

# *JOURNAL OF THE HOUSE*

## *NINETY-EIGHTH SESSION*

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SEVENTEENTH DAY

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STATE OF SOUTH DAKOTA  
House of Representatives, Pierre  
Friday, February 03, 2023

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

The prayer was offered by Representative Stevens, followed by the Pledge of Allegiance led by House page Alex Vonderau.

Roll Call: All members present except Reps. DeGroot, Fitzgerald, May, and Overweg who were excused.

### **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 16th 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 HOUSE PAGE RESOLUTION 2 Introduced by: Representatives Arlint; Auch; Aylward;  
 2 Bahmuller; Bartels; Blare; Callies; Cammack; Chaffee; Chase; DeGroot; Derby; Deutsch; Donnell;  
 3 Drury; Duba; Duffy; Emery; Fitzgerald; Gross; Hansen; Healy; Heermann; Jamison; Jensen, Kevin;  
 4 Jensen, Phil; Karr; Kassin; Koth; Krohmer; Krull; Kull; Ladner; Lems; Lesmeister; Massie; May;  
 5 Mills; Moore; Mortenson; Mulally; Mulder; Nelson; Odenbach; Olson; Otten, Ernie; Overweg; Perry;  
 6 Peterson, Drew; Peterson, Sue; Pinnow; Pourier; Randolph; Rehfeldt; Reimer; Reisch; Sauder;  
 7 Schaeffbauer; Schneider; Shorma; Sjaarda; Soye; St. John; Stevens; Teunissen; Tordsen;  
 8 Venhuizen; Wangness; Weisgram; Wittman.

9 A RESOLUTION, Expressing the appreciation and gratitude of the House of Representatives of  
 10 the Ninety-eighth Legislature of the State of South Dakota to Ashley Bondesen, Ainsley Brink,  
 11 Savannah Hendricks, Gavin Jacobson, Skye Kotalik, Drew Reetz, Taylor Reisch, Jada Sandvall, Karlie  
 12 Ten Eyck, William Thuringer, and Alexander Vonderau.

13 WHEREAS, the above named served loyally as pages for the House of Representatives of the  
 14 Ninety-eighth Legislative Session; and

15 WHEREAS, the members of the Ninety-eighth House of Representatives express their most  
 16 sincere appreciation to these young people for their service to the state; and

17 WHEREAS, the members extend to these young people their wishes for every success in life:

18 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Ninety-eighth  
 19 Legislature of the State of South Dakota, that a personal copy of this resolution be duly certified  
 20 and furnished to each page on this last day of service.

21 Rep. Cammack moved that House Page Resolution 2 be adopted.

22 Which motion prevailed and the resolution was adopted.

### 23 COMMUNICATIONS AND PETITIONS

24 February 1, 2023

25 Mr. Speaker and Members of the House:

26 I have the honor to inform you that on February 1, 2023, I approved House Bill 1011, and the  
 27 same has been deposited in the office of the Secretary of State.

28 Respectfully submitted,  
 29 Kristi Noem  
 30 Governor

### 31 REPORTS OF STANDING COMMITTEES

32 Mr. Speaker:

33 The Committee on Legislative Procedure respectfully reports that **HB 1003, 1004, 1005,**  
 34 **1010, 1012, 1014, 1018, 1019, 1033, and 1062** were delivered to her Excellency, the Governor,  
 35 for her approval at 11:05 a.m., February 3, 2023.

36 Respectfully submitted,  
 37 Hugh M. Bartels, Chair

1 Also Mr. Speaker:

2 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and  
3 Enrolling has carefully compared **HB 1013, 1026, 1027, 1034, 1036, 1063, and 1071** and finds  
4 the same correctly enrolled.

5 Respectfully submitted,  
6 Hugh M. Bartels, Chair

7 Mr. Speaker:

8 The Committee on House Education respectfully reports that it has had under consideration  
9 **SB 37** and returns the same with the recommendation that said bill do pass.

10 Also Mr. Speaker:

11 The Committee on House Education respectfully reports that it has had under consideration  
12 **HB 1191** and returns the same with the recommendation that said bill do pass, and having been  
13 certified as uncontested, be placed on the consent calendar.

14 Also Mr. Speaker:

15 The Committee on House Education respectfully reports that it has had under consideration  
16 **HCR 6010** which was tabled.

17 Respectfully submitted,  
18 Mike Stevens, Chair

19 Mr. Speaker:

20 The Committee on House Commerce and Energy respectfully reports that it has had under  
21 consideration **HB 1181** which was deferred to the 41st Legislative Day.

22 Also Mr. Speaker:

23 The Committee on House Commerce and Energy respectfully reports that it has had under  
24 consideration **HB 1185** and returns the same with the recommendation that said bill be amended  
25 as follows:

26 1185D

27 On page 2, line 3, of the Introduced bill, delete "2 " and insert "3 "

28 On page 2, line 13, of the Introduced bill, delete "physician " and insert "physical "

29 On page 3, line 2, of the Introduced bill, delete "patients or clients" and insert " any patient or  
30 client"

31 On page 3, line 3, of the Introduced bill, delete "the patients or clients to obtain services from  
32 another person" and insert " the patient or client to transfer the patient or client's care or business  
33 to the practitioner or to the practitioner's new employer, partner, or professional relationship"

34 And that as so amended, **HB 1185** do pass.

35 Respectfully submitted,  
36 Mike Weisgram, Chair

1 Mr. Speaker:

2 The Committee on House State Affairs respectfully reports that it has had under consideration  
3 **HB 1152** which was tabled.

4 Also Mr. Speaker:

5 The Committee on House State Affairs respectfully reports that it has had under consideration  
6 **HB 1165** and returns the same with the recommendation that said bill be amended as follows:

7 1165B

8 On page 3, line 14, of the Introduced bill, delete " Thursday" and insert " Monday"

9 On page 3, line 22, of the Introduced bill, after "envelope" delete " and provide the  
10 identification information pursuant to § 12-19-4"

11 On page 3, line 28, of the Introduced bill, delete "Authorizing" and insert " Providing the ballot  
12 to"

13 On page 3, after line 29, of the Introduced bill, insert: "

14 **Section 8. That § 12-19-7.1 be AMENDED:**

15 **12-19-7.1.** No person who is a candidate for any elective office, except for political party  
16 offices described in § 12-5-2 or county auditor or such deputy, at the election for which the ballot  
17 or ballots are to be voted, may serve as an authorized messenger. A violation of this section is a  
18 Class 2 misdemeanor."

19 On page 4, line 33, of the Introduced bill, after "ballot" delete " has died or"

20 On page 4, line 33, of the Introduced bill, after "to" insert " death,"

21 On page 5, line 1, of the Introduced bill, after "conviction," insert " or"

22 On page 5, line 1, of the Introduced bill, after "incompetence" delete ", or registering to voter  
23 in another state"

24 On page 5, line 7, of the Introduced bill, after "voter;" insert " or"

25 On page 5, line 8, of the Introduced bill, after "voter" delete "; or"

26 On page 5, line 9, of the Introduced bill, after "or" delete "(4) Unopened by reason of out-of-  
27 state voter registration of voter"

28 On page 7, line 17, of the Introduced bill, after "misdemeanor." delete "Section 16. That § 12-  
29 19-49 be AMENDED:"

30 On page 7, line 18, of the Introduced bill, after "AMENDED:" delete "12-19-49. If, prior to the  
31 casting of absentee ballots, the person in charge of the election or absentee ballot counting board  
32 shall have has sufficient cause to believe that any voter who has marked and forwarded an absentee  
33 ballot has died prior to the opening of the polls on the date of the election, the is no longer an  
34 eligible voter due to death, felony conviction, mental incompetence, or registering to vote in another  
35 state, the ballot of the voter shall must be returned in the sealed return envelope with the evidence  
36 of death the disqualifying factor listed in this section attached and the envelope marked accordingly  
37 with one of the following statements:

38 (1) "Unopened by reason of death of voter";

39 (2) Unopened by reason of felony conviction of voter;

1 (3) Unopened by reason of mental incompetence of voter; or

2 (4) Unopened by reason of out-of-state voter registration by the voter.

3 The marked envelope must be returned to the person in charge of the election. A returned  
4 absentee ballot deemed ineligible may not be opened or counted. The casting of any such ballot,  
5 however, shall not invalidate the election."

6 On page 7, after line 32, of the Introduced bill, insert: "

7 **Section 17. That § 12-19-49 be REPEALED:**

8 ~~If, prior to the casting of absentee ballots, the person in charge of the election or absentee~~  
9 ~~ballot counting board shall have sufficient cause to believe that any voter who has marked and~~  
10 ~~forwarded an absentee ballot has died prior to the opening of the polls on the date of the election,~~  
11 ~~the ballot of the voter shall be returned in the sealed return envelope with the evidence of death~~  
12 ~~attached and the envelope marked "Unopened by reason of death of voter" to the person in charge~~  
13 ~~of the election. The casting of any such ballot, however, shall not invalidate the election."~~

14 On page 7, after line 32, of the Introduced bill, insert: "

15 **Section 18. That § 12-19-54 be AMENDED:**

16 **12-19-54.** No person may employ, reward, or compensate any person to assist voters based  
17 on the number of voters assisted. Nothing in this section prohibits any person from hiring a person  
18 paid on an hourly or salaried basis to assist voters. Any violation of this section is a Class-21  
19 misdemeanor.

20 "

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

22 **Section 19. That § 12-19-55 be AMENDED:**

23 **12-19-55.** No person may receive any wages, reward, or compensation for assisting voters  
24 based on the number of voters assisted. Nothing in this section prohibits any person from being  
25 employed on an hourly or salaried basis to assist voters. Any violation of this section is a Class-21  
26 misdemeanor.

27 "

28 On page 8, line 7, of the Introduced bill, after "disability." insert "

29 The person in charge of the election or their appointed designee may prefill an absentee ballot  
30 application for a voter who requests an application. "

31 On page 8, line 9, of the Introduced bill, delete "A county auditor" and insert " The person in  
32 charge of the election"

33 On page 8, line 10, of the Introduced bill, delete " county auditor's county" and insert " official's  
34 jurisdiction"

35 On page 8, line 11, of the Introduced bill, delete " through the mail or by being delivered by  
36 the voter voting by absentee ballot or by an authorized messenger" and insert " pursuant to § 12-  
37 19-7"

38 On page 8, line 17, of the Introduced bill, after "12-19-42" insert ", including a secured and  
39 monitored receptacle or container at the office of the individual in charge of the election"

1 On page 8, line 17, of the Introduced bill, after "12-19-42." insert " The State Board of Elections  
2 shall promulgate rules, pursuant to chapter 1-26, prescribing the requirements to ensure the  
3 security of the receptacle or container located at the office of the individual in charge of the election."

4 And that as so amended, **HB 1165** do pass.

5 Also Mr. Speaker:

6 The Committee on House State Affairs respectfully reports that it has had under consideration  
7 **HB 1166** with the recommendation that said bill be amended as follows:

8 1166B

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

10 **Section 2. That § 3-9-1 be AMENDED:**

11 **3-9-1.** On or before the first of July each year, the State Board of Finance may promulgate  
12 rules, pursuant to chapter 1-26, to fix a rate per mile which shall be paid to those operating privately  
13 owned automobiles and vehicles on state business. Any person using a privately owned automobile  
14 or motorcycle shall be reimbursed at the same rate per mile. However, if no state vehicle is equipped  
15 for the transportation of a person with special needs, a different rate per mile may be established.  
16 If no state vehicle is available and any person must use a privately owned automobile the  
17 reimbursement rate must be the business standard mileage rate authorized by the United States  
18 Internal Revenue Service. The rate may be changed during a fiscal year with the prior approval of  
19 the Legislative Interim Appropriations Committee. The state auditor shall issue warrants covering  
20 vehicle expenses at the rate specified by the State Board of Finance upon the sworn statement of  
21 the party using the vehicle."

22 And that as so amended said bill be referred to the House Committee on Appropriations with  
23 a Do Pass recommendation.

24 Also Mr. Speaker:

25 The Committee on House State Affairs respectfully reports that it has had under consideration  
26 **HB 1175** and returns the same with the recommendation that said bill do pass, and having been  
27 certified as uncontested, be placed on the consent calendar.

28 Also Mr. Speaker:

29 The Committee on House State Affairs respectfully reports that it has had under consideration  
30 **HB 1104, 1179, and 1208, and HCR 6009** which were deferred to the 41st Legislative Day.

31 Respectfully submitted,  
32 Will Mortenson, Chair

33 **MESSAGES FROM THE SENATE**

34 Mr. Speaker:

35 I have the honor to return herewith **HB 1013, 1026, 1027, 1034, 1036, and 1063** which  
36 have passed the Senate without change.

1 Also Mr. Speaker:

2 I have the honor to transmit herewith **SB 55, 78, 83, 87, 102, and 132** which have passed  
3 the Senate and your favorable consideration is respectfully requested.

4 Respectfully,  
5 Kay Johnson, Secretary

6 **MOTIONS AND RESOLUTIONS**

7 Rep. Mortenson moved that **HB 1098, 1124, and 1140** be deferred to Monday,  
8 February 6, 2023, the 18<sup>th</sup> legislative day.

9 Which motion prevailed.

10 **CONSIDERATION OF REPORTS OF COMMITTEES**

11 Rep. Mortenson moved that the report of the Standing Committee on

12 Local Government on **HB 1106** as found on page 209 of the House Journal be adopted.

13 Which motion prevailed and the report was adopted.

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

15 The Speaker declared that **HB 1240** changed prime sponsor from Representative Mulder to  
16 Representative Jamison at their request.

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

18 **SB 83:** FOR AN ACT ENTITLED, An Act to revising provisions regarding water development  
19 districts.

20 Was read the first time and referred to the Committee on Agriculture and Natural Resources.

21 **SB 78:** FOR AN ACT ENTITLED, An Act to create the South Dakota Board of Physical Therapy  
22 and make an appropriation therefor.

23 **SB 87:** FOR AN ACT ENTITLED, An Act to establish educational standards for the expanded  
24 practice of optometry.

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

26 **SB 55:** FOR AN ACT ENTITLED, An Act to prohibit ranked-choice voting.

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

1 **SB 132:** FOR AN ACT ENTITLED, An Act to revise the appointment of legislators to the  
2 Agricultural Land Assessment Implementation and Oversight Advisory Task Force.

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

4 **SECOND READING OF CONSENT CALENDAR ITEMS**

5 **HB 1132:** FOR AN ACT ENTITLED, An Act to revise provisions regarding the duties of the  
6 medical marijuana oversight committee.

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

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

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

13 Were read the second time.

14 The question being "Shall **HB 1132, and SB 9, 10, and 15** pass?"

15 And the roll being called:

16 Yeas 65, Nays 1, Excused 4, Absent 0

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

24 Nays: Mulally

25 Excused: DeGroot, Fitzgerald, May, and Overweg

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

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

29 **HB 1087:** FOR AN ACT ENTITLED, An Act to prohibit certain restrictive employment contracts.

30 Was read the second time.

31 Rep. Deutsch moved that **HB 1087** be laid on the table.



1 Rep. Mortenson rose to a point of order that the motion to table is final disposition and a roll  
2 call vote is necessary.

3 And the roll being called:

4 Yeas 66, Nays 0, Excused 4, Absent 0

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

12 Excused: DeGroot, Fitzgerald, May, and Overweg

13 So the motion having received an affirmative vote of a majority of the members-elect, the  
14 Speaker declared the motion carried and **HB 1087** was tabled.

15 **HB 1054:** FOR AN ACT ENTITLED, An Act to provide a stipend for the erection of a private  
16 headstone for a deceased veteran.

17 Was read the second time.

18 The question being "Shall **HB 1054** pass?"

19 And the roll being called:

20 Yeas 66, Nays 0, Excused 4, Absent 0

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

28 Excused: DeGroot, Fitzgerald, May, and Overweg

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

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

33 Was read the second time.

34 Rep. Deutsch moved that **HB 1150** be amended as follows:

35 1150A

36 On page 6, line 6, of the Introduced bill, after "the" delete " application"

37 Which motion prevailed.

1 The question being "Shall **HB 1150** pass as amended?"

2 And the roll being called:

3 Yeas 65, Nays 1, Excused 4, Absent 0

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

11 Nays: Mulally

12 Excused: DeGroot, Fitzgerald, May, and Overweg

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

15 There being no objection, the House reverted to Order of Business No. 10 - First Reading of  
16 House Bills and Joint Resolutions.

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

18 The Speaker declared that **HB 1084, 1136, and 1202** were withdrawn at the request of the  
19 prime sponsors pursuant to JR 6B-1.1.

20 Rep. Mortenson moved that the balance of the calendar including **SB 12, 13, and 14** be  
21 deferred to Monday, February 6, 2023, the 18<sup>th</sup> legislative day.

22 Which motion prevailed.

23 There being no objection, the House reverted to Order of Business No. 5 - Reports of Standing  
24 Committees.

#### 25 **REPORTS OF STANDING COMMITTEES**

26 Mr. Speaker:

27 The Committee on House Judiciary respectfully reports that it has had under consideration  
28 **HB 1077** which was deferred to the 41st Legislative Day.

29 Also Mr. Speaker:

30 The Committee on House Judiciary respectfully reports that it has had under consideration  
31 **HB 1168 and 1174** and returns the same with the recommendation that said bills do pass.

32  
33

Respectfully submitted,  
Jon Hansen, Chair

1

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**SIGNING OF BILLS**

2

The Speaker publicly read the title to

3

4

**HB 1013:** FOR AN ACT ENTITLED, An Act to update references to certain federal motor carrier regulations.

5

6

**HB 1026:** FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to suppression of wildfires in the state and to declare an emergency.

7

8

**HB 1027:** FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to disasters in the state and to declare an emergency.

9

10

**HB 1034:** FOR AN ACT ENTITLED, An Act to modify tax refunds for elderly persons and persons with a disability, to make an appropriation therefor, and to declare an emergency.

11

12

**HB 1036:** FOR AN ACT ENTITLED, An Act to increase civil penalties for commercial driver's license holders and motor carriers.

13

14

15

**HB 1063:** FOR AN ACT ENTITLED, An Act to require the Unified Judicial System to assemble a task force to address barriers to services for emerging adults involved in the justice system in South Dakota.

16

**HB 1071:** FOR AN ACT ENTITLED, An Act to establish use of force course standards.

17

And signed the same in the presence of the House.

18

19

Rep. Deutsch moved that the House do now adjourn, which motion prevailed and at 1:38 p.m. the House adjourned.

20

Patricia Miller, Chief Clerk

