

# *JOURNAL OF THE SENATE*

## *NINETY-NINTH SESSION*

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THIRTY-SIXTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Wednesday, March 06, 2024

The Senate convened at 10:00 a.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Craig Wexler, followed by the Pledge of Allegiance led by Senate page Madisyn Raymond.

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 35th 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 Schoenbeck, Chair

Which motion prevailed.

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**COMMUNICATIONS AND PETITIONS**

March 5, 2024

Mr. President and Members of the Senate:

I have the honor to inform you that on March 5, 2024, I approved Senate Bill 63, and the same has been deposited in the office of the Secretary of State.

Respectfully submitted,  
Kristi Noem  
Governor

**REPORTS OF STANDING COMMITTEES**

MR. PRESIDENT:

The Joint Committee on Appropriations respectfully reports that it has had under consideration **SB 51** and returns the same with the recommendation that said bill be amended as follows:

51A

On page 1, line 7, of the Introduced bill, delete " fifty-three and four-tenths" and insert " fifty-four and four-tenths"

On page 1, line 12, of the Introduced bill, delete " five-tenths" and insert " seven-tenths"

On page 1, line 18, of the Introduced bill, delete " four-tenths" and insert " nine-tenths"

On page 9, line 12, of the Introduced bill, delete " 0. 1063" and insert " 0.1062"

And that as so amended, **SB 51** do pass.

Respectfully submitted,  
Mike Derby, Co-Chair

Respectfully submitted,  
Jean Hunhoff, Co-Chair

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and Enrolling has carefully compared **SB 80, 146, 151, and 177** and finds the same correctly enrolled.

Respectfully submitted,  
Lee Schoenbeck, Chair

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that **SB 1, 45, 47, 49, 53, 83, 124, 165, 168, 182, 187, 191, 198, 208, 209, and 212** were delivered to her Excellency, the Governor, for her approval at 9:55 a.m., March 6, 2024.

Respectfully submitted,  
Lee Schoenbeck, Chair

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**MESSAGES FROM THE HOUSE**

MR. PRESIDENT:

I have the honor to inform your honorable body that the House has appointed Representatives Bartels (Chair), Stevens, and Reimer as a committee of three on the part of the House to meet with a like committee on the part of the Senate to adjust the differences between the two houses on **SB 127**.

**REPORTS OF CONFERENCE COMMITTEES**

MR. PRESIDENT:

The SB127 A Conference Committee on **SB 127** respectfully reports that it has considered the disagreement of the two houses, and returns the same with the recommendation that said bill be amended as follows:

127B

On page 3, line 20, of the House Engrossed bill, after "2024" insert ". A school district complies with this section if the district's average teacher compensation is at least ninety-seven percent of the average teacher compensation otherwise required by this section".

Respectfully submitted,  
Kyle Schoenfish, Chair

Respectfully submitted,  
Hugh M. Bartels, Chair

MR. PRESIDENT:

The SB201 A Conference Committee on **SB 201** respectfully reports that it has considered the disagreement of the two houses, and returns the same with the recommendation that said bill be amended as follows:

201M

On page 1, line 3, of the House Commerce and Energy Engrossed bill, after "companies" insert ", and "

On page 1, line 3, of the House Commerce and Energy Engrossed bill, after "companies" insert "to establish a "

On page 1, line 3, of the House Commerce and Energy Engrossed bill, after "companies" insert "landowner bill of rights"

On page 1, line 9, of the House Commerce and Energy Engrossed bill, after "per" insert " linear"

On page 1, line 9, of the House Commerce and Energy Engrossed bill, after "of" delete " linear"

On page 1, line 10, of the House Commerce and Energy Engrossed bill, after "county" insert the comma

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "For each county where a"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert " carbon dioxide pipeline company"

1 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "  
2 has installed a pipeline, the company"

3 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert  
4 "shall"

5 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "  
6 report "

7 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert  
8 "to the county "

9 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert  
10 "the linear footage of carbon dioxide pipeline installed in the county."

11 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert  
12 "A carbon dioxide pipeline company shall remit the"

13 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "  
14 pipeline surcharge to "

15 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert  
16 "each applicable"

17 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "  
18 county in the same manner as provided for the payment of property taxes in chapter 10-21. The  
19 revenue derived from the pipeline surcharge must be distributed as follows:

20 (1) At least fifty percent as tax relief for property in the county where the carbon dioxide  
21 pipeline is located pro rat"

22 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert a  
23 latin small letter a

24 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "  
25 on a per foot basis"

26 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert  
27 "to "

28 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert  
29 "each "

30 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert  
31 "property "

32 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert  
33 "in the county upon which the pipeline is installed"

34 On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert ";  
35 and

36 (2) The remaining revenue to be allocated as determined by the county."

37 On page 2, line 21, of the House Commerce and Energy Engrossed bill, after "year." delete  
38 "Section 4. That § 10-37-9 be AMENDED:"

39 On page 2, line 22, of the House Commerce and Energy Engrossed bill, after "AMENDED:"  
40 delete "10-37-9. "

1 On page 2, line 22, of the House Commerce and Energy Engrossed bill, after "10-37-9. " delete  
 2 "The Department of Revenue shall on the fifth day of July of each year determine the linear footage  
 3 of carbon dioxide pipeline installed in each county, if any, and determine the true and actual value  
 4 of pipeline property located in each taxing district of the state, and in fixing said value shall take  
 5 into consideration the structures, equipment, pumping stations, etc. , located in said taxing district,  
 6 and shall transmit to the county auditor of each such county through and into which any pipeline  
 7 may extend, a statement showing the assessed value of said property in each of the taxing districts  
 8 of said county. The said property shall then be taxed in said county and lesser taxing districts, based  
 9 upon the valuation so certified, in the same manner as other property is taxed. Any pipeline  
 10 surcharge shall be remitted to the county."

11 On page 2, line 32, of the House Commerce and Energy Engrossed bill, after "county." delete  
 12 "Section 5. That § 10-37-15 be AMENDED:"

13 On page 3, line 1, of the House Commerce and Energy Engrossed bill, after "AMENDED:" delete  
 14 "10-37-15. "

15 On page 3, line 1, of the House Commerce and Energy Engrossed bill, after "10-37-15. " delete  
 16 "All laws relating to the enforcement of the payment of delinquent taxes or any pipeline surcharge  
 17 shall be applicable to all taxes levied under the provisions of this chapter. When any tax levied under  
 18 the provisions of this chapter shall become delinquent, the county treasurer having control of such  
 19 delinquent taxes may proceed to collect the same in the manner as now provided for the collection  
 20 of other taxes and with the same right and power of the sheriff under execution, except that no  
 21 process shall be necessary to authorize him to sell any property belonging to any pipeline company  
 22 for the collection of such taxes. The additional remedy provided for in § 10-38-10 by action in the  
 23 circuit court shall also be available to the county treasurer."

24 On page 3, line 11, of the House Commerce and Energy Engrossed bill, after "development"  
 25 delete " and material transmission"

26 On page 3, line 12, of the House Commerce and Energy Engrossed bill, delete " the Northern  
 27 Great Plains significantly" and insert " surrounding states"

28 On page 3, line 14, of the House Commerce and Energy Engrossed bill, delete " the" and insert  
 29 " agricultural and"

30 On page 3, line 15, of the House Commerce and Energy Engrossed bill, after "these" delete "  
 31 permitted"

32 On page 3, line 16, of the House Commerce and Energy Engrossed bill, after "are" insert "  
 33 permitted and"

34 On page 3, line 16, of the House Commerce and Energy Engrossed bill, remove the overstrikes  
 35 from " so that the energy"

36 On page 3, line 16, of the House Commerce and Energy Engrossed bill, after "energy" insert "  
 37 commerce, and transmission"

38 On page 3, line 16, of the House Commerce and Energy Engrossed bill, remove the overstrikes  
 39 from " requirements of the people of the state are fulfilled"

40 On page 3, line 19, of the House Commerce and Energy Engrossed bill, after "that" insert " the  
 41 permitting or siting of a facility is determined by the commission and"

42 On page 3, after line 20, of the House Commerce and Energy Engrossed bill, insert: "

43 **Section 5. That § 49-41B-19 be AMENDED:**

44 **49-41B-19.** The Public Utilities Commission shall also hear and receive evidence presented by  
 45 any state department, agency, or units of local government relative to the ~~environmental, social,~~

1 ~~and economic conditions and projected changes therein elements in § 49-41B-22, and any applicable~~  
 2 ~~ordinance, resolution, or building code."~~

3 On page 3, line 23, of the House Commerce and Energy Engrossed bill, delete " must supersede  
 4 or preempt" and insert " supersedes and preempts"

5 On page 3, line 23, of the House Commerce and Energy Engrossed bill, after "county" insert "  
 6 township,"

7 On page 3, line 23, of the House Commerce and Energy Engrossed bill, after "county" delete "  
 8 or"

9 On page 3, line 23, of the House Commerce and Energy Engrossed bill, after "municipal" insert  
 10 ", or any other governmental unit"

11 On page 3, line 24, of the House Commerce and Energy Engrossed bill, remove the overstrikes  
 12 from " or"

13 On page 3, line 24, of the House Commerce and Energy Engrossed bill, delete " rules, or safety  
 14 standards, regulations" and insert " rule, regulation"

15 On page 3, line 24, of the House Commerce and Energy Engrossed bill, remove the overstrikes  
 16 from " rules"

17 On page 3, line 24, of the House Commerce and Energy Engrossed bill, after "or" insert "  
 18 ordinance. Any local land use, zoning, or building rule, regulation, or ordinance preempted or  
 19 superseded under this section is not an applicable rule or law under subdivision 49-41B-22(1). A  
 20 route or transmission facility permitted by the commission under this chapter is not subject to any  
 21 local land use, zoning, or building rule, regulation, or ordinance, unless the commission requires  
 22 compliance with any generally applicable rule, regulation, or ordinance as a condition of the permit  
 23 issued. The enforcement of any county, municipal, township, or other governmental unit rule,  
 24 regulation, or ordinance for a transmission facility permitted under this chapter must be done  
 25 pursuant to the order of the commission granting the permit."

26 On page 3, line 24, of the House Commerce and Energy Engrossed bill, after "or" delete "  
 27 ordinances upon a finding by the Public Utilities Commission that such rules, or regulation, or  
 28 ordinances, as applied to the proposed route, are unreasonably restrictive in view of existing  
 29 technology, factors of cost, or economics, or needs of parties where located in or out of the county  
 30 or municipality or such regulations or ordinances are preempted by federal law. Without such a  
 31 finding by the commission, no route shall be designated which violates local land-use zoning, or  
 32 building rules, or regulations, or ordinances

33 An ordinance or regulation is preempted by federal law if:

34 (1) The ordinance or regulation directly conflicts with any federal statute, regulation, standard,  
 35 or common law pertaining to the same subject matter;

36 (2) Any applicable federal statute expressly prohibits a state or political subdivision from  
 37 enacting any ordinance, regulation, or standard pertaining to the same subject matter; or

38 (3) Any applicable federal statute delegates to a federal agency sole authority to enact any  
 39 regulation or standard pertaining to the same subject matter"

40 On page 4, line 15, of the House Commerce and Energy Engrossed bill, delete " 5" and insert  
 41 " 2"

42 On page 5, line 27, of the House Commerce and Energy Engrossed bill, delete " model" and  
 43 insert " analysis"

1 On page 5, line 29, of the House Commerce and Energy Engrossed bill, delete " model" and  
 2 insert " analysis, or a portion of the dispersion analysis,"

3 On page 5, line 29, of the House Commerce and Energy Engrossed bill, delete " model" and  
 4 insert " analysis, or a portion of the dispersion analysis,"

5 On page 5, line 29, of the House Commerce and Energy Engrossed bill, delete " shall" and  
 6 insert " must"

7 On page 5, line 30, of the House Commerce and Energy Engrossed bill, after "record." insert "

8 The commission must make the dispersion analysis available, in relevant part, to each  
 9 applicable county, emergency manager, and law enforcement agency. The commission shall make  
 10 available a dispersion analysis report to the public."

11 On page 6, line 2, of the House Commerce and Energy Engrossed bill, delete " either" and  
 12 insert " a pipeline facility employee,"

13 On page 6, line 3, of the House Commerce and Energy Engrossed bill, after "state" insert the  
 14 comma

15 On page 6, after line 3, of the House Commerce and Energy Engrossed bill, insert: "

16 **Section 14. That a NEW SECTION be added to title 43:**

17 Sections 14 to 15, inclusively, of this Act may be cited as the Landowner Bill of Rights."

18 On page 6, after line 3, of the House Commerce and Energy Engrossed bill, insert: "

19 **Section 15. That a NEW SECTION be added to title 43:**

20 Any landowner granting a carbon pipeline easement has the following rights:

21 (1) Each pipeline placed in a carbon pipeline easement must meet the minimum depth  
 22 requirement in section 8 of this Act;

23 (2) The entity holding rights in the carbon pipeline easement must repair any damage to drain  
 24 tile as set forth in section 9 of this Act;

25 (3) An operator of a pipeline facility carrying carbon dioxide is liable to a landowner for any leaks  
 26 or repairs as provided in section 9 of this Act;

27 (4) An operator of a pipeline facility carrying carbon dioxide must indemnify the owner as  
 28 provided in section 10 of this Act;

29 (5)Any applicant desiring to obtain a permit to operate a pipeline facility carrying carbon dioxide  
 30 must file the plan as provided in section 11 of this Act;

31 (6) Any applicant desiring to obtain a permit to operate a pipeline facility carrying carbon dioxide  
 32 must file a disclosure of the dispersion analysis as provided in section 12 of this Act;

33 (7) Any applicant desiring to obtain a permit to operate a carbon dioxide pipeline facility must  
 34 engage a landowner as required by section 13 of this Act;

35 (8) Each carbon pipeline easement agreement must include a statement disclosing the  
 36 information in HB 1186, § 2, if enacted by the Ninety-Ninth Legislature;

37 (9) If the easement holder mortgages or otherwise encumbers to any party any part of the  
 38 easement holder's rights and interests under the carbon pipeline easement, the

1 mortgage or encumbrance is enforceable only as permitted in HB 1186, § 2, if enacted  
2 by the Ninety-Ninth Legislature;

3 (10) A carbon pipeline easement is not enforceable after the period of time set forth in HB 1186,  
4 § 2, if enacted by the Ninety-Ninth Legislature;

5 (11) An operator of a pipeline facility holding the right in the carbon pipeline easement must  
6 initiate business operations within the time period set forth in HB 1186, § 2, if enacted  
7 by the Ninety-Ninth Legislature;

8 (12) A carbon pipeline easement expires after the passing of a period of nonuse as set forth  
9 in HB 1186, § 2, if enacted by the Ninety-Ninth Legislature;

10 (13) A carbon pipeline easement must be in writing as required by HB 1186, § 2, if enacted by  
11 the Ninety-Ninth Legislature;

12 (14) A landowner granting a carbon pipeline easement has the examination and survey  
13 protection rights as set forth in § 21-35-31; and

14 (15) To receive the one-time payment as provided in HB 1185, § 1, if enacted by the Ninety-  
15 Ninth Legislature."

16 Respectfully submitted,  
17 Casey Crabtree, Chair

Respectfully submitted,  
Will Mortenson, Chair

18 MR. PRESIDENT:

19 The HB1185 A Conference Committee on **HB 1185** respectfully reports that it has considered  
20 the disagreement of the two houses, and returns the same with the recommendation that said bill  
21 be amended as follows:

22 1185G

23 On page 1, line 16, of the Senate Commerce and Energy Engrossed bill, after "15-6-4" insert  
24 " or sent by certified mail with return receipt requested"

25 On page 2, line 3, of the Senate Commerce and Energy Engrossed bill, delete " pipeline for the  
26 transmission of carbon dioxide" and insert " common carrier, as"

27 On page 2, line 3, of the Senate Commerce and Energy Engrossed bill, after "dioxide" insert "  
28 described in § 49-7-11".

29 Respectfully submitted,  
30 Will Mortenson, Chair

Respectfully submitted,  
Casey Crabtree, Chair

31 MR. PRESIDENT:

32 The HB1186 A Conference Committee on **HB 1186** respectfully reports that it has considered  
33 the disagreement of the two houses, and returns the same with the recommendation that said bill  
34 be amended as follows:

35 1186E

36 On the Senate Commerce and Energy Engrossed bill, delete the previously adopted  
37 amendment(s), thus restoring the bill to the House Commerce and Energy Engrossed version.



1 On page 1, line 8, after "pipeline." insert "

2 For the purposes of section 2 of this Act, the term "initiate business operations" means the  
 3 filing of a permit or an application with the state, a political subdivision of the state, a federally  
 4 recognized Indian tribe, or a federal agency having jurisdiction over the project for permitting  
 5 purposes."

6 On page 1, line 10, after "SECTION:" insert "(1) "

7 On page 1, line 15, after "granted." insert "(2) "

8 On page 1, line 17, delete " fifty" and insert " ninety-nine"

9 On page 1, line 17, after "years. " insert "

10 (3) "

11 On page 1, line 17, delete " if no permit has been granted by the Public Utilities Commission  
 12 pertaining to the transportation of carbon dioxide associated with the easement " and insert " if the  
 13 operator does not initiate business operations "

14 On page 1, line 19, delete " effective" and insert " recording"

15 On page 1, line 20, after "easement." delete " In addition to an initial payment for the  
 16 easement, payments associated with the granting or continuance of any carbon pipeline easement  
 17 must be made on an annual basis to the owner of record of the real property and must include a  
 18 payment of at least one dollar per linear foot of carbon pipeline on the property, payable each year  
 19 the pipeline is engaged in actual transportation of carbon dioxide."

20 On page 2, line 1, after "dioxide." insert "(4) "

21 On page 2, line 8, after "agreement." insert "

22 (5) Any carbon pipeline easement shall expire after five years of nonuse at any time after the  
 23 issuance of a permit by the Public Utilities Commission."

24 Respectfully submitted,  
 25 Will Mortenson, Chair

Respectfully submitted,  
 Casey Crabtree, Chair

26 **MESSAGES FROM THE HOUSE**

27 MR. PRESIDENT:

28 I have the honor to inform your honorable body that the House has appointed  
 29 Representatives Venhuizen (Chair), Duffy, and May as a committee of three on the part of the House  
 30 to meet with a like committee on the part of the Senate to adjust the differences between the two  
 31 houses on **SB 144**.

32 Also MR. PRESIDENT:

33 I have the honor to inform your honorable body that the House has adopted the report of the  
 34 Conference Committee on **HB 1092**.

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Respectfully,  
 Patricia Miller, Chief Clerk

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**MOTIONS AND RESOLUTIONS**

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Sen. Crabtree moved that when we adjourn today, we adjourn to convene at 10:00 a.m. on Thursday, March 7, 2024, the 37<sup>th</sup> legislative day.

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Which motion prevailed.

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Sen. Crabtree moved that the Senate do now recess until 12:00 p.m.

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Which motion prevailed and at 10:52 a.m., the Senate recessed.

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**RECESS**

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The Senate reconvened at 12:00 p.m., the President presiding.

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**REPORTS OF CONFERENCE COMMITTEES**

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MR. PRESIDENT:

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The SB144 A Conference Committee on **SB 144** respectfully reports that it has considered the disagreement of the two houses, and returns the same with the recommendation that said bill be amended as follows:

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144J

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On page 1, line 1, of the House Engrossed bill, after "terminal" insert " infrastructure projects and terminal"

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On page 1, line 1, of the House Engrossed bill, delete the comma and insert " and"

18

On page 1, line 2, of the House Engrossed bill, after "expansion" delete ", and infrastructure projects"

19

20

On page 1, line 5, of the House Engrossed bill, delete " terminal" and insert " the"

21

On page 1, line 6, of the House Engrossed bill, after "demands" insert " of terminals"

22

144N

23

On the previously adopted amendment (144J), On page 1, line 5, delete " \$1,903" and insert " \$10,000,000".

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Respectfully submitted,  
Jean Hunhoff, Chair

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Respectfully submitted,  
Tony Venhuizen, Chair

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**CONSIDERATION OF REPORTS OF COMMITTEES**

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

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Joint Appropriations on **SB 51** as found on page 490 of the Senate Journal be adopted.

4

Which motion prevailed and the report was adopted.

5

There being no objection, the Senate proceeded to Order of Business No. 13 - Second reading of Senate Bills and Joint Resolutions.

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

8

**SB 51**: FOR AN ACT ENTITLED, An Act to revise property tax levies for school districts and to revise the state aid to general and special education formulas.

9

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Was read the second time.

11

The question being "Shall **SB 51** pass as amended?"

12

And the roll being called:

13

Yeas 32, Nays 1, Excused 2, Absent 0

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

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Nays: Frye-Mueller

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Excused: Diedrich and Schoenbeck

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

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There being no objection, the Senate reverted to Order of Business No. 9 - Consideration of reports of committees.

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**CONSIDERATION OF REPORTS OF CONFERENCE COMMITTEES**

25

Sen. Johnson moved that the report of the Conference Committee on **SB 144** as found on page 498 of the Senate Journal be adopted.

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The question being on Sen. Johnson's motion that the report of the Conference Committee on **SB 144** be adopted.

28

29

And the roll being called:

30

Yeas 32, Nays 2, Excused 1, Absent 0

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

5 Nays: Frye-Mueller and Pischke

6 Excused: Diedrich

7 So the motion having received an affirmative vote of a two-thirds majority of the members-  
 8 elect, the President declared the motion carried and the report was adopted.

9 Sen. Schoenfish moved that the report of the Conference Committee on **SB 127** as found on  
 10 page 491 of the Senate Journal be adopted.

11 The question being on Sen. Schoenfish's motion that the report of the Conference Committee  
 12 on **SB 127** be adopted.

13 And the roll being called:

14 Yeas 25, Nays 9, Excused 1, Absent 0

15 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Hoffman, Hunhoff, Johnson,  
 16 Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Mehlhaff, Nesiba, Otten (Herman), Reed,  
 17 Schoenbeck, Stalzer, Tobin, Walsh, Wheeler, Wiik, and Zikmund

18 Nays: Duhamel, Foster, Frye-Mueller, Maher, Novstrup, Pischke, Rohl, Schoenfish, and Wink

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 the report was adopted.

22 **SIGNING OF BILLS**

23 The President publicly read the title to

24 **SB 80:** FOR AN ACT ENTITLED, An Act to improve technology equipment for providers of  
 25 elderly care and to make an appropriation therefor.

26 **SB 146:** FOR AN ACT ENTITLED, An Act to revise and repeal provisions related to threatening  
 27 persons holding statewide office, judicial officers, and elected officers and to provide a penalty  
 28 therefor.

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

31 **SB 177:** FOR AN ACT ENTITLED, An Act to permit the appointment of a circuit court judge or  
 32 Supreme Court justice as a member of the Public Utilities Commission in place of a disqualified or  
 33 incapacitated commissioner.

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

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**ANNOUNCEMENTS**

2

The President Pro Tempore announced the following appointments to the International Legislators' Forum: Sen. Deibert replacing Sen. Wink, and Sen. Rohl replacing Sen. Diedrich.

3

4

Sen. Crabtree moved that the Senate do now recess until 2:30 p.m.

5

Which motion prevailed and at 12:52 p.m., the Senate recessed.

6

**RECESS**

7

The Senate reconvened at 2:30 p.m., the President presiding.

8

There being no objection, the Senate reverted to Order of Business No. 5 - Reports of Standing Committees.

9

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**REPORTS OF STANDING COMMITTEES**

11

MR. PRESIDENT:

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The Committee on Legislative Procedure respectfully reports that **SB 80, 146, 151, and 177** were delivered to her Excellency, the Governor, for her approval at 2:07 p.m., March 6, 2024.

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Respectfully submitted,  
Lee Schoenbeck, Chair

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**REPORTS OF CONFERENCE COMMITTEES**

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MR. PRESIDENT:

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The HB1257 A Conference Committee on HB1257 respectfully reports that it has considered the disagreement of the two houses, and returns the same with the recommendation that the Senate and House do NOT concur with the amendments to HB 1257 bill and be amended as follows:

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1257E

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On page 1, line 1, of the Senate Engrossed bill, delete " the Executive Board of the Legislative Research Council to establish an interim study committee on minors' access to pornographic material" and insert " age verification by websites containing material harmful to minors"

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

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**Section 1. That § 22-24-27 be AMENDED:**

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**22-24-27.** Terms used in §§ 22-24-25 to 22-24-37, inclusive, and sections 2 to 6, inclusive, of this Act, mean:

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- (1) "Contemporary community standard," the contemporary community standard of the state in which the question of obscenity is to be tested, by the average person, of the state;

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- 1        (2) "Covered platform," a website for which it is in the regular course of trade or business to  
 2            create, host, or make available material harmful to minors;
- 3        ~~(2)~~(3) "Distributed," to transfer possession of, whether with or without consideration;
- 4        ~~(3)~~(4) "Exhibit," to show or display;
- 5        ~~(4)~~(5) "Harmful to minors," includes in its meaning the quality of any material or of any  
 6            performance or of any description or representation, in whatever form, of nudity, sexual  
 7            conduct, sexual excitement, or sado-masochistic abuse, if it:
- 8            (a)        Predominantly appeals to the prurient, shameful, or morbid interest of minors;  
 9            and
- 10          (b)        Is patently offensive to prevailing standards in the adult community as a whole  
 11            with respect to what is suitable material for minors; and
- 12          (c)        Is without serious literary, artistic, political, or scientific value;
- 13        ~~(5)~~(6) "Magistrate," any circuit court or magistrate judge;
- 14        ~~(6)~~(7) "Material," anything tangible which is harmful to minors, whether derived through the  
 15            medium of reading, observation, or sound;
- 16        ~~(7)~~(8) "Matter" or "material," any book, magazine, newspaper, or other printed or written  
 17            material; or any picture, drawing, photograph, motion picture, or other pictorial  
 18            representation; or any statue or other figure; or recording, transcription or mechanical,  
 19            chemical, or electrical reproduction; or any other articles, equipment, machines, or  
 20            materials;
- 21        ~~(8)~~(9) "Minor," any person less than eighteen years of age;
- 22        ~~(9)~~(10) "Nudity," within the meaning of subdivision (4) of this section, the showing of the human  
 23            male or female genitals, pubic area, or buttocks with less than a full opaque covering,  
 24            or the showing of the female breast with less than a full opaque covering or any portion  
 25            thereof below the top of the nipple, or the depiction of covered male genitals in a  
 26            discernibly turgid state;
- 27        ~~(10)~~(11) "Obscene live conduct," any physical human body activity, whether performed or  
 28            engaged in alone or with other persons, including singing, speaking, dancing, acting,  
 29            simulation, or pantomiming, where:
- 30            (a)        The dominant theme of such conduct, taken as a whole, appeals to a prurient  
 31            interest;
- 32            (b)        The conduct is patently offensive because it affronts contemporary community  
 33            standards relating to the description or representation of sexual matters; and
- 34            (c)        The conduct is without serious literary, artistic, political, or scientific value.
- 35            In prosecutions under §§ 22-24-27 to 22-24-37, inclusive, if circumstances of  
 36            production, presentation, advertising, or exhibition indicate that live conduct is  
 37            being commercially exploited by the defendant for the sake of its prurient  
 38            appeal, such evidence is probative with respect to the nature of the conduct;
- 39        ~~(11)~~(12) "Obscene material," material:
- 40            (a)        The dominant theme of which, taken as a whole, appeals to the prurient interest;

1 (b) Which is patently offensive because it affronts contemporary community  
 2 standards relating to the description or representation of sado-masochistic  
 3 abuse or sexual conduct; and

4 (c) Lacks serious literary, artistic, political, or scientific value.

5 In prosecutions under §§ 22-24-27 to 22-24-37, inclusive, if circumstances of  
 6 production, presentation, sale, dissemination, or publicity indicate that the  
 7 matter is being commercially exploited by the defendant for the sake of its  
 8 prurient appeal, such evidence is probative with respect to the nature of the  
 9 matter;

10 ~~(12)~~(13) "Prurient interest," a shameful or morbid interest in nudity, sex, or excretion, which  
 11 goes substantially beyond customary limits of candor in description or representation of  
 12 such matters. If it appears from the character of the material or the circumstances of  
 13 its dissemination that the subject matter is designed for a specially susceptible audience  
 14 or clearly defined deviant sexual group, the appeal of the subject matter shall be judged  
 15 with reference to such audience or group;

16 (14) "Reasonable age verification," a procedure by which a covered platform confirms that an  
 17 individual attempting to access material harmful to minors is eighteen years of age or  
 18 older by using the following means:

19 (a) A state-issued driver or non-driver identification card;

20 (b) A military identification card;

21 (c) Bank account information;

22 (d) Credit or debit card information, except cards that do not require the individual in  
 23 ownership of the account to be eighteen years of age or older; or

24 (e) Any other method that reliably and accurately determines if a user of a covered  
 25 platform is a minor and prevents access by minors to the content on a covered  
 26 platform;

27 ~~(13)~~(15) "Sado-masochistic abuse," flagellation or torture by or upon a person who is nude  
 28 or clad in undergarments, a mask or bizarre costume, or the condition of being fettered,  
 29 bound, or otherwise physically restrained on the part of one who is nude or so clothed;

30 ~~(14)~~(16) "Sexual conduct," within the meaning of subdivision (4) of this section, any act of  
 31 masturbation, homosexuality, sexual intercourse, or physical contact with a person's  
 32 clothed or unclothed genitals, pubic area, buttocks, or if such person be a female, the  
 33 breast;

34 ~~(15)~~(17) "Sexual excitement," the condition of human male or female genitals when in a state  
 35 of sexual stimulation or arousal.

36 **Section 2. That a NEW SECTION be added to chapter 22-24:**

37 It is unlawful for a covered platform to publish or distribute material harmful to minors on the  
 38 internet unless the platform performs a reasonable age verification to verify the age of an individual  
 39 attempting to access the material and prevent access by minors to the material.

40 **Section 3. That a NEW SECTION be added to chapter 22-24:**

41 Any covered platform or third party that performs the required age verification pursuant to  
 42 section 2 of this Act may not retain any identifying information of the individual after access has  
 43 been granted to the material. Any covered platform or third party that knowingly retains identifying

1 information of the individual is liable to the individual for damages for retaining the identifying  
 2 information, including court costs and reasonable attorney fees.

3 **Section 4. That a NEW SECTION be added to chapter 22-24:**

4 The attorney general may investigate an alleged violation under sections 2 to 6, inclusive, of  
 5 this Act and initiate a civil action on behalf of the state to assess civil penalties. Prior to bringing a  
 6 complaint in court, the attorney general must notify the covered platform and provide at least thirty  
 7 days for the covered platform to comply with sections 2 to 6, inclusive, this Act.

8 Nothing in this section limits the right of any private person to pursue a civil action under  
 9 sections 2 to 6, inclusive, of this Act.

10 **Section 5. That a NEW SECTION be added to chapter 22-24:**

11 Any waiver, purported waiver, or estoppel of a person's right to bring a civil action under  
 12 sections 2 to 6, inclusive, of this Act is void. No court or arbitrator may enforce or give effect to the  
 13 waiver or estoppel, notwithstanding any choice-of-law or other provision in any contract or other  
 14 agreement.

15 **Section 6. That a NEW SECTION be added to chapter 22-24:**

16 Sections 2 to 6, inclusive, of this Act does not apply to any general purpose search engine,  
 17 internet service provider or its affiliates or subsidiaries, or cloud service provider.

18 **Section 7. That § 22-24-29 be AMENDED:**

19 **22-24-29.** A person is guilty of disseminating material harmful to minors if that person  
 20 knowingly gives or makes available to a minor or promotes or possesses with intent to promote to  
 21 minors, or if that person knowingly sells or loans to a minor for monetary consideration, any material  
 22 described in subdivision ~~§ 22-24-27(4)~~ 22-24-27(5).

23 **Section 8. That § 22-24-58 be AMENDED:**

24 **22-24-58.** For the purposes of §§ 22-24-55 to 22-24-59, inclusive, obscene material is defined  
 25 pursuant to subdivision ~~22-24-27(11)~~ 22-24-27(12)."

26 Also MR. PRESIDENT:

27 The HB1257 A Conference Committee on HB1257 respectfully reports that it has considered  
 28 the disagreement of the two houses, and returns the same with the recommendation that the Senate  
 29 and House do NOT concur with the amendments to HB 1257 and DO appoint a new committee.

30 Respectfully submitted,  
 31 Jon Hansen, Chair

Respectfully submitted,  
 Lee Schoenbeck, Chair



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**MESSAGES FROM THE HOUSE**

2 MR. PRESIDENT:

3 I have the honor to inform your honorable body that the House has concurred in Senate  
4 amendments to **HB 1093**.

5 Also MR. PRESIDENT:

6 I have the honor to inform your honorable body that the House has adopted the report of the  
7 Conference Committee on **SB 144**.

8 Also MR. PRESIDENT:

9 I have the honor to inform your honorable body that the House has adopted the report of the  
10 Conference Committee on **SB 127**.

11 Also MR. PRESIDENT:

12 I have the honor to inform your honorable body that the House has adopted the report of the  
13 Conference Committee on **SB 201**.

14 Also MR. PRESIDENT:

15 I have the honor to inform your honorable body that the House has adopted the report of the  
16 Conference Committee on **HB 1185**.

17 Also MR. PRESIDENT:

18 I have the honor to inform your honorable body that the House has adopted the report of the  
19 Conference Committee on **HB 1186**.20  
21Respectfully,  
Patricia Miller, Chief Clerk

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**CONSIDERATION OF REPORTS OF CONFERENCE COMMITTEES**23 Sen. Crabtree moved that the report of the Conference Committee on **SB 201** as found on  
24 page 491 of the Senate Journal be adopted.25 The question being on Sen. Crabtree's motion that the report of the Conference Committee on  
26 **SB 201** be adopted.

27 And the roll being called:

28 Yeas 24, Nays 10, Excused 1, Absent 0

29 Yeas: Beal, Breitling, Crabtree, Davis, Deibert, Duhamel, Hunhoff, Johnson, Klumb, Kolbeck  
30 (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff, Nesiba, Reed, Schoenbeck, Schoenfish, Stalzer,  
31 Tobin, Walsh, Wheeler, Wiik, and Zikmund

1 Nays: Bolin, Bordeaux, Foster, Frye-Mueller, Hoffman, Novstrup, Otten (Herman), Pischke,  
2 Rohl, and Wink

3 Excused: Diedrich

4 So the motion having received an affirmative vote of a majority of the members-elect, the  
5 President declared the motion carried and the report was adopted.

6 Sen. Crabtree moved that the report of the Conference Committee on **HB 1185** as found on  
7 page 496 of the Senate Journal be adopted.

8 The question being on Sen. Crabtree's motion that the report of the Conference Committee on  
9 **HB 1185** be adopted.

10 And the roll being called:

11 Yeas 29, Nays 5, Excused 1, Absent 0

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

15 Nays: Bordeaux, Foster, Frye-Mueller, Novstrup, and Pischke

16 Excused: Diedrich

17 So the motion having received an affirmative vote of a majority of the members-elect, the  
18 President declared the motion carried and the report was adopted.

19 Sen. Crabtree moved that the report of the Conference Committee on **HB 1186** as found on  
20 page 496 of the Senate Journal be adopted.

21 The question being on Sen. Crabtree's motion that the report of the Conference Committee on  
22 **HB 1186** be adopted.

23 And the roll being called:

24 Yeas 24, Nays 10, Excused 1, Absent 0

25 Yeas: Beal, Breitling, Crabtree, Davis, Deibert, Duhamel, Hunhoff, Johnson, Klumb, Kolbeck  
26 (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff, Nesiba, Reed, Schoenbeck, Schoenfish, Stalzer,  
27 Tobin, Walsh, Wheeler, Wiik, and Zikmund

28 Nays: Bolin, Bordeaux, Foster, Frye-Mueller, Hoffman, Novstrup, Otten (Herman), Pischke,  
29 Rohl, and Wink

30 Excused: Diedrich

31 So the motion having received an affirmative vote of a majority of the members-elect, the  
32 President declared the motion carried and the report was adopted.

33 Sen. Schoenbeck moved that the report of the Conference Committee on **HB 1257** as found  
34 on page 501 of the Senate Journal not be adopted and do not appoint a new committee.

35 The question being on Sen. Schoenbeck's motion that the report of the Conference Committee  
36 on **HB 1257** not be adopted and to not appoint a new committee.

1 And the roll being called:

2 Yeas 24, Nays 10, Excused 1, Absent 0

3 Yeas: Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Hunhoff, Johnson, Klumb,  
4 Larson, Maher, Nesiba, Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Tobin, Walsh,  
5 Wheeler, Wiik, Wink, and Zikmund

6 Nays: Beal, Foster, Frye-Mueller, Hoffman, Kolbeck (Jack), Kolbeck (Steve), Mehlhaff,  
7 Novstrup, Pischke, and Stalzer

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 the report was not adopted, and no new committee was  
11 appointed.

12 There being no objection, the Senate reverted to Order of Business No. 8 – Motions and  
13 Resolutions.

14 **MOTIONS AND RESOLUTIONS**

15 Sen. Rohl moved that the Senate do concur in House amendments to **SB 217**.

16 The question being on Sen. Rohl's motion that the Senate do concur in House amendments to  
17 **SB 217**.

18 And the roll being called:

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

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

24 Nays: Foster and Nesiba

25 Excused: Diedrich

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

28 **SIGNING OF BILLS**

29 The President publicly read the title to

30 **HB 1092:** FOR AN ACT ENTITLED, An Act to revise provisions regarding the 911 emergency  
31 surcharge.

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

1 **HB 1244:** FOR AN ACT ENTITLED, An Act to provide a process to withdraw a signature from a  
 2 petition for an initiated measure, constitutional amendment, or a referendum on a law in certain  
 3 situations and to declare an emergency.

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

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

7 There being no objection, the Senate reverted to Order of Business No. 5 - Reports of  
 8 Conference Committee.

9 **REPORTS OF CONFERENCE COMMITTEES**

10 MR. PRESIDENT:

11 The HB1140 A Conference Committee on HB1140 respectfully reports that it has considered  
 12 the disagreement of the two houses, and returns the same with the recommendation that said bill  
 13 be amended as follows:

14 1140G

15 On page 1, line 6, of the Senate Engrossed bill, after "The" insert " The person submitting the  
 16 petition may withdraw the petition at any time prior to the scheduling of the election."

17 On page 1, line 17, of the Senate Engrossed bill, after "The " insert "The person submitting the  
 18 petition may withdraw the petition at any time prior to the scheduling of the election. "

19 And that as so amended, be concurred in.

20 Respectfully submitted,  
 21 Kristin A. Conzet, Chair

Respectfully submitted,  
 David Wheeler, Chair

22 **CONSIDERATION OF REPORTS OF CONFERENCE COMMITTEES**

23 Sen. Wheeler moved that the report of the Conference Committee on **HB 1140** as found on  
 24 page 508 of the Senate Journal be adopted.

25 The question being on Sen. Wheeler's motion that the report of the Conference Committee on  
 26 **HB 1140** be adopted.

27 And the roll being called:

28 Yeas 29, Nays 5, Excused 1, Absent 0

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

32 Nays: Foster, Frye-Mueller, Hoffman, Mehlhaff, and Pischke

33 Excused: Diedrich

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1           So the motion having received an affirmative vote of a two-thirds majority of the members-  
2           elect, the President declared the motion carried and the report was adopted.

3           Sen. Bolin moved that the Senate do now adjourn, which motion prevailed and at 3:45 p.m.  
4           the Senate adjourned.

5  
Peggy Laurenz, Secretary

