

JOURNAL OF THE HOUSE

NINETY-EIGHTH SESSION

TWELFTH DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Thursday, January 26, 2023

The House convened at 1:00 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Dow Warner, followed by the Pledge of Allegiance led by House page Gavin Jacobson.

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 11th 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

1

REPORTS OF STANDING COMMITTEES

2 Mr. Speaker:

3 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
4 Enrolling has carefully compared **HB 1011** and finds the same correctly enrolled.

5

6

Respectfully submitted,
Hugh M. Bartels, Chair

7 Mr. Speaker:

8 The Committee on House Taxation respectfully reports that it has had under consideration
9 **HB 1075** with the recommendation that said bill be referred to the House Committee on
10 Appropriations with a Do Pass recommendation.

11 Also Mr. Speaker:

12 The Committee on House Taxation respectfully reports that it has had under consideration
13 **SB 30** and returns the same with the recommendation that said bill do pass.

14

15

Respectfully submitted,
Kirk Chaffee, Chair

16 Also Mr. Speaker:

17 The Committee on House Health and Human Services respectfully reports that it has had under
18 consideration **SB 27** and returns the same with the recommendation that said bill do pass.

19

20

Respectfully submitted,
Kevin D. Jensen, Chair

21 Mr. Speaker:

22 The Committee on House Military and Veterans Affairs respectfully reports that it has had under
23 consideration **HB 1039** and returns the same with the recommendation that said bill be amended
24 as follows:

25

1039B

26 On page 1, line 1, of the Introduced bill, after "to " delete "to "

27 On page 3, line 4, of the Introduced bill, delete " fifty" and insert " one hundred"

28 And that as so amended, **HB 1039** do pass.

29 Also Mr. Speaker:

30 The Committee on House Military and Veterans Affairs respectfully reports that it has had under
31 consideration **HB 1046** and returns the same with the recommendation that said bill do pass.

1 Also Mr. Speaker:

2 The Committee on House Military and Veterans Affairs respectfully reports that it has had under
3 consideration **HB 1047** and returns the same with the recommendation that said bill do pass, and
4 having been certified as uncontested, be placed on the consent calendar.

5 Respectfully submitted,
6 Tim Reisch, Chair

7 **MESSAGES FROM THE SENATE**

8 Mr. Speaker:

9 I have the honor to transmit herewith **SB 7, 28, 45, and 51** which have passed the Senate
10 and your favorable consideration is respectfully requested.

11 Also Mr. Speaker:

12 I have the honor to return herewith **HB 1011** which has passed the Senate without change.

13 Respectfully,
14 Kay Johnson, Secretary

15 **MOTIONS AND RESOLUTIONS**

16 Rep. Mortenson moved that **HB 1045** be referred from the Joint Committee on Appropriations
17 to the House Committee on Appropriations.

18 Which motion prevailed.

19 **CONSIDERATION OF REPORTS OF COMMITTEES**

20 Rep. Mortenson moved that the reports of the Standing Committees on
21 Commerce and Energy on **HB 1091** as found on page 100 of the House Journal; and
22 State Affairs on **HCR 6004** as found on page 100 of the House Journal be adopted.

23 Which motion prevailed and the reports were adopted.

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

25 The Speaker declared that **HB 1110** was withdrawn at the request of the prime sponsor
26 pursuant to JR 6B-1.1.

1 **HB 1157:** FOR AN ACT ENTITLED, An Act to require the South Dakota Lottery to promote
2 public awareness on the adverse effects of gambling.

3 Introduced by: **Representative** Mills

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

5 **HB 1153:** FOR AN ACT ENTITLED, An Act to to update travel expenses, moving expenses, and
6 other reimbursements.

7 Introduced by: **Representative** Weisgram

8 **HB 1167:** FOR AN ACT ENTITLED, An Act to annually adjust the rate for community-based
9 providers to one hundred percent of methodology.

10 Introduced by: **Representative** Karr

11 Were read the first time and referred to the House Committee on Appropriations.

12 **HB 1163:** FOR AN ACT ENTITLED, An Act to prohibit the dissemination of obscene material to
13 minors in a public school or public library.

14 Introduced by: **Representative** Hansen

15 Was read the first time and referred to the Committee on Education.

16 **HB 1150:** FOR AN ACT ENTITLED, An Act to provide a medical cannabis patient a registry
17 identification card fee waiver in certain circumstances.

18 Introduced by: **Representative** Deutsch

19 **HB 1154:** FOR AN ACT ENTITLED, An Act to modify acceptable conduct for practitioners related
20 to medical cannabis.

21 Introduced by: **Representative** Jamison

22 **HB 1155:** FOR AN ACT ENTITLED, An Act to add dental practices as eligible facilities to
23 participate in the rural health care recruitment assistance program.

24 Introduced by: **Representative** Rehfeldt

25 **HB 1161:** FOR AN ACT ENTITLED, An Act to provide staffing ratios for day care providers.

26 Introduced by: **Representative** Hansen

27 **HB 1162:** FOR AN ACT ENTITLED, An Act to authorize employers to acquire and make available
28 opioid antagonists.

29 Introduced by: **Representative** Mulder

30 **HB 1169:** FOR AN ACT ENTITLED, An Act to authorize the performance and reporting of
31 medical procedures to avert the death or physical impairment of a pregnant female and to declare
32 an emergency.

33 Introduced by: **Representative** Rehfeldt

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- 1 **HB 1172:** FOR AN ACT ENTITLED, An Act to require a practitioner's medical assessment of a
2 patient to occur in a licensed health care facility for purposes of medical cannabis use.
- 3 Introduced by: **Representative** Deutsch
- 4 Were read the first time and referred to the Committee on Health and Human Services.
- 5 **HB 1145:** FOR AN ACT ENTITLED, An Act to revise the order of precedence for the right to
6 control the disposition of the remains of a deceased person.
- 7 Introduced by: **Representative** Jamison
- 8 **HB 1156:** FOR AN ACT ENTITLED, An Act to enact the Uniform Electronic Recordation of
9 Custodial Interrogations Act.
- 10 Introduced by: **Representative** St. John
- 11 **HB 1160:** FOR AN ACT ENTITLED, An Act to limit probation for offenders with four or more
12 felony convictions.
- 13 Introduced by: **Representative** Karr
- 14 **HB 1168:** FOR AN ACT ENTITLED, An Act to require active efforts to preserve and reunite
15 Indian families in abuse and neglect proceedings.
- 16 Introduced by: **Representative** Pourier
- 17 **HB 1170:** FOR AN ACT ENTITLED, An Act to establish mandatory sentences for certain driving
18 while under the influence violations.
- 19 Introduced by: **Representative** Karr
- 20 **HB 1171:** FOR AN ACT ENTITLED, An Act to establish a parole hearing requirement for certain
21 inmates.
- 22 Introduced by: **Representative** Karr
- 23 **HB 1173:** FOR AN ACT ENTITLED, An Act to prevent the enforcement of federal laws and
24 directives related to firearms, accessories, and ammunition.
- 25 Introduced by: **Representative** Randolph
- 26 Were read the first time and referred to the Committee on Judiciary.
- 27 **HB 1147:** FOR AN ACT ENTITLED, An Act to provide for the organization of townships or
28 fractions of townships.
- 29 Introduced by: **Representative** Chase
- 30 **HB 1148:** FOR AN ACT ENTITLED, An Act to clarify registration and residence requirements
31 for voting at a township meeting.
- 32 Introduced by: **Representative** Chase
- 33 Were read the first time and referred to the Committee on Local Government.

1 **HB 1140:** FOR AN ACT ENTITLED, An Act to require the secretary of state to determine if a
2 legislatively proposed constitutional amendment complies with the single subject requirement and
3 is not a constitutional revision.

4 Introduced by: **Representative** Mortenson

5 **HB 1141:** FOR AN ACT ENTITLED, An Act to to encourage the reduction of taxes in the State
6 of South Dakota.

7 Introduced by: **Representative** Mortenson

8 **HB 1142:** FOR AN ACT ENTITLED, An Act to improve education outcomes and college
9 affordability.

10 Introduced by: **Representative** Mortenson

11 **HB 1143:** FOR AN ACT ENTITLED, An Act to improve the health and wellbeing of South
12 Dakotans.

13 Introduced by: **Representative** Mortenson

14 **HB 1144:** FOR AN ACT ENTITLED, An Act to bolster the workforce of South Dakota.

15 Introduced by: **Representative** Mortenson

16 **HB 1146:** FOR AN ACT ENTITLED, An Act to establish a citizen's legal standing to request a
17 writ of mandamus or prohibition.

18 Introduced by: **Representative** Sjaarda

19 **HB 1151:** FOR AN ACT ENTITLED, An Act to create the South Dakota paid family leave
20 program.

21 Introduced by: **Representative** Weisgram

22 **HB 1152:** FOR AN ACT ENTITLED, An Act to provide oversight regarding the exercise of
23 gubernatorial emergency powers.

24 Introduced by: **Representative** Randolph

25 **HB 1165:** FOR AN ACT ENTITLED, An Act to modify certain provisions pertaining to absentee
26 voting.

27 Introduced by: **Representative** Chaffee

28 **HB 1166:** FOR AN ACT ENTITLED, An Act to revise certain provisions related to the expense
29 allowances of legislators.

30 Introduced by: **Representative** Karr

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

32 **HB 1149:** FOR AN ACT ENTITLED, An Act to revise the classification of owner-occupied single-
33 family dwellings to include more than one attached or unattached garage.

34 Introduced by: **Representative** Krull

1 **HB 1159:** FOR AN ACT ENTITLED, An Act to exempt feminine hygiene products from the state
2 sales tax.

3 Introduced by: **Representative** Healy

4 **HB 1164:** FOR AN ACT ENTITLED, An Act to revise provisions for the sale of tax deeds and to
5 grant the prior owner of a property entitlement to proceeds from the sale of tax deeds.

6 Introduced by: **Representative** Chaffee

7 Were read the first time and referred to the Committee on Taxation.

8 **HB 1158:** FOR AN ACT ENTITLED, An Act to ban counterfeit airbags.

9 Introduced by: **Representative** Duffy

10 Was read the first time and referred to the Committee on Transportation.

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

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

14 Was read the first time and referred to the Committee on Education.

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

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

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

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

22 Was read the first time and referred to the Committee on Local Government.

23 **SECOND READING OF CONSENT CALENDAR ITEMS**

24 **HB 1060:** FOR AN ACT ENTITLED, An Act to modify provisions related to procurement for the
25 state and other purchasing agencies.

26 Was read the second time.

27 The question being "Shall **HB 1060** pass as amended?"

28 And the roll being called:

29 Yeas 66, Nays 4, 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, Healy, Heermann, Jamison,
3 Kevin Jensen, Karr, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lems, Lesmeister, Massie, May, Mills,
4 Moore, Mortenson, Mulder, Nelson, Odenbach, Olson, Ernie Otten, Overweg, Perry, Drew Peterson,
5 Sue Peterson, Pinnow, Pourier, Rehfeldt, Reimer, Reisch, Sauder, Schaeffbauer, Schneider, Shorma,
6 Sjaarda, Soye, St. John, Stevens, Teunissen, Tordsen, Venhuizen, Wangsness, Weisgram, Wittman,
7 and Speaker Bartels

8 Nays: Hansen, Phil Jensen, Mulally, and Randolph

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

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

12 **HB 1042:** FOR AN ACT ENTITLED, An Act to update additional charges allowed for mailing
13 decals and plates and to declare an emergency.

14 Was read the second time.

15 The question being "Shall **HB 1042** pass as amended?"

16 And the roll being called:

17 Yeas 68, Nays 2, Excused 0, Absent 0

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

25 Nays: Hansen and Phil Jensen

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

28 **HB 1072:** FOR AN ACT ENTITLED, An Act to subject lithium to severance tax.

29 Was read the second time.

30 Rep. Chaffee moved that **HB 1072** be amended as follows:

31 1072E

32 On page 1, line 1, of the House Taxation Engrossed bill, delete "include lithium as an energy
33 mineral subject" and insert "subject lithium"

34 On page 1, line 1, of the House Taxation Engrossed bill, after "tax" delete " and set the
35 distribution of proceeds therefrom"

36 On page 1, line 4, of the House Taxation Engrossed bill, after "Dakota:" delete "Section 1. That
37 § 10-39A-1. 1 be AMENDED:

1

"

2

On page 1, line 5, of the House Taxation Engrossed bill, after "AMENDED:" delete "10-39A-1.

3

1. Terms used in this chapter mean:

4

(1) "Energy minerals," any mineral fuel including coal, lignite, petroleum, oil, natural gas, uranium, lithium, and thorium and any combination of minerals used in the production of energy;

5

6

(2) "Market value," the price at which the property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the facts;

7

8

9

(3) "Operator," a person who directly or physically severs minerals from the land;

10

(4) "Owner of interest" or "owner," an owner of a landowner's royalty, of an overriding royalty, or of profits and working interests, or any combination thereof. The term does not include an owner of federal, state, or local governmental royalty interest;

11

12

13

(5) "Sale price," the total consideration received in exchange for energy minerals;

14

(6) "Secretary," the secretary of the South Dakota Department of Revenue;

15

(7) "Severing," the mining, extracting, or producing of any energy minerals in South Dakota;

16

(8) "Severor," a person engaging in the business of severing energy minerals that the person owns or a person who is the owner of energy minerals and has another person performing the severing of such energy minerals, except that the. This term does not include the State of South Dakota or its political subdivisions."

17

18

19

20

On page 2, line 1, of the House Taxation Engrossed bill, delete "Except as provided in section 3 of this Act, all" and insert "All"

21

22

On page 2, line 4, of the House Taxation Engrossed bill, after "minerals" insert ", lithium,"

23

On page 2, line 8, of the House Taxation Engrossed bill, after "fund." delete "Section 3. That chapter 10-39A be amended with a NEW SECTION:

24

25

"

26

On page 2, line 9, of the House Taxation Engrossed bill, after "SECTION:" delete "All taxes, interest, and penalties imposed on the taxable value of lithium and collected by the secretary under this chapter, must be distributed as follows:

27

28

29

(1) Eighty percent to the county in which the lithium-bearing material or material products were severed; and

30

31

(2) Twenty percent to the state treasury and credited to the general fund."

32

On page 2, line 15, of the House Taxation Engrossed bill, after "lithium" delete "-bearing material"

33

34

On page 2, after line 19, of the House Taxation Engrossed bill, insert: "

35

Section 3. That § 10-39A-3.1 be AMENDED:

36

10-39A-3.1. An energy mineral ~~is~~ and lithium are subject to the severance tax when it is sold or consumed, whichever occurs first."

37

38

On page 2, after line 19, of the House Taxation Engrossed bill, insert: "

1 **Section 4. That § 10-39A-4 be AMENDED:**

2 **10-39A-4.** Each owner of interests in energy minerals or lithium produced from a single well
3 or mine shall designate an operator to file all required returns and to pay the tax due under this
4 chapter. The tax, subject to any provisions to the contrary in any written contract, lease, or other
5 form of agreement, shall be withheld from distributions that would otherwise be made to each owner
6 by the operator for payment to the state. If any owner of interests in energy minerals or lithium
7 produced from a single well or mine fails to designate such an operator, then the person designated
8 as operator by the owner of the working interest in the well or mine, or, if no such person has been
9 designated, then the person holding the greatest portion of the working interest in such well or
10 mine, is the designated operator for purposes of this section."

11 On page 2, after line 19, of the House Taxation Engrossed bill, insert: "

12 **Section 5. That § 10-39A-5 be AMENDED:**

13 **10-39A-5.** Within thirty days after the close of each quarter ending respectively on March
14 thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year, each owner
15 of severed energy minerals or lithium, or person designated to remit the tax on behalf of the owners
16 shall file with the secretary of revenue under oath a report of the amount of energy minerals and
17 lithium which became subject to the severance tax in the previous quarter and the amount of tax due
18 under the provisions of this chapter and shall remit with such report the amount of tax thereof
19 shown to be due. Any report made shall be on forms and in accordance with rules promulgated by
20 the secretary of revenue pursuant to chapter 1-26. A violation of this section is a Class 1
21 misdemeanor."

22 On page 2, after line 19, of the House Taxation Engrossed bill, insert: "

23 **Section 6. That § 10-39B-2 be AMENDED:**

24 **10-39B-2.** There is imposed on the severance of energy minerals and lithium in this state an
25 excise tax, to be known as a conservation tax, equal to two and four-tenths mills of the taxable
26 value of any energy minerals or lithium severed and saved. The tax shall be paid by the operator as
27 defined in subdivision 10-39A-1.1(3). An operator may not pass the tax on to the owner of the
28 energy minerals or lithium. The tax provided for in this chapter shall be placed in the environment
29 and natural resources fee fund established pursuant to § 1-41-23 and collected in accordance with
30 chapter 10-59. The tax collected from the production of oil or gas may be used to carry out the
31 duties as set forth in chapter 45-9. The tax collected from the production of coal or uranium may
32 be used to carry out the duties as set forth in chapters 45-6B and 45-6D. The tax collected from the
33 production of lithium may be used to carry out the duties set forth in chapter 45-6B."

34 Which motion prevailed.

35 The question being "Shall **HB 1072** pass as amended?"

36 And the roll being called:

37 Yeas 57, Nays 13, Excused 0, Absent 0

38 Yeas: Arlint, Auch, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot, Derby,
39 Deutsch, Donnell, Drury, Duba, Duffy, Emery, Fitzgerald, Gross, Healy, Jamison, Kevin Jensen,
40 Kassin, Koth, Krull, Kull, Ladner, Lesmeister, Massie, May, Mills, Moore, Mortenson, Mulder, Nelson,
41 Odenbach, Olson, Ernie Otten, Perry, Drew Peterson, Pinnow, Pourier, Rehfeldt, Reimer, Reisch,
42 Sauder, Schaeffbauer, Schneider, Shorma, Soye, St. John, Stevens, Teunissen, Venhuizen,
43 Wangsness, Weisgram, Wittman, and Speaker Bartels

1 Nays: Aylward, Hansen, Heermann, Phil Jensen, Karr, Krohmer, Lems, Mulally, Overweg, Sue
2 Peterson, Randolph, Sjaarda, and Tordsen

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

5 **HB 1090:** FOR AN ACT ENTITLED, An Act to modify protections for agricultural operations
6 from nuisance claims.

7 Was read the second time.

8 The question being "Shall **HB 1090** pass as amended?"

9 And the roll being called:

10 Yeas 61, Nays 9, Excused 0, Absent 0

11 Yeas: Arlint, Auch, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot, Derby,
12 Deutsch, Donnell, Drury, Duba, Duffy, Emery, Fitzgerald, Gross, Hansen, Healy, Heermann,
13 Jamison, Kevin Jensen, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lems, Lesmeister, Massie, May,
14 Moore, Mortenson, Mulder, Nelson, Odenbach, Olson, Ernie Otten, Overweg, Perry, Drew Peterson,
15 Pinnow, Rehfeldt, Reimer, Reisch, Sauder, Schaeffbauer, Schneider, Shorma, Sjaarda, Soye,
16 Stevens, Teunissen, Tordsen, Venhuizen, Wangsness, Weisgram, Wittman, and Speaker Bartels

17 Nays: Aylward, Phil Jensen, Karr, Mills, Mulally, Sue Peterson, Poirier, Randolph, and St. John

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

20 Rep. Mortenson moved that the balance of the calendar including **HB 1041 and 1101** be
21 deferred to Monday, January 30, 2023, the 13th legislative day.

22 Which motion prevailed.

23 **COMMEMORATIONS**

24 **HC 8005:** A LEGISLATIVE COMMEMORATION, Commending the South Dakota Air National
25 Guard's 114th Fighter Wing for being awarded the Distinguished Flying Unit Plaque, the William W.
26 Spruance Safety Award, the Winston P. Wilson Trophy, and the Major General John J. Pesch Flight
27 Safety Trophy in training year 2022.

28 Introduced by: **Representatives** Reisch, Aylward, Bartels, Blare, Callies, Chase, Duba,
29 Emery, Gross, Healy, Heermann, Koth, Krohmer, Kull, Mulder, Odenbach, Olson, Perry, Pinnow,
30 Poirier, Stevens, Tordsen, and Venhuizen and **Senators** Stalzer, Bolin, Bordeaux, Crabtree,
31 Diedrich, Hunhoff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Schoenbeck, Schoenfish, Tobin,
32 Wiik, and Zikmund.

33 **SIGNING OF BILLS**

34 The Speaker publicly read the title to

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

36 And signed the same in the presence of the House.

1 Rep. Drury moved that the House do now adjourn, which motion prevailed and at 1:37 p.m.
2 the House adjourned.

3

Patricia Miller, Chief Clerk