

JOURNAL OF THE SENATE

NINETY-EIGHTH SESSION

SEVENTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Friday, February 03, 2023

The Senate convened at 1:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Sam Handschke, followed by the Pledge of Allegiance led by Senate page Elijah Morrissette.

Roll Call: All members present except Sen. Frye-Mueller who was absent.

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 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.

Respectfully submitted,
Lee A. Schoenbeck, Chair

Which motion prevailed.

1

COMMUNICATIONS AND PETITIONS

2 February 1, 2023

3 Mr. President and Members of the Senate:

4 I have the honor to inform you that on February 1, 2023, I approved Senate Bills 2 and 41,
5 and the same have been deposited in the office of the Secretary of State.

6

Respectfully submitted,

7

Kristi Noem

8

Governor

9 February 2, 2023

10 Mr. President and Members of the Senate:

11 I have the honor to inform you that on February 2, 2023, I approved Senate Bills 22, 26, 29,
12 and 43, and the same have been deposited in the office of the Secretary of State.

13

Respectfully submitted,

14

Kristi Noem

15

Governor

16

REPORTS OF STANDING COMMITTEES

17 Mr. President:

18 The Committee on Senate Transportation respectfully reports that it has had under
19 consideration **SB 97** which was deferred to the 41st Legislative Day.

20 Also Mr. President:

21 The Committee on Senate Transportation respectfully reports that it has had under
22 consideration **SB 133** and returns the same with the recommendation that said bill do pass.

23

Respectfully submitted,

24

Joshua Klumb, Chair

25 Mr. President:

26 The Committee on Senate Health and Human Services respectfully reports that it has had
27 under consideration **SB 141** and returns the same with the recommendation that said bill be
28 amended as follows:

29

141A

30 On page 5, line 32, of the Introduced bill, delete "premises in conjunction with the licensure
31 renewal process" and insert " crematory, during regular business hours, to verify compliance with
32 applicable laws and rules and shall inspect each crematory, during regular business hours, at least
33 once every three years"

34 On page 14, after line 26, of the Introduced bill, insert: "

1 **Section 31. That chapter 34-26A be amended with a NEW SECTION:**

2 Whenever there is a change in the ownership of a licensed crematory, a representative of the
3 crematory shall report the change to the board, within thirty days. "

4 And that as so amended, **SB 141** do pass, and having been certified as uncontested, be placed
5 on the consent calendar.

6 Also Mr. President:

7 The Committee on Senate Health and Human Services respectfully reports that it has had
8 under consideration **HCR 6004** which was deferred to the 41st Legislative Day.

9
10 Respectfully submitted,
Sydney Davis, Vice-Chair

11 Mr. President:

12 The Committee on Senate State Affairs respectfully reports that it has had under consideration
13 **SB 140** and returns the same with the recommendation that said bill be amended as follows:

14 140B

15 On page 6, line 8, of the Introduced bill, delete "the" and insert " The"

16 On page 6, after line 18, of the Introduced bill, insert: "

17 **Section 17. That chapter 12-4 be amended with a NEW SECTION:**

18 Each clerk of court shall forward to the county auditor of the clerk's county information on any
19 individual called for jury duty who is excused from jury duty because the individual has moved, has
20 been convicted of a felony, has been declared mentally incompetent, is deceased, or is not a citizen
21 of the United States. Upon receipt of the information, the county auditor shall investigate to
22 determine if the reported individual is listed in the county's master registration file and whether the
23 individual is eligible to be registered as a voter. "

24 And that as so amended, **SB 140** do pass, and having been certified as uncontested, be placed
25 on the consent calendar.

26 Also Mr. President:

27 The Committee on Senate State Affairs respectfully reports that it has had under consideration
28 **SB 147** and returns the same with the recommendation that said bill do pass, and having been
29 certified as uncontested, be placed on the consent calendar.

30 Also Mr. President:

31 The Committee on Senate State Affairs respectfully reports that it has had under consideration
32 **SB 161** with the recommendation that said bill be referred to the Joint Committee on Appropriations
33 with a Do Pass recommendation.

34 Also Mr. President:

35 The Committee on Senate State Affairs respectfully reports that it has had under consideration
36 **SB 153 and 164** which were deferred to the 41st Legislative Day.

37
38 Respectfully submitted,
Casey Crabtree, Chair

1 Mr. President:

2 The Committee on Senate Local Government respectfully reports that it has had under
3 consideration **SB 88 and 162, and SJR 505** and returns the same with the recommendation that
4 said bills and resolution do pass.

5 Respectfully submitted,
6 Tim Reed, Chair

7 Mr. President:

8 The Committee on Senate Taxation respectfully reports that it has had under consideration
9 **SB 138** with the recommendation that said bill be referred to the Senate Committee on
10 Appropriations with a Do Pass recommendation.

11 Also Mr. President:

12 The Committee on Senate Taxation respectfully reports that it has had under consideration
13 **SB 131, and HB 1072** which were deferred to the 41st Legislative Day.

14 Respectfully submitted,
15 Jim Stalzer, Chair

16 Mr. President:

17 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
18 Enrolling has carefully compared **SB 7, 28, and 58** and finds the same correctly enrolled.

19 Respectfully submitted,
20 Lee A. Schoenbeck, Chair

21 Mr. President:

22 The Committee on Legislative Procedure respectfully reports that **SB 27 and 30** were delivered
23 to her Excellency, the Governor, for her approval at 8:10 a.m., February 3, 2023.

24 Respectfully submitted,
25 Lee A. Schoenbeck, Chair

26 **MESSAGES FROM THE HOUSE**

27 Mr. President:

28 I have the honor to transmit herewith **HB 1080, 1108, 1115, and 1145** which have passed
29 the House and your favorable consideration is respectfully requested.

30 Also Mr. President:

31 I have the honor to return herewith **SB 7, 28, and 58** which have passed the House without
32 change.

33 Respectfully,
34 Patricia Miller, Chief Clerk

1

MOTIONS AND RESOLUTIONS

2

SENATE PAGE RESOLUTION 2 Introduced by: Senators Beal; Bolin; Bordeaux; Breitling; Castleberry; Crabtree; Davis; Deibert; Diedrich; Duhamel; Foster; Frye-Mueller; Hoffman; Hunhoff; Johnson; Klumb; Kolbeck, Jack; Kolbeck, Steve; Larson; Maher; Mehlhaff; Nesiba; Novstrup; Otten, Herman; Pischke; Reed; Rohl; Schoenbeck; Schoenfish; Stalzer; Tobin; Wheeler; Wiik; Wink; Zikmund

7

A RESOLUTION, Expressing the appreciation and gratitude of the Senate of the Ninety-eighth Legislature of the State of South Dakota to Alexa Comes, Josee Compton, Benjamin Daggett, Shayna Farlee, Miranda Maas, Sydney Meissner, Hawi Meshessa, Matthew Mork, Elijah Morrissette, Emily Olsen, Shane Rist, Keatyn Wede, and Connor Wiik.

11

WHEREAS, the above named served loyally as pages for the Senate of the Ninety-eighth

12

Legislative Session; and

13

14

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

15

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

16

17

18

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

19

Sen. Wink moved that Senate Page Resolution 2 be adopted.

20

The question being on Sen. Wink's motion that Senate Page Resolution 2 be adopted.

21

And the roll being called:

22

Yeas 34, Nays 0, Excused 0, Absent 1

23

24

25

26

Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel, Foster, 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, Wink, and Zikmund

27

Absent: Frye-Mueller

28

29

So the motion having received an affirmative vote of a majority of the members-elect, the President declared the motion prevailed.

30

Sen. Wheeler moved that the Senate do concur in House amendments to **SB 11**.

31

32

The question being on Sen. Wheeler's motion that the Senate do concur in House amendments to **SB 11**.

33

And the roll being called:

34

Yeas 28, Nays 5, Excused 1, Absent 1

35

36

37

38

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

39

Nays: Bordeaux, Foster, Larson, Nesiba, and Pischke

1 Excused: Zikmund

2 Absent: Frye-Mueller

3 So the motion having received an affirmative vote of a majority of the members-elect, the
4 President declared the motion carried and the amendments were concurred in.

5 **HCR 6011**: A CONCURRENT RESOLUTION, Celebrating the sister-state relationship with
6 Taiwan.

7 Was read the second time.

8 Sen. Klumb moved that the Senate do concur in **HCR 6011** as found on page 176 of the Senate
9 Journal.

10 The question being on Sen. Klumb's motion that **HCR 6011** be concurred in.

11 And the roll being called:

12 Yeas 33, Nays 0, Excused 1, Absent 1

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

17 Excused: Zikmund

18 Absent: Frye-Mueller

19 So the motion having received an affirmative vote of a majority of the members-elect, the
20 President declared the motion carried and **HCR 6011** was concurred in.

21 Sen. Crabtree moved that **HCR 6002** be referred to the Committee on Health and Human
22 Services.

23 Which motion prevailed.

24 Sen. Crabtree moved that **HCR 6003** be referred to the Committee on Military and Veterans
25 Affairs.

26 Which motion prevailed.

27 Sen. Crabtree moved that **SB 116 and 145, and HB 1064** be deferred to Monday, February
28 6, 2023, the 18th legislative day.

29 Which motion prevailed.

1

CONSIDERATION OF REPORTS OF COMMITTEES

2

Sen. Crabtree moved that the report of the Standing Committee on

3

Judiciary on **SB 4 and 5** as found on page 73 of the Senate Journal be adopted.

4

Which motion prevailed and the report was adopted.

5

CONSIDERATION OF EXECUTIVE APPOINTMENTS

6

The Senate proceeded to the consideration of the executive appointment of Joseph Graves of Davison County, Mitchell, South Dakota, to the position of Secretary of the Department of Education.

8

The question being "Does the Senate advise and consent to the executive appointment of Joseph Graves pursuant to the executive message as found on page 118 of the Senate Journal?"

10

And the roll being called:

11

Yeas 34, Nays 0, Excused 0, Absent 1

12

Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel, Foster, 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, Wink, and Zikmund

13

14

15

16

Absent: Frye-Mueller

17

So the question having received an affirmative vote of a majority of the members-elect, the President declared the appointment confirmed.

18

19

CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS

20

The Senate proceeded to the consideration of the executive appointments of Hunter Roberts of Hughes County, Pierre, South Dakota, to the position of Secretary of the Department of Agriculture and Natural Resources (SJ 86), and

21

22

23

Kevin Robling of Hughes County, Pierre, South Dakota, to the position of Secretary of the Department of Game, Fish and Parks (SJ 87).

24

25

The question being "Does the Senate advise and consent to the executive appointments of Hunter Roberts and Kevin Robling?"

26

27

And the roll being called:

28

Yeas 34, Nays 0, Excused 0, Absent 1

29

Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel, Foster, 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, Wink, and Zikmund

30

31

32

33

Absent: Frye-Mueller

34

So the question having received an affirmative vote of a majority of the members-elect, the President declared the appointments confirmed.

35

1

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

2

3

The President declared that **SB 170** was withdrawn at the request of the prime sponsor pursuant to JR 6B-1.1.

4

5

The President declared that **SB 39** was withdrawn at the request of Sen. Schoenfish pursuant to JR 6B-1.1.

6

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

7

8

HB 1108: FOR AN ACT ENTITLED, An Act to revise provisions related to abandoned mobile or manufactured homes.

9

10

HB 1145: FOR AN ACT ENTITLED, An Act to revise the order of precedence for the right to control the disposition of the remains of a deceased person.

11

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

12

13

HB 1080: FOR AN ACT ENTITLED, An Act to prohibit certain medical and surgical interventions on minor patients.

14

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

15

16

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

17

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

18

SECOND READING OF CONSENT CALENDAR ITEMS

19

Sen. Crabtree requested that **SB 86** be removed from the Consent Calendar.

20

21

SB 98: FOR AN ACT ENTITLED, An Act to identify the means of conducting a criminal background check for the renewal of a gold card or an enhanced permit to carry a concealed pistol.

22

23

SB 150: FOR AN ACT ENTITLED, An Act to add provisions regarding construction and maintenance of livestock pipelines on highways.

24

25

SB 176: FOR AN ACT ENTITLED, An Act to modify certain requirements for removal from the sex offender registry.

26

27

HB 1038: FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the Department of Veterans Affairs and residency in the State Veterans Home.

28

29

HB 1088: FOR AN ACT ENTITLED, An Act to update requirements for an insurance company seeking to do business in this state.

30

Were read the second time.

1 The question being "Shall **HB 1088** pass as amended, and **SB 98, 150, and 176, and**
2 **HB 1038** pass?"

3 And the roll being called:

4 Yeas 34, Nays 0, Excused 0, Absent 1

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

9 Absent: Frye-Mueller

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

12 **SIGNING OF BILLS**

13 The President publicly read the title to

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

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

18 **SB 58:** FOR AN ACT ENTITLED, An Act to clarify that the special amusement excise tax applies
19 to the sale of amusement devices.

20 **HB 1002:** FOR AN ACT ENTITLED, An Act to update the official code of laws.

21 **HB 1015:** FOR AN ACT ENTITLED, An Act to update provisions related to the licensure of
22 funeral directors and the provision of funeral services.

23 **HB 1025:** FOR AN ACT ENTITLED, An Act to revise the fees for registration of an apiary.

24 **HB 1028:** FOR AN ACT ENTITLED, An Act to modify expiration dates and enforcement actions
25 pertaining to pesticide applicator licenses.

26 And signed the same in the presence of the Senate.

27 **COMMEMORATIONS**

28 **SC 806:** A LEGISLATIVE COMMEMORATION, Celebrating and honoring Tabor's Czech Days
29 annual festivities on the occasion of its seventy-fourth anniversary.

30 Introduced by: **Senators** Schoenfish, Bolin, Bordeaux, Crabtree, Diedrich, Hunhoff, Nesiba,
31 Novstrup, Herman Otten, Reed, Schoenbeck, Stalzer, Wiik, and Zikmund and
32 **Representatives** Drew Peterson, Arlint, Auch, Bahmuller, Blare, Duba, Koth, Kull, May, Moore,
33 Olson, Perry, Reisch, Stevens, Tordsen, and Venhuizen

1 Sen. Zikmund moved that the Senate do now adjourn, which motion prevailed and at
2 1:48 p.m. the Senate adjourned.

3

Kay Johnson, Secretary