

JOURNAL OF THE SENATE

NINETY-NINTH SESSION

TWENTY-SECOND DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Monday, February 12, 2024

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

The prayer was offered by the Chaplain, Rev. Thomas Carlson, followed by the Pledge of Allegiance led by Senate pages Nicholas Gray and Madelyn Hinkelman.

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 21st 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

COMMUNICATIONS AND PETITIONS

2

February 12, 2024

3

Mr. President and Members of the Senate:

4

I have the honor to inform you that on February 7, 2024, I approved Senate Bill 57, and the same has been deposited in the office of the Secretary of State.

5

6

Respectfully submitted,

7

Kristi Noem

8

Governor

9

REPORTS OF STANDING COMMITTEES

10

MR. PRESIDENT:

11

The Senate Committee on Appropriations respectfully reports that it has had under consideration **SB 137 and 138** and returns the same with the recommendation that said bills do pass.

12

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14

Respectfully submitted,

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Jean Hunhoff, Chair

16

MR. PRESIDENT:

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The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and Enrolling has carefully compared **SB 68 and 69** and finds the same correctly enrolled.

18

19

Respectfully submitted,

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Lee A. Schoenbeck, Chair

21

MR. PRESIDENT:

22

The Committee on Legislative Procedure respectfully reports that **SB 16, 28, and 35** were delivered to her Excellency, the Governor, for her approval at 11:58 a.m., February 12, 2024.

23

24

Respectfully submitted,

25

Lee A. Schoenbeck, Chair

26

MESSAGES FROM THE HOUSE

27

MR. PRESIDENT:

28

I have the honor to return herewith **SB 68 and 69** which have passed the House without change.

29

30

Also MR. PRESIDENT:

31

I have the honor to return herewith **SCR 605** in which the House has concurred.

1 Also MR. PRESIDENT:

2 I have the honor to transmit herewith **HB 1057, 1129, 1156, 1157, 1182, 1185, 1186,**
3 **and 1203** which have passed the House and your favorable consideration is respectfully requested.

4 Respectfully,
5 Patricia Miller, Chief Clerk

6 **MOTIONS AND RESOLUTIONS**

7 **SCR 603:** A CONCURRENT RESOLUTION, Opposing the adoption and development of a central
8 bank digital currency.

9 Was read the second time.

10 Sen. Wheeler moved that **SCR 603** as found on page 288 of the Senate Journal be adopted.

11 The question being on Sen. Wheeler's motion that **SCR 603** be adopted.

12 And the roll being called:

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

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

18 Nays: Nesiba

19 Excused: Diedrich

20 So the motion having received an affirmative vote of a majority of the members-elect, the
21 President declared the motion carried and **SCR 603** was adopted.

22 **SR 701:** A RESOLUTION, In support of investigating and opening an official inquiry into the
23 Medals of Honor given to the United States soldiers who participated in the Wounded Knee Massacre
24 of 1890.

25 Was read the second time.

26 Sen. Bordeaux moved that **SR 701** as found on page 284 of the Senate Journal be adopted.

27 Sen. Johnson moved that **SR 701** be amended as follows:

28 SR701A

29 On page 1, line 2, of the Introduced resolution, after "to " insert "the "

30 On page 1, line 2, of the Introduced resolution, delete " for their involvement and participation
31 of the soldiers" and insert " who participated"

32 Which motion prevailed.

33 The question being "Shall **SR 701** as found on page 284 of the Senate Journal be adopted as
34 amended on page 293 of the Senate Journal?"

1 And the roll being called:

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

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

7 Nays: Frye-Mueller

8 Excused: Diedrich

9 So the motion having received an affirmative vote of a majority of the members-elect, the
10 President declared the motion carried and **SR 701** was adopted as amended.

11 Thursday, Sen. Deibert announced his intention to reconsider the vote by which **HB 1043** lost.

12 Sen. Deibert moved that the Senate do now reconsider the vote by which **HB 1043** lost.

13 The question being on Sen. Deibert's motion to reconsider the vote by which **HB 1043** lost.

14 And the roll being called:

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

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

19 Nays: Beal, Bordeaux, Hoffman, Johnson, Nesiba, and Wiik

20 Excused: Diedrich

21 So the motion having received an affirmative vote of a majority of the members-elect, the
22 President declared the motion carried and **HB 1043** was up for reconsideration and final passage.

23 **HB 1043**: FOR AN ACT ENTITLED, An Act to include lithium in the definition of precious metal
24 for purposes of the minerals severance tax, and to set the tax rate for lithium severed in this state.

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

26 The question being "Shall **HB 1043** pass as amended?"

27 And the roll being called:

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

29 Yeas: Bolin, Breitling, Davis, Deibert, Duhamel, Frye-Mueller, Hunhoff, Klumb, Kolbeck (Jack),
30 Kolbeck (Steve), Maher, Mehlhaff, Novstrup, Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish,
31 Tobin, Wink, and Zikmund

32 Nays: Beal, Bordeaux, Crabtree, Foster, Hoffman, Johnson, Larson, Nesiba, Pischke, Stalzer,
33 Wheeler, and Wiik

34 Excused: Diedrich

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

3 Sen. Crabtree moved that **SB 96 and 219, and HB 1092** be deferred to Tuesday, February
4 13, 2024, the 23rd legislative day.

5 Which motion prevailed.

6 **CONSIDERATION OF EXECUTIVE APPOINTMENTS**

7 The Senate proceeded to the consideration of the executive appointment of Mark Morrell of
8 Minnehaha County, Brandon, South Dakota, to the position of Adjutant General of the South Dakota
9 National Guard.

10 The question being "Does the Senate advise and consent to the executive appointment of Mark
11 Morrell pursuant to the executive message as found on page 62 of the Senate Journal?"

12 And the roll being called:

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

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

18 Excused: Diedrich

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

21 The Senate proceeded to the consideration of the executive appointment of Steven Harding of
22 Hughes County, Pierre, South Dakota, to the South Dakota Lottery Commission.

23 The question being "Does the Senate advise and consent to the executive appointment of
24 Steven Harding pursuant to the executive message as found on page 137 of the Senate Journal?"

25 And the roll being called:

26 Yeas 32, Nays 1, 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), Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler,
30 Wiik, Wink, and Zikmund

31 Nays: Pischke

32 Excused: Diedrich

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

1 The Senate proceeded to the consideration of the executive appointment of Timothy Donohue
2 of Minnehaha County, Sioux Falls, South Dakota, to the South Dakota Lottery Commission.

3 The question being "Does the Senate advise and consent to the executive appointment of
4 Timothy Donohue pursuant to the executive message as found on page 138 of the Senate Journal?"

5 And the roll being called:

6 Yeas 32, Nays 1, 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, Mehlhaff,
9 Nesiba, Novstrup, Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler,
10 Wiik, Wink, and Zikmund

11 Nays: Pischke

12 Excused: Diedrich

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

15 **CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS**

16 The Senate proceeded to the consideration of the executive reappointments of Joseph Kafka
17 of Lincoln County, Sioux Falls, South Dakota, to the South Dakota Lottery Commission
18 (SJ 138), and

19 Tona Rozum of Davison County, Mitchell, South Dakota, to the South Dakota Lottery
20 Commission (SJ 139).

21 And the roll being called:

22 Yeas 32, Nays 1, 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), Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler,
26 Wiik, Wink, and Zikmund

27 Nays: Pischke

28 Excused: Diedrich

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

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

32 The President declared that **SB 189** was withdrawn at the request of the prime sponsor
33 pursuant to JR 6B-1.1.

1

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

2

HB 1185: FOR AN ACT ENTITLED, An Act to amend provisions regarding entry on private property for examination and survey of a project requiring a siting permit.

3

4

HB 1186: FOR AN ACT ENTITLED, An Act to define the requirements for granting a carbon pipeline easement.

5

6

HB 1203: FOR AN ACT ENTITLED, An Act to clarify references to the court in a condemnation proceeding.

7

8

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

9

HB 1129: FOR AN ACT ENTITLED, An Act to repeal the session law authorizing the Board of Regents to contract for the design and construction of a new dairy research and extension farm on the campus of South Dakota State University, and to declare an emergency.

10

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HB 1156: FOR AN ACT ENTITLED, An Act to make an appropriation to enhance the economic health of South Dakota.

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14

HB 1157: FOR AN ACT ENTITLED, An Act to make an appropriation for the economic development of South Dakota.

15

16

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

17

HB 1057: FOR AN ACT ENTITLED, An Act to create the Commission on Indigent Legal Services and Office of Indigent Legal Services.

18

19

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

20

HB 1182: FOR AN ACT ENTITLED, An Act to revise provisions pertaining to the observation of the conduct of an election.

21

22

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

23

SECOND READING OF CONSENT CALENDAR ITEMS

24

Sen. Bolin requested that **HB 1008** be removed from the Consent Calendar.

25

SB 29: FOR AN ACT ENTITLED, An Act to allow eligible members of the South Dakota National Guard attending an in-state private, nonprofit post-secondary institution to receive the state tuition benefit.

26

27

28

SB 175: FOR AN ACT ENTITLED, An Act to add a domestic abuse shelter to the definition of a community safety zone.

29

30

HB 1145: FOR AN ACT ENTITLED, An Act to modify brand registration and use laws.

31

Were read the second time.

32

The question being "Shall **SB 29 and 175, and HB 1145** pass?"

1 And the roll being called:

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

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

7 Excused: Diedrich

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

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

11 **SB 169:** FOR AN ACT ENTITLED, An Act to revise provisions regarding drones.

12 Was read the second time.

13 The question being "Shall **SB 169** pass as amended?"

14 And the roll being called:

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

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

20 Excused: Diedrich

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

23 **SB 217:** FOR AN ACT ENTITLED, An Act to require disclosure of certain information prior to
24 the sale of property bound by a homeowners' association.

25 Was read the second time.

26 The question being "Shall **SB 217** pass?"

27 And the roll being called:

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

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

33 Nays: Hoffman and Schoenbeck

34 Excused: Diedrich

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

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

5 Was read the second time.

6 The question being "Shall **HB 1067** pass?"

7 And the roll being called:

8 Yeas 32, Nays 0, Excused 2, Absent 0

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

13 Excused: Diedrich and Tobin

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

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

18 Was read the second time.

19 The question being "Shall **HB 1073** pass?"

20 And the roll being called:

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

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

26 Nays: Bolin

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 and the title was agreed to.

30 **HB 1097:** FOR AN ACT ENTITLED, An Act to authorize transportation activities by air
31 ambulance operators.

32 Was read the second time.

1 The question being "Shall **HB 1097** pass as amended?"

2 And the roll being called:

3 Yeas 28, Nays 5, Excused 1, Absent 0

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

7 Nays: Bordeaux, Deibert, Foster, Frye-Mueller, and Schoenbeck

8 Excused: Diedrich

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 **HB 1127**: FOR AN ACT ENTITLED, An Act to modify requirements for incorporating
12 municipalities that are within three miles of another incorporated municipality.

13 Was read the second time.

14 The question being "Shall **HB 1127** pass?"

15 And the roll being called:

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

17 Yeas: Beal, Bordeaux, Breitling, Duhamel, Frye-Mueller, Hoffman, Johnson, Klumb,
18 Kolbeck (Steve), Larson, Maher, Mehlhaff, Novstrup, Pischke, Rohl, Schoenfish, Stalzer, Tobin,
19 Wheeler, Wiik, Wink, and Zikmund

20 Nays: Bolin, Crabtree, Davis, Deibert, Foster, Hunhoff, Kolbeck (Jack), Nesiba,
21 Otten (Herman), Reed, and Schoenbeck

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

27 **MOTIONS AND RESOLUTIONS**

28 Sen. Crabtree moved that **HB 1092** be deferred to Wednesday, February 14, 2024, the 24th
29 legislative day.

30 Which motion prevailed.

1

SIGNING OF BILLS

2

The President publicly read the title to

3

4

SB 68: FOR AN ACT ENTITLED, An Act to amend certain provisions pertaining to the South Dakota Retirement System to comply with federal law.

5

6

SB 69: FOR AN ACT ENTITLED, An Act to amend certain provisions pertaining to the South Dakota Retirement System.

7

8

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

9

10

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.

11

And signed the same in the presence of the Senate.

12

COMMEMORATIONS

13

14

HC 8013: A LEGISLATIVE COMMEMORATION, Honoring Hayden Joe Schmautz of Fort Pierre for a life of service tragically cut short.

15

16

HC 8014: A LEGISLATIVE COMMEMORATION, Congratulating Eric Schroeder for becoming the new fire chief of the Wessington Springs Volunteer Fire Department.

17

18

HC 8015: A LEGISLATIVE COMMEMORATION, Celebrating the Parkston Trojans as the 2023 class 9AA state football champions.

19

20

Sen. Novstrup moved that the Senate do now adjourn, which motion prevailed and at 3:47 p.m. the Senate adjourned.

21

Peggy Laurenz, Secretary

