

JOURNAL OF THE SENATE

ONE HUNDREDTH SESSION

TWENTY-FIRST DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, February 13, 2025

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

The prayer was offered by the Chaplain, Rev. Russell Jones, followed by the Pledge of Allegiance led by Senate pages Emma Kilene and Bailey Link.

Roll Call: All members present.

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 20th 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,
Chris Karr, Chair

Which motion prevailed.

1

COMMUNICATIONS AND PETITIONS

2

February 12, 2025

3

Mr. President and Members of the Senate:

4

I have the honor to inform you that on February 12, 2025, I approved Senate Bill 74, and the same has been deposited in the office of the Secretary of State.

5

6

Respectfully submitted,

7

Larry Rhoden

8

Governor

9

REPORTS OF STANDING COMMITTEES

10

MR. PRESIDENT:

11

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 156** and returns the same with the recommendation that said bill do pass.

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Respectfully submitted,

14

David Wheeler, Chair

15

MR. PRESIDENT:

16

The Committee on Senate Education respectfully reports that it has had under consideration **SB 208** and returns the same with the recommendation that said bill be amended as follows:

17

18

208C

19

On page 2, line 21, of the Introduced bill, after "of" delete " a number of voters equal to"

20

On page 2, line 22, of the Introduced bill, delete " in the school district, who cast a vote in the last general election" and insert " casting a vote on the question"

21

22

On page 3, line 3, of the Introduced bill, remove the overstrikes from " relating to elections and the issue shall be decided by sixty percent of those voting thereon"

23

24

On page 3, line 4, of the Introduced bill, after "thereon" delete ". Approval of the question to enter into an agreement or issue capital outlay certificates requires an affirmative vote of a number of voters equal to at least sixty percent of the total number of voters in the school district, who cast a vote in the last general election"

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27

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And that as so amended, **SB 208** do pass.

29

Also MR. PRESIDENT:

30

The Committee on Senate Education respectfully reports that it has had under consideration **SB 219** and returns the same with the recommendation that said bill do pass.

31

1 Also MR. PRESIDENT:

2 The Committee on Senate Education respectfully reports that it has had under consideration
3 **HB 1074 and 1075** and returns the same with the recommendation that said bills do pass, and
4 having been certified as uncontested, be placed on the consent calendar.

5 Respectfully submitted,
6 Kyle Schoenfish, Chair

7 MR. PRESIDENT:

8 The Committee on Senate Judiciary respectfully reports that it has had under consideration
9 **SB 122** which was deferred to the 41st Legislative Day.

10 Also MR. PRESIDENT:

11 The Committee on Senate Judiciary respectfully reports that it has had under consideration
12 **SB 123 and 140** and returns the same with the recommendation that said bills do pass, and having
13 been certified as uncontested, be placed on the consent calendar.

14 Also MR. PRESIDENT:

15 The Committee on Senate Judiciary respectfully reports that it has had under consideration
16 **SB 175** and returns the same with the recommendation that said bill be amended as follows:

17 175B

18 On page 3, line 14, of the Introduced bill, delete " The" and insert " In addition to the
19 information required pursuant to § 54-4-40, the"

20 On page 4, line 6, of the Introduced bill, after "to " insert "subdivision (1) of this "

21 On page 4, line 6, of the Introduced bill, after "section" delete " 5 of this Act"

22 On page 4, line 9, of the Introduced bill, after "records." delete " The division's duty to file
23 documents is ministerial. The division's filing or refusing to file a document does not create a
24 presumption that:

25 (1) The document does or does not conform to the requirements of this Act; or

26 (2) The information contained in the document is correct or incorrect."

27 On page 5, line 17, of the Introduced bill, after "concern." insert "

28 Any action arising out of a violation of this section must be brought in a court of competent
29 jurisdiction."

30 On page 6, line 29, of the Introduced bill, after "attorney."" insert "

31 The litigation financing contract must also include the disclosures required pursuant to § 54-
32 4-58."

33 On page 8, line 19, of the Introduced bill, delete " 13" and insert " 11"

34 And that as so amended, **SB 175** do pass.

1 Also MR. PRESIDENT:

2 The Committee on Senate Judiciary respectfully reports that it has had under consideration
3 **SB 215** and returns the same with the recommendation that said bill be amended as follows:

4 215B

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

6 **Section 1. That § 43-13-6 be AMENDED:**

7 **43-13-6.** ~~Except as provided in section 2 of this Act, a servitude thereon cannot on a servient~~
8 ~~tenement may not~~ be held by the owner of the servient tenement. A servitude is extinguished by
9 the vesting of the right to servitude and the right to the servient tenement in the same person."

10 On page 1, line 5, of the Introduced bill, delete "The common law doctrine of merger does not
11 apply to a servitude held by the owner of the servient tenement" and insert "An easement or
12 servitude created by an owner is valid and effective, notwithstanding the common ownership of the
13 benefited and burdened property, at the time of creation or after reacquisition of the property by
14 the creator of the easement or servitude"

15 On page 1, line 7, of the Introduced bill, after "tenement." delete "Section 2. That § 43-13-6
16 be REPEALED.

17 "

18 On page 1, line 8, of the Introduced bill, after "REPEALED." delete "A servitude thereon cannot
19 be held by the owner of the servient tenement. A servitude is extinguished by the vesting of the
20 right to servitude and the right to the servient tenement in the same person."

21 And that as so amended, **SB 215** do pass, and having been certified as uncontested, be placed
22 on the consent calendar.

23 Respectfully submitted,
24 David Wheeler, Chair

25 MR. PRESIDENT:

26 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
27 had under consideration **SB 120** and returns the same with the recommendation that said bill be
28 amended as follows:

29 120A

30 On page 2, after line 2, of the Introduced bill, insert: "

31 **Section 3. That § 40-3-10 be AMENDED:**

32 **40-3-10.** In Title 40, the terms "livestock," "domestic animals," and "nondomestic animal"
33 include poultry, unless a different intention is clearly implied. The term "poultry" includes chickens,
34 turkeys, ducks, geese, and any other game bird raised in captivity, excluding pigeons and doves."

35 And that as so amended, **SB 120** do pass, and having been certified as uncontested, be placed
36 on the consent calendar.

1 Also MR. PRESIDENT:

2 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
3 had under consideration **SCR 605** and returns the same with the recommendation that said
4 resolution be adopted, and having been certified as uncontested, be placed on the consent calendar.

5 Respectfully submitted,
6 Tom Pischke, Chair

7 MR. PRESIDENT:

8 The Joint Committee on Appropriations respectfully reports that it has had under consideration
9 **SB 65** and returns the same with the recommendation that said bill be amended as follows:

10 65A

11 On page 1, line 8, of the Introduced bill, delete " Rapid City" and insert " Box Elder"

12 And that as so amended, **SB 65** do pass.

13 Respectfully submitted,
14 Ernie Otten, Co-Chair

Respectfully submitted,
Mike Derby, Co-Chair

15 **MESSAGES FROM THE HOUSE**

16 MR. PRESIDENT:

17 I have the honor to transmit herewith **HCR 6002 and 6009** which have been adopted by the
18 House and your concurrence is respectfully requested.

19 Also MR. PRESIDENT:

20 I have the honor to transmit herewith **HB 1063, 1095, 1139, 1160, 1166, and 1208** which
21 have passed the House and your favorable consideration is respectfully requested.

22 Respectfully,
23 Patricia Miller, Chief Clerk

24 **MOTIONS AND RESOLUTIONS**

25 **SCR 607:** A CONCURRENT RESOLUTION, Encouraging the Legislature to continue using
26 person-first language that acknowledges the person before any disability.

27 Was read the second time.

28 Sen. Crabtree moved that **SCR 607** as found on page 248 of the Senate Journal be adopted.

29 The question being on Sen. Crabtree's motion that **SCR 607** be adopted.

30 And the roll being called:

31 Yeas 35, Nays 0, Excused 0, Absent 0

1 Yeas: Beal, Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard,
2 Hulse, Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson,
3 Otten, Perry, Peterson (Sue), Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight,
4 Voita, Wheeler, and Zikmund

5 So the motion having received an affirmative vote of a majority of the members-elect, the
6 President declared the motion carried and **SCR 607** was adopted.

7 Sen. Mehlhaff moved that **SB 62 and 196** be deferred to Tuesday, February 18, 2025, the
8 22nd legislative day.

9 Which motion prevailed.

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

12 **REPORTS OF STANDING COMMITTEES**

13 MR. PRESIDENT:

14 The Committee on Senate Commerce and Energy respectfully reports that it has had under
15 consideration **SB 130 and 206** which were deferred to the 41st Legislative Day.

16 Also MR. PRESIDENT:

17 The Committee on Senate Commerce and Energy respectfully reports that it has had under
18 consideration **SB 203 and 205** and returns the same with the recommendation that said bills do
19 pass.

20 Also MR. PRESIDENT:

21 The Committee on Senate Commerce and Energy respectfully reports that it has had under
22 consideration **SJR 507** which was tabled.

23 Respectfully submitted,
24 Casey Crabtree, Chair

25 **CONSIDERATION OF REPORTS OF COMMITTEES**

26 Sen. Mehlhaff moved that the reports of the Standing Committees on

27 Local Government on **SB 167** as found on page 248 of the Senate Journal; also

28 State Affairs on **SB 185** as found on page 244 of the Senate Journal; also

29 State Affairs on **SB 218** as found on page 246 of the Senate Journal be adopted.

30 Which motion prevailed and the reports were adopted.

1

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

2

HB 1095: FOR AN ACT ENTITLED, An Act to extend the area in which a director for an irrigation district may reside.

3

4

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

5

HB 1166: FOR AN ACT ENTITLED, An Act to enhance penalties for the violation of right-to-work statutes and to provide a penalty therefor.

6

7

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

8

HB 1063: FOR AN ACT ENTITLED, An Act to revise the provisions for preparing a fiscal note for ballot questions.

9

10

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

11

HB 1139: FOR AN ACT ENTITLED, An Act to allow individualized investigative treatments for patients with life-threatening or debilitating diseases or conditions.

12

13

Was read the first time and referred to the Committee on Health and Human Services.

14

HB 1208: FOR AN ACT ENTITLED, An Act to provide for registration of an overseas citizen or individual using the address of a mail forwarding service or post office box as a national voter.

15

16

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

17

HB 1160: FOR AN ACT ENTITLED, An Act to waive the driver license renewal period for members of the military and their families, and employees of the state department.

18

19

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

20

HCR 6002: A CONCURRENT RESOLUTION, Urging the United States Congress and the President of the United States to remove the requirement of a project labor agreement for federal construction projects.

21

22

23

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

24

HCR 6009: A CONCURRENT RESOLUTION, Requesting the attorney general to file a lawsuit against the People's Republic of China and related parties to seek damages related to the COVID-19 global pandemic.

25

26

27

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

28

The following bills were read on February 11, 2025, and today the President Pro Tem assigned these bills to committee:

29

30

HB 1069 was referred to the Committee on Commerce and Energy.

31

HB 1154 was referred to the Committee on Local Government.

1 **HB 1130** and **HB 1184** were referred to the Committee on State Affairs.

2 The following bills were read on February 12, 2025, and today the President Pro Tem assigned
3 these bills to committee:

4 **HB 1021** was referred to the Committee on Agriculture and Natural Resources.

5 **HB 1057** was referred to the Senate Committee on Appropriations.

6 **HB 1096** was referred to the Committee on Judiciary.

7 **SECOND READING AND CONSIDERATION OF CONSENT CALENDAR ITEMS**

8 **SB 63:** FOR AN ACT ENTITLED, An Act to establish protections for state employees who report
9 improper governmental conduct and crime.

10 **HB 1056:** FOR AN ACT ENTITLED, An Act to prohibit the preparation, sale, and distribution of
11 certain kratom products and to provide a penalty therefor.

12 **HB 1125:** FOR AN ACT ENTITLED, An Act to create a share the road bicyclist safety emblem
13 for use on an emblem specialty plate.

14 Were read the second time.

15 The question being "Shall **SB 63, and HB 1056 and 1125** pass as amended?"

16 And the roll being called:

17 Yeas 35, Nays 0, Excused 0, Absent 0

18 Yeas: Beal, Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard,
19 Hulse, Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson,
20 Otten, Perry, Peterson (Sue), Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight,
21 Voita, Wheeler, and Zikmund

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

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

25 **SB 111:** FOR AN ACT ENTITLED, An Act to permit a court to order family therapy or
26 reunification therapy in a custody or visitation dispute.

27 Was read the second time.

28 The question being "Shall **SB 111** pass?"

29 And the roll being called:

30 Yeas 35, Nays 0, Excused 0, Absent 0

31 Yeas: Beal, Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard,
32 Hulse, Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson,

1 Otten, Perry, Peterson (Sue), Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight,
2 Voita, Wheeler, and Zikmund

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

5 **SB 176:** FOR AN ACT ENTITLED, An Act to clarify the discovery procedures and powers of the
6 Government Operations and Audit Committee.

7 Was read the second time.

8 Sen. Karr moved that **SB 176** be amended as follows:

9 176C

10 On page 1, line 1, of the Senate State Affairs Engrossed bill, after "powers " insert "and to
11 modify the administration "

12 On page 1, after line 3, of the Senate State Affairs Engrossed bill, insert: "

13 **Section 1. That § 2-6-2 be AMENDED:**

14 **2-6-2.** There shall be appointed at each regular session of the Legislature a Government
15 Operations and Audit Committee of ten, consisting of five members of the Senate appointed by the
16 president pro tempore of the Senate, one of whom shall be a member of the Judiciary Committee,
17 and five members of the House of Representatives appointed by the speaker of the house, one of
18 whom shall be a member of the Judiciary Committee, for the purpose of inquiry and review of any
19 phase of the operations and the fiscal affairs of any department, institution, board, or agency of the
20 state, to review any findings of abuse or neglect in a juvenile corrections facility, to make a
21 continuing study of the operation of the state's correctional system, and to make a detailed report
22 to the Senate and House of Representatives and submit a copy of its report to the appropriation
23 committee of each house of the Legislature at the next succeeding session of the Legislature or any
24 special session of the Legislature upon request of the body.

25 ~~The Department of Legislative Audit~~ Legislative Research Council shall provide assistance,
26 including clerical help, to the committee upon request."

27 On page 2, after line 14, of the Senate State Affairs Engrossed bill, insert: "

28 The committee may authorize the director of the Legislative Research Council to expend
29 moneys from the legislative priority fund for the purpose of carrying out the duties of this section.
30 "

31 Which motion prevailed.

32 The question being "Shall **SB 176** pass as amended?"

33 And the roll being called:

34 Yeas 35, Nays 0, Excused 0, Absent 0

35 Yeas: Beal, Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard,
36 Hulse, Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson,
37 Otten, Perry, Peterson (Sue), Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight,
38 Voita, Wheeler, and Zikmund

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

1 **SB 177:** FOR AN ACT ENTITLED, An Act to provide a sales and use tax refund for goods and
2 services related to data center operations.

3 Was read the second time.

4 Sen. Schoenfish moved that **SB 177** be amended as follows:

5 177D

6 On page 2, line 22, of the Senate Taxation Engrossed bill, after "center" delete " during a
7 twenty-year period beginning on the qualifying date"

8 Which motion prevailed.

9 The question being "Shall **SB 177** pass as amended?"

10 And the roll being called:

11 Yeas 17, Nays 18, Excused 0, Absent 0

12 Yeas: Crabtree, Davis, Deibert, Duhamel, Hulse, Kolbeck (Steve), Larson, Mehlhaff, Miskimins,
13 Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Wheeler, and Zikmund

14 Nays: Beal, Blanc, Carley, Foster, Grove, Hohn, Howard, Jensen (Kevin), Karr, Lapka, Marty,
15 Nelson, Otten, Perry, Peterson (Sue), Pischke, Voight, and Voita

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

18 Sen. Wheeler announced his intention to reconsider the vote by which **SB 177** lost.

19 **SB 190:** FOR AN ACT ENTITLED, An Act to provide school choice through an education tax
20 credit.

21 Was read the second time.

22 The question being "Shall **SB 190** pass as amended?"

23 And the roll being called:

24 Yeas 11, Nays 24, Excused 0, Absent 0

25 Yeas: Beal, Blanc, Carley, Hohn, Howard, Karr, Nelson, Peterson (Sue), Pischke, Voight, and
26 Voita

27 Nays: Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hulse, Jensen (Kevin), Kolbeck
28 (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Otten, Perry, Reed, Rohl, Sauder, Schoenfish,
29 Smith, Vilhauer, Wheeler, and Zikmund

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

32 **SB 192:** FOR AN ACT ENTITLED, An Act to rename the Department of Corrections.

33 Was read the second time.

1 The question being "Shall **SB 192** pass?"

2 And the roll being called:

3 Yeas 35, Nays 0, Excused 0, Absent 0

4 Yeas: Beal, Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard,
5 Hulse, Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson,
6 Otten, Perry, Peterson (Sue), Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight,
7 Voita, Wheeler, and Zikmund

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

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

11 **HB 1072:** FOR AN ACT ENTITLED, An Act to modernize provisions relating to water
12 development districts.

13 Was read the second time.

14 The question being "Shall **HB 1072** pass as amended?"

15 And the roll being called:

16 Yeas 35, Nays 0, Excused 0, Absent 0

17 Yeas: Beal, Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard,
18 Hulse, Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson,
19 Otten, Perry, Peterson (Sue), Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight,
20 Voita, Wheeler, and Zikmund

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

23 **HB 1121:** FOR AN ACT ENTITLED, An Act to revise passenger limits for holders of restricted
24 minor's driving permits.

25 Was read the second time.

26 The question being "Shall **HB 1121** pass?"

27 And the roll being called:

28 Yeas 11, Nays 24, Excused 0, Absent 0

29 Yeas: Crabtree, Davis, Hulse, Mehlhaff, Miskimins, Reed, Rohl, Sauder, Schoenfish, Vilhauer,
30 and Wheeler

31 Nays: Beal, Blanc, Carley, Deibert, Duhamel, Foster, Grove, Hohn, Howard, Jensen (Kevin),
32 Karr, Kolbeck (Steve), Lapka, Larson, Marty, Nelson, Otten, Perry, Peterson (Sue), Pischke, Smith,
33 Voight, Voita, and Zikmund

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

1

SIGNING OF BILLS

2

The President publicly read the title to

3

4

5

HB 1047: FOR AN ACT ENTITLED, An Act to make an appropriation to reimburse health care professionals who have complied with the requirements for rural recruitment assistance programs, and to declare an emergency.

6

And signed the same in the presence of the Senate.

7

8

Sen. Otten moved that the Senate do now adjourn, which motion prevailed and at 3:35 p.m. the Senate adjourned.

9

Peggy Laurenz, Secretary

10