

JOURNAL OF THE SENATE

NINETY-NINTH SESSION

EIGHTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Friday, January 19, 2024

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

The prayer was offered by the Chaplain, Rev. Mercy Hobbs, followed by the Pledge of Allegiance led by Senate page Mily Vasquez.

Roll Call: All members present except Sen. Diedrich who was excused.

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 7th 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 The President Pro Tempore made the following temporary Senate appointments: Sen. Deibert
2 to the Senate Committee on State Affairs, Sen. Hoffman to the Senate Committee on Health and
3 Human Services, and Sen. Klumb to the Senate Committee on Judiciary, to fill Sen. Diedrich's seat
4 on the committees.

5 **REPORTS OF STANDING COMMITTEES**

6 MR. PRESIDENT:

7 The Committee on Senate Taxation respectfully reports that it has had under consideration
8 **HB 1018 and 1019** and returns the same with the recommendation that said bills do pass, and
9 having been certified as uncontested, be placed on the consent calendar.

10 Respectfully submitted,
11 Jim Stalzer, Chair

12 MR. PRESIDENT:

13 The Committee on Senate State Affairs respectfully reports that it has had under consideration
14 **SB 17** and returns the same with the recommendation that said bill be amended as follows:

15 17A

16 On page 1, after line 3, of the Introduced bill, insert: "

17 **Section 1. That § 12-1-4 be AMENDED:**

18 **12-1-4.** For the purposes of this title, the term, residence, means the place in which a person
19 ~~is domiciled as shown by an actual fixed permanent dwelling, establishment, or any other abode~~
20 has fixed the person's habitation and to which the person returns after a period of absence.

21 A person who leaves the residence and goes into another county of this state or another state
22 or territory for a temporary purpose has not changed residence.

23 A person is considered to have gained residence in any county or municipality of this state in
24 which the person actually lives, if the person has no present intention of leaving.

25 A person retains residence in this state until another residence has been gained. If a person
26 moves from this state to another state or territory with the intention of making it the person's
27 permanent home, the person loses residence in this state."

28 On page 1, line 6, of the Introduced bill, after "state" delete " for at least thirty days in the
29 three hundred and sixty-five days immediately prior to submitting the registration form,"

30 On page 1, after line 12, of the Introduced bill, insert: "

31 **Section 3. That § 12-4-1.2 be AMENDED:**

32 **12-4-1.2.** The voter registration form must include a certification of voter eligibility by which
33 the applicant attests, under the penalty of perjury, that the applicant:

34 (1) Is a citizen of the United States;

35 (2) Will be eighteen years or older on or before the next election;

1 Also MR. PRESIDENT:

2 The Committee on Senate Health and Human Services respectfully reports that it has had
3 under consideration **SB 63** and returns the same with the recommendation that said bill be amended
4 as follows:

5 63A

6 On page 5, line 3, of the Introduced bill, delete " 9" and insert " 10"

7 And that as so amended, **SB 63** do pass.

8 Respectfully submitted,
9 Erin Tobin, Chair

10 MR. PRESIDENT:

11 The Committee on Senate Local Government respectfully reports that it has had under
12 consideration **SB 5** and returns the same with the recommendation that said bill be amended as
13 follows:

14 5A

15 On page 1, line 6, of the Introduced bill, after "removed " insert "suspend the manager by
16 resolution of intent to "

17 On page 1, line 6, of the Introduced bill, after "manager" insert " approved"

18 On page 1, line 6, of the Introduced bill, after "by" insert " a"

19 On page 1, line 7, of the Introduced bill, after "body." delete " At least thirty fourteen days
20 before such the removal may become effective, the manager shall be furnished with governing body
21 shall present a formal statement in the form of a resolution passed by a majority vote of such the
22 governing body to the manager stating the intention of such the governing body to remove him the
23 manager, and the reasons therefor. "

24 On page 1, line 11, of the Introduced bill, after "He" insert " The resolution of intent to remove
25 the manager must set forth the reasons for the suspension and proposed removal, and a copy of
26 the resolution must be served immediately upon the manager."

27 On page 1, line 12, of the Introduced bill, after "resolution" insert " and may request a public
28 hearing within fifteen days of being served the resolution"

29 On page 1, line 12, of the Introduced bill, after "so" insert " a public hearing is"

30 On page 1, line 12, of the Introduced bill, delete " fix" and insert " set"

31 On page 1, line 13, of the Introduced bill, delete " a" and insert " the"

32 On page 1, line 16, of the Introduced bill, delete "Upon passage of a resolution stating the
33 governing body's intention to remove the manager, such the governing body may suspend him the
34 manager from duty, but his the" and insert " The"

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

1 Also MR. PRESIDENT:

2 The Committee on Senate Local Government respectfully reports that it has had under
3 consideration **SB 75** and returns the same with the recommendation that said bill be amended as
4 follows:

5 75A

6 On page 1, line 19, of the Introduced bill, after "matter" delete ", and for"

7 And that as so amended, **SB 75** do pass.

8 Also MR. PRESIDENT:

9 The Committee on Senate Local Government respectfully reports that it has had under
10 consideration **SB 83** with the recommendation that said bill be referred to the Joint Committee on
11 Appropriations with a Do Pass recommendation.

12 Respectfully submitted,
13 Tim Reed, Chair

14 **MESSAGES FROM THE HOUSE**

15 MR. PRESIDENT:

16 I have the honor to transmit herewith **HB 1012 and 1071** which have passed the House and
17 your favorable consideration is respectfully requested.

18 Also MR. PRESIDENT:

19 I have the honor to return herewith **SCR 601** in which the House has concurred.

20 Respectfully,
21 Patricia Miller, Chief Clerk

22 **MOTIONS AND RESOLUTIONS**

23 Sen. Schoenbeck moved that **HB 1041** be referred from the Committee on State Affairs to the
24 Committee on Commerce and Energy.

25 Which motion prevailed.

1 SENATE PAGE RESOLUTION 1 Introduced by: Senators Beal; Bolin; Bordeaux; Breitling;
2 Crabtree; Davis; Deibert; Diedrich; Duhamel; Foster; Frye-Mueller; Hoffman; Hunhoff; Johnson;
3 Klumb; Kolbeck, Jack; Kolbeck, Steve; Larson; Maher; Mehlhaff; Nesiba; Novstrup; Otten, Herman;
4 Pischke; Reed; Rohl; Schoenbeck; Schoenfish; Stalzer; Tobin; Wheeler; Wiik; Wink; Zikmund

5 A RESOLUTION, Expressing the appreciation and gratitude of the Senate of the Ninety-ninth
6 Legislature of the State of South Dakota to Elly Broers, Ayden Calvert, Addison Huber, Gabrielle
7 Irving, Neva Mikkelsen, Emma Peterson, Ariel Schatz, Ty Sullivan, and Mily Vasquez.

8 WHEREAS, the above named served loyally as pages for the Senate of the Ninety-ninth
9 Legislative Session; and

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

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

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

16 Sen. Hunhoff moved that Senate Page Resolution 1 be adopted.

17 The question being on Sen. Hunhoff's motion that Senate Page Resolution 1 be adopted.

18 And the roll being called:

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

20 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Foster, Frye-Mueller,
21 Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff,
22 Nesiba, Novstrup, Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,
23 Wheeler, Wiik, Wink, and Zikmund

24 Excused: Diedrich

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

27 **CONSIDERATION OF REPORTS OF COMMITTEES**

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

29 Agriculture and Natural Resources on **SB 14** as found on page 103 of the Senate Journal be
30 adopted.

31 Which motion prevailed and the report was adopted.

1

CONSIDERATION OF EXECUTIVE APPOINTMENTS

2

The Senate proceeded to the consideration of the executive appointment of Judith Dittman of Lake County, Madison, South Dakota, to the Board of Regents.

3

4

The question being "Does the Senate advise and consent to the executive appointment of Judith Dittman pursuant to the executive message as found on page 51 of the Senate Journal?"

5

6

And the roll being called:

7

Yeas 33, Nays 0, Excused 1, Absent 0

8

Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, 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, and Zikmund

9

10

11

12

Excused: Diedrich

13

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

14

15

The Senate proceeded to the consideration of the executive appointment of Randy Frederick of Hamlin County, Hayti, South Dakota, to the Board of Regents.

16

17

The question being "Does the Senate advise and consent to the executive appointment of Randy Frederick pursuant to the executive message as found on page 51 of the Senate Journal?"

18

19

And the roll being called:

20

Yeas 33, Nays 0, Excused 1, Absent 0

21

Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, 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, and Zikmund

22

23

24

25

Excused: Diedrich

26

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

27

28

The Senate proceeded to the consideration of the executive appointment of James Lochner of Union County, Dakota Dunes, South Dakota, to the Board of Regents.

29

30

The question being "Does the Senate advise and consent to the executive appointment of James Lochner pursuant to the executive message as found on page 50 of the Senate Journal?"

31

32

And the roll being called:

33

Yeas 33, Nays 0, Excused 1, Absent 0

34

Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, 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, and Zikmund

35

36

37

1 Excused: Diedrich

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

4 The Senate proceeded to the consideration of the executive appointment of Douglas Morrison
5 of Lincoln County, Sioux Falls, South Dakota, to the Board of Regents.

6 The question being "Does the Senate advise and consent to the executive appointment of
7 Douglas Morrison pursuant to the executive message as found on page 52 of the Senate Journal?"

8 And the roll being called:

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

10 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Foster, Frye-Mueller,
11 Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff,
12 Nesiba, Novstrup, Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,
13 Wheeler, Wiik, Wink, and Zikmund

14 Excused: Diedrich

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

17 The Senate proceeded to the consideration of the executive appointment of Randall Rasmussen
18 of Clay County, Vermillion, South Dakota, to the Board of Regents.

19 The question being "Does the Senate advise and consent to the executive appointment of
20 Randall Rasmussen pursuant to the executive message as found on page 50 of the Senate Journal?"

21 And the roll being called:

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

23 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Foster, Frye-Mueller,
24 Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff,
25 Nesiba, Novstrup, Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,
26 Wheeler, Wiik, Wink, and Zikmund

27 Excused: Diedrich

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

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

31 **SB 100:** FOR AN ACT ENTITLED, An Act to prohibit the imposition of additional immunization
32 requirements on children.

33 **Introduced by: Senator** Frye-Mueller

1 **SB 101:** FOR AN ACT ENTITLED, An Act to prohibit the conduct of certain physical
2 examinations or screenings on students in a school district without parental consent.

3 Introduced by: **Senator** Frye-Mueller

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

5 **SB 99:** FOR AN ACT ENTITLED, An Act to modify provisions pertaining to the deadlines for the
6 filing of certain election-related documents.

7 Introduced by: **Senator** Duhamel

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

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

10 **HB 1071:** FOR AN ACT ENTITLED, An Act to revise a provision providing authority to the
11 Governor to enter into agreements with the Nuclear Regulatory Commission.

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

13 **HB 1012:** FOR AN ACT ENTITLED, An Act to adopt the interstate counseling licensure compact
14 and revise educational requirements to comply with the compact.

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

16 **SECOND READING OF CONSENT CALENDAR ITEMS**

17 **SB 11:** FOR AN ACT ENTITLED, An Act to prohibit a practitioner from referring a patient to a
18 medical cannabis clinic with which the practitioner or an immediate family member has a financial
19 relationship and to provide a penalty therefor.

20 **SB 35:** FOR AN ACT ENTITLED, An Act to provide that certain personal information of a lottery
21 prize winner may only be made public with the winner's consent.

22 **SB 61:** FOR AN ACT ENTITLED, An Act to repeal the Visitation Grant Advisory Group.

23 Were read the second time.

24 The question being "Shall **SB 11** pass as amended, and **SB 35 and 61** pass?"

25 And the roll being called:

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

27 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Foster, Frye-Mueller,
28 Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff,
29 Nesiba, Novstrup, Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,
30 Wheeler, Wiik, Wink, and Zikmund

31 Excused: Diedrich

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

3 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

4 **SB 12:** FOR AN ACT ENTITLED, An Act to authorize certain employer actions regarding the use
5 of cannabis by an employee or a prospective employee.

6 Was read the second time.

7 The question being "Shall **SB 12** pass?"

8 And the roll being called:

9 Yeas 32, Nays 1, Excused 1, Absent 0

10 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Foster, Frye-Mueller,
11 Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff,
12 Novstrup, Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler,
13 Wiik, Wink, and Zikmund

14 Nays: Nesiba

15 Excused: Diedrich

16 So the bill having received an affirmative vote of a majority of the members-elect, the President
17 declared the bill passed and the title was agreed to.

18 **SB 20:** FOR AN ACT ENTITLED, An Act to establish the crime of threatening or intimidating an
19 election official or election worker and declare an emergency.

20 Was read the second time.

21 The question being "Shall **SB 20** pass?"

22 And the roll being called:

23 Yeas 23, Nays 10, Excused 1, Absent 0

24 Yeas: Bolin, Bordeaux, Breitling, Crabtree, Davis, Duhamel, Hunhoff, Johnson, Klumb, Kolbeck
25 (Steve), Larson, Maher, Nesiba, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik,
26 Wink, and Zikmund

27 Nays: Beal, Deibert, Foster, Frye-Mueller, Hoffman, Kolbeck (Jack), Mehlhaff, Novstrup, Otten
28 (Herman), and Pischke

29 Excused: Diedrich

30 So the bill not having received an affirmative vote of a two-thirds majority of the members-
31 elect, the President declared the bill lost.

1 Sen. Wheeler rose to a point of order on the two-thirds vote on **SB 20**, and that two-thirds of
2 thirty-four members was twenty-three.

3 The President ruled that the vote is based on thirty-five members-elect pursuant to Mason's
4 Manual of Legislative Procedure Section 512 (4).

5 The President announced that **SB 20** was up for immediate reconsideration pursuant to JR 5-
6 13.1.

7 **SB 20**: FOR AN ACT ENTITLED, An Act to establish the crime of threatening or intimidating an
8 election official or election worker and declare an emergency.

9 Having had its second reading was up for reconsideration and final passage.

10 Sen. Wheeler moved that **SB 20** be amended as follows:

11 20B

12 On page 1, line 8, of the Introduced bill, after "misdemeanor." delete "Section 2. That a NEW
13 SECTION be added:

14 On page 1, line 9, of the Introduced bill, after "added:" delete "Whereas, this Act is necessary
15 for the immediate preservation of the public peace, health, or safety, an emergency is hereby
16 declared to exist, and this Act shall be in full force and effect from and after its passage and
17 approval."

18 Which motion prevailed.

19 The question being "Shall **SB 20** pass as amended?"

20 And the roll being called:

21 Yeas 21, Nays 12, Excused 1, Absent 0

22 Yeas: Bolin, Bordeaux, Breitling, Crabtree, Davis, Duhamel, Hunhoff, Johnson, Klumb, Kolbeck
23 (Steve), Larson, Nesiba, Reed, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and
24 Zikmund

25 Nays: Beal, Deibert, Foster, Frye-Mueller, Hoffman, Kolbeck (Jack), Maher, Mehlhaff, Novstrup,
26 Otten (Herman), Pischke, and Rohl

27 Excused: Diedrich

28 So the bill having received an affirmative vote of a majority of the members-elect, the President
29 declared the bill passed.

1 The question being on the title.

2 Sen. Wheeler moved that the title to **SB 20** be amended as follows:

3 20C

4 On page 1, line 2, of the Introduced bill, after "worker" delete " and declare an emergency"

5 Which motion prevailed and the title was so amended.

6 **SB 27**: FOR AN ACT ENTITLED, An Act to modify the criteria for removal from the sex offender
7 registry.

8 Was read the second time.

9 The question being "Shall **SB 27** pass as amended?"

10 And the roll being called:

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

12 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Foster, Frye-Mueller,
13 Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff,
14 Nesiba, Novstrup, Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,
15 Wheeler, Wiik, Wink, and Zikmund

16 Excused: Diedrich

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

19 **SB 55**: FOR AN ACT ENTITLED, An Act to remove multiple vehicle ownership as a condition for
20 purchasing an additional park entry license at a reduced price.

21 Was read the second time.

22 The question being "Shall **SB 55** pass?"

23 And the roll being called:

24 Yeas 32, Nays 1, Excused 1, Absent 0

25 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Foster, Frye-Mueller,
26 Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff,
27 Nesiba, Novstrup, Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler,
28 Wiik, Wink, and Zikmund

29 Nays: Pischke

30 Excused: Diedrich

31 So the bill having received an affirmative vote of a majority of the members-elect, the President
32 declared the bill passed and the title was agreed to.

1 **SB 56:** FOR AN ACT ENTITLED, An Act to permit the operation of a Class I electric bicycle on
2 the Mickelson Trail.

3 Was read the second time.

4 The question being "Shall **SB 56** pass as amended?"

5 And the roll being called:

6 Yeas 21, Nays 12, Excused 1, Absent 0

7 Yeas: Bolin, Bordeaux, Breitling, Davis, Deibert, Duhamel, Foster, Frye-Mueller, Hoffman,
8 Larson, Maher, Mehlhaff, Nesiba, Novstrup, Otten (Herman), Pischke, Reed, Stalzer, Tobin, Wheeler,
9 and Wink

10 Nays: Beal, Crabtree, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Rohl,
11 Schoenbeck, Schoenfish, Wiik, and Zikmund

12 Excused: Diedrich

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

15 There being no objection, the Senate reverted to Order of Business No. 8 - Motions and
16 Resolutions.

17 **MOTIONS AND RESOLUTIONS**

18 Sen. Crabtree moved that the balance of the calendar including **SB 57, 71, 73, and 78, and**
19 **SJR 502** be deferred to Monday, January 22, 2024, the 9th legislative day.

20 Which motion prevailed.

21 Sen. Wink moved that the Senate do now adjourn, which motion prevailed and at 2:19 p.m.
22 the Senate adjourned.

23

Peggy Laurenz, Secretary

