

JOURNAL OF THE SENATE

NINETY-NINTH SESSION

NINTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Monday, January 22, 2024

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Craig Wexler, followed by the Pledge of Allegiance led by Senate page Chloe Blom.

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 8th 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 oath of office was administered by the President to the following named pages:

2 Chloe Blom, Ashley Bondesen, Alexa Comes, Chloe Culver, Kaia Day, Chloe Heermann, Jack
3 Jerde, Miranda Maas, Elijah Morrissette, Jadeyn Reiner

4 Which was subscribed to and placed on file in the office of the Secretary of State.

5 **REPORTS OF STANDING COMMITTEES**

6 MR. PRESIDENT:

7 The Committee on Senate Local Government respectfully reports that it has had under
8 consideration **HB 1026** and returns the same with the recommendation that said bill do pass, and
9 having been certified as uncontested, be placed on the consent calendar.

10 Also MR. PRESIDENT:

11 The Committee on Senate Local Government respectfully reports that it has had under
12 consideration **HCR 6006** and returns the same with the recommendation that said resolution be
13 concurred in.

14 Respectfully submitted,
15 Tim Reed, Chair

16 MR. PRESIDENT:

17 The Committee on Senate Health and Human Services respectfully reports that it has had
18 under consideration **HB 1013** and returns the same with the recommendation that said bill do pass.

19 Also MR. PRESIDENT:

20 The Committee on Senate Health and Human Services respectfully reports that it has had
21 under consideration **SB 40, and HB 1015** and returns the same with the recommendation that said
22 bills do pass, and having been certified as uncontested, be placed on the consent calendar.

23 Respectfully submitted,
24 Erin Tobin, Chair

25 MR. PRESIDENT:

26 The Committee on Senate State Affairs respectfully reports that it has had under consideration
27 **HB 1011** and returns the same with the recommendation that said bill do pass.

28 Also MR. PRESIDENT:

29 The Committee on Senate State Affairs respectfully reports that it has had under consideration
30 **HB 1005 and 1006** and returns the same with the recommendation that said bills do pass, and
31 having been certified as uncontested, be placed on the consent calendar.

32 Respectfully submitted,
33 Casey Crabtree, Chair

1

MESSAGES FROM THE HOUSE

2

MR. PRESIDENT:

3

I have the honor to transmit herewith **HB 1046, 1047, 1073, and 1077** which have passed the House and your favorable consideration is respectfully requested.

4

5

Respectfully,
Patricia Miller, Chief Clerk

6

7

MOTIONS AND RESOLUTIONS

8

Sen. Crabtree moved that **SB 57 and 64, and SJR 502** be deferred to Tuesday, January 23, 2024, the 10th legislative day.

9

10

Which motion prevailed.

11

Sen. Pischke moved that the Senate Committee on Appropriations be instructed to deliver **HB 1001** to the floor of the Senate, pursuant to JR 7-7.

12

13

Which motion was not supported.

14

CONSIDERATION OF REPORTS OF COMMITTEES

15

Sen. Crabtree moved that the reports of the Standing Committees on

16

Local Government on **SB 5** as found on page 114 of the Senate Journal; also

17

Local Government on **SB 75** as found on page 115 of the Senate Journal; also

18

State Affairs on **SB 17** as found on page 112 of the Senate Journal; also

19

State Affairs on **SB 18** as found on page 113 of the Senate Journal; and

20

Health and Human Services on **SB 63** as found on page 114 of the Senate Journal be adopted.

21

Which motion prevailed and the reports were adopted.

22

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

23

The President declared that **SB 79** changed prime sponsor from Rep. Arlint to Rep. Deutsch at their request.

24

25

SB 111: FOR AN ACT ENTITLED, An Act to revise requirements for mining and mineral exploration.

26

27

Introduced by: **Senator** Deibert

28

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

-
- 1 **SB 110:** FOR AN ACT ENTITLED, An Act to void covenants that prohibit or restrict the
2 possession or use of firearms and ammunition.
- 3 Introduced by: **Senator** Rohl
- 4 **SB 114:** FOR AN ACT ENTITLED, An Act to create a presumption of workers' compensation
5 coverage for occupational cancer for firefighters.
- 6 Introduced by: **Senator** Johnson
- 7 Were read the first time and referred to the Committee on Commerce and Energy.
- 8 **SB 103:** FOR AN ACT ENTITLED, An Act to standardize certain school safety practices.
- 9 Introduced by: **Senator** Hoffman
- 10 Was read the first time and referred to the Committee on Education.
- 11 **SB 116:** FOR AN ACT ENTITLED, An Act to provide for vapor product certification requirements
12 and to provide a penalty therefor.
- 13 Introduced by: **Senator** Davis
- 14 Was read the first time and referred to the Committee on Health and Human Services.
- 15 **SB 107:** FOR AN ACT ENTITLED, An Act to prohibit the dissemination of materially deceptive
16 media without disclosure and to provide a penalty therefor.
- 17 Introduced by: **Senator** Johnson
- 18 **SB 108:** FOR AN ACT ENTITLED, An Act to revise a provision related to retrocession of
19 jurisdiction over federal enclaves.
- 20 Introduced by: **Senator** Duhamel
- 21 **SB 109:** FOR AN ACT ENTITLED, An Act to provisionally repeal capital punishment.
- 22 Introduced by: **Senator** Nesiba
- 23 Were read the first time and referred to the Committee on Judiciary.
- 24 **SB 102:** FOR AN ACT ENTITLED, An Act to revise the process for annexing or excluding
25 property contiguous to a road district.
- 26 Introduced by: **Senator** Schoenbeck
- 27 **SB 105:** FOR AN ACT ENTITLED, An Act to provide for the employment of veterans' service
28 officers by the Department of Veterans Affairs.
- 29 Introduced by: **Senator** Johnson
- 30 Were read the first time and referred to the Committee on Local Government.

1 **SB 104:** FOR AN ACT ENTITLED, An Act to make an appropriation to support the operations
2 of the Phoenix Correspondence Commission.

3 Introduced by: **Senator** Stalzer

4 **SB 113:** FOR AN ACT ENTITLED, An Act to establish the state flag design commission.

5 Introduced by: **Senator** Nesiba

6 **SB 115:** FOR AN ACT ENTITLED, An Act to prevent a county, township, or municipality from
7 authorizing a guaranteed income program.

8 Introduced by: **Senator** Wiik

9 **SJR 504:** A JOINT RESOLUTION, Proposing and submitting to the voters at the next general
10 election an amendment to the Constitution of the State of South Dakota revising the process by
11 which a legislative vacancy is filled.

12 Introduced by: **Senator** Hoffman

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

14 **SB 106:** FOR AN ACT ENTITLED, An Act to make an appropriation to support airline terminal
15 improvement, expansion, and infrastructure projects.

16 Introduced by: **Senator** Johnson

17 **SB 112:** FOR AN ACT ENTITLED, An Act to establish a non-resident title fee.

18 Introduced by: **Senator** Deibert

19 Were read the first time and referred to the Committee on Transportation.

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

21 **HB 1073:** FOR AN ACT ENTITLED, An Act to keep interest earned on incarceration construction
22 fund moneys in the same fund.

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

24 **HB 1046:** FOR AN ACT ENTITLED, An Act to prohibit the intentional disarming of a law
25 enforcement officer and to provide a penalty therefor.

26 **HB 1047:** FOR AN ACT ENTITLED, An Act to enhance the penalties for eluding law
27 enforcement.

28 Were read the first time and referred to the Committee on Judiciary.

29 **HB 1077:** FOR AN ACT ENTITLED, An Act to provide for the disbursement of catastrophic
30 county poor relief fund to the participating counties in the event of the discontinuance of the fund.

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

1

SECOND READING OF CONSENT CALENDAR ITEMS

2

Sen. Nesiba requested that **SB 14** be removed from the Consent Calendar.

3

Sen. Wheeler requested that **SB 26** be removed from the Consent Calendar.

4

Sen. Frye-Mueller requested that **HB 1018** be removed from the Consent Calendar.

5

6

SB 46: FOR AN ACT ENTITLED, An Act to authorize the disclosure of referral status by Department of Human Services personnel.

7

8

SB 76: FOR AN ACT ENTITLED, An Act to modify provisions pertaining to the appointment of vacant positions on a board or commission.

9

10

HB 1019: FOR AN ACT ENTITLED, An Act to clarify language regarding sales and use tax in certain statutes.

11

Were read the second time.

12

The question being "Shall **SB 46 and 76, and HB 1019** pass?"

13

And the roll being called:

14

Yeas 33, Nays 0, Excused 1, Absent 0

15

16

17

18

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

19

Excused: Diedrich

20

21

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

22

Sen. Wiik now presiding.

23

SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS

24

25

26

SB 43: FOR AN ACT ENTITLED, An Act to establish procedures for the imposition of fines and probation against medical cannabis establishments, and to increase the allowable fee for a medical cannabis establishment registration certificate.

27

Was read the second time.

28

Sen. Tobin moved that **SB 43** be amended as follows:

1 43A

2 On page 1, line 2, of the Introduced bill, after "establishments," delete " and to"

3 On page 1, line 3, of the Introduced bill, after "certificate" insert ", and direct the Department
4 of Health to promulgate rules to increase the fee for a registration certificate"

5 On page 3, line 28, of the Introduced bill, delete " twenty-eight" and insert " twenty"

6 On page 4, after line 11, of the Introduced bill, insert: "

7 **Section 2.** The Department of Health shall amend the following Administrative Rules of South
8 Dakota, to be filed with the secretary of state no later than September 30, 2024, utilizing the
9 permanent rulemaking procedure in chapter 1-26:

10 44:90:03:17. Fees for registration certificates -- Application and renewal. The department
11 shall collect a non-refundable fee for an initial or renewal application for an establishment
12 registration certificate of ~~five fourteen~~ thousand ~~three hundred and ten~~ dollars."

13 Which motion prevailed.

14 The question being "Shall **SB 43** pass as amended?"

15 And the roll being called:

16 Yeas 22, Nays 11, Excused 1, Absent 0

17 Yeas: Beal, Bolin, Breitling, Crabtree, Deibert, Duhamel, Frye-Mueller, Hoffman, Hunhoff,
18 Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Mehlhaff, Novstrup, Reed, Rohl, Schoenbeck,
19 Stalzer, Tobin, Wiik, and Zikmund

20 Nays: Bordeaux, Davis, Foster, Larson, Maher, Nesiba, Otten (Herman), Pischke, Schoenfish,
21 Wheeler, and Wink

22 Excused: Diedrich

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

25 **SB 71:** FOR AN ACT ENTITLED, An Act to remove a prohibition on the ability of law enforcement
26 and various governmental entities to inspect, search, seize, prosecute, or impose disciplinary action
27 on cannabis dispensaries, cultivation facilities, manufacturing facilities, and testing facilities.

28 Was read the second time.

29 The question being "Shall **SB 71** pass?"

30 And the roll being called:

31 Yeas 26, Nays 7, Excused 1, Absent 0

32 Yeas: Beal, Bolin, Breitling, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller, Hoffman,
33 Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Maher, Mehlhaff, Novstrup, Reed, Rohl,
34 Schoenbeck, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

1 Nays: Bordeaux, Foster, Larson, Nesiba, Otten (Herman), Pischke, and Schoenfish

2 Excused: Diedrich

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

5 Sen. Klumb now presiding.

6 **SB 73:** FOR AN ACT ENTITLED, An Act to provide that the presiding officer of the Senate is
7 required to sign each enrolled bill.

8 Was read the second time.

9 The question being "Shall **SB 73** pass?"

10 And the roll being called:

11 Yeas 27, Nays 6, Excused 1, Absent 0

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

15 Nays: Beal, Foster, Frye-Mueller, Kolbeck (Jack), Pischke, and Wiik

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 78:** FOR AN ACT ENTITLED, An Act to provide for an E15 fuel tax refund.

20 Was read the second time.

21 The question being "Shall **SB 78** pass as amended?"

22 And the roll being called:

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

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

28 Excused: Diedrich

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

1 Sen. Stalzer now presiding.

2 **SB 87**: FOR AN ACT ENTITLED, An Act to revise provisions related to the State Board of Medical
3 and Osteopathic Examiners and its advisory councils.

4 Was read the second time.

5 Sen. Davis moved that **SB 87** be amended as follows:

6 87A

7 On page 1, line 2, of the Introduced bill, delete " advisory" and insert " appointed professional"

8 On page 1, line 8, of the Introduced bill, delete "Eight " and insert "Nine "

9 On page 1, line 18, of the Introduced bill, delete "Two individuals " and insert "One individual"

10 On page 1, line 18, of the Introduced bill, delete " are representatives" and insert " is a
11 representative"

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

13 **Section 2. That § 36-4-4 be AMENDED:**

14 **36-4-4.** The Board of Examiners shall hold two regular meetings each year at a time to be
15 fixed by the board, ~~but. The Board of Examiners may hold~~ special meetings at such other times as
16 necessary ~~may be held~~. All meetings ~~shall must~~ be held ~~at such the~~ place within the state as the
17 board shall determine.

18 The Board of Examiners may act on matters without receiving prior communication or
19 recommendations from any of its appointed professional councils if the board determines that action
20 is necessary to protect public health, interest, or safety. "

21 On page 2, line 11, of the Introduced bill, after "chapter," delete " while each member of the
22 Board of Examiners may be present for discussion on all matters under the authority of the board,"

23 On page 2, line 13, of the Introduced bill, delete " eight" and insert " nine"

24 On page 2, line 13, of the Introduced bill, delete " two members" and insert " representative"

25 On page 2, line 14, of the Introduced bill, delete " act on" and insert ":

26 (1) Participate in discussion on matters related to the licensure, practice, education,
27 continuing education, investigation, and discipline of physicians;

28 (2) Be present for discussion of confidential matters and have access to confidential
29 materials related to the licensure, practice, education, continuing education, investigation, and
30 discipline of physicians; and

31 (3) Act on"

32 Which motion prevailed.

33 The question being "Shall **SB 87** pass as amended?"

34 And the roll being called:

35 Yeas 31, Nays 2, Excused 1, Absent 0

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

5 Nays: Foster and Mehlhaff

6 Excused: Diedrich

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

9 Sen. Zikmund moved that the Senate do now adjourn, which motion prevailed and at
10 3:03 p.m. the Senate adjourned.

11

Peggy Laurenz, Secretary