

JOURNAL OF THE SENATE

NINETY-NINTH SESSION

TWENTY-SIXTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, February 20, 2024

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

The prayer was offered by the Chaplain, John Fette, followed by the Pledge of Allegiance led by Senate page Dakota Jensen.

Roll Call: All members present except Sens. Diedrich and Kolbeck (Steve) 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 25th day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Lee A. Schoenbeck, Chair

Which motion prevailed.

1 The oath of office was administered by the President to the following named pages:

2 Patrick Barnett, Jillian Bauer, Chasety Christensen, Cameron Cutshaw, Dakota Jensen, Lauren
3 Murphy, Hayden Otten, Addison Pearl, Baylie Somsen, Landon Stefani, Connor Wilk.

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

5 **COMMUNICATIONS AND PETITIONS**

6 February 16, 2024

7 The Honorable Larry Rhoden
8 President of the Senate
9 State Capitol
10 Pierre, SD 57501

11 To Members of the South Dakota State Senate:

12 I write to inform of the withdrawal of the nomination of Chris Schilken for the position of
13 Commissioner of the Governor's Office of Economic Development.

14 Sincerely,
15 Kristi Noem
16 Governor

17 February 15, 2024

18 Mr. President and Members of the Senate:

19 I have the honor to inform you that on February 15, 2024, I approved Senate Bills 16, 35, and
20 78, and the same have been deposited in the office of the Secretary of State.

21 Respectfully submitted,
22 Kristi Noem
23 Governor

24 **REPORTS OF STANDING COMMITTEES**

25 MR. PRESIDENT:

26 The Senate Committee on Appropriations respectfully reports that it has had under
27 consideration **SB 197** which was tabled.

28 Respectfully submitted,
29 Jean Hunhoff, Chair

30 MR. PRESIDENT:

31 The Committee on Senate Judiciary respectfully reports that it has had under consideration
32 **HB 1083** and returns the same with the recommendation that said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Senate Judiciary respectfully reports that it has had under consideration
 3 **HB 1084, 1085, 1086, 1087, and 1088** and returns the same with the recommendation that said
 4 bills do pass, and having been certified as uncontested, be placed on the consent calendar.

5 Respectfully submitted,
 6 Helene Duhamel, Chair

7 MR. PRESIDENT:

8 The Committee on Senate Commerce and Energy respectfully reports that it has had under
 9 consideration **SB 208, which was reconsidered** and returns the same with the recommendation
 10 that said bill be amended as follows:

11 208A

12 On page 1, line 1, of the Introduced bill, delete "reduce the employer's investment fee rate"
 13 and insert "establish reporting requirements for future fund awards or grants and to make technical
 14 changes"

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

16 **Section 1. That § 61-5-29.1 be AMENDED:**

17 **61-5-29.1.** There is hereby created in the state treasury a special revenue fund to be known
 18 as the employer's investment in South Dakota's future fund. ~~Such fund shall~~ Moneys in the fund
 19 must be used for purposes related to research and economic development for the state.
 20 ~~Expenditures from such fund are subject to the provisions of chapters 4-7, 4-8A and 4-8B.~~

21 **Section 2. That a NEW SECTION be added to chapter 61-5:**

22 The Governor's Office of Economic Development shall report to either the Joint Committee on
 23 Appropriations or the Interim Committee on Appropriations on a quarterly basis the following for
 24 each award or grant made from the fund:

- 25 (1) The name of the recipient and the amount of the award or grant;
- 26 (2) The location of the recipient;
- 27 (2) The research or economic development purpose being funded;
- 28 (3) The measures being used to determine the economic impact of the award or grant; and
- 29 (4) The number of jobs created or retained, if any."

30 And that as so amended, **SB 208, which was reconsidered** do pass.

31 Also MR. PRESIDENT:

32 The Committee on Senate Commerce and Energy respectfully reports that it has had under
 33 consideration the nomination of Chas D. Olson of Hughes County, Pierre, South Dakota, to the
 34 Executive Director of the South Dakota Housing Development Authority and returns the same with
 35 the recommendation that the Senate advise and consent to the confirmation of said appointment.

1 Also MR. PRESIDENT:

2 The Committee on Senate Commerce and Energy respectfully reports that it has had under
3 consideration **HB 1136** and returns the same with the recommendation that said bill do pass.

4 Also MR. PRESIDENT:

5 The Committee on Senate Commerce and Energy respectfully reports that it has had under
6 consideration **HB 1116, 1117, and 1126** and returns the same with the recommendation that said
7 bills do pass, and having been certified as uncontested, be placed on the consent calendar.

8 Respectfully submitted,
9 David Wheeler, Chair

10 MR. PRESIDENT:

11 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
12 had under consideration **SB 135 and 174** which were deferred to the 41st Legislative Day.

13 Also MR. PRESIDENT:

14 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
15 had under consideration **SB 173** and returns the same with the recommendation that said bill be
16 amended as follows:

17 173A

18 On page 1, line 13, of the Introduced bill, delete "a specified" and insert " the prairie elk"

19 And that as so amended, **SB 173** do pass.

20 Also MR. PRESIDENT:

21 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
22 had under consideration **HB 1135** and returns the same with the recommendation that said bill do
23 pass, and having been certified as uncontested, be placed on the consent calendar.

24 Respectfully submitted,
25 Herman Otten, Chair

26 **MESSAGES FROM THE HOUSE**

27 MR. PRESIDENT:

28 I have the honor to transmit herewith **HB 1140, 1141, 1142, and 1143** which have passed
29 the House and your favorable consideration is respectfully requested.

30 Respectfully,
31 Patricia Miller, Chief Clerk

1

MOTIONS AND RESOLUTIONS

2

Sen. Crabtree moved that **SB 195** be placed to follow **SB 214** on today's calendar.

3

Which motion prevailed.

4

CONSIDERATION OF REPORTS OF COMMITTEES

5

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

6

Commerce and Energy on **SB 201** as found on page 334 of the Senate Journal; also

7

Judiciary on **SB 203** as found on page 332 of the Senate Journal; also

8

Judiciary on **HB 1038** as found on page 333 of the Senate Journal; also

9

Judiciary on **HB 1076** as found on page 333 of the Senate Journal; and

10

Judiciary on **HB 1089** as found on page 333 of the Senate Journal be adopted.

11

Which motion prevailed and the reports were adopted.

12

CONSIDERATION OF EXECUTIVE APPOINTMENTS

13

The Senate proceeded to the consideration of the executive appointment of Jean Moulton of Codington County, Watertown, South Dakota, to the South Dakota Board of Education Standards.

15

The question being "Does the Senate advise and consent to the executive appointment of Jean Moulton pursuant to the executive message as found on page 136 of the Senate Journal?"

17

And the roll being called:

18

Yeas 33, Nays 0, Excused 2, Absent 0

19

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

23

Excused: Diedrich and Kolbeck (Steve)

24

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

25

26

CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS

27

The Senate proceeded to the consideration of the executive reappointment of Phyllis Heineman of Minnehaha County, Sioux Falls, South Dakota, to the South Dakota Board of Education Standards.

28

29

The question being "Does the Senate advise and consent to the executive reappointment of Phyllis Heineman pursuant to the executive message as found on page 137 of the Senate Journal?"

30

1 And the roll being called:

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

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

7 Excused: Diedrich and Kolbeck (Steve)

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

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

11 **HB 1140:** FOR AN ACT ENTITLED, An Act to improve the efficiency and administration of state
12 government.

13 **HB 1141:** FOR AN ACT ENTITLED, An Act to improve public safety in South Dakota.

14 **HB 1142:** FOR AN ACT ENTITLED, An Act to improve education and to provide for the
15 workforce of South Dakota.

16 **HB 1143:** FOR AN ACT ENTITLED, An Act to improve agriculture in South Dakota.

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

18 **SECOND READING OF CONSENT CALENDAR ITEMS**

19 **SB 212:** FOR AN ACT ENTITLED, An Act to allow for the payment of goods or services by a
20 school district between school board meetings in certain circumstances.

21 **HB 1082:** FOR AN ACT ENTITLED, An Act to change the eligibility requirements, and the
22 exempt value, of a property tax relief program for disabled veterans and surviving spouses.

23 Were read the second time.

24 The question being "Shall **HB 1082** pass as amended, and **SB 212** pass?"

25 And the roll being called:

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

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

31 Excused: Diedrich and Kolbeck (Steve)

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

1

SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS

2

SB 13: FOR AN ACT ENTITLED, An Act to revise the process for nominating candidates for the offices of lieutenant governor, attorney general, and secretary of state.

3

4

Was read the second time.

5

Sen. Mehlhaff moved that **SB 13** be laid on the table.

6

The question being on Sen. Mehlhaff's motion that **SB 13** be laid on the table.

7

And the roll being called:

8

Yeas 13, Nays 20, Excused 2, Absent 0

9

Yeas: Beal, Bolin, Foster, Frye-Mueller, Hoffman, Klumb, Kolbeck (Jack), Maher, Mehlhaff, Novstrup, Pischke, Stalzer, and Wiik

10

11

Nays: Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Hunhoff, Johnson, Larson, Nesiba, Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Tobin, Walsh, Wheeler, Wink, and Zikmund

12

13

14

Excused: Diedrich and Kolbeck (Steve)

15

So the motion not having received an affirmative vote of a majority of the members-elect, the President declared the motion lost.

16

17

Sen. Wiik moved that **SB 13** be amended as follows:

18

13I

19

On page 1, line 1, of the Senate State Affairs Engrossed bill, delete " offices" and insert " office"

20

On page 1, line 2, of the Senate State Affairs Engrossed bill, after "governor" delete ", attorney general, and secretary of state"

21

22

On page 1, line 14, of the Senate State Affairs Engrossed bill, after "certified." delete " The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the forms for the certification and withdrawal of a candidate for lieutenant governor."

23

24

25

On page 1, line 17, of the Senate State Affairs Engrossed bill, after "governor." delete "Section 2. That § 12-5-17 be AMENDED:"

26

27

On page 1, line 18, of the Senate State Affairs Engrossed bill, after "AMENDED:" delete "12-5-17. "

28

29

On page 1, line 18, of the Senate State Affairs Engrossed bill, after "12-5-17. " delete "Each political party shall hold a state convention in each even-numbered year for the purposes stated in § 12-5-21. The state central committee of each political party shall determine the time and place of the convention. The chair of the committee shall notify the secretary of state of the date and place of the convention at least fifteen business days prior to thirty days before the date chosen."

30

31

32

33

34

On page 2, line 3, of the Senate State Affairs Engrossed bill, remove the overstrikes from "attorney general, secretary of state,"

35

36

On page 2, line 8, of the Senate State Affairs Engrossed bill, after "party." delete "Section 4. That a NEW SECTION be added to chapter 12-5:"

37

1 On page 2, line 9, of the Senate State Affairs Engrossed bill, after "12-5:" delete "If a political
2 party is unable to nominate a candidate for the office of attorney general or secretary of state at
3 the primary election, the political party may nominate a candidate for the office at the state
4 convention."

5 On page 2, line 12, of the Senate State Affairs Engrossed bill, after "convention." delete
6 "Section 5. That § 12-5-25 be AMENDED:"

7 On page 2, line 13, of the Senate State Affairs Engrossed bill, after "AMENDED:" delete "12-5-
8 25. "

9 On page 2, line 13, of the Senate State Affairs Engrossed bill, after "12-5-25. " delete "A
10 political party with alternative political status may nominate a candidate for United States Senate,
11 United States House of Representatives, Governor, attorney general, secretary of state, and any
12 legislative seat by convention, if the nomination is submitted with the proper documentation to the
13 Office of the Secretary of State no later than 5:00 five p. m. central time on the second Tuesday in
14 August, of in the year of the election."

15 On page 2, line 19, of the Senate State Affairs Engrossed bill, after "election." delete "A
16 candidate registered with a political party with an alternative political status may choose, if allowed
17 by the party bylaws, to participate in a primary election by submitting a candidate petition no later
18 than the last Tuesday of March in accordance with § 12-5-1. 4."

19 On page 2, line 23, of the Senate State Affairs Engrossed bill, after "5-1.4." delete "Section 6.
20 That § 12-5-26 be AMENDED:"

21 On page 2, line 24, of the Senate State Affairs Engrossed bill, after "AMENDED:" delete "12-5-
22 26. "

23 On page 2, line 24, of the Senate State Affairs Engrossed bill, after "12-5-26. " delete "A new
24 political party may nominate a candidate for United States Senate, United States House of
25 Representatives, Governor, attorney general, secretary of state, and any legislative seat by
26 convention, if the nomination is submitted with the proper documentation to the Office of the
27 Secretary of State no later than 5:00 five p. m. central time on the second Tuesday in August, of in
28 the year of the election."

29 On page 2, line 29, of the Senate State Affairs Engrossed bill, after "election." delete "Section
30 7. That § 12-6-7 be AMENDED:"

31 On page 3, line 1, of the Senate State Affairs Engrossed bill, after "AMENDED:" delete "12-6-
32 7. "

33 On page 3, line 1, of the Senate State Affairs Engrossed bill, after "12-6-7. " delete "A
34 nominating petition may be composed of several sheets, each. Each sheet shall must have identical
35 headings printed at the top and shall must be a self-contained sheet of paper. The petition for a
36 candidate for the Legislature shall designate must specify the senatorial or representative district
37 number and house for which the person is a candidate."

38 On page 3, line 6, of the Senate State Affairs Engrossed bill, after "candidate." delete "The
39 petition for party office or political public office for a state a political party's gubernatorial or federal
40 candidate shall must be signed by not less than one percent of the voters who voted for that party's
41 gubernatorial candidate at the last gubernatorial election in the state. The petition of a party's
42 candidate for attorney general or secretary of state must be signed by not less than one-quarter of
43 one percent of the voters who voted for that party's gubernatorial candidate at the last gubernatorial
44 election or two hundred fifty qualified voters, whichever is greater. A petition for the Legislature,
45 county party office, or county political public office shall must be signed by not less than one percent
46 of the voters who voted for that party's gubernatorial candidate at the last gubernatorial election,
47 or fifty voters, in the county, part of the county, or district electing a candidate to fill the office,
48 whichever is less.

1 If the party meets the requirement for alternative political status as defined in § 12-1-3. 1, the
2 petition for party office or political public office for a state or federal candidate shall must be signed
3 by not less than one percent of the voters who voted for that party's statewide candidate receiving
4 the highest votes at the last gubernatorial election in the state. A petition for the Legislature, county
5 party office, or county political public office shall be signed by not less than one percent of the voters
6 who voted for that party's statewide candidate receiving the highest votes at the last gubernatorial
7 election in the county, part of the county, or district electing a candidate to fill the office, whichever
8 is less.

9 If a county uses vote centers and does not print ballots by precinct, signature requirements
10 are:

11 (1) For both partisan and independent candidates, fifty signatures for a legislative candidate
12 whose district either in whole or in part includes that county;

13 (2) For a county candidate:

14 (a) Partisan candidate petitions shall must be signed by the lesser of fifty signatures or
15 signatures from one percent of the voters who voted for that party's gubernatorial candidate, or the
16 party's statewide candidate receiving the highest votes if the party meets the requirement for
17 alternative party status as defined in § 12-1-3. 1, at the last gubernatorial election in the county
18 electing a candidate to fill the office; or

19 (b) Independent candidate petitions shall must be signed by not less than one percent of the
20 total combined vote for Governor at the last certified election within the county electing a candidate
21 to fill the office;

22 (3) Half the number of signatures required under subdivision (2), for county commissioner
23 district candidates;

24 (4) Five signatures for a new party legislative candidate whose district either in whole or in
25 part includes that county;

26 (5) Five signatures for a new party county candidate; or

27 (6) Three signatures for a new party county commissioner district candidate."

28 On page 4, line 12, of the Senate State Affairs Engrossed bill, after "candidate." delete "Section
29 8. That § 12-7-1 be AMENDED:"

30 On page 4, line 13, of the Senate State Affairs Engrossed bill, after "AMENDED:" delete "12-7-
31 1. "

32 On page 4, line 13, of the Senate State Affairs Engrossed bill, after "12-7-1. " delete "Any
33 candidate for nonjudicial public office, except the office of lieutenant governor and as provided in
34 § 12-7-7, who is not nominated by a primary election may be nominated by filing a certificate of
35 nomination with the secretary of state or county auditor as prescribed in the manner of filling
36 nominating petitions as described in by § 12-6-4, after December thirty-first and by but no later
37 than five p. m. local time on the last Tuesday of April at 5:00 p. m. local time before the election. A
38 certificate of nomination shall must be executed as provided in chapter 12-6. If A certificate of
39 nomination is timely submitted if the certificate of nomination is mailed by registered mail by no
40 later than five p. m. local time on the last Tuesday of April at 5:00 p. m. local time before the
41 election, it is timely submitted. The certificate of nomination shall must be signed by registered
42 voters within the district or political subdivision in and for which the officers are to be elected. The
43 number of signatures required may not be less than one percent of the total combined vote cast for
44 Governor at the last certified gubernatorial election within the district or political subdivision. The
45 State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the forms for
46 the certificate of nomination."

1 On page 5, line 13, of the Senate State Affairs Engrossed bill, after "governor." delete "Section
2 10. That § 12-25-28 be AMENDED:"

3 On page 5, line 14, of the Senate State Affairs Engrossed bill, after "AMENDED:" delete "12-
4 25-28. "

5 On page 5, line 14, of the Senate State Affairs Engrossed bill, after "12-25-28. " delete "Any
6 candidate for the United States Senate, the United States House of Representatives, Governor,
7 attorney general, secretary of state, circuit court judge, or the Legislature shall file a statement of
8 financial interest with the secretary of state not more than fifteen days after filing the candidate's
9 nominating petitions. Any Supreme Court justice shall file a statement of financial interest with the
10 secretary of state not more than fifteen days following notice to the secretary of state of the justice's
11 intention to place the justice's name on the retention ballot. A violation of this section is a petty
12 offense. Any intentional violation of this section is a Class 2 misdemeanor."

13 On page 5, line 22, of the Senate State Affairs Engrossed bill, after "misdemeanor." delete
14 "Section 11. That § 12-25-29 be AMENDED:"

15 On page 5, line 23, of the Senate State Affairs Engrossed bill, after "AMENDED:" delete "12-
16 25-29. "

17 On page 5, line 23, of the Senate State Affairs Engrossed bill, after "12-25-29. " delete "Any
18 candidate for lieutenant governor, state treasurer, attorney general, secretary of state, state
19 auditor, public utilities commissioner, or commissioner of school and public lands shall file a
20 statement of financial interest with the secretary of state not more than fifteen days after the
21 candidate's nomination is certified. A violation of this section is a petty offense. Any intentional
22 violation of this section is a Class 2 misdemeanor."

23 Sen. Wiik requested a roll call vote.

24 The question being on Sen. Wiik's motion that **SB 13** be amended.

25 And the roll being called:

26 Yeas 12, Nays 21, Excused 2, Absent 0

27 Yeas: Beal, Bolin, Foster, Frye-Mueller, Hoffman, Klumb, Kolbeck (Jack), Mehlhaff, Novstrup,
28 Pischke, Stalzer, and Wiik

29 Nays: Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Hunhoff, Johnson, Larson,
30 Maher, Nesiba, Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Tobin, Walsh, Wheeler, Wink,
31 and Zikmund

32 Excused: Diedrich and Kolbeck (Steve)

33 So the motion not having received an affirmative vote of a majority of the members-elect, the
34 President declared the motion lost.

35 Sen. Mehlhaff moved that **SB 13** be amended as follows:

36 13J

37 On page 2, line 8, of the Senate State Affairs Engrossed bill, after "party." delete "Section 4.
38 That a NEW SECTION be added to chapter 12-5:"

39 On page 2, line 9, of the Senate State Affairs Engrossed bill, after "12-5:" delete "If a political
40 party is unable to nominate a candidate for the office of attorney general or secretary of state at
41 the primary election, the political party may nominate a candidate for the office at the state
42 convention."

1 On page 3, line 6, of the Senate State Affairs Engrossed bill, remove the overstrikes from "
2 party office or political public office for a state"

3 On page 3, line 6, of the Senate State Affairs Engrossed bill, after "state" delete " a political
4 party's gubernatorial"

5 On page 3, line 9, of the Senate State Affairs Engrossed bill, after "state" delete ". The petition
6 of a party's candidate for attorney general or secretary of state must be signed by not less than
7 one-quarter of one percent of the voters who voted for that party's gubernatorial candidate at the
8 last gubernatorial election or two hundred fifty qualified voters, whichever is greater"

9 Sen. Mehlhaff requested a roll call vote.

10 The question being on Sen. Mehlhaff's motion to **SB 13** be amended.

11 And the roll being called:

12 Yeas 13, Nays 20, Excused 2, Absent 0

13 Yeas: Beal, Bolin, Foster, Frye-Mueller, Hoffman, Klumb, Kolbeck (Jack), Mehlhaff, Novstrup,
14 Pischke, Stalzer, Wiik, and Zikmund

15 Nays: Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Hunhoff, Johnson, Larson,
16 Maher, Nesiba, Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Tobin, Walsh, Wheeler, and
17 Wink

18 Excused: Diedrich and Kolbeck (Steve)

19 So the motion not having received an affirmative vote of a majority of the members-elect, the
20 President declared the motion lost.

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

22 And the roll being called:

23 Yeas 20, Nays 13, Excused 2, Absent 0

24 Yeas: Bolin, Bordeaux, Breitling, Crabtree, Davis, Duhamel, Hunhoff, Johnson, Larson, Maher,
25 Nesiba, Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Tobin, Walsh, Wheeler, and Wink

26 Nays: Beal, Deibert, Foster, Frye-Mueller, Hoffman, Klumb, Kolbeck (Jack), Mehlhaff,
27 Novstrup, Pischke, Stalzer, Wiik, and Zikmund

28 Excused: Diedrich and Kolbeck (Steve)

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 130: FOR AN ACT ENTITLED, An Act to consider certain goods when given as a prize**
32 **through a redemption store as purchases for resale.**

33 Was read the second time.

34 The question being "Shall **SB 130** pass?"

35 And the roll being called:

36 Yeas 14, Nays 19, Excused 2, Absent 0

1 Yeas: Beal, Bolin, Bordeaux, Foster, Frye-Mueller, Johnson, Klumb, Kolbeck (Jack), Mehlhaff,
2 Novstrup, Otten (Herman), Pischke, Wink, and Zikmund

3 Nays: Breitling, Crabtree, Davis, Deibert, Duhamel, Hoffman, Hunhoff, Larson, Maher, Nesiba,
4 Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Walsh, Wheeler, and Wiik

5 Excused: Diedrich and Kolbeck (Steve)

6 So the bill not having received an affirmative vote of a majority of the members-elect, the
7 President declared the bill lost.

8 **SB 191**: FOR AN ACT ENTITLED, An Act to restrict the use of medical cannabis for individuals
9 on probation or conditional release.

10 Was read the second time.

11 The question being "Shall **SB 191** pass as amended?"

12 And the roll being called:

13 Yeas 29, Nays 4, Excused 2, Absent 0

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

17 Nays: Bordeaux, Foster, Larson, and Nesiba

18 Excused: Diedrich and Kolbeck (Steve)

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

21 **SB 198**: FOR AN ACT ENTITLED, An Act to authorize school districts and nonpublic schools to
22 acquire and administer nasal glucagon.

23 Was read the second time.

24 The question being "Shall **SB 198** pass?"

25 And the roll being called:

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

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

31 Excused: Diedrich and Kolbeck (Steve)

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

1 **SB 199:** FOR AN ACT ENTITLED, An Act to revise provisions pertaining to the consolidation or
2 boundary changes of counties.

3 Was read the second time.

4 The question being "Shall **SB 199** pass as amended?"

5 And the roll being called:

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

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

11 Nays: Frye-Mueller

12 Excused: Diedrich and Kolbeck (Steve)

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 214:** FOR AN ACT ENTITLED, An Act to provide a rebuttable presumption in favor of joint
16 physical custody of a minor child.

17 Was read the second time.

18 Sen. Pischke moved that **SB 214** be amended as follows:

19 214C

20 On page 1, line 9, of the Senate Judiciary Engrossed bill, after "by" delete " a preponderance
21 of"

22 On page 1, line 15, of the Senate Judiciary Engrossed bill, after "petition" insert ".

23 The presumption set forth in this section is not applicable if a presumption that joint physical
24 custody is not in the best interest of the child has been created in accordance with § 25-4A-22"

25 On page 1, line 16, of the Senate Judiciary Engrossed bill, after "petition." delete "Section 2.
26 That § 25-4A-22 be AMENDED:"

27 On page 1, line 17, of the Senate Judiciary Engrossed bill, after "AMENDED:" delete "25-4A-
28 22. "

29 On page 1, line 17, of the Senate Judiciary Engrossed bill, after "25-4A-22. " delete "The court
30 shall determine the appropriate physical care, custody, and control of a minor child, in accordance
31 with § 25-4A-21, following the consideration of factors set forth in § 25-4-45. 5. A finding by the
32 court that a parent has a conviction or a history of committing domestic abuse or has an assault
33 conviction as defined in § 25-4-45. 5, creates a rebuttable presumption that joint physical custody
34 is not in the best interests interest of the child."

35 On page 1, line 23, of the Senate Judiciary Engrossed bill, after "child." delete "Section 3. That
36 § 25-4A-23 be AMENDED:"

37 On page 2, line 1, of the Senate Judiciary Engrossed bill, after "AMENDED:" delete "25-4A-23."

1 On page 2, line 1, of the Senate Judiciary Engrossed bill, after "25-4A-23. " delete "Prior to
2 ruling on a petition for joint physical custody petition under § 25-4A-21, the court may require that
3 the parties to parents participate in a home study or a, custody evaluation. Prior to the court ruling
4 on a joint physical custody petition, either parent may request mediation pursuant to § 25-4-56.

5 In any case where the court orders the parties to participate in a home study, custody
6 evaluation, or custody mediation, the, or mediation in accordance with § 25-4-56. The court shall
7 allocate the costs of the same any home study, custody evaluation, or mediation required under this
8 section between the parties parents."

9 On page 2, line 9, of the Senate Judiciary Engrossed bill, after "parents." delete "Section 4.
10 That § 25-4A-24 be AMENDED:"

11 On page 2, line 10, of the Senate Judiciary Engrossed bill, after "AMENDED:" delete "25-4A-
12 24. "

13 On page 2, line 10, of the Senate Judiciary Engrossed bill, after "25-4A-24. " delete "In
14 considering a contested request for The presumption in favor of joint physical custody, in addition
15 to the traditional factors for determining the best interests of a child, the court shall consider the
16 following factors under § 25-4A-21 may be rebutted upon a presentation of evidence pertaining to:

17 (1) Whether each parent is a suitable physical custodian for the child;

18 (2) Whether each parent has an appropriate dwelling to support physical custody of the child;

19 (3) Whether the psychological and emotional needs and the development of the child will suffer
20 due to lack of active contact with, and attention from, both parents if joint physical custody is not
21 granted;

22 (4) Whether one parent has denied the child, without just cause, the child the opportunity for
23 continuing contact with the other parent. Facts supporting an application of the presumption in § 25-
24 4-45. 5 constitute just cause;

25 (5) Whether the parents can show mutual respect for and effectively communicate with each
26 other regarding the child's needs. When considering this factor, the court shall include a
27 determination of the degree to which the parents are in general agreement about their approach to
28 daily child rearing matters;

29 (6) The extent to which both parents actively care for the child;

30 (7) Whether each parent can support the other parent's relationship with the child. When
31 considering this factor, the court shall include a determination of conflict between the parents, as
32 joint physical custody requires substantial and regular interaction between the parents on a myriad
33 of issues;

34 (8) Whether the joint physical custody arrangement is in accord with the child's wishes or
35 whether the child has strong opposition to joint physical custody, taking into consideration the child's
36 age, maturity, and reason for the objection;

37 (9) Whether a parent has intentionally alienated or interfered with the other parent's
38 relationship with the child;

39 (10) Whether one or both parents are opposed to joint physical custody. A parent's opposition
40 to joint physical custody is not determinative in itself, but only one factor for the court to consider;

41 (11) The geographic proximity of the parents;

42 (12) Whether the safety of the child, other children, or the other parent will be jeopardized by
43 an award of joint physical custody;

1 (13) Whether a parent allows another person custody or control of, or unsupervised access to,
2 a child after knowing the person is required to register or is on the sex offender registry as a sex
3 offender under chapter 22-24B;

4 (14) Whether a parent has attempted to influence a custody determination by alleging, falsely
5 or without good cause, that the child or the sibling of the child has been subjected to physical or
6 sexual abuse or abuse and neglect, as set forth in § 25-4-45. 8;

7 (15) Whether a parent is physically and mentally capable of providing temporal, mental, and
8 moral wellness for the child;

9 (16) Whether a parent has the capacity and disposition to provide the child with protection,
10 food, clothing, medical care, and other basic needs;

11 (17) Whether a parent is willing and capable able to provide the child love, affection, guidance,
12 and education in order to impart the family's religion or creed;

13 (18) Whether a parent is committed to prepare the child for responsible adulthood, as well as
14 to ensure that the child experiences a fulfilling childhood;

15 (19) Whether a parent provides exemplary modeling so that the child witnesses firsthand what
16 it means to be a good parent, a loving spouse, and a responsible citizen;

17 (20) Whether a parent provides a stable and consistent home environment including the
18 relationship and interaction of the child with the parents, stepparents, siblings, and extended
19 families;

20 (21) The extent of the child's adjustment in regards regard to home, school, and community;

21 (22) Whether a break in attachment with to the parent with whom the child has formed a
22 closer attachment would cause detriment be detrimental due to the break in continuity for the child;
23 and

24 (23) Whether a parent is guilty of misconduct that may have a harmful effect on the child."

25 On page 4, line 3, of the Senate Judiciary Engrossed bill, after "child." delete "Section 5. That
26 § 25-4A-25 be REPEALED."

27 On page 4, line 4, of the Senate Judiciary Engrossed bill, after "REPEALED." delete "If both
28 parents agree to joint physical custody of a child, the court is not required to consider the factors
29 set forth in § 25-4A-24."

30 Which motion prevailed.

31 The question being "Shall **SB 214** pass as amended?"

32 And the roll being called:

33 Yeas 16, Nays 17, Excused 2, Absent 0

34 Yeas: Beal, Bolin, Foster, Frye-Mueller, Hoffman, Johnson, Klumb, Maher, Otten (Herman),
35 Pischke, Rohl, Schoenfish, Tobin, Walsh, Wheeler, and Wink

36 Nays: Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Hunhoff, Kolbeck (Jack),
37 Larson, Mehlhaff, Nesiba, Novstrup, Reed, Schoenbeck, Stalzer, Wiik, and Zikmund

38 Excused: Diedrich and Kolbeck (Steve)

39 So the bill not having received an affirmative vote of a majority of the members-elect, the
40 President declared the bill lost.

1 Sen. Pischke announced his intention to reconsider the vote by which **SB 214** lost.

2 **SB 195:** FOR AN ACT ENTITLED, An Act to modify provisions regarding the process to vacate
3 certain highways.

4 Was read the second time.

5 Sen. Otten (Herman) moved that **SB 195** be amended as follows:

6 195C

7 On page 1, line 4, of the Senate Local Government Engrossed bill, delete "After" and insert "
8 If"

9 On page 1, line 5, of the Senate Local Government Engrossed bill, delete " petition" and insert
10 " resolution and order"

11 On page 1, line 6, of the Senate Local Government Engrossed bill, delete " petition" and insert
12 " resolution and order"

13 On page 1, line 8, of the Senate Local Government Engrossed bill, delete " finds the petition
14 complies with" and insert " does not advise the county or township that the resolution and order is
15 in violation of"

16 On page 1, line 9, of the Senate Local Government Engrossed bill, after "§ 31-3-6.1," insert "
17 within seven days after the commissioner's receipt of the resolution and order"

18 On page 1, line 9, of the Senate Local Government Engrossed bill, delete " petition" and insert
19 " resolution and order"

20 On page 1, line 10, of the Senate Local Government Engrossed bill, after "law." delete " The
21 petition must include an attached statement from the commissioner stating compliance with § 31-
22 3-6. 3."

23 On page 1, line 11, of the Senate Local Government Engrossed bill, after "finds" delete " after
24 review"

25 On page 1, line 11, of the Senate Local Government Engrossed bill, delete " petition" and insert
26 " resolution and order"

27 On page 1, line 11, of the Senate Local Government Engrossed bill, delete " does not comply
28 with" and insert " is in violation of"

29 On page 1, line 12, of the Senate Local Government Engrossed bill, delete " petition" and insert
30 " resolution and order"

31 On page 1, line 13, of the Senate Local Government Engrossed bill, delete " petition" and insert
32 " resolution and order"

33 On page 1, line 14, of the Senate Local Government Engrossed bill, delete ". The commissioner
34 shall have seven days from receipt of the petition to review the petition for compliance. The
35 commissioner shall create a form to be attached to the petition" and insert " within seven days of
36 the commissioner's receipt of the resolution and order, and the notification must include an
37 explanation of why the resolution and order is in violation of § 31-3-6.1"

38 Which motion prevailed.

1 The question being "Shall **SB 195** pass as amended?"

2 And the roll being called:

3 Yeas 13, Nays 19, Excused 3, Absent 0

4 Yeas: Bordeaux, Crabtree, Foster, Johnson, Larson, Mehlhaff, Nesiba, Novstrup, Otten
5 (Herman), Pischke, Reed, Schoenbeck, and Stalzer

6 Nays: Beal, Bolin, Breitling, Davis, Deibert, Duhamel, Frye-Mueller, Hoffman, Hunhoff, Klumb,
7 Kolbeck (Jack), Maher, Rohl, Schoenfish, Walsh, Wheeler, Wiik, Wink, and Zikmund

8 Excused: Diedrich, Kolbeck (Steve), and Tobin

9 So the bill not having received an affirmative vote of a majority of the members-elect, the
10 President declared the bill lost.

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

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

14 Was read the second time.

15 The question being "Shall **HB 1023** pass as amended?"

16 And the roll being called:

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

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

21 Nays: Frye-Mueller, Maher, and Pischke

22 Excused: Diedrich and Kolbeck (Steve)

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

27 Was read the second time.

28 The question being "Shall **HB 1104** pass?"

29 And the roll being called:

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

31 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Foster, Frye-Mueller,
32 Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Larson, Maher, Mehlhaff, Nesiba, Novstrup,

1 Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Walsh, Wheeler,
2 Wiik, Wink, and Zikmund

3 Excused: Diedrich and Kolbeck (Steve)

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

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

9 Was read the second time.

10 The question being "Shall **HB 1129** pass?"

11 And the roll being called:

12 Yeas 28, Nays 5, Excused 2, Absent 0

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

16 Nays: Beal, Foster, Frye-Mueller, Pischke, and Wiik

17 Excused: Diedrich and Kolbeck (Steve)

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

20 **HB 1163:** FOR AN ACT ENTITLED, An Act to amend provisions of the Uniform Commercial
21 Code.

22 Was read the second time.

23 The question being "Shall **HB 1163** pass?"

24 And the roll being called:

25 Yeas 27, Nays 6, Excused 2, Absent 0

26 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Hoffman, Hunhoff,
27 Johnson, Klumb, Kolbeck (Jack), Larson, Mehlhaff, Nesiba, Reed, Rohl, Schoenbeck, Schoenfish,
28 Stalzer, Tobin, Walsh, Wheeler, Wiik, Wink, and Zikmund

29 Nays: Foster, Frye-Mueller, Maher, Novstrup, Otten (Herman), and Pischke

30 Excused: Diedrich and Kolbeck (Steve)

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

1 Sen. Otten (Herman) moved that the Senate do now adjourn, which motion prevailed and at
2 4:25 p.m. the Senate adjourned.

3

Peggy Laurenz, Secretary

