

JOURNAL OF THE HOUSE

NINETY-EIGHTH SESSION

THIRTY-SIXTH DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Wednesday, March 08, 2023

The House convened at 9:00 a.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Emily Munger, followed by the Pledge of Allegiance led by House pages Madelyn Hinkelman and Nicholas Maas.

Roll Call: All members present except Rep. Phil Jensen who was 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 35th 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

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MESSAGES FROM THE SENATE

2 Mr. Speaker:

3 I have the honor to inform your honorable body that the Senate has concurred in House
4 amendments to **SB 1, 91, 118, and 174.**

5 Also Mr. Speaker:

6 I have the honor to inform your honorable body that the Senate has adopted the report of the
7 Conference Committee on **HB 1185.**

8 Also Mr. Speaker:

9 I have the honor to inform your honorable body that the Senate has failed to concur in House
10 amendments to **SB 16** and has appointed Senators Wiik (Chair), Bordeaux, and Bolin as a
11 committee of three on the part of the Senate to meet with a like committee on the part of the House
12 to adjust the differences between the two houses.

13 Also Mr. Speaker:

14 I have the honor to inform your honorable body that the Senate has failed to concur in House
15 amendments to **SB 134** and has appointed Senators Duhamel (Chair), Tobin, and Steve Kolbeck as
16 a committee of three on the part of the Senate to meet with a like committee on the part of the
17 House to adjust the differences between the two houses.

18 Also Mr. Speaker:

19 I have the honor to inform your honorable body that the Senate has failed to concur in House
20 amendments to **SB 149** and has appointed Senators Hunhoff (Chair), Breitling, and Bolin as a
21 committee of three on the part of the Senate to meet with a like committee on the part of the House
22 to adjust the differences between the two houses.

23 Also Mr. Speaker:

24 I have the honor to inform your honorable body that the Senate has failed to concur in House
25 amendments to **SB 156** and has appointed Senators Duhamel (Chair), Hunhoff, and Deibert as a
26 committee of three on the part of the Senate to meet with a like committee on the part of the House
27 to adjust the differences between the two houses.

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Respectfully,
Kay Johnson, Secretary

30 The Speaker appointed Representatives Deutsch (Chair), Koth, and Bahmuller as a committee
31 of three on the part of the House to meet with a like committee on the part of the Senate to adjust
32 the differences between the two houses on **SB 16.**

33 The Speaker appointed Representatives Kevin Jensen (Chair), Deutsch, and Tordsen as a
34 committee of three on the part of the House to meet with a like committee on the part of the Senate
35 to adjust the differences between the two houses on **SB 134.**

1 The Speaker appointed Representatives Derby (Chair), Venhuizen, and Kassin as a committee
 2 of three on the part of the House to meet with a like committee on the part of the Senate to adjust
 3 the differences between the two houses on **SB 149**.

4 The Speaker appointed Representatives Bartels (Chair), Karr, and Lesmeister as a committee
 5 of three on the part of the House to meet with a like committee on the part of the Senate to adjust
 6 the differences between the two houses on **SB 156**.

7 **MOTIONS AND RESOLUTIONS**

8 Rep. Mortenson moved that when we adjourn today, we adjourn to convene at 9:00 a.m. on
 9 Thursday, March 9, 2023, the 37th legislative day.

10 Which motion prevailed.

11 Rep. Mortenson moved that the House do now recess until 1:30 p.m.

12 Which motion prevailed and at 9:13 a.m., the House recessed.

13 **RECESS**

14 The House reconvened at 2:03 p.m., the Speaker presiding.

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

17 **REPORTS OF STANDING COMMITTEES**

18 Mr. Speaker:

19 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
 20 Enrolling has carefully compared **HB 1185** and finds the same correctly enrolled.

21 Respectfully submitted,
 22 Hugh M. Bartels, Chair

23 Mr. Speaker:

24 The Committee on Legislative Procedure respectfully reports that **HB 1021, 1039, 1045,**
 25 **1053, 1055, 1059, 1078, 1079, 1108, 1123, 1124, 1127, 1140, 1153, 1155, 1165, 1183,**
 26 **1193, and 1231** were delivered to her Excellency, the Governor, for her approval at 3:00 p.m.,
 27 March 7, 2023.

28 Respectfully submitted,
 29 Hugh M. Bartels, Chair

1 Mr. Speaker:

2 The Committee on Legislative Procedure respectfully reports that **HB 1065, 1154, 1170, and**
 3 **1220** were delivered to her Excellency, the Governor, for her approval at 10:45 a.m.,
 4 March 8, 2023.

5 Respectfully submitted,
 6 Hugh M. Bartels, Chair

7 Mr. Speaker:

8 The Committee on Legislative Procedure respectfully reports that the House has, pursuant to
 9 the Governor's veto of **HB 1109**, sustained that veto and delivered the same to her Excellency, the
 10 Secretary of State, for filing at 11:20 a.m., March 8, 2023.

11 Respectfully submitted,
 12 Hugh M. Bartels, Chair

13 Mr. Speaker:

14 The Committee on Legislative Procedure respectfully reports that **HB 1174, 1176, 1239, and**
 15 **1240** were delivered to her Excellency, the Governor, for her approval at 12:30 p.m.,
 16 March 8, 2023.

17 Respectfully submitted,
 18 Hugh M. Bartels, Chair

19 **MESSAGES FROM THE SENATE**

20 Mr. Speaker:

21 I have the honor to inform your honorable body that the Senate has adopted the reports of
 22 the Conference Committees on **HB 1022 and 1141**.

23 Respectfully,
 24 Kay Johnson, Secretary

25 **CONSIDERATION OF REPORTS OF CONFERENCE COMMITTEES**

26 Rep. Mulally rose to a point of order that Joint Rule 8-3 be invoked and paper copies of all the
 27 conference committee reports be distributed to the members.

28 Rep. Mortenson moved that the House do now recess for 20 minutes.

29 Which motion prevailed and at 2:07 p.m., the House recessed.

30 **RECESS**

31 The House reconvened at 2:20 p.m., the Speaker presiding.

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CONSIDERATION OF REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The SB105 A Conference Committee on **SB 105** respectfully reports that it has considered the disagreement of the two houses, and amended **SB 105** as follows:

105B

On page 1, line 1, of the House Appropriations Engrossed bill, delete "require updated cost report information" and insert " revise provisions related to the review of reimbursement rates"

On page 1, line 6, of the House Appropriations Engrossed bill, delete " jointly" and insert ", as applicable,"

On page 1, line 7, of the House Appropriations Engrossed bill, after "providers" insert " listed in § 28-22-6"

On page 1, line 8, of the House Appropriations Engrossed bill, delete "Any rate models determined by the comprehensive rate model analysis must be reviewed and reported annually to include cost report information, rate model components utilizing the most relevant inflation factor respective of the analysis, and other market factors as warranted pursuant to §§ 28-22-2 and 28-22-3. " and insert " In each intervening year, the department shall review the reimbursement rates for each provider service category using the established rate model to determine whether the allowable costs for each category accurately reflect the provider's current costs as reported to the department in the provider's annual cost report. The department shall report its findings from the annual reimbursement rate review in the annual report required by § 28-22-5. The report must include the costs considered and the calculations used by the department in reaching its findings. The report must also show any year-over-year difference between the then-authorized reimbursement rate for each provider service category and the reimbursement rate necessary to cover the current costs for that category based on the information contained in the providers' annual cost reports. "

On page 1, line 12, of the House Appropriations Engrossed bill, after "may" delete " elect to"

On page 1, line 13, of the House Appropriations Engrossed bill, after "the " insert "comprehensive rate modeling "

On page 1, line 13, of the House Appropriations Engrossed bill, after "analysis" delete " earlier or"

On page 1, line 13, of the House Appropriations Engrossed bill, after "basis " insert "than every five years ".

Also Mr. Speaker:

The SB105 A Conference Committee on **SB 105** respectfully reports that it has considered the disagreement of the two houses, and returns the same with the recommendation that the Senate and House do NOT concur with the amendments to **SB 105**, and do NOT appoint a new committee.

Respectfully submitted,
Jean Hunhoff, Chair

Respectfully submitted,
Chris Karr, Chair

Rep. Karr moved that the report of the Conference Committee on **SB 105** be adopted.

The question being on Rep. Karr's motion that the report of the Conference Committee on **SB 105** be adopted.

1 And the roll being called:

2 Yeas 69, Nays 0, Excused 1, Absent 0

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

10 Excused: Phil Jensen

11 So the motion having received an affirmative vote of a majority of the members-elect, the
12 Speaker declared the motion carried and the report was adopted.

13 Mr. Speaker:

14 The SB149 A Conference Committee on **SB 149** respectfully reports that it has considered the
15 disagreement of the two houses, and returns the same with the recommendation that the Senate
16 and House do NOT concur with the amendments to **SB 149** and do NOT appoint a new committee.

17 Respectfully submitted,
18 Jean Hunhoff, Chair

Respectfully submitted,
Mike Derby, Chair

19 Rep. Derby moved that the report of the Conference Committee on **SB 149** be adopted.

20 The question being on Rep. Derby's motion that the report of the Conference Committee on
21 **SB 149** be adopted.

22 And the roll being called:

23 Yeas 68, Nays 1, Excused 1, Absent 0

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

31 Nays: Mulally

32 Excused: Phil Jensen

33 So the motion having received an affirmative vote of a majority of the members-elect, the
34 Speaker declared the motion carried and the report was adopted.

35 Mr. Speaker:

36 The SB134 A Conference Committee on **SB 134** respectfully reports that it has considered the
37 disagreement of the two houses, and returns the same with the recommendation that said bill be
38 amended as follows:

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134M

2 On the House Health and Human Services Engrossed bill, delete everything after the enacting
3 clause and insert:

4 "

5 **Section 1. That § 34-20G-92 be AMENDED:**

6 **34-20G-92.** ~~The Executive Board of the Legislative Research Council shall appoint an oversight~~
7 ~~committee comprised of: one member of the House of Representatives, one member of the Senate,~~
8 ~~one Division of Criminal Investigation agent, one staff member from the Office of the Attorney~~
9 ~~General, two representatives of law enforcement, one representative from the department, one~~
10 ~~practitioner with experience in medical cannabis issues, one nurse, one board member or principal~~
11 ~~officer of a cannabis testing facility, one person with experience in policy development or~~
12 ~~implementation in the field of medical cannabis, and three qualifying patients consisting of:~~

13 (1) Two members of the Senate;

14 (2) Two members of the House of Representatives;

15 (3) A physician licensed in accordance with chapter 36-4;

16 (4) A physician assistant licensed in accordance with chapter 36-4A;

17 (5) A certified nurse practitioner licensed in accordance with chapter 36-9A;

18 (6) A pharmacist licensed in accordance with chapter 36-11;

19 (7) The chief of police for a municipality having a population in excess of fifty-thousand, or a
20 representative of the police department designated by the chief;

21 (8) The sheriff of a county or a representative of the sheriff's office designated by the sheriff;
22 and

23 (9) A professional counselor licensed in accordance with chapter 36-32 or an addiction
24 counselor licensed in accordance with chapter 36-34.

25 Each appointee shall serve for a term of two years and may be reappointed.

26 **Section 2. That chapter 34-20G be amended with a NEW SECTION:**

27 Beginning in 2023, and every two years thereafter, the oversight committee shall select from
28 among itself one legislator to serve as the chair and one legislator, from the opposite chamber, to
29 serve as the vice chair.

30 Beginning in 2025, the legislators selected to serve as the chair and vice chair may not be from
31 the same chamber as their immediate predecessors.

32 **Section 3. That § 34-20G-93 be AMENDED:**

33 **34-20G-93.** The oversight committee shall meet at least two times per year for the purpose
34 of evaluating and making recommendations to the Legislature and the department regarding:

35 (1) The ability of qualifying patients in all areas of the state to obtain timely access to
36 high-quality medical cannabis;

37 (2) The effectiveness of the dispensaries and cultivation facilities, individually and
38 together, in serving the needs of qualifying patients, including the provision of educational and
39 support services by dispensaries, the reasonableness of their prices, whether they are generating

1 any complaints or security problems, and the sufficiency of the number operating to serve the state's
 2 registered qualifying patients;

3 (3) The effectiveness of the cannabis testing facilities, including whether a sufficient
 4 number are operating;

5 (4) The sufficiency of the regulatory and security safeguards contained in this chapter
 6 and adopted by the department to ensure that access to and use of cannabis cultivated is provided
 7 only to cardholders;

8 (5) Any recommended additions or revisions to the department regulations or this
 9 chapter, including relating to security, safe handling, labeling, and nomenclature; and

10 (6) Any research studies regarding health effects of medical cannabis for patients.

11 The oversight committee shall ensure that it seeks relevant input from qualifying patients;
 12 designated caregivers; school boards and administrators; parents; municipal representatives; state
 13 agencies, including the Department of Health, the South Dakota Division of Criminal Investigation,
 14 and the Department of Public Safety; and medical cannabis establishments.

15 ".

16 Respectfully submitted,
 17 Helene Duhamel, Chair

Respectfully submitted,
 Kevin D. Jensen, Chair

18 Rep. Kevin Jensen moved that the report of the Conference Committee on **SB 134** be adopted.

19 Rep. Reimer made a substitute motion that the House do not adopt the report of the
 20 Conference Committee on **SB 134** and that a new committee on the part of the House be appointed
 21 to meet with a like committee on the part of the Senate to adjust the differences between the two
 22 houses.

23 Rep. Fitzgerald requested a roll call vote.

24 Which request was supported.

25 And the roll being called:

26 Yeas 49, Nays 20, Excused 1, Absent 0

27 Yeas: Arlint, Aylward, Bahmuller, Blare, Cammack, Chaffee, Chase, DeGroot, Derby, Donnell,
 28 Drury, Duba, Duffy, Emery, Gross, Healy, Heermann, Jamison, Karr, Kassin, Krull, Kull, Ladner,
 29 Lesmeister, Massie, May, Mortenson, Mulally, Mulder, Nelson, Olson, Ernie Otten, Drew Peterson,
 30 Sue Peterson, Pinnow, Pourier, Rehfeldt, Reimer, Sauder, Shorma, St. John, Stevens, Teunissen,
 31 Tordsen, Venhuizen, Wangsness, Weisgram, Wittman, and Speaker Bartels

32 Nays: Auch, Callies, Deutsch, Fitzgerald, Hansen, Kevin Jensen, Koth, Krohmer, Lems, Mills,
 33 Moore, Odenbach, Overweg, Perry, Randolph, Reisch, Schaeffbauer, Schneider, Sjaarda, and Soye

34 Excused: Phil Jensen

35 So the motion having received an affirmative vote of a majority of the members-elect, the
 36 Speaker declared the motion prevailed and the Speaker appointed as such committee
 37 Representatives May (Chair), Drew Peterson, and Sauder.

SIGNING OF BILLS

1

2 The Speaker publicly read the title to

3 **HB 1185:** FOR AN ACT ENTITLED, An Act to prohibit certain restrictions in employment
4 contracts.5 **SB 1:** FOR AN ACT ENTITLED, An Act to modify debilitating medical conditions for medical
6 cannabis use.7 **SB 67:** FOR AN ACT ENTITLED, An Act to revise provisions related to emergency and
8 involuntary commitment for alcohol and drug abuse.9 **SB 91:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the crime of rape
10 and provide a penalty therefor.11 **SB 118:** FOR AN ACT ENTITLED, An Act to expand eligibility for certain teachers who receive
12 reduced tuition at Board of Regents institutions.13 **SB 159:** FOR AN ACT ENTITLED, An Act to revise provisions regarding vehicle warranty claims.14 **SB 174:** FOR AN ACT ENTITLED, An Act to prohibit the enactment or implementation of an
15 ordinance, resolution, or policy that prohibits the use of an energy utility service.

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

17 Rep. Mortenson moved that the House do now recess until 4:00 p.m.

18 Which motion prevailed and at 2:48 p.m., the House recessed.

19 **RECESS**

20 The House reconvened at 4:04 p.m., the Speaker presiding.

21 Rep. Mortenson moved that the House do now recess until 4:45 p.m.

22 Which motion prevailed and at 4:05 p.m., the House recessed.

23 **RECESS**

24 The House reconvened at 5:13 p.m., the Speaker presiding.

25 Rep. Stevens moved that the House do now adjourn, which motion prevailed and at 5:14 p.m.
26 the House adjourned.

27

Patricia Miller, Chief Clerk

