Tobin
- 25 **SB 119:** FOR AN ACT ENTITLED, An Act to authorize enrolled tribal members to attend certain
26 institutions of higher education without payment of tuition and mandatory fees.
- 27 Introduced by: **Senator** Bordeaux
- 28 Were read the first time and referred to the Committee on Education.
- 29 **SB 101:** FOR AN ACT ENTITLED, An Act to provide the Department of Health with oversight
30 authority for the provision of emergency medical services.
- 31 Introduced by: **Senator** Davis
- 32 **SB 106:** FOR AN ACT ENTITLED, An Act to expand postpartum medicaid coverage.
- 33 Introduced by: **Senator** Nesiba

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

2 **SB 103:** FOR AN ACT ENTITLED, An Act to create a pilot program in the Unified Judicial System
3 for risk and lethality assessments for certain persons accused of assault or protection order
4 violations.

5 Introduced by: **Senator** Schoenbeck

6 **SB 115:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding consideration of
7 out-of-state convictions for driving under the influence.

8 Introduced by: **Senator** Mehlhaff

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

10 **SB 102:** FOR AN ACT ENTITLED, An Act to require the continued maintenance of the official
11 list of candidates prior to an election.

12 Introduced by: **Senator** Jack Kolbeck

13 **SB 107:** FOR AN ACT ENTITLED, An Act to facilitate the process of establishing election
14 precincts and polling places by counties.

15 Introduced by: **Senator** Nesiba

16 **SB 111:** FOR AN ACT ENTITLED, An Act to establish and modify provisions related to economic
17 development.

18 Introduced by: **Senator** Crabtree

19 **SB 112:** FOR AN ACT ENTITLED, An Act to establish and modify provisions related to taxation.

20 Introduced by: **Senator** Crabtree

21 **SB 113:** FOR AN ACT ENTITLED, An Act to establish and modify provisions related to
22 education.

23 Introduced by: **Senator** Crabtree

24 **SB 114:** FOR AN ACT ENTITLED, An Act to establish and modify provisions related to public
25 safety.

26 Introduced by: **Senator** Crabtree

27 **SB 116:** FOR AN ACT ENTITLED, An Act to authorize legislative intervention into certain cases
28 pertaining to election law.

29 Introduced by: **Senator** Schoenbeck

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

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SECOND READING OF CONSENT CALENDAR ITEMS

Sen. Frye-Mueller requested that **HB 1012** be removed from the Consent Calendar.

Sen. Crabtree requested that **SB 48** be removed from the Consent Calendar.

SB 7: FOR AN ACT ENTITLED, An Act to clarify emergency commitments of severely mentally ill persons by appropriate regional facilities.

SB 28: FOR AN ACT ENTITLED, An Act to revise and repeal obsolete provisions related to the Department of Social Services.

SB 51: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the reimbursement of county expenses in detaining parole violators.

Were read the second time.
The question being "Shall **SB 7, 28, and 51** pass?"

And the roll being called:
Yeas 33, Nays 0, Excused 2, Absent 0

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

Excused: Foster and Wink

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

SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS

SB 45: FOR AN ACT ENTITLED, An Act to repeal the requirement for an annual report by the Board of Regents regarding intellectual diversity and the free exchange of ideas

Was read the second time.
The question being "Shall **SB 45** pass?"

And the roll being called:
Yeas 21, Nays 12, Excused 2, Absent 0

Yeas: Bordeaux, Breitling, Crabtree, Davis, Deibert, Diedrich, Duhamel, Hunhoff, David Johnson, Klumb, Steve Kolbeck, Larson, Nesiba, Novstrup, Reed, Rohl, Schoenbeck, Schoenfish, Tobin, Wheeler, and Zikmund

Nays: Beal, Bolin, Castleberry, Frye-Mueller, Brent "B.R." Hoffman, Jack Kolbeck, Maher, Mehlhaff, Herman Otten, Pischke, Stalzer, and Wiik

Excused: Foster and Wink

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

3 **SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

4 **HB 1011**: FOR AN ACT ENTITLED, An Act to revise employer contribution rates.

5 Was read the second time.

6 The question being "Shall **HB 1011** pass as amended?"

7 And the roll being called:

8 Yeas 30, Nays 3, Excused 2, Absent 0

9 Yeas: Beal, Bolin, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel, Frye-
10 Mueller, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Maher,
11 Mehlhaff, Novstrup, Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,
12 Wheeler, Wiik, and Zikmund

13 Nays: Bordeaux, Larson, and Nesiba

14 Excused: Foster and Wink

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

17 Sen. Hunhoff moved that the Senate do now adjourn, which motion prevailed and at 2:43 p.m.
18 the Senate adjourned.

19 Kay Johnson, Secretary