

# *JOURNAL OF THE SENATE*

## *NINETY-NINTH SESSION*

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TWENTY-FIFTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Thursday, February 15, 2024

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

The prayer was offered by the Chaplain, Rev. Donnell Chambers, followed by the Pledge of Allegiance led by Senate page Malachi Swift.

Roll Call: All members present except Sens. Diedrich and Otten (Herman) 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 24th 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.

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**COMMUNICATIONS AND PETITIONS**

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February 14, 2024

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Mr. President and Members of the Senate:

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I have the honor to inform you that on February 14, 2024, I approved Senate Bills 12, 44, and 88, and the same have been deposited in the office of the Secretary of State.

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Respectfully submitted,

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Kristi Noem

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Governor

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**REPORTS OF STANDING COMMITTEES**

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MR. PRESIDENT:

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The Committee on Senate Education respectfully reports that it has had under consideration **SB 212** and returns the same with the recommendation that said bill do pass, and having been certified as uncontested, be placed on the consent calendar.

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Also MR. PRESIDENT:

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The Committee on Senate Education respectfully reports that it has had under consideration the nomination of Phyllis Heineman of Minnehaha County, Sioux Falls, South Dakota, to the South Dakota Board of Education Standards and returns the same with the recommendation that the Senate advise and consent to the confirmation of said reappointment, and that said reappointment having been certified as uncontested, be placed on the consent calendar.

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Also MR. PRESIDENT:

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The Committee on Senate Education respectfully reports that it has had under consideration the nomination of Jean Moulton of Codington County, Watertown, South Dakota, to the South Dakota Board of Education Standards and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

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Respectfully submitted,

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Kyle Schoenfish, Chair

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MR. PRESIDENT:

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The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 203** and returns the same with the recommendation that said bill be amended as follows:

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203C

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On page 1, line 19, of the Introduced bill, after "older;" delete " and"

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On page 1, line 21, of the Introduced bill, after "23-7;" insert " and"

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(c) Has written permission from the principal of the school or other person who has general control and supervision of the building or grounds;"

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And that as so amended, **SB 203** do pass.

1 Also MR. PRESIDENT:

2 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
3 **HB 1038** and returns the same with the recommendation that said bill be amended as follows:

4 1038C

5 On page 1, line 9, of the House Judiciary Engrossed bill, after "24-2-14(1)," insert " 32-23-4.  
6 6,"

7 On page 1, line 10, of the House Judiciary Engrossed bill, after "probation" delete ", and any  
8 mandatory minimum sentence under chapter 32-23, as applicable"

9 And that as so amended, **HB 1038** do pass, and having been certified as uncontested, be  
10 placed on the consent calendar.

11 Also MR. PRESIDENT:

12 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
13 **HB 1076** and returns the same with the recommendation that said bill be amended as follows:

14 1076G

15 On page 1, line 7, of the House Engrossed bill, delete " means a certain perception of Jews  
16 that may be expressed as hatred toward Jews, including rhetorical and physical acts of antisemitism  
17 directed toward Jewish or non-Jewish individuals or their property, or toward Jewish community  
18 institutions and religious facilities" and insert " has the same meaning as the working definition of  
19 antisemitism adopted by the International Holocaust Remembrance Alliance on May 26, 2016,  
20 including the contemporary examples of antisemitism identified therein"

21 And that as so amended, **HB 1076** do pass.

22 Also MR. PRESIDENT:

23 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
24 **HB 1089** and returns the same with the recommendation that said bill be amended as follows:

25 1089A

26 On page 1, line 8, of the Introduced bill, after "22-24B-23," insert " 22-30A-17 if the property  
27 stolen is a firearm,"

28 On page 1, line 9, of the Introduced bill, after "probation." delete " An offender convicted of a  
29 Class 5 or Class 6 felony under § 22-30A-17, if the property stolen is a firearm, is also excluded  
30 from a presumptive sentence of probation."

31 And that as so amended, **HB 1089** do pass, and having been certified as uncontested, be  
32 placed on the consent calendar.

33 Also MR. PRESIDENT:

34 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
35 **HB 1023 and 1104** and returns the same with the recommendation that said bills do pass.

36 Respectfully submitted,  
37 Helene Duhamel, Chair

1 MR. PRESIDENT:

2 The Senate Committee on Appropriations respectfully reports that it has had under  
3 consideration **SB 105** which was deferred to the 41st Legislative Day.

4 Also MR. PRESIDENT:

5 The Senate Committee on Appropriations respectfully reports that it has had under  
6 consideration **HB 1129** and returns the same with the recommendation that said bill do pass.

7 Respectfully submitted,  
8 Jean Hunhoff, Chair

9 MR. PRESIDENT:

10 The Joint Committee on Appropriations respectfully reports that it has had under consideration  
11 **SB 197** with the recommendation that said bill be referred to the Senate Committee on  
12 Appropriations.

13 Respectfully submitted, Respectfully submitted,  
14 Mike Derby, Co-Chair Jean Hunhoff, Co-Chair

15 MR. PRESIDENT:

16 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
17 consideration **SB 201** and returns the same with the recommendation that said bill be amended as  
18 follows:

19 201D

20 On page 1, line 2, of the Introduced bill, after "facilities" insert ", to "

21 On page 1, line 2, of the Introduced bill, after "facilities" insert "allow counties to impose a  
22 surcharge"

23 On page 1, line 2, of the Introduced bill, after "facilities" insert " on certain pipeline companies,"

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

25 **Section 1. That a NEW SECTION be added to chapter 10-4:**

26 Pipelines for the transmission of carbon dioxide are not subject to any discretionary formulas  
27 authorized by this title."

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

29 **Section 2. That § 10-37-3 be AMENDED:**

30 **10-37-3.** Any pipeline company having lines in this state shall annually, on or before April  
31 fifteenth of each year, make out and deliver to the Department of Revenue a statement, verified by  
32 the oath of an officer or agent of such pipeline company making such statement, showing in detail  
33 for the year ended December thirty-first next preceding:

34 (1) The name of the company;

- 1 (2) The nature of the company, whether a person or persons, an association,  
2 copartnership, corporation or syndicate, and under the laws of what state organized;
- 3 (3) The location of its principal office or place of business;
- 4 (4) The name and post office address of the president, secretary, auditor, treasurer,  
5 and superintendent or general manager;
- 6 (5) The name and post office address of the chief officer or managing agent in this state;
- 7 (6) The whole number of miles of pipeline owned, operated, or leased within the state,  
8 including a classification of the size, kind, and weight thereof, separated, so as to show the mileage  
9 in each county, and each lesser taxing district;
- 10 (7) A full and complete statement of the cost and actual present value of all buildings  
11 of every description owned by said pipeline company within the state and each lesser taxing district,  
12 not otherwise assessed;
- 13 (8) The number, location, size, and cost of each pressure pump or station;
- 14 (9) Any and all other property owned by said pipeline company within the state which  
15 property shall be classified and scheduled in such a manner as the secretary of revenue may by rule  
16 promulgated pursuant to chapter 1-26 require;
- 17 (10) The gross earnings of the entire company, and the gross earnings on business done  
18 within this state;
- 19 (11) The operating expenses of the entire company and the operating expenses within  
20 this state; ~~and~~
- 21 (12) The net earnings of the entire company and the net earnings within this state; and
- 22 (13) Whether or not the pipeline company that installs a pipeline for carbon sequestration  
23 claims a tax credit under 26 U.S.C 45Q (January 1, 2024) in that year."

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

25 **Section 3. That § 10-37-9 be AMENDED:**

26 **10-37-9.** The Department of Revenue shall on the fifth day of July of each year determine the  
27 linear footage of carbon dioxide pipeline installed in each county, if any, and determine the true and  
28 actual value of pipeline property located in each taxing district of the state, and in fixing said value  
29 shall take into consideration the structures, equipment, pumping stations, etc., located in said taxing  
30 district, and shall transmit to the county auditor of each such county through and into which any  
31 pipeline may extend, a statement showing the assessed value of said property in each of the taxing  
32 districts of said county. The said property shall then be taxed in said county and lesser taxing  
33 districts, based upon the valuation so certified, in the same manner as other property is taxed. Any  
34 pipeline surcharge shall be remitted to the county."

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

36 **Section 4. That § 10-37-15 be AMENDED:**

37 **10-37-15.** All laws relating to the enforcement of the payment of delinquent taxes or any  
38 pipeline surcharge shall be applicable to all taxes levied under the provisions of this chapter. When  
39 any tax levied under the provisions of this chapter shall become delinquent, the county treasurer  
40 having control of such delinquent taxes may proceed to collect the same in the manner as now  
41 provided for the collection of other taxes and with the same right and power of the sheriff under  
42 execution, except that no process shall be necessary to authorize him to sell any property belonging

1 to any pipeline company for the collection of such taxes. The additional remedy provided for in § 10-  
2 38-10 by action in the circuit court shall also be available to the county treasurer."

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

4 **Section 5. That a NEW SECTION be added to chapter 10-37:**

5 A county may impose a pipeline surcharge up to one dollar per foot of linear carbon dioxide  
6 pipeline installed in the county during any tax year that the carbon dioxide pipeline company claims  
7 a tax credit pursuant to 26 U.S.C 45Q (January 1, 2024)."

8 On page 1, line 5, of the Introduced bill, after "34A:" delete "Terms used in this Act mean:

9 (1) "Action notice," the director's communication of a decision on a claim;"

10 On page 1, line 7, of the Introduced bill, after "claim;" delete "(2) "Civil recovery," a fund  
11 received by the state or a political subdivision from a third party, other than a pipeline company, as  
12 a result of violations of the law and transferred to the fund from the riot boosting recovery fund;

13 (3) "Claim," an invoice submitted to the director of the fund by the state or a political  
14 subdivision for an extraordinary expense;

15 (4) "Department," the Department of Public Safety;

16 (5) "Director," the director of the Division of Emergency Services within the Department of  
17 Public Safety;

18 (6) "Extraordinary expense," a reasonable and legitimate cost incurred by the state or  
19 a political subdivision to prepare for, or respond to, or which arises from, opposition to a project  
20 that would not have been incurred but for pipeline construction, and is incurred due to the receipt,  
21 processing, issuing, or auditing of a pipeline project or application for a permit for a project, or for  
22 emergency response training or equipment desired or required in connection with a project.

23 The term does not include any expense incurred by a private cooperative or business entity;  
24 workers' compensation or disability benefits for employees of this state or a political subdivision  
25 arising out of injuries incurred in the course of employment; or litigation expense or costs associated  
26 with or resulting from the call to active duty, mobilization, or service of the National Guard;"

27 On page 2, line 1, of the Introduced bill, after "Guard;" delete "(7) "Extraordinary expense  
28 fund," the state and political subdivision extraordinary expense fund as created under section 2 of  
29 this Act;

30 (8) "Pipeline," all parts of physical facilities through which any carbon dioxide product is carried  
31 within this state, including pipe, valves, other appurtenances attached to pipe, compressor units,  
32 metering stations, regulator stations, delivery stations, holders, and fabricated assemblies;

33 (9) "Pipeline company," a person or entity who is the owner of a project or holds a permit from  
34 the Public Utilities Commission for a project;

35 (10) "Pipeline construction," the engagement in any activity following the project  
36 commencement date in furtherance of a project by a pipeline company, or those acting on its behalf,  
37 within this state;

38 (11) "Political subdivision," a county, municipality, or township of this state;

39 (12) "Project," the planning, construction, installation, and operation of a pipeline six inches  
40 or greater in diameter, or the construction of a supporting facility in furtherance of carrying any  
41 carbon dioxide product by a pipeline company."

1 On page 2, line 16, of the Introduced bill, after "company." delete "(13) "Project  
2 commencement date," the date that occurs after:

3 (a) A project receives its regulatory permit;

4 (b) No court-imposed impediments on the project exist; and

5 (c) Preparation of the pipeline right-of-way or the ground for a supporting facility  
6 commences.

7 Notwithstanding subsections (a) to (c) of this subdivision, the secretary may issue an  
8 administrative notice, which is not reviewable, deeming pipeline construction to have begun for  
9 purposes of this chapter;

10 (14) "Project completion date," the date on which pipeline construction concludes so that any  
11 oil product carried through a pipeline from an originating station fills the entire length of a completed  
12 pipeline and permanent pump stations within this state;"

13 On page 2, line 28, of the Introduced bill, delete "(15)" and insert "

14 "On page 2, line 28, of the Introduced bill, after "state;

15 (15)" delete " "Secretary," the secretary of the Department of Public Safety;

16 (16) "State," this state or any agency of the state that is vested with the authority to exercise  
17 any portion of the state's sovereignty or with law enforcement authority; and

18 (17) "Supporting facility," a structure necessary and ancillary to a pipeline, including a pressure  
19 pump station, housing facility for project personnel, storage area for tangible property, or other  
20 temporary structure of a pipeline company or its agent."

21 On page 3, line 1, of the Introduced bill, after "34A:" delete "There is established in the state  
22 treasury the state and political subdivision extraordinary expense fund. Money in the fund may be  
23 used to pay administrative costs and extraordinary expenses incurred by the state or a political  
24 subdivision, arising out of or in connection with pipeline construction. Any interest earned on money  
25 in the fund must be credited to the fund. The fund is continuously appropriated to the department.

26 The department shall administer the fund and maintain separate accounts for each project.  
27 The secretary shall approve vouchers and the state auditor shall draw warrants to pay administrative  
28 costs and extraordinary expenses in accordance with this chapter. All money received by the  
29 department for the fund must be set forth in an informational budget pursuant to § 4-7-7. 2 and be  
30 annually reviewed by the Legislature."

31 On page 3, line 12, of the Introduced bill, after "34A:" delete "The state or a political subdivision  
32 may submit a claim for an extraordinary expense to the director for disbursement from the fund in  
33 accordance with this chapter. Each claim under this section must be accompanied by a statement  
34 of the basis on which it is made, and true and accurate records and books of account regarding the  
35 extraordinary expense claimed, including copies of checks, vouchers, warrants, sales receipts,  
36 invoices, billings, payroll records, or similar documents for each extraordinary expense in sufficient  
37 detail to allow the director to reasonably review the claim.

38 The state or a political subdivision receiving a disbursement from the fund for an approved  
39 claim under this section shall keep and maintain true and accurate records and books of account  
40 consistent with government accounting standards and in the same manner and for the same period  
41 as required by law and make them available for inspection by the director and a duly authorized  
42 representative of the pipeline company.

43 On or before the first of February of each year, the director shall provide statements of claim  
44 activities for the preceding calendar year to the secretary, any applicable political subdivision, and  
45 the pipeline company."

1 On page 3, line 28, of the Introduced bill, after "34A:" delete "The state or a political subdivision  
2 may submit a request for pre-approval of an anticipated claim for extraordinary expense to the fund  
3 in accordance with this chapter. Each request for pre-approval submitted under this section must  
4 be accompanied by a statement of the basis on which the request is made and a description of the  
5 anticipated extraordinary expense in sufficient detail to allow the director to reasonably review the  
6 request.

7 If a request submitted under this section is approved, the state or political subdivision must  
8 provide the director with the same documentation, as required for a claim submitted under section  
9 3 of this Act, after the extraordinary expense is incurred. The director shall review the documents  
10 provided under this section to determine whether the expenditure is consistent with the pre-approval  
11 decision and issue an action notice regarding the director's determination."

12 On page 4, line 7, of the Introduced bill, after "34A:" delete "The director shall approve or  
13 deny, in whole or in part, any claim submitted under section 3 of this Act or any request submitted  
14 under section 4 of this Act. The director may condition any claim for extraordinary expense at the  
15 director's discretion.

16 The director shall issue an action notice to the state, political subdivision, and the pipeline  
17 company of the approval or denial, in whole or in part, of a claim within ten days of receiving the  
18 claim under section 3 of this Act, or of a request within ten days of receiving claim documentation  
19 as required under section 4 of this Act. The action notice must include all approved and denied  
20 portions of the claim, and the rationale for the approval or denial, in sufficient detail to allow the  
21 secretary, political subdivision, and the pipeline company to review the decision. An action notice  
22 may be accompanied by the records submitted in accordance with sections 3 and 4 of this Act.

23 A claim submitted by the state or a political subdivision is not payable from the fund until the  
24 claim is approved by the director. The director shall authorize disbursements from the fund for  
25 payment of an approved claim to the state or a political subdivision within forty-five days from the  
26 date of the action notice."

27 On page 4, line 23, of the Introduced bill, after "34A:" delete "A claim under section 3 of this  
28 Act may be submitted to the director only after the project commencement date. A request under  
29 section 4 of this Act may be submitted on or after April 1, 2024.

30 A claim under section 3 of this Act must be submitted to the director within forty-five days of  
31 the date the extraordinary expense is incurred.

32 Notwithstanding any other provision of this chapter, the director may not approve any  
33 extraordinary expense claim that is not, or any request for pre-approval that will not be, incurred  
34 within one year after the project completion date, subject to section 16 of this Act."

35 On page 5, line 1, of the Introduced bill, after "34A:" delete "The department shall  
36 communicate with the pipeline company to review any claim or request for pre-approval made to  
37 the fund under sections 3 or 4 of this Act. A pipeline company shall designate in writing three official  
38 representatives who are authorized to coordinate with the department. Any official representative's  
39 concurrence with the director's action notice approving a claim is a waiver of the right of that pipeline  
40 company to contest the action notice and is a waiver of the informal review process by the  
41 secretary."

42 On page 5, line 8, of the Introduced bill, after "34A:" delete "If the state or a political  
43 subdivision receives payment from the fund for an extraordinary expense, and subsequently  
44 receives reimbursement through restitution, judgment, settlement, contribution, or other funding  
45 for the expense from any other source, except civil recoveries, the reimbursement must be  
46 deposited into the fund. The reimbursement deposited into the fund is a credit to a pipeline company  
47 and must be used to offset the next special fee calculated under section 11 of this Act. Any  
48 reimbursement from federal sources or civil recoveries must be deposited only as allocated by the  
49 secretary."

1 On page 5, line 16, of the Introduced bill, after "secretary." delete "For the purposes of this  
2 section, the term "special fee" means a fee billed to and paid by a pipeline company to defray  
3 administrative costs and extraordinary expenses."

4 On page 5, line 19, of the Introduced bill, after "34A:" delete "A pipeline company that disputes  
5 the approval or denial, in whole or in part, of a claim under section 5 of this Act may, within ten  
6 days of the date of the action notice, submit its objection in good faith, together with a statement  
7 of the basis for the objection, and request a review from the secretary. The secretary shall make an  
8 expeditious review of the director's action notice and may approve, modify, condition, or deny the  
9 claim, in whole or in part. The secretary's review must be exhausted before any appeal to the Office  
10 of Hearing Examiners."

11 On page 5, line 26, of the Introduced bill, after "Examiners." delete "A pipeline company may  
12 appeal the secretary's decision, if the pipeline company has properly preserved its appeal, by giving  
13 written notice to the secretary within ten days of the date of the secretary's decision.

14 The pipeline company may commence one administrative appeal annually arising out of all  
15 decisions, joined for judicial efficiency, dated during the preceding calendar year from which the  
16 pipeline company wishes to appeal. The pipeline company shall file a written notice of appeal with  
17 the Office of Hearing Examiners. Copies of the written notice must be served on the secretary and  
18 any other interested party no later than the first of March or the appeal is barred. A written notice  
19 of appeal must identify each disputed and properly preserved claim with a decision in the prior  
20 calendar year.

21 An appeal under this section must be conducted by a hearing examiner in accordance with  
22 chapter 1-26D. The hearing examiner, after hearing the evidence, shall make proposed findings of  
23 fact and conclusions of law, and issue a proposed decision. The secretary shall accept, reject, or  
24 modify the hearing examiner's findings, conclusions, and decision, which then constitutes the final  
25 agency decision. Alternatively, the secretary may appoint the hearing examiner to make the final  
26 agency decision. The secretary may arrange for assistance from private counsel throughout the  
27 administrative appeal process. The final agency decision may be appealed to circuit court in  
28 accordance with chapter 1-26. A pipeline company has standing to appeal under this section.

29 The appeal under this section is the exclusive remedy of a pipeline company regarding the  
30 disbursement of a claim of extraordinary expense and constitutes a limited express waiver of  
31 sovereign immunity only to the extent necessary under this section. The venue for any disputed  
32 claim and appeal under this section is in state circuit court in Hughes County. Pre-judgment interest  
33 shall accrue from the date of the secretary's final decision on all disputed claims at the Category B  
34 rate of interest specified in § 54-3-16."

35 On page 6, line 19, of the Introduced bill, after "34A:" delete "Within twenty days of a project  
36 commencement date, the pipeline company shall make a deposit to the fund of four million dollars.  
37 The project account and fund may only be used in accordance with this chapter, and any remaining  
38 balance must be remitted to the pipeline company no later than eighteen months after the project  
39 completion date less the amount equal to unresolved disputed claims under section 9 of this Act."

40 On page 6, line 25, of the Introduced bill, after "34A:" delete "The secretary may instruct the  
41 director to:

42 (1) Withhold, delay, suspend, or reduce any monthly billing to a pipeline company, if the  
43 secretary has cause to anticipate the receipt of an additional deposit from a source other than a  
44 pipeline company; or

45 (2) For good cause shown, review any claim that is submitted to the director more than forty-  
46 five days from the date the extraordinary expense was incurred."

47 On page 7, line 1, of the Introduced bill, after "34A:" delete "Nothing in this Act prevents the  
48 state and a pipeline company from entering into any contract or other agreement, provided the  
49 terms of the contract or agreement are not inconsistent with this chapter."

- 1 On page 7, line 5, of the Introduced bill, after "34A:" delete "The secretary may promulgate  
2 rules in accordance with chapter 1-26 to implement the provisions of sections 1 to 14, inclusive, of  
3 this Act."
- 4 On page 7, line 8, of the Introduced bill, after "34A:" delete "Sections 1 to 14, inclusive, of this  
5 Act are to be repealed October 1, 2026. All claims must be submitted by that date. All claims must  
6 be adjudicated by December 31, 2026."
- 7 On page 7, line 11, of the Introduced bill, delete " city" and insert " municipality, township"
- 8 On page 7, line 12, of the Introduced bill, after "form" insert the comma
- 9 On page 7, line 17, of the Introduced bill, delete "County road " and insert "Road use, "
- 10 On page 7, line 18, of the Introduced bill, after "to" delete " either"
- 11 On page 7, line 18, of the Introduced bill, after "title" insert "s"
- 12 On page 7, line 18, of the Introduced bill, after "7" insert ", 8, 9,"
- 13 On page 7, line 18, of the Introduced bill, after "or" delete " title"
- 14 On page 7, line 19, of the Introduced bill, delete "The application of county zoning ordinance  
15 building permit fees related to any building, structure, or other above ground appurtenance related  
16 to a gas or liquid transmission line or an electric transmission line which requires or holds a permit  
17 under chapter 49-41B " and insert "The surcharge created by section 5 of this Act"
- 18 On page 7, line 22, of the Introduced bill, after "municipality" insert the comma
- 19 On page 7, line 22, of the Introduced bill, after "municipality" delete " or"
- 20 On page 7, line 22, of the Introduced bill, after "township" insert ", or other governmental unit,  
21 including governmental units chartered under S. D. Const. , Art. IX, § 2,"
- 22 On page 7, line 23, of the Introduced bill, after "use" insert ", construction,"
- 23 On page 7, line 23, of the Introduced bill, after "maintenance" insert ", and improvement"
- 24 On page 7, line 26, of the Introduced bill, after "facilities" insert ", except the surcharge listed  
25 under subdivision 3 of this section"
- 26 On page 7, line 28, of the Introduced bill, delete " road district" and insert " other governmental  
27 unit, including governmental units chartered under S.D. Const., Art. IX, § 2,"
- 28 On page 8, line 1, of the Introduced bill, delete " applicants" and insert " applicant's"
- 29 On page 7, line 31, of the Introduced bill, after "units" insert the comma
- 30 On page 7, line 31, of the Introduced bill, after "roads" insert the comma
- 31 On page 7, line 31, of the Introduced bill, after "bridges" insert the comma
- 32 On page 8, line 2, of the Introduced bill, delete " city" and insert " municipality"
- 33 On page 8, line 2, of the Introduced bill, after "city," insert " township,"
- 34 On page 8, line 5, of the Introduced bill, after "49-41B" delete "A"

1 On page 8, line 8, of the Introduced bill, after "setbacks" insert ", or to require the compliance  
2 of above-ground structures with generally applicable zoning ordinances, building, and fire codes"

3 On page 8, line 9, of the Introduced bill, after "setbacks." delete "The provisions of this section  
4 do not prohibit a county, city, or other governmental unit, including governmental units chartered  
5 under S. D. Const. , Art. IX, § 2, from passing and enforcing a zoning ordinance regulating the  
6 location of any building, structure, or other above ground appurtenance related to a gas or liquid  
7 transmission line or an electric transmission line which requires or holds a permit under chapter 49-  
8 41B, including without limitation any building permit fees."

9 On page 9, line 15, of the Introduced bill, after "bridge" insert the comma

10 On page 9, line 26, of the Introduced bill, after "real" insert " estate"

11 And that as so amended, **SB 201** do pass.

12 Also MR. PRESIDENT:

13 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
14 consideration **SB 218 and 220** which were deferred to the 41st Legislative Day.

15 Respectfully submitted,  
16 David Wheeler, Chair

17 MR. PRESIDENT:

18 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and  
19 Enrolling has carefully compared **SB 46 and 131** and finds the same correctly enrolled.

20 Respectfully submitted,  
21 Lee A. Schoenbeck, Chair

22 MR. PRESIDENT:

23 The Committee on Legislative Procedure respectfully reports that **SB 40, 55, 108, and 118**  
24 were delivered to her Excellency, the Governor, for her approval at 9:25 a.m., February 15, 2024.

25 Respectfully submitted,  
26 Lee A. Schoenbeck, Chair

## 27 **MESSAGES FROM THE HOUSE**

28 MR. PRESIDENT:

29 I have the honor to return herewith **SCR 603** in which the House has concurred.

30 Also MR. PRESIDENT:

31 I have the honor to return herewith **SB 46 and 131** which have passed the House without  
32 change.

1 Also MR. PRESIDENT:

2 I have the honor to transmit herewith **HB 1158, 1162, 1224, 1228, and 1229** which have  
3 passed the House and your favorable consideration is respectfully requested.

4 Respectfully submitted,  
5 Patricia Miller, Chief Clerk

6 **MOTIONS AND RESOLUTIONS**

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

11 A RESOLUTION, Expressing the appreciation and gratitude of the Senate of the Ninety-Ninth  
12 Legislature of the State of South Dakota to Quinn Alt, Trey Dunse, Rebecca Feldhaus, Lily Fods,  
13 Nicholas Gray, Madelyn Hinkelman, Jack Jerde, Bridget Lemmel, Eliot Nielsen, Nicole Steffensen,  
14 and Malachi Swift.

15 WHEREAS, the above named served loyally as pages for the Senate of the Ninety-Ninth  
16 Legislative Session; and

17 WHEREAS, the members of the Ninety-Ninth Senate express their most sincere appreciation  
18 to these young people for their service to the state; and

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

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

23 Sen. Crabtree moved that Senate Page Resolution 3 be adopted.

24 The question being on Sen. Crabtree's motion that Senate Page Resolution 3 be adopted.

25 And the roll being called:

26 Yeas 32, Nays 0, Excused 3, Absent 0

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

31 Excused: Diedrich, Larson, and Otten (Herman)

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

34 Yesterday, Sen. Mehlhaff announced his intention to reconsider the vote by which **HB 1092**  
35 lost.  
36

37 Sen. Mehlhaff moved that the Senate do now reconsider the vote by which **HB 1092** lost.

1 And the roll being called:

2 Yeas 28, Nays 3, Excused 4, Absent 0

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

6 Nays: Frye-Mueller, Maher, and Pischke

7 Excused: Diedrich, Larson, Otten (Herman), and Tobin

8 So the motion having received an affirmative vote of a majority of the members-elect, the  
9 President declared the motion carried and **HB 1092** was up for reconsideration and final passage.

10 Sen. Crabtree moved that **HB 1092** be deferred to Monday, February 26, 2024, the 30<sup>th</sup>  
11 legislative day.

12 Which motion prevailed.

13 **HCR 6007**: A CONCURRENT RESOLUTION, Encouraging the United States Department of  
14 Veteran Affairs to allow veterans to receive long-term care services at facilities that do not otherwise  
15 meet the requirements set by the department.

16 Sen. Bordeaux moved that **HCR 6007** as found on page 325 of Senate Journal be concurred  
17 in as amended.

18 The question being on Sen. Bordeaux's motion that **HCR 6007** be concurred in as amended.

19 And the roll being called:

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

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

25 Excused: Diedrich and Otten (Herman)

26 So the motion having received an affirmative vote of a majority of the members-elect, the  
27 President declared the motion carried and **HCR 6007** was concurred in as amended.

28 Sen. Crabtree moved that **SB 130 and 214** be deferred to Tuesday, February 20, 2024, the  
29 26<sup>th</sup> legislative day.

30 Which motion prevailed.

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**CONSIDERATION OF REPORTS OF COMMITTEES**

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

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State Affairs on **SB 13** as found on page 320 of the Senate Journal; also

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Health and Human Services on **SB 191** as found on page 324 of the Senate Journal; also

5

Local Government on **SB 195** as found on page 318 of the Senate Journal; also

6

Local Government on **SB 199** as found on page 319 of the Senate Journal; and

7

Taxation on **HB 1082** as found on page 324 of the Senate Journal be adopted.

8

Which motion prevailed and the reports were adopted.

9

**CONSIDERATION OF EXECUTIVE APPOINTMENTS**

10

The Senate proceeded to the consideration of the executive appointment of David A. Dailey of Meade County, Sturgis, South Dakota, to the position of Assistant Adjutant General, Army.

11

12

The question being "Does the Senate advise and consent to the executive appointment of David A. Dailey pursuant to the executive message as found on page 264 of the Senate Journal?"

13

14

And the roll being called:

15

Yeas 33, Nays 0, Excused 2, Absent 0

16

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, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Walsh, Wheeler, Wiik, Wink, and Zikmund

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Excused: Diedrich and Otten (Herman)

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

22

23

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

24

**HB 1228:** FOR AN ACT ENTITLED, An Act to provide that required exterior hunting garments may be fluorescent pink.

25

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

27

**HB 1158:** FOR AN ACT ENTITLED, An Act to limit reliance upon secondary sources as statements of law.

28

29

**HB 1162:** FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to time of school district elections.

30

1 **HB 1224:** FOR AN ACT ENTITLED, An Act to require the creation of an informational video and  
2 other materials describing the state's abortion law and medical care for a pregnant woman  
3 experiencing life-threatening or health-threatening medical conditions.

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

5 **HB 1229:** FOR AN ACT ENTITLED, An Act to add a county as able to be assigned responsibility  
6 for secondary highways on municipal boundaries.

7 Was read the first time and referred to the Committee on Transportation.

8 **SECOND READING OF CONSENT CALENDAR ITEMS**

9 Sen. Frye-Mueller requested that **SB 198, and HB 1163** be removed from the Consent  
10 Calendar.

11 **SB 126:** FOR AN ACT ENTITLED, An Act to improve agriculture in South Dakota.

12 **SB 127:** FOR AN ACT ENTITLED, An Act to improve education in South Dakota.

13 **SB 128:** FOR AN ACT ENTITLED, An Act to improve public safety in South Dakota.

14 **SB 129:** FOR AN ACT ENTITLED, An Act to improve the workforce of South Dakota.

15 Were read the second time.

16 The question being "Shall **SB 126, 127, 128, and 129** pass?"

17 And the roll being called:

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

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

23 Nays: Frye-Mueller and Pischke

24 Excused: Diedrich and Otten (Herman)

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

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

28 **SB 146:** FOR AN ACT ENTITLED, An Act to revise and repeal provisions related to threatening  
29 elected officers and to provide a penalty therefor.

30 Was read the second time.

31 The question being "Shall **SB 146** pass as amended?"

1 And the roll being called:

2 Yeas 23, Nays 10, Excused 2, Absent 0

3 Yeas: Beal, Breitling, Crabtree, Davis, Deibert, Duhamel, Hunhoff, Johnson, Klumb, Kolbeck  
4 (Steve), Larson, Nesiba, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Walsh, Wheeler, Wiik,  
5 Wink, and Zikmund

6 Nays: Bolin, Bordeaux, Foster, Frye-Mueller, Hoffman, Kolbeck (Jack), Maher, Mehlhaff,  
7 Novstrup, and Pischke

8 Excused: Diedrich and Otten (Herman)

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

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

14 Was read the second time.

15 The question being "Shall **HB 1007** pass?"

16 And the roll being called:

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

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

22 Excused: Diedrich and Otten (Herman)

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 **HB 1161:** FOR AN ACT ENTITLED, An Act to regulate the acceptance of a central bank digital  
26 currency.

27 Was read the second time.

28 The question being "Shall **HB 1161** pass?"

29 And the roll being called:

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

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

35 Nays: Nesiba



