

JOURNAL OF THE SENATE

NINETY-NINTH SESSION

FOURTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, January 30, 2024

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

The prayer was offered by the Chaplain, Noah VonSeggern, followed by the Pledge of Allegiance led by Senate page Chloe Heermann.

Roll Call: All members present except Sens. Bordeaux, Diedrich, and Foster who were 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 13th 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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 77** and returns the same with the recommendation that said bill be amended as follows:

77F

On page 1, line 1, of the Introduced bill, delete " and repeal provisions" and insert " a provision"

On page 1, line 2, after "officers" delete " and elected officials and to provide a penalty therefor"

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

Section 1. That § 22-11-15.5 be AMENDED:

22-11-15.5. Any person who, knowingly and intentionally, ~~deposits for conveyance in the mail or for a delivery from any post office or by any messenger, any letter, paper, writing, print, or document containing any~~ communicates any written or electronic threat to take the life of or to inflict ~~serious~~ bodily harm upon a law enforcement officer of the state or a member of the officer's immediate family is guilty of a Class 5 felony. The threat must relate to the officer's official capacity. However, if any such threat is made which otherwise would constitute a violation of § 22-11-4 or 22-18-1.1, the provisions of such sections supersede the provisions of this section, and the penalties provided in § 22-11-4 or 22-18-1.1 apply."

And that as so amended, **SB 77** do pass.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 85 and 108, and HB 1046 and 1047** and returns the same with the recommendation that said bills do pass, and having been certified as uncontested, be placed on the consent calendar.

Respectfully submitted,
Helene Duhamel, Chair

MR. PRESIDENT:

The Committee on Senate Education respectfully reports that it has had under consideration **SB 103** and returns the same with the recommendation that said bill do pass.

Respectfully submitted,
Kyle Schoenfish, Chair

MR. PRESIDENT:

The Committee on Senate Agriculture and Natural Resources respectfully reports that it has had under consideration **SB 111** and returns the same with the recommendation that said bill be amended as follows:

1 111C

2 On page 2, line 4, of the Introduced bill, after "2026," insert " and continuing through June 30,
3 2027,"

4 On page 2, line 4, of the Introduced bill, after "2026, " insert "the surety for a mining operation
5 that was licensed prior to July 1, 2024, must be in the amount of three thousand eight hundred and
6 fifty dollars per acre of affected land or one hundred thousand dollars for the statewide mining of
7 any material listed in § 45-6-65.

8 Beginning July 1, 2027, and continuing through June 30, 2029, the surety for a mining
9 operation that was licensed prior to July 1, 2024, must be in the amount of three thousand eight
10 hundred and fifty dollars per acre of affected land or two hundred thousand dollars for the statewide
11 mining of any material listed in § 45-6-65.

12 Beginning July 1, 2029, "

13 On page 2, line 6, of the Introduced bill, delete "five " and insert " three "

14 On page 2, line 10, of the Introduced bill, delete " five" and insert " three"

15 And that as so amended, **SB 111** do pass.

16 Also MR. PRESIDENT:

17 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
18 had under consideration **HB 1043** and returns the same with the recommendation that said bill be
19 amended as follows:

20 1043B

21 On page 1, line 2, of the House Agriculture and Natural Resources Engrossed bill, after "tax"
22 insert ", and to set the tax rate for lithium severed in this state"

23 On page 1, after line 10, of the House Agriculture and Natural Resources Engrossed bill, insert:"

24 **Section 2. That § 10-39-45.1 be AMENDED:**

25 **10-39-45.1.** In addition to any other tax imposed in chapter 10-39, there is imposed a tax of
26 ten percent of the net profits from the sale of ~~precious metals~~ gold and silver severed in this state.

27 In addition to any other tax imposed in chapter 10-39, there is imposed a tax of five percent
28 of the net profits from the sale of lithium severed in this state."

29 And that as so amended, **HB 1043** do pass.

30 Also MR. PRESIDENT:

31 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
32 had under consideration **SB 117** and returns the same with the recommendation that said bill do
33 pass, and having been certified as uncontested, be placed on the consent calendar.

34 Also MR. PRESIDENT:

35 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
36 had under consideration the nomination of Travis Bies of Custer County, Fairburn, South Dakota, to
37 the Game, Fish, and Parks Commission and returns the same with the recommendation that the
38 Senate advise and consent to the confirmation of said reappointment.

1 Also MR. PRESIDENT:

2 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
 3 had under consideration the nomination of David Cull of Yankton County, Yankton, South Dakota,
 4 to the Game, Fish, and Parks Commission and returns the same with the recommendation that the
 5 Senate advise and consent to the confirmation of said reappointment.

6 Respectfully submitted,
 7 Herman Otten, Chair

8 MR. PRESIDENT:

9 The Committee on Senate Commerce and Energy respectfully reports that it has had under
 10 consideration **SB 58** and returns the same with the recommendation that said bill be amended as
 11 follows:

12 58B

13 On page 42, after line 25, of the Introduced bill, insert: "

14 **Section 69. That a NEW SECTION be added to chapter 51A-17:**

15 Any person who engages in business activity regulated by this Act in the state is deemed to
 16 have consented to the jurisdiction of the courts of South Dakota for all actions arising under this
 17 Act."

18 On page 42, after line 25, of the Introduced bill, insert: "

19 **Section 70. That a NEW SECTION be added to chapter 51A-17:**

20 Any money coming into the custody of the division pursuant to this Act shall be deposited with
 21 the state treasurer. The state treasurer shall credit the money to the banking special revenue fund.
 22 Any expenditure of money out of the fund may only be made by appropriation by the Legislature
 23 through either the General Appropriation Act or a special appropriation bill. The director shall
 24 approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this
 25 Act."

26 On page 42, after line 25, of the Introduced bill, insert: "

27 **Section 71. That a NEW SECTION be added to chapter 51A-17:**

28 The following provisions apply to the sharing of information collected and retained by the
 29 director during the administration of this Act:

30 (1) The provisions of section 4 of this Act regarding privacy or confidentiality apply to any
 31 information or material provided to the nationwide mortgage licensing system and registry, and any
 32 privilege arising under federal or state law, including any rule of a federal or state court, with respect
 33 to the information or material, continue to apply to the information or material after the information
 34 or material has been disclosed to the nationwide mortgage licensing system and registry. The
 35 information and material may be shared with a state or federal regulatory official who has money
 36 transmission industry oversight authority without the loss of privilege or the loss of confidentiality
 37 protections by federal law or section 4 of this Act; and

38 (2) No information or material that is subject to privilege or confidentiality pursuant to this
 39 section is subject to:

40 (a) Disclosure under any federal or state law governing the disclosure to the public of
 41 information held by an officer or an agency of the federal government or the respective state; or

1 (b) Subpoena or discovery, or admission into evidence, in any private civil action or
2 administrative process, unless with respect to any privilege held by the nationwide mortgage
3 licensing system and registry regarding the information or material is waived, in whole or in part,
4 by the person to whom the information or material pertains.

5 This section does not apply to the information or material relating to the employment history
6 of, and publicly adjudicated disciplinary and enforcement actions against, money transmitters that
7 is included in the nationwide mortgage licensing system and registry for access by the public."

8 And that as so amended, **SB 58** do pass.

9 Also MR. PRESIDENT:

10 The Committee on Senate Commerce and Energy respectfully reports that it has had under
11 consideration the nomination of Bradley Moore of Union County, Dakota Dunes, South Dakota, to
12 the Board of Economic Development and returns the same with the recommendation that the Senate
13 advise and consent to the confirmation of said appointment.

14 Also MR. PRESIDENT:

15 The Committee on Senate Commerce and Energy respectfully reports that it has had under
16 consideration the nomination of Craig Christianson of Pennington County, Rapid City, South Dakota,
17 to the Board of Economic Development and returns the same with the recommendation that the
18 Senate advise and consent to the confirmation of said appointment.

19 Also MR. PRESIDENT:

20 The Committee on Senate Commerce and Energy respectfully reports that it has had under
21 consideration the nomination of Donald Kettering of Yankton County, Yankton, South Dakota, to the
22 Board of Economic Development and returns the same with the recommendation that the Senate
23 advise and consent to the confirmation of said reappointment, and that said reappointment be
24 placed on the consent calendar.

25 Also MR. PRESIDENT:

26 The Committee on Senate Commerce and Energy respectfully reports that it has had under
27 consideration the nomination of Kevin Tetzlaff of Brookings County, Brookings, South Dakota, to the
28 Board of Economic Development and returns the same with the recommendation that the Senate
29 advise and consent to the confirmation of said reappointment, and that said reappointment be
30 placed on the consent calendar.

31 Also MR. PRESIDENT:

32 The Committee on Senate Commerce and Energy respectfully reports that it has had under
33 consideration **HB 1034** and returns the same with the recommendation that said bill do pass.

34 Also MR. PRESIDENT:

35 The Committee on Senate Commerce and Energy respectfully reports that it has had under
36 consideration **HB 1058 and 1059** 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
39

Respectfully submitted,
David Wheeler, Chair

1 MR. PRESIDENT:

2 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
3 Enrolling has carefully compared **SB 38, 41, 54, 59, and 60** and finds the same correctly enrolled.

4 Respectfully submitted,
5 Lee A. Schoenbeck, Chair

6 MR. PRESIDENT:

7 The Committee on Legislative Procedure respectfully reports that **SB 2, 3, 4, 19, and 21** were
8 delivered to her Excellency, the Governor, for her approval at 10:20 a.m., January 30, 2024.

9 Respectfully submitted,
10 Lee A. Schoenbeck, Chair

11 MESSAGES FROM THE HOUSE

12 MR. PRESIDENT:

13 I have the honor to return herewith **SB 38, 41, 54, 59, and 60** which have passed the House
14 without change.

15 Also MR. PRESIDENT:

16 I have the honor to transmit herewith **HB 1007, 1023, 1067, 1117, and 1124** which have
17 passed the House and your favorable consideration is respectfully requested.

18 Respectfully,
19 Patricia Miller, Chief Clerk

20 MOTIONS AND RESOLUTIONS

21 Sen. Crabtree moved that **SB 136** be placed to precede **SB 86** on today's calendar.

22 Which motion prevailed.

23 Sen. Crabtree moved that when we adjourn today, we adjourn to convene at 2:30 p.m. on
24 Wednesday, January 31, the 15th legislative day.

25 Which motion prevailed.

26 FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

27 The President declared that **SB 106 and 178** were withdrawn at the request of the prime
28 sponsors pursuant to JR 6B-1.1.

1 **SR 701:** A RESOLUTION, In support of investigating and opening an official inquiry into the
2 Medals of Honor given to United States soldiers for their involvement and participation of the soldiers
3 in the Wounded Knee Massacre of 1890.

4 Introduced by: **Senator** Bordeaux

5 Was read the first time and referred to the Committee on Military and Veterans Affairs.

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

7 **HB 1117:** FOR AN ACT ENTITLED, An Act to repeal a requirement for the filing of an annual
8 report regarding prearranged funeral trust contracts.

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

10 **HB 1023:** FOR AN ACT ENTITLED, An Act to provide immunity from liability for certain actions
11 of the State Bar and its agents.

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

13 **HB 1124:** FOR AN ACT ENTITLED, An Act to provide for the temporary filling of water
14 development district board positions created as a result of population increases.

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

16 **HB 1007:** FOR AN ACT ENTITLED, An Act to amend the requirement to employ a county
17 veterans' service officer.

18 **HB 1067:** FOR AN ACT ENTITLED, An Act to designate Medal of Honor Recognition Day.

19 Were read the first time and referred to the Committee on Military and Veterans Affairs.

20 **SECOND READING OF CONSENT CALENDAR ITEMS**

21 **SB 81:** FOR AN ACT ENTITLED, An Act to expand permission on installing electric wiring in a
22 residence.

23 **SB 118:** FOR AN ACT ENTITLED, An Act to permit the use of an online management and
24 communication platform to be used by homeowners who are governed by a restrictive contract.

25 **SB 123:** FOR AN ACT ENTITLED, An Act to require the state board of elections to meet annually
26 to review the state's election law and recommend changes if necessary.

27 **SB 147:** FOR AN ACT ENTITLED, An Act to provide for the distribution of informational
28 materials regarding palliative care.

29 Were read the second time.

30 The question being "Shall **SB 81** pass as amended, and **SB 118, 123, and 147** pass?"

31 And the roll being called:

1 Yeas 31, Nays 0, Excused 3, Absent 0

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

6 Excused: Bordeaux, Diedrich, and Foster

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

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

10 **SB 136:** FOR AN ACT ENTITLED, An Act to expand the scope of a physician wellness program
11 and to declare an emergency.

12 Was read the second time.

13 The question being "Shall **SB 136** pass?"

14 And the roll being called:

15 Yeas 29, Nays 2, Excused 3, Absent 0

16 Yeas: Beal, Bolin, Breitling, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller, Hunhoff,
17 Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff, Nesiba, Novstrup,
18 Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and
19 Zikmund

20 Nays: Hoffman and Pischke

21 Excused: Bordeaux, Diedrich, and Foster

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

24 **SB 86:** FOR AN ACT ENTITLED, An Act to allow a municipality authorized to allow legal games
25 of chance to issue additional off-sale liquor licenses to hotel-motel convention facilities.

26 Was read the second time.

27 The question being "Shall **SB 86** pass as amended?"

28 And the roll being called:

29 Yeas 25, Nays 6, Excused 3, Absent 0

30 Yeas: Bolin, Breitling, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller, Hoffman, Hunhoff,
31 Johnson, Kolbeck (Steve), Larson, Maher, Mehlhaff, Nesiba, Otten (Herman), Pischke, Reed, Rohl,
32 Schoenbeck, Tobin, Wheeler, Wiik, Wink, and Zikmund

33 Nays: Beal, Klumb, Kolbeck (Jack), Novstrup, Schoenfish, and Stalzer

34 Excused: Bordeaux, Diedrich, and Foster

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

3 **SB 90:** FOR AN ACT ENTITLED, An Act to revise and repeal provisions related to forcible entry
4 and detainer.

5 Was read the second time.

6 The question being "Shall **SB 90** pass as amended?"

7 And the roll being called:

8 Yeas 29, Nays 2, Excused 3, Absent 0

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

13 Nays: Larson and Nesiba

14 Excused: Bordeaux, Diedrich, and Foster

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

17 **SB 94:** FOR AN ACT ENTITLED, An Act to amend provisions pertaining to the partners in
18 education tax credit program.

19 Was read the second time.

20 The question being "Shall **SB 94** pass as amended?"

21 And the roll being called:

22 Yeas 30, Nays 1, Excused 3, Absent 0

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

27 Nays: Nesiba

28 Excused: Bordeaux, Diedrich, and Foster

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.

31 **SB 99:** FOR AN ACT ENTITLED, An Act to modify provisions pertaining to applying for an
32 absentee ballot application.

33 Was read the second time.

34 The question being "Shall **SB 99** pass as amended?"

1 And the roll being called:

2 Yeas 30, Nays 1, Excused 3, Absent 0

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

7 Nays: Frye-Mueller

8 Excused: Bordeaux, Diedrich, and Foster

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

11 **SB 120:** FOR AN ACT ENTITLED, An Act to provide an additional basis for the Interim Rules
12 Review Committee to revert a proposed administrative rule.

13 Was read the second time.

14 The question being "Shall **SB 120** pass?"

15 And the roll being called:

16 Yeas 25, Nays 6, Excused 3, Absent 0

17 Yeas: Bolin, Breitling, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller, Hoffman, Hunhoff,
18 Johnson, Kolbeck (Steve), Maher, Mehlhaff, Novstrup, Otten (Herman), Pischke, Reed, Rohl,
19 Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wink, and Zikmund

20 Nays: Beal, Klumb, Kolbeck (Jack), Larson, Nesiba, and Wiik

21 Excused: Bordeaux, Diedrich, and Foster

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

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

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

27 Was read the second time.

28 The question being "Shall **HB 1012** pass as amended?"

29 And the roll being called:

30 Yeas 29, Nays 2, Excused 3, Absent 0

31 Yeas: Beal, Bolin, Breitling, Crabtree, Davis, Deibert, Duhamel, Hoffman, Hunhoff, Johnson,
32 Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff, Nesiba, Novstrup,
33 Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and
34 Zikmund

1 Nays: Frye-Mueller and Pischke

2 Excused: Bordeaux, Diedrich, and Foster

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 **SIGNING OF BILLS**

6 The President publicly read the title to

7 **SB 38:** FOR AN ACT ENTITLED, An Act to amend the amount a merchant or place of business
8 may assess against returned checks.

9 **SB 41:** FOR AN ACT ENTITLED, An Act to modify an administrative procedure for revoking a
10 nonresponsive insurance producer's license.

11 **SB 54:** FOR AN ACT ENTITLED, An Act to update hunting and fishing residency requirements.

12 **SB 59:** FOR AN ACT ENTITLED, An Act to provide for the downgrade of commercial driver
13 licenses and commercial learners permits upon notice of certain drug and alcohol violations.

14 **SB 60:** FOR AN ACT ENTITLED, An Act to update references to certain regulations regarding
15 medical qualifications for certain commercial drivers.

16 **HB 1006:** FOR AN ACT ENTITLED, An Act to increase the amount of time permitted the Interim
17 Rules Review Committee to review final permanent rulemaking materials.

18 **HB 1011:** FOR AN ACT ENTITLED, An Act to revise the membership of the South Dakota
19 Capitol Complex Restoration and Beautification Commission.

20 **HB 1013:** FOR AN ACT ENTITLED, An Act to adopt the advanced practice registered nurse
21 compact.

22 **HB 1015:** FOR AN ACT ENTITLED, An Act to adopt the social work licensure compact.

23 **HB 1026:** FOR AN ACT ENTITLED, An Act to clarify the requirement for the construction or
24 expansion of a municipal campground or tourist accommodation facility.

25 **HB 1030:** FOR AN ACT ENTITLED, An Act to update statutory and regulatory references
26 pertaining to water pollution.

27 **HB 1051:** FOR AN ACT ENTITLED, An Act to make technical changes to provisions regarding
28 the compensation of agents.

29 **HB 1063:** FOR AN ACT ENTITLED, An Act to amend the valuation service used to value
30 vehicles.

31 **HB 1068:** FOR AN ACT ENTITLED, An Act to allow disabled veterans to obtain a standard issue
32 county motor vehicle or motorcycle license plate.

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

1 Sen. Deibert moved that the Senate do now adjourn, which motion prevailed and at 3:07 p.m.
2 the Senate adjourned.

3

Peggy Laurenz, Secretary