

JOURNAL OF THE HOUSE

NINETY-EIGHTH SESSION

TWENTY-FIRST DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Thursday, February 09, 2023

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

The prayer was offered by the Chaplain, Sam Handschke, followed by the Pledge of Allegiance led by House pages Robert Arnold and Paige Westergren.

Roll Call: All members present except Reps. Bahmuller and DeGroot 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 20th 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 1060 and 1064** and finds the same correctly enrolled.

5

6

Respectfully submitted,
Hugh M. Bartels, Chair

7 Mr. Speaker:

8 The Committee on House Transportation respectfully reports that it has had under
9 consideration **SB 31 and 61** and returns the same with the recommendation that said bills do pass.

10

11

Respectfully submitted,
Rocky Blare, Chair

12 Mr. Speaker:

13 The Committee on House State Affairs respectfully reports that it has had under consideration
14 **HB 1151** with the recommendation that said bill be amended as follows:

15

1151B

16 On page 1, line 6, of the Introduced bill, delete " medical" and insert " leave"

17 On page 1, line 11, of the Introduced bill, delete " and medical" and insert " leave"

18 On page 1, line 12, of the Introduced bill, delete " and medical" and insert " leave"

19 On page 1, line 12, of the Introduced bill, delete " the same types of leave as protected under
20 the Family and Medical Leave Act, 29 U. S. C. § 2601 et seq. , as of January 1, 2023, except leave
21 for a health condition of the employee" and insert ":

22 (1) The birth of a child within one year of birth;

23 (2) Placement of a child for adoption or foster care within one year of placement;

24 (3) To care for an employee's spouse, child, or parent who has a serious health condition; or

25 (4) Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter,
26 or parent is a covered military member on covered active duty"

27 On page 1, line 18, of the Introduced bill, delete " and medical" and insert " leave"

28 On page 2, line 18, of the Introduced bill, delete " protected under the Family and Medical
29 Leave Act, 29 U. S. C. § 2601 et seq. , as of January 1, 2023" and insert " defined in § 3-6C-7.1"

30 On page 3, after line 5, of the Introduced bill, insert: "

31 **Section 6. That chapter 58-18 be amended with a NEW SECTION:**

32 Licensed life and health insurance carriers may offer paid family and maternity leave insurance
33 policies to public and private employees in the state. "

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

3 Also Mr. Speaker:

4 The Committee on House State Affairs respectfully reports that it has had under consideration
5 **HB 1209** and returns the same with the recommendation that said bill be amended as follows:

6 1209C

7 On page 2, line 14, of the Introduced bill, remove the overstrikes from " by a state licensed
8 hemp processor or the transfer of that product at no higher than one "

9 On page 2, line 15, of the Introduced bill, delete "one " and insert "five "

10 On page 2, line 15, of the Introduced bill, remove the overstrikes from "percent total delta-9
11 tetrahydrocannabinol between one or more licensed hemp processors during the process of
12 processing state or federally approved, lab-tested biomass from a licensed grower into a finished
13 industrial hemp product"

14 On page 2, line 18, of the Introduced bill, after "product" delete " by a licensed hemp processor
15 or the transfer of that product at no higher than five percent total delta-9 tetrahydrocannabinol
16 between one or more hemp processors or growers licensed in United States jurisdictions with United
17 States Department of Agriculture approved hemp plans during processing to make an end user THC
18 compliant industrial hemp product under this chapter"

19 On page 3, line 25, of the Introduced bill, after "year." delete "Section 4. That § 38-35-21 be
20 REPEALED:

21 "

22 On page 3, line 26, of the Introduced bill, after "REPEALED:" delete "The sale or use of
23 industrial hemp for smoking or inhaling is prohibited. A violation of this section is a Class 1
24 misdemeanor."

25 And that as so amended, **HB 1209** do pass.

26 Also Mr. Speaker:

27 The Committee on House State Affairs respectfully reports that it has had under consideration
28 **HB 1226** and returns the same with the recommendation that said bill be amended as follows:

29 1226B

30 On page 1, line 1, of the Introduced bill, delete "accommodate legislation related to delta-8
31 and delta-10 tetrahydrocannabinol products" and insert " regulate industrial hemp-derived delta-8
32 and delta-10 tetrahydrocannabinol products, and other hemp-derived psychoactive compounds, and
33 to declare an emergency"

34 On the Introduced bill, delete everything after the enacting clause and insert:

35 "

36 **Section 1. That § 38-35-12 be AMENDED:**

37 **38-35-12.** The Department of Health shall promulgate rules, pursuant to chapter 1-26, to:

38 (1) Make any modification or addition to the hemp regulatory program in order to
39 comply with any federal statutes or any rules and regulations regarding hemp enacted or
40 implemented by the United States Department of Agriculture;

- 1 (2) Establish testing procedures to determine if the hemp tested contains the lawful
2 amount of total delta-9 tetrahydrocannabinol concentration and certifying results; ~~and~~
- 3 (3) Establish labeling requirements for industrial hemp products; and
- 4 (4) Establish labeling, marketing, packaging, and testing requirements and procedures for
5 delta-8 and delta-10 tetrahydrocannabinol products, and other hemp-derived psychoactive
6 compounds.

7 **Section 2.** Whereas, this Act is necessary for the immediate preservation of the public peace,
8 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
9 effect from and after its passage and approval."

10 And that as so amended, **HB 1226** do pass.

11 Also Mr. Speaker:

12 The Committee on House State Affairs respectfully reports that it has had under consideration
13 **HB 1236** which was tabled.

14 Also Mr. Speaker:

15 The Committee on House State Affairs respectfully reports that it has had under consideration
16 **HCR 6005 and 6008, and HJR 5002 and 5005** which were deferred to the 41st Legislative Day.

17 Respectfully submitted,
18 Will Mortenson, Chair

19 Mr. Speaker:

20 The Committee on House Retirement Laws respectfully reports that it has had under
21 consideration **HB 1007** and returns the same with the recommendation that said bill be amended
22 as follows:

23 1007A

24 On page 4, line 17, of the Introduced bill, delete " an emergency medical services driver,
25 emergency medical responder, emergency medical technician (EMT), emergency medical
26 technician-intermediate/85, emergency medical technician-intermediate/99, emergency medical
27 technician-advanced, emergency medical technician-paramedic, or emergency medical technician-
28 critical care paramedic, as certified by the Department of Health" and insert " a person licensed by
29 the Board of Medical and Osteopathic Examiners in accordance with chapter 36-4B or licensed or
30 certified by the Department of Health in accordance with chapter 34-11 who actively practices
31 emergency medical services"

32 And that as so amended, **HB 1007** do pass, and having been certified as uncontested, be
33 placed on the consent calendar.

34 Also Mr. Speaker:

35 The Committee on House Retirement Laws respectfully reports that it has had under
36 consideration **HB 1008 and 1009** and returns the same with the recommendation that said bills
37 do pass, and having been certified as uncontested, be placed on the consent calendar.

38 Also Mr. Speaker:

39 The Committee on House Retirement Laws respectfully reports that it has had under
40 consideration **HB 1119** which was tabled.

1 Also Mr. Speaker:

2 The Committee on House Retirement Laws respectfully reports that it has had under
3 consideration **HB 1177** which was deferred to the 41st Legislative Day.

4 Respectfully submitted,
5 Hugh M. Bartels, Chair

6 Mr. Speaker:

7 The Committee on House Military and Veterans Affairs respectfully reports that it has had under
8 consideration **HB 1190** with the recommendation that said bill be referred to the Joint Committee
9 on Appropriations with a Do Pass recommendation.

10 Also Mr. Speaker:

11 The Committee on House Military and Veterans Affairs respectfully reports that it has had under
12 consideration **HB 1196** with the recommendation that said bill be referred to the Joint Committee
13 on Appropriations with a Do Pass recommendation.

14 Respectfully submitted,
15 Kenneth Teunissen, Vice-Chair

16 Mr. Speaker:

17 The Committee on House Agriculture and Natural Resources respectfully reports that it has had
18 under consideration **HB 1189, and SB 44, 83, and 92** and returns the same with the
19 recommendation that said bills do pass.

20 Respectfully submitted,
21 Roger Chase, Chair

22 Mr. Speaker:

23 The Committee on House Taxation respectfully reports that it has had under consideration
24 **HB 1095** with the recommendation that said bill be referred to the House Committee on
25 Appropriations with a without recommendation recommendation.

26 Also Mr. Speaker:

27 The Committee on House Taxation respectfully reports that it has had under consideration
28 **HB 1159** with the recommendation that said bill be referred to the House Committee on
29 Appropriations with a without recommendation recommendation.

30 Also Mr. Speaker:

31 The Committee on House Taxation respectfully reports that it has had under consideration
32 **HB 1096** which was tabled.

33 Respectfully submitted,
34 Kirk Chaffee, Chair

1 Mr. Speaker:

2 The Committee on House Local Government respectfully reports that it has had under
3 consideration **HB 1123** and returns the same with the recommendation that said bill be amended
4 as follows:

5 1123A

6 On page 2, after line 15, of the Introduced bill, insert: "

7 **Section 5. That chapter 13-7 be amended with a NEW SECTION:**

8 If a school board has, by resolution, increased the length of terms from three to four years for
9 the purpose of holding joint elections pursuant to § 13-7-10.1, the school board may decrease the
10 length of terms from four years to three using the same procedure as for increasing the length of
11 terms, provided that each school board member is entitled to complete the term of office to which
12 the member was elected. The school board is empowered to designate the number of vacancies and
13 the number of the years, not to exceed three years, in each vacancy so that all succeeding regular
14 elections have, insofar as practicable, the same number of vacancies to be filled. "

15 1123B

16 On the previously adopted amendment (1123A), On page 1, line 9, after "years" insert " or
17 decrease the length of terms from three to two years"

18 On the previously adopted amendment (1123A), On page 1, line 10, delete " 13-7-10. 1" and
19 insert " 13-7-10.3"

20 On the previously adopted amendment (1123A), On page 1, line 10, after "increased " insert
21 "or decreased "

22 On the previously adopted amendment (1123A), On page 2, line 2, after "years" insert " or to
23 decrease school board terms to two years"

24 On the previously adopted amendment (1123A), On page 2, line 6, after "increase" insert " or
25 decrease"

26 On the previously adopted amendment (1123A), On page 2, line 15, after "filled." insert "

27 If a resolution to decrease the length of a school board term from three to two years is
28 approved pursuant to § 13-8-2, each member of the school board must be elected at the regularly
29 scheduled election."

30 On the previously adopted amendment (1123A), On page 2, line 18, after "years" insert " or
31 decreased the length of terms from three to two years"

32 On the previously adopted amendment (1123A), On page 2, line 18, delete " 13-7-10. 1" and
33 insert " 13-7-10.3"

34 On the previously adopted amendment (1123A), On page 2, line 19, after "three" insert " or
35 increase the length of terms from two to three years"

36 On the previously adopted amendment (1123A), On page 2, line 20, delete " for increasing the
37 length of terms" and insert " used when altering the length of terms for the purpose of holding joint
38 elections pursuant to § 13-7-10.3"

39 And that as so amended, **HB 1123** do pass, and having been certified as uncontested, be
40 placed on the consent calendar.

1 Also Mr. Speaker:

2 The Committee on House Local Government respectfully reports that it has had under
3 consideration **SB 56** and returns the same with the recommendation that said bill be amended as
4 follows:

5 56G

6 On page 1, after line 18, of the Senate Engrossed bill, insert: "

7 **Section 2. That § 7-6-7 be AMENDED:**

8 ~~7-6-7. It shall be the duty of~~ If the question to relocate the county seat is approved by the
9 voters as specified in § 7-6-5, the county officers whose offices are required by law to be kept at
10 the county seat, to shall remove their respective offices, files, records, office fixtures, furniture, and
11 all other property pertaining to their offices to the county seat designated by the voters within ~~thirty~~
12 days one year after ~~such county seat shall have been designated by the voters the date of an election~~
13 held under the provisions of this chapter or the end of any recount, certiorari proceeding, or election
14 contest, whichever is latest."

15 And that as so amended, **SB 56** do pass, and having been certified as uncontested, be placed
16 on the consent calendar.

17 Also Mr. Speaker:

18 The Committee on House Local Government respectfully reports that it has had under
19 consideration **SB 51 and 84** and returns the same with the recommendation that said bills do pass,
20 and having been certified as uncontested, be placed on the consent calendar.

21 Respectfully submitted,
22 Becky J. Drury, Chair

23 Mr. Speaker:

24 The Committee on House Health and Human Services respectfully reports that it has had under
25 consideration **HB 1086** which was deferred to the 41st Legislative Day.

26 Also Mr. Speaker:

27 The Committee on House Health and Human Services respectfully reports that it has had under
28 consideration **HB 1154** and returns the same with the recommendation that said bill do pass.

29 Also Mr. Speaker:

30 The Committee on House Health and Human Services respectfully reports that it has had under
31 consideration **HB 1155** and returns the same with the recommendation that said bill do pass, and
32 having been certified as uncontested, be placed on the consent calendar.

33 Also Mr. Speaker:

34 The Committee on House Health and Human Services respectfully reports that it has had under
35 consideration **HB 1187** with the recommendation that said bill be referred to the Joint Committee
36 on Appropriations with a Do Pass recommendation.

37 Respectfully submitted,
38 Kevin D. Jensen, Chair

1

MESSAGES FROM THE SENATE

2 Mr. Speaker:

3 I have the honor to return herewith **HB 1091** which has passed the Senate without change.

4 Also Mr. Speaker:

5 I have the honor to transmit herewith **SB 140, 146, 162, and 182** which have passed the
6 Senate and your favorable consideration is respectfully requested.7
8Respectfully,
Kay Johnson, Secretary

9

MOTIONS AND RESOLUTIONS10 Rep. Mortenson moved that **HB 1158** be deferred to Monday, February 13, 2023, the 22nd
11 legislative day.

12 Which motion prevailed.

13

CONSIDERATION OF REPORTS OF COMMITTEES14 Rep. Mortenson moved that the reports of the Standing Committees on
15 Commerce and Energy on **HB 1135** as found on page 254 of the House Journal; also
16 Commerce and Energy on **HB 1176** as found on page 258 of the House Journal be adopted.
17 Which motion prevailed and the reports were adopted.

18

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS19 **SB 182:** FOR AN ACT ENTITLED, An Act to establish a uniform method for calculating high
20 school credit received from completing postsecondary courses.

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

22 **SB 146:** FOR AN ACT ENTITLED, An Act to limit parole for violent offenders.

23 Was read the first time and referred to the Committee on Judiciary.

24 **SB 162:** FOR AN ACT ENTITLED, An Act to revise public meeting requirements.

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

1 **SB 140:** FOR AN ACT ENTITLED, An Act to revise certain provisions relating to voter
2 registration.

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

4 The following bills were read on February 8, 2023, and today the Speaker assigned these bills
5 to committees:

6 **SB 141, 198, and 204** were referred to the Committee on Health and Human Services.

7 **SB 5** was referred to the Committee on Judiciary.

8 **SB 86** was referred to the Committee on State Affairs.

9 **SECOND READING OF CONSENT CALENDAR ITEMS**

10 Rep. May requested that **SB 77** be removed from the Consent Calendar.

11 Speaker Pro Tempore Stevens now presiding.

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

13 **HB 1210:** FOR AN ACT ENTITLED, An Act to provide that interest earned on money in the
14 conservation district special revenue fund must be deposited in the fund.

15 Was read the second time.

16 Rep. Wangsness moved that **HB 1210** be amended as follows:

17 1210A

18 On page 1, line 1, of the Introduced bill, delete "provide that interest earned on money in" and
19 insert "modify"

20 On page 1, line 1, of the Introduced bill, after "the " insert "use of "

21 On page 1, line 2, of the Introduced bill, delete " must be deposited in the fund" and insert "
22 monies and to provide an appropriation therefor"

23 On page 1, line 9, of the Introduced bill, after "fund." insert " Any repayment of the principal
24 amount of a loan and any interest thereon must be deposited into the fund and used for making
25 new loans. Money in the fund is hereby continuously appropriated for the purposes provided in this
26 section. "

27 Which motion prevailed.

28 The question being "Shall **HB 1210** pass as amended?"

29 And the roll being called:

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

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

8 Excused: Bahmuller and DeGroot

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

11 **HB 1133**: FOR AN ACT ENTITLED, An Act to define a commodity for the purpose of qualifying
12 as a common carrier.

13 Was read the second time.

14 Rep. Derby rose to a point of order that Rep. Moore wasn't staying germane to the bill.

15 Rep. Mortenson rose to a point of order that Speaker Pro Tempore Stevens allow the testimony
16 of Rep. Sjaarda.

17 The question being "Shall **HB 1133** pass as amended?"

18 And the roll being called:

19 Yeas 40, Nays 28, Excused 2, Absent 0

20 Yeas: Auch, Aylward, Blare, Donnell, Drury, Emery, Fitzgerald, Gross, Hansen, Kevin Jensen,
21 Phil Jensen, Karr, Krohmer, Krull, Ladner, Lems, Lesmeister, May, Mills, Moore, Mortenson, Mulally,
22 Odenbach, Olson, Ernie Otten, Overweg, Perry, Sue Peterson, Pinnow, Pourier, Randolph, Rehfeldt,
23 Reimer, Schaeftbauer, Sjaarda, Soye, Stevens, Teunissen, Venhuizen, and Wangsness

24 Nays: Arlint, Callies, Cammack, Chaffee, Chase, Derby, Deutsch, Duba, Duffy, Healy,
25 Heermann, Jamison, Kassin, Koth, Kull, Massie, Mulder, Nelson, Drew Peterson, Reisch, Sauder,
26 Schneider, Shorma, St. John, Tordsen, Weisgram, Wittman, and Speaker Bartels

27 Excused: Bahmuller and DeGroot

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

30 **HB 1172**: FOR AN ACT ENTITLED, An Act to require a practitioner's medical assessment of a
31 patient to occur in certain facilities for purposes of medical cannabis use.

32 Was read the second time.

33 The question being "Shall **HB 1172** pass as amended?"

34 And the roll being called:

35 Yeas 47, Nays 21, Excused 2, Absent 0

36 Yeas: Arlint, Auch, Blare, Callies, Cammack, Chaffee, Chase, Deutsch, Duffy, Fitzgerald, Gross,
37 Hansen, Heermann, Kevin Jensen, Phil Jensen, Karr, Kassin, Koth, Krull, Kull, Ladner, Lems, Massie,
38 May, Mills, Moore, Mulder, Odenbach, Olson, Perry, Sue Peterson, Pinnow, Randolph, Rehfeldt,

1 Reisch, Sauder, Schaeffbauer, Schneider, Shorma, Sjaarda, Soye, Stevens, Tordsen, Venhuizen,
2 Wangsness, Weisgram, and Speaker Bartels

3 Nays: Aylward, Derby, Donnell, Drury, Duba, Emery, Healy, Jamison, Krohmer, Lesmeister,
4 Mortenson, Mulally, Nelson, Ernie Otten, Overweg, Drew Peterson, Pourier, Reimer, St. John,
5 Teunissen, and Wittman

6 Excused: Bahmuller and DeGroot

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

9 **HB 1186:** FOR AN ACT ENTITLED, An Act to require restitution for landowners following an
10 unauthorized entry to hunt, fish, or trap.

11 Was read the second time.

12 Rep. Mortenson moved that **HB 1186** be amended as follows:

13 1186B

14 On page 1, line 1, of the House Agriculture and Natural Resources Engrossed bill, after
15 "landowners" insert " or lessees"

16 On page 1, line 15, of the House Agriculture and Natural Resources Engrossed bill, after
17 "dollars." insert "

18 If the property upon which a violation occurred was under the control of a lessee, the court
19 shall order that the requisite restitution be paid to the lessee."

20 Which motion prevailed.

21 The question being "Shall **HB 1186** pass as amended?"

22 And the roll being called:

23 Yeas 29, Nays 39, Excused 2, Absent 0

24 Yeas: Arlint, Aylward, Cammack, Chaffee, Duba, Emery, Fitzgerald, Healy, Heermann, Phil
25 Jensen, Kassin, Ladner, Lesmeister, Mortenson, Mulally, Nelson, Perry, Drew Peterson, Pinnow,
26 Randolph, Sauder, Shorma, Sjaarda, St. John, Teunissen, Tordsen, Wangsness, Weisgram, and
27 Wittman

28 Nays: Auch, Blare, Callies, Chase, Derby, Deutsch, Donnell, Drury, Duffy, Gross, Hansen,
29 Jamison, Kevin Jensen, Karr, Koth, Krohmer, Krull, Kull, Lems, Massie, May, Mills, Moore, Mulder,
30 Odenbach, Olson, Ernie Otten, Overweg, Sue Peterson, Pourier, Rehfeldt, Reimer, Reisch,
31 Schaeffbauer, Schneider, Soye, Stevens, Venhuizen, and Speaker Bartels

32 Excused: Bahmuller and DeGroot

33 So the bill not having received an affirmative vote of a majority of the members-elect, the
34 Speaker declared the bill lost.

35 Rep. Mortenson moved that the balance of the calendar including **HB 1160, 1170, and 1193,**
36 **and SB 34, 93, and 95** be deferred to Monday, February 13, 2023, the 22nd legislative day.

37 Which motion prevailed.

1 Speaker Bartels now presiding.

2 **SIGNING OF BILLS**

3 The Speaker publicly read the title to

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

6 **HB 1064:** FOR AN ACT ENTITLED, An Act to require the Unified Judicial System to assemble
7 a task force to address the provision of legal services to indigent parties within the South Dakota
8 court system and to declare an emergency.

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

10 Rep. Drury moved that the House do now adjourn, which motion prevailed and at 2:32 p.m.
11 the House adjourned.

12 Patricia Miller, Chief Clerk