

JOURNAL OF THE SENATE

NINETY-NINTH SESSION

TWENTIETH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, February 07, 2024

The Senate convened at 2:00 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 Trey Dunse.

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 19th 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

REPORTS OF STANDING COMMITTEES

2 MR. PRESIDENT:

3 The Committee on Senate Transportation respectfully reports that it has had under
4 consideration **SB 124 and 194** and returns the same with the recommendation that said bills do
5 pass, and having been certified as uncontested, be placed on the consent calendar.

6 Also MR. PRESIDENT:

7 The Committee on Senate Transportation respectfully reports that it has had under
8 consideration **SB 169** and returns the same with the recommendation that said bill be amended as
9 follows:

10

169B

11 On page 1, line 4, of the Introduced bill, after "careless" delete " or reckless"

12 On page 1, line 19, of the Introduced bill, delete " The" and insert " Except as otherwise
13 specifically allowed by this title, the"

14 And that as so amended, **SB 169** do pass.

15 Also MR. PRESIDENT:

16 The Committee on Senate Transportation respectfully reports that it has had under
17 consideration **SB 188, and HB 1097** and returns the same with the recommendation that said bills
18 do pass.

19

Respectfully submitted,
Joshua Klumb, Chair

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21 MR. PRESIDENT:

22 The Committee on Senate Health and Human Services respectfully reports that it has had
23 under consideration **SB 168** with the recommendation that said bill be referred to the Joint
24 Committee on Appropriations with a Do Pass recommendation.

25 Also MR. PRESIDENT:

26 The Committee on Senate Health and Human Services respectfully reports that it has had
27 under consideration **SB 80** with the recommendation that said bill be referred to the Joint Committee
28 on Appropriations with a Do Pass recommendation.

29 Also MR. PRESIDENT:

30 The Committee on Senate Health and Human Services respectfully reports that it has had
31 under consideration **SB 209** with the recommendation that said bill be referred to the Joint
32 Committee on Appropriations with a Do Pass recommendation.

33 Also MR. PRESIDENT:

34 The Committee on Senate Health and Human Services respectfully reports that it has had
35 under consideration **SB 216** which was deferred to the 41st Legislative Day.

36

Respectfully submitted,
Erin Tobin, Chair

37

1 MR. PRESIDENT:

2 The Committee on Senate Local Government respectfully reports that it has had under
 3 consideration **SB 219** and returns the same with the recommendation that said bill be amended as
 4 follows:

5 219A

6 On page 2, line 19, of the Introduced bill, after "operate" insert " a single establishment
 7 location"

8 And that as so amended, **SB 219** do pass.

9 Also MR. PRESIDENT:

10 The Committee on Senate Local Government respectfully reports that it has had under
 11 consideration **HB 1127** and returns the same with the recommendation that said bill do pass.

12 Respectfully submitted,
 13 Tim Reed, Chair

14 MR. PRESIDENT:

15 The Committee on Senate Taxation respectfully reports that it has had under consideration
 16 **SJR 505** which was deferred to the 41st Legislative Day.

17 Respectfully submitted,
 18 Brent "B.R." Hoffman, Vice-Chair

19 MR. PRESIDENT:

20 The Committee on Senate State Affairs respectfully reports that it has had under consideration
 21 **SB 96** and returns the same with the recommendation that said bill be amended as follows:

22 96B

23 On page 1, line 14, of the Introduced bill, after "deepfake" insert " and does not include with
 24 the deepfake the disclosure described in section 6 of this Act"

25 On page 2, line 3, of the Introduced bill, delete "; or" and insert " and has made a good faith
 26 effort to establish that the depiction is not a deepfake;"

27 On page 2, line 8, of the Introduced bill, after "depicted" insert "; or

28 (4) An internet service provider, domain provider, cloud service provider, or other provider
 29 that hosts, receives, transmits, stores, or provides access or connection to a website, network,
 30 system, or other content on the internet that features a deepfake, to the extent that the provider
 31 acts in a merely technical, automatic, or intermediate nature"

32 On page 2, line 13, of the Introduced bill, after "deepfake." insert "

33 A person may be held liable by the State Board of Elections for violating section 2 of this Act
 34 without the appropriate disclosures and may be fined as follows:

35 (1) If the person commits the violation within five years of one or more prior convictions under
 36 this section, not more than ten thousand dollars;

1 (2) If the person commits the violation with the intent to cause violence or bodily harm, not
2 more than five thousand dollars; or

3 (3) In all other cases, not more than one thousand dollars. "

4 And that as so amended, **SB 96** do pass.

5 Also MR. PRESIDENT:

6 The Committee on Senate State Affairs respectfully reports that it has had under consideration
7 **SB 104, and SJR 508, 509, and 511** which were deferred to the 41st Legislative Day.

8 Respectfully submitted,
9 Casey Crabtree, Chair

10 MR. PRESIDENT:

11 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
12 Enrolling has carefully compared **SB 16, 28, and 35** and finds the same correctly enrolled.

13 Respectfully submitted,
14 Lee A. Schoenbeck, Chair

15 MR. PRESIDENT:

16 The Committee on Legislative Procedure respectfully reports that **SB 5 and 87** were delivered
17 to her Excellency, the Governor, for her approval at 1:13 p.m., February 7, 2024.

18 Respectfully submitted,
19 Lee A. Schoenbeck, Chair

20 **MESSAGES FROM THE HOUSE**

21 MR. PRESIDENT:

22 I have the honor to return herewith **SB 16 and 28** which have passed the House without
23 change.

24 Also MR. PRESIDENT:

25 I have the honor to transmit herewith **HB 1089, 1104, 1187, 1192, 1194, 1195, 1197,**
26 **1200, and 1245** which have passed the House and your favorable consideration is respectfully
27 requested.

28 Respectfully,
29 Patricia Miller, Chief Clerk

1

MOTIONS AND RESOLUTIONS

2

Sen. Crabtree moved that the Senate do concur in House amendments to **SB 78**.

3

4

The question being on Sen. Crabtree's motion that the Senate do concur in House amendments to **SB 78**.

5

And the roll being called:

6

Yeas 33, Nays 0, Excused 1, Absent 0

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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

11

Excused: Diedrich

12

13

So the motion having received an affirmative vote of a majority of the members-elect, the President declared the motion carried and the amendments were concurred in.

14

15

Sen. Crabtree moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on Thursday, February 8, the 21st legislative day.

16

Which motion prevailed.

17

CONSIDERATION OF REPORTS OF COMMITTEES

18

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

19

Commerce and Energy on **SB 190** as found on page 266 of the Senate Journal be adopted.

20

Which motion prevailed and the report was adopted.

21

CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS

22

23

The Senate proceeded to the consideration of the executive reappointment of Myron Williams of Pennington County, Wall, South Dakota, to the State Brand Board.

24

25

The question being "Does the Senate advise and consent to the executive reappointment of Myron Williams pursuant to the executive message as found on page 136 of the Senate Journal?"

26

And the roll being called:

27

Yeas 33, Nays 0, Excused 1, Absent 0

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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

32

Excused: Diedrich

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

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

4 The President declared that **SB 150, 181, and 183** were withdrawn at the request of the
5 prime sponsors pursuant to JR 6B-1.1.

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

7 **HB 1187:** FOR AN ACT ENTITLED, An Act to create a one-year career and technical education
8 instructor educator permit.

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

10 **HB 1089:** FOR AN ACT ENTITLED, An Act to exclude certain crimes from presumptive
11 probation.

12 **HB 1104:** FOR AN ACT ENTITLED, An Act to enhance the penalty for accessory to first- or
13 second-degree murder.

14 **HB 1192:** FOR AN ACT ENTITLED, An Act to enhance the penalty for rape of a child twelve
15 years of age or under.

16 **HB 1195:** FOR AN ACT ENTITLED, An Act to provide authority for a court to order offenders
17 convicted of vehicular homicide to pay restitution to a victim's children until age eighteen.

18 **HB 1197:** FOR AN ACT ENTITLED, An Act to require the publication of measures taken to
19 restrict the access of obscene materials by minors.

20 **HB 1245:** FOR AN ACT ENTITLED, An Act to revise provisions related to the custody of an
21 alleged delinquent child before and after a temporary custody hearing.

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

23 **HB 1194:** FOR AN ACT ENTITLED, An Act to clarify provisions pertaining to tax increment
24 finance districts.

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

26 **HB 1200:** FOR AN ACT ENTITLED, An Act to increase the minimum fee required with an
27 application for construction of an energy conversion and transmission facility.

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

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SECOND READING OF CONSENT CALENDAR ITEMS

Sen. Bolin requested that **HB 1073** be removed from the Consent Calendar.

SB 151: FOR AN ACT ENTITLED, An Act to revise and repeal provisions related to the licensure of athletic trainers.

SB 211: FOR AN ACT ENTITLED, An Act to revise notarial acts.

HB 1029: FOR AN ACT ENTITLED, An Act to modify and repeal provisions related to the licensure of hearing aid dispensers and audiologists.

HB 1128: FOR AN ACT ENTITLED, An Act to require a zoning authority to determine that a well is an established well that has not been abandoned in making a permitting decision.

Were read the second time.

The question being "Shall **SB 151, and HB 1029 and 1128** pass as amended, and **SB 211** pass?"

And the roll being called:

Yeas 33, Nays 0, Excused 1, Absent 0

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

Excused: Diedrich

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.

SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS

SB 97: FOR AN ACT ENTITLED, An Act to establish the admissibility of evidence of similar crimes in sexual assault cases.

Was read the second time.

The question being "Shall **SB 97** pass?"

And the roll being called:

Yeas 25, Nays 8, Excused 1, Absent 0
Yeas: Beal, Bolin, Breitling, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller, Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Novstrup, Otten (Herman), Reed, Schoenbeck, Schoenfish, Stalzer, Tobin, Wiik, Wink, and Zikmund

Nays: Bordeaux, Foster, Maher, Mehlhaff, Nesiba, Pischke, Rohl, and Wheeler

Excused: Diedrich

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

1 **SB 98:** FOR AN ACT ENTITLED, An Act to establish the admissibility of evidence of similar
 2 crimes in child molestation cases.

3 Was read the second time.

4 The question being "Shall **SB 98** pass?"

5 And the roll being called:

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

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

11 Nays: Mehlhaff and Wheeler

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

17 Was read the second time.

18 The question being "Shall **SB 115** pass as amended?"

19 And the roll being called:

20 Yeas 29, Nays 4, Excused 1, Absent 0

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

25 Nays: Bordeaux, Foster, Larson, and Nesiba

26 Excused: Diedrich

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

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

30 **HB 1049:** FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to accept and use
 31 easement proceeds for the purposes authorized by the 2022 Session Laws, chapter 198.

32 Was read the second time.

33 The question being "Shall **HB 1049** pass?"

34 And the roll being called:

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

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

6 Nays: Frye-Mueller and Pischke

7 Excused: Diedrich

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

10 **SIGNING OF BILLS**

11 The President publicly read the title to

12 **SB 16:** FOR AN ACT ENTITLED, An Act to make appropriations for water and environmental
 13 purposes and to declare an emergency.

14 **SB 28:** FOR AN ACT ENTITLED, An Act to modify tax refunds for elderly persons and persons
 15 with a disability, to make an appropriation therefor, and to declare an emergency.

16 **SB 35:** FOR AN ACT ENTITLED, An Act to provide that certain personal information of a lottery
 17 prize winner may only be used for advertising or promotion with the winner's consent.

18 **HB 1027:** FOR AN ACT ENTITLED, An Act to modify substances listed on the controlled
 19 substances schedule and to declare an emergency.

20 **HB 1028:** FOR AN ACT ENTITLED, An Act to classify xylazine as a Schedule III controlled
 21 substance, establish permissible uses, and to declare an emergency.

22 **HB 1062:** FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to the
 23 suppression of wildfires impacting the state and to declare an emergency.

24 **HB 1069:** FOR AN ACT ENTITLED, An Act to permit the display of campaign signs in
 25 municipalities in conjunction with the beginning of absentee voting.

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

27 **COMMEMORATIONS**

28 **SC 807:** A LEGISLATIVE COMMEMORATION, Honoring the life of Kenneth Michael Prorok.

29 Introduced by: **Senators** Crabtree, Bordeaux, Deibert, Duhamel, Foster, Frye-Mueller, Klumb,
 30 Kolbeck (Steve), Maher, Mehlhaff, Nesiba, Otten (Herman), Pischke, Reed, Schoenbeck, Schoenfish,
 31 Stalzer, Tobin, Wheeler, and Zikmund and **Representatives** Bahmuller, Fitzgerald, Krohmer,
 32 Peterson (Drew), Pinnow, Reisch, Venhuizen, Wangness, and Weisgram.

33 Sen. Hoffman moved that the Senate do now adjourn, which motion prevailed and at
 34 3:13 p.m. the Senate adjourned.

35 Peggy Laurenz, Secretary

