

JOURNAL OF THE SENATE

EIGHTY-SEVENTH SESSION

THIRTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, February 1, 2012

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

The prayer was offered by the Chaplain, Rev. Mike Bishop, followed by the Pledge of Allegiance led by Senate page Sean Meginness.

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 twelfth 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,
Bob Gray, Chair

Which motion prevailed.

1

HONORED GUESTS

2 The President introduced the following 2010-2011 South Dakota Outstanding School
3 Administrators: Steve Morford, secondary principal, Spearfish; Nick Gottlob, middle school
4 principal, Lead-Deadwood; Sarah Richarz, special educaton director, Canton; Janna Ellingson,
5 curriculum director, Flandreau; Terry Brooks, business manager, Chamberlain; Faith Stratton,
6 elementary principal, Chester; Mark Greguson, superintendent, Chester; Demetria Moon,
7 assistant secondary principal, Huron.

8

REPORTS OF STANDING COMMITTEES

9 MR. PRESIDENT:

10 The Committee on Local Government respectfully reports that it has had under
11 consideration HB 1069 and returns the same with the recommendation that said bill do pass.

12 Also MR. PRESIDENT:

13 The Committee on Local Government respectfully reports that it has had under
14 consideration SB 171 which was deferred to the 41st Legislative Day.

15 Respectfully submitted,
16 Todd Schlekeway, Chair

17 Also MR. PRESIDENT:

18 The Committee on Transportation respectfully reports that it has had under consideration
19 SB 80 which was tabled.

20 Also MR. PRESIDENT:

21 The Committee on Transportation respectfully reports that it has had under consideration
22 SB 118 which was deferred to the 41st Legislative Day.

23 Respectfully submitted,
24 Mike Vehle, Chair

25 Also MR. PRESIDENT:

26 The Committee on Taxation respectfully reports that it has had under consideration SB 100
27 and returns the same with the recommendation that said bill be amended as follows:

1 100ta

2 On page 1, line 6, of the printed bill, delete "and blended with gasoline".

3 And that as so amended said bill do pass and be placed on the consent calendar.

4 Also MR. PRESIDENT:

5 The Committee on Taxation respectfully reports that it has had under consideration SB 111
6 and returns the same with the recommendation that said bill be amended as follows:

7 111fa

8 On the printed bill, delete everything after the enacting clause and insert:

9 "Section 1. That § 45-6B-14 be amended to read as follows:

10 45-6B-14. The application fee of one thousand dollars shall accompany the application.
11 However, the application fee shall be fifty thousand dollars for a new large scale precious metal,
12 coal, or uranium mine permit. The application fee for an amendment to an existing large scale
13 precious metal, coal, or uranium mine permit shall be five thousand dollars."

14 111ftb

15 On page 1, line 1, of the printed bill, delete everything after "to" and insert "revise the
16 mining permit fees."

17 On page 1, delete line 2.

18 And that as so amended said bill do pass and be placed on the consent calendar.

19 Respectfully submitted,
20 Tom Hansen, Chair

21 Also MR. PRESIDENT:

22 The Committee on State Affairs respectfully reports that it has had under consideration
23 HJR 1001 and HB 1056 and returns the same with the recommendation that said bill and
24 resolution do pass.

1 Also MR. PRESIDENT:

2 The Committee on State Affairs respectfully reports that it has had under consideration
3 SB 114 and returns the same with the recommendation that said bill be amended as follows:

4 114ja

5 On page 1 of the printed bill, delete lines 3 and 4, and insert :

6 "Section 1. That chapter 1-6 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The American bison is hereby designated as the state mascot of South Dakota."

9 114jta

10 On page 1, line 1, of the printed bill, after "state" insert "mascot".

11 And that as so amended said bill do pass.

12 Also MR. PRESIDENT:

13 The Committee on State Affairs respectfully reports that it has had under consideration
14 SB 124 and returns the same with the recommendation that said bill be amended as follows:

15 124fa

16 On page 3 of the printed bill, delete lines 8 to 24, inclusive.

17 On page 4, delete lines 1 to 7, inclusive.

18 On page 4, line 8, delete "sections 3 and 4" and insert "section 3".

19 And that as so amended said bill do pass.

20 Respectfully submitted,
21 Larry Rhoden, Chair

22 Also MR. PRESIDENT:

23 The Committee on Health and Human Services respectfully reports that it has had under
24 consideration SB 163 which was deferred to the 41st Legislative Day.

25 Respectfully submitted,
26 Jean M. Hunhoff, Chair

1 Also MR. PRESIDENT:

2 The Committee on Legislative Procedure respectfully reports that SB 12 was delivered to
3 his Excellency, the Governor, for his approval at 10:30 a.m., February 1, 2012.

4 Respectfully submitted,
5 Bob Gray, Chair

6 **MESSAGE FROM THE HOUSE**

7 MR. PRESIDENT:

8 I have the honor to transmit herewith HB 1026, 1037, 1041, 1076, 1088, 1154, 1177, 1182,
9 and 1196 and HJR 1004 which have passed the House and your favorable consideration is
10 respectfully requested.

11 Respectfully,
12 Karen Gerdes, Chief Clerk

13 **CONSIDERATION OF REPORTS OF COMMITTEES**

14 Sen. Olson moved that the reports of the Standing Committees on
15 Education on SB 106 as found on page 224 of the Senate Journal; also
16 Commerce and Energy on SB 11 as found on page 224 of the Senate Journal; also
17 Commerce and Energy on SB 103 as found on page 225 of the Senate Journal; also
18 Commerce and Energy on SB 115 as found on page 225 of the Senate Journal; also
19 Judiciary on SB 68 as found on page 226 of the Senate Journal; also
20 Judiciary on SB 76 as found on page 227 of the Senate Journal; also
21 Judiciary on SB 86 as found on page 227 of the Senate Journal be adopted.
22 Which motion prevailed.

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

2 HB 1026: FOR AN ACT ENTITLED, An Act to repeal certain outdated or unnecessary
3 statutes related to the Department of Social Services.

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

5 HB 1037: FOR AN ACT ENTITLED, An Act to revise the purpose of the agriculture
6 mediation program.

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

9 HB 1041: FOR AN ACT ENTITLED, An Act to authorize a carryover of the fiscal year
10 2012 state aid to special education appropriation to fiscal year 2013 for the purpose of
11 maintaining federal maintenance of effort levels.

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

13 HB 1076: FOR AN ACT ENTITLED, An Act to retain certain members of municipal
14 governing bodies in office following the redistricting of municipal wards.

15 Was read the first time and referred to the Committee on Local Government.

16 HB 1088: FOR AN ACT ENTITLED, An Act to revise certain requirements for charging
17 and collecting certain fees for confining certain people in the county jail.

18 Was read the first time and referred to the Committee on Local Government.

19 HB 1154: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the
20 construction of roads outside the road district.

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

22 HB 1177: FOR AN ACT ENTITLED, An Act to establish provisions to exempt
23 breastfeeding mothers or new parents from jury duty.

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

1 HB 1182: FOR AN ACT ENTITLED, An Act to revise the filing deadlines for the
2 nomination of certain independent candidates.

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

4 HB 1196: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning
5 lobbyists.

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

7 HJR 1004: A JOINT RESOLUTION, To propose a constitutional amendment regarding
8 legislative term limits.

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

10 **SECOND READING OF CONSENT CALENDAR ITEMS**

11 Sen. Peters requested that HB 1011 be removed from the Consent Calendar.

12 Sen. Schlekeway requested that SB 91 be removed from the Consent Calendar.

13 SB 22: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
14 vacation or the change of location of county and township highways on school and public lands.

15 Was read the second time.

16 The question being "Shall SB 22 pass as amended?"

17 And the roll being called:

18 Yeas 35, Nays 0, Excused 0, Absent 0

19 Yeas:

20 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
21 Haverly; Heineman; Holien; Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs;
22 Lederman; Maher; Nelson (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam;
23 Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann; Tieszen; Vehle

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

1 SB 101: FOR AN ACT ENTITLED, An Act to authorize counties to borrow money using
2 promissory notes.

3 Was read the second time.

4 The question being "Shall SB 101 pass as amended?"

5 And the roll being called:

6 Yeas 35, Nays 0, Excused 0, Absent 0

7 Yeas:

8 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
9 Haverly; Heineman; Holien; Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs;
10 Lederman; Maher; Nelson (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam;
11 Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann; Tieszen; Vehle

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

14 HB 1012: FOR AN ACT ENTITLED, An Act to require public hearings for applications
15 for oil and gas orders only if contested and to reduce the number of hearing notice publications
16 required for oil and gas cases.

17 Was read the second time.

18 The question being "Shall HB 1012 pass?"

19 And the roll being called:

20 Yeas 35, Nays 0, Excused 0, Absent 0

21 Yeas:

22 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
23 Haverly; Heineman; Holien; Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs;
24 Lederman; Maher; Nelson (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam;
25 Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann; Tieszen; Vehle

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

28 HB 1013: FOR AN ACT ENTITLED, An Act to repeal certain obsolete statutes regarding
29 the Department of Environment and Natural Resources.

30 Was read the second time.

1 The question being "Shall HB 1013 pass?"

2 And the roll being called:

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

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
6 Haverly; Heineman; Holien; Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs;
7 Lederman; Maher; Nelson (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam;
8 Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann; Tieszen; Vehle

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

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

12 SB 71: FOR AN ACT ENTITLED, An Act to modify the requirements relating to the
13 publication of the administrative rules.

14 Was read the second time.

15 Sen. Brown moved that SB 71 be deferred to Monday, February 6, the 15th legislative day.

16 Which motion prevailed.

17 SB 149: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the
18 conditional release of persons charged with domestic abuse.

19 Was read the second time.

20 The question being "Shall SB 149 pass?"

21 And the roll being called:

22 Yeas 35, Nays 0, Excused 0, Absent 0

23 Yeas:

24 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
25 Haverly; Heineman; Holien; Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs;
26 Lederman; Maher; Nelson (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam;
27 Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann; Tieszen; Vehle

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

3 SB 102: FOR AN ACT ENTITLED, An Act to clarify the procedures for the
4 apportionment of funds among townships.

5 Was read the second time.

6 The question being "Shall SB 102 pass as amended?"

7 And the roll being called:

8 Yeas 35, Nays 0, Excused 0, Absent 0

9 Yeas:

10 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
11 Haverly; Heineman; Holien; Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs;
12 Lederman; Maher; Nelson (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam;
13 Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann; Tieszen; Vehle

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

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

17 HB 1003: FOR AN ACT ENTITLED, An Act to revise the limitation on the increases and
18 decreases that may be made to the total taxable value of cropland and noncropland.

19 Was read the second time.

20 1003fa

21 Sen. Novstrup moved that HB 1003 be amended as follows:

22 On page 1, line 5, of the printed bill, remove the overstrikes from "~~and~~".

23 On page 1, line 5, delete "2018, and".

24 On page 1, line 6, delete "2019,".

25 On page 1, line 14, remove the overstrikes from "~~and~~".

26 On page 1, line 14, delete "2018, and 2019,".

1 Sen. Olson moved the previous question.

2 Which motion prevailed.

3 Sen. Adelstein requested a roll call vote.

4 Which request was supported.

5 The question being on Sen. Novstrup's motion that HB 1003 be amended.

6 And the roll being called:

7 Yeas 16, Nays 19, Excused 0, Absent 0

8 Yeas:

9 Adelstein; Bradford; Brown; Buhl; Gray; Haverly; Heineman; Johnston; Kraus; Lederman;
10 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Schlekeway; Tieszen

11 Nays:

12 Begalka; Cutler; Frerichs; Fryslie; Hansen (Tom); Holien; Hundstad; Hunhoff (Jean); Juhnke;
13 Krebs; Maher; Nygaard; Putnam; Rampelberg; Rave; Rhoden; Sutton; Tidemann; Vehle

14 So the motion not having received an affirmative vote of a majority of the members
15 present, the President declared the motion lost.

16 The question being "Shall HB 1003 pass?"

17 And the roll being called:

18 Yeas 30, Nays 5, Excused 0, Absent 0

19 Yeas:

20 Adelstein; Begalka; Bradford; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;
21 Heineman; Holien; Hundstad; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman;
22 Maher; Nelson (Tom); Putnam; Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann;
23 Tieszen; Vehle

24 Nays:

25 Brown; Novstrup (Al); Nygaard; Olson (Russell); Peters

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

1 **SIGNING OF BILLS**

2 The President publicly read the title to

3 HB 1022: FOR AN ACT ENTITLED, An Act to revise certain parole hearing provisions
4 regarding inmate compliance, waivers, and teleconferencing.

5 HB 1023: FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions
6 relating to the Department of Corrections.

7 HB 1025: FOR AN ACT ENTITLED, An Act to make aggravated incest a violent crime
8 for purposes of setting an initial parole date.

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

10 **COMMEMORATIONS**

11 SC 5 Introduced by: Senators Schlekeway and Johnston and Representatives Willadsen,
12 Hubbel, Steele, and Wick

13 A LEGISLATIVE COMMEMORATION, Honoring the Sioux Falls Roosevelt High School
14 Boys' Cross Country Team for its outstanding performance at the 2011 Boys' State Class AA
15 Cross Country Meet.

16 WHEREAS, the Sioux Falls Roosevelt High School Boys' Cross Country Team became the
17 2011 State Class AA Boys' Cross Country Meet Champions under the direction of head coach
18 Jason Wagoner and assistant coach Chad Backsen; and

19 WHEREAS, the members of the Roosevelt High School Boys' Cross Country Team include
20 Tanner Ahrendt, Austin Johnsen, Adam Kost, Dylan Slaba, Tyler Slaba, Ethan Tabbert, and
21 Jesus Urtusuastegui; and

22 WHEREAS, the Roosevelt High School Boys' Cross Country Team showed character and
23 dedication in achieving its goals on the road to a State Class AA Cross Country Meet
24 Championship:

25 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of
26 the State of South Dakota, that the Sioux Falls Roosevelt High School Boys' Cross Country
27 Team be congratulated on winning the 2011 State Class AA Boys' Cross Country Meet.

1 SC 6 Introduced by: Senators Schlekeway and Johnston and Representatives Willadsen,
2 Hubbel, Steele, and Wick

3 A LEGISLATIVE COMMEMORATION, Congratulating the Sioux Falls Roosevelt High
4 School Football Team and its coaches and student managers for their 2011 South Dakota
5 State AA Championship season.

6 WHEREAS, the Sioux Falls Roosevelt High School football team's 2011 season was
7 highlighted by an eleven to one record and a state championship in a match which dethroned
8 the former state champion Washington Warriors; and

9 WHEREAS, the members of the State AA Championship team, who worked hard and
10 displayed extraordinary teamwork all season with their high-scoring offense and strong defense,
11 are Dylan Top, Elliot Sammons, Robby Dockry, Scott Tyler, Brett Ledebor, Justin Warne, Shea
12 DeJong, Josh Angulo, Chase Potas, Calvin Krause, Ramsey Christopherson, Jacari Christion,
13 Lucas Wilber, Andrew Smith, Dylan Smith, Jasen VanWoert, Andrew Powell, Zach Tuschen,
14 Jaron Bouwman, Patrick Musil, John Wessel, Travis Rehder, Jeff Kolhoff, Mike Otamendi,
15 Mikal Smith, Jaren Neuheisel, Taryn Christion, Seth Bjordal, Kyle Olinger, Kirby Hora, Kory
16 Kuhnert, Mike Anderson, Kory Lindquist, Alex Garcia, Trevor Janisch, Tyler Durfee, Justin
17 Haffield, John Mauss, Travis Crisman, Trevor Siemonsma, Bradey Disbrow, Alex Clem, Tom
18 Nugteren, John Kovaleski, Grant Schmidt, Corbin Ryswyk, Cole Stienblock, Wyatt
19 Schumacher, Daquan Brooks, Eric Anderson, Josh High, Cody Weihe, Spencer Burns, Alex
20 Hanson, Tyce Kidd, Victor Llanos, Jack Lembcke, Dylan Letcher, Ty Warkenthien, Tanner
21 Hennings, Taylor Bren, Derek Granum, Brian Barber, Alex Matson, and Sam Bird; and

22 WHEREAS, the team benefitted greatly from the assistance of student managers Jeremy
23 Baumgart, Lexi Russell, and Megan Mueller; and

24 WHEREAS, coach Kim Nelson and assistant coaches Josh Siegfried, Jared Fredenburg,
25 Mike Leach, Jason Whiting, James Stubjkaer, Dan Arjes, Jared Smith, Terry Jastram, John
26 Schalde, Mike Magnuson, Justin Kubesh, Robb Cunningham, and Joe Bunde conducted the
27 team with discipline and dedication:

28 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of
29 the State of South Dakota, that the Sioux Falls Roosevelt Rough Riders Football Team be
30 honored for its outstanding achievements in 2011.

31 Sen. Hunhoff moved that the Senate do now adjourn, which motion prevailed and at
32 3:19 p.m. the Senate adjourned.

33

Fee Jacobsen, Secretary