

JOURNAL OF THE SENATE

EIGHTY-SEVENTH SESSION

TWENTY-EIGHTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Monday, February 27, 2012

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

The prayer was offered by the Chaplain, Rev. John Fette, followed by the Pledge of Allegiance led by Senate page Shaunday Antoine.

Roll Call: All members present except Sen. Hundstad 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 twenty-seventh 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.

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HONORED GUESTS

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The President introduced the 2011 Tabor Czech Days Queen, Emily Manas of Lesterville, the 2011 Tabor Czech Days Princess Jenna Lammers of Hartington, NE, and the 2012 Miss Rodeo South Dakota, Courtney Peterson of Sisseton to the body.

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REPORTS OF STANDING COMMITTEES

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MR. PRESIDENT:

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The Committee on Education respectfully reports that it has had under consideration HB 1189 and returns the same with the recommendation that said bill be amended as follows:

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1189cb

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On page 2, line 9, of the House Education Committee engrossed bill, after "." Insert "In addition, the deadlines for transfer established in this section do not apply to a student who enrolls in a school district after the deadline in either semester, and that student may transfer to another school district upon the approval of the school board of the receiving school district."

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1189cg

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On the House Education engrossed bill delete the previously adopted amendment 1189cb.

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On page 2, line 6, delete everything after "._".

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On page 2, delete lines 7 to 9, inclusive.

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On page 2, line 6, after "._" Insert "However, the deadlines for transfer do not apply if:

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(1) A student is seeking to transfer to an alternative school or a specialized nonpublic educational program;

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(2) A student enrolls in a school district after the deadline in either semester; or

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(3) The receiving school district school board or the board's designee determines that special circumstances exist and allows a student to transfer after the deadline."

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

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Respectfully submitted,
J. Mark Johnston, Chair

1 Also MR. PRESIDENT:

2 The Committee on Health and Human Services respectfully reports that it has had under
3 consideration HB 1266 and returns the same with the recommendation that said bill do pass.

4 Respectfully submitted,
5 Jean M. Hunhoff, Chair

6 Also MR. PRESIDENT:

7 The Committee on Appropriations respectfully reports that it has had under consideration
8 HB 1058 and returns the same with the recommendation that said bill be amended as follows:

9 1058aa

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

11 "Section 1. There is hereby appropriated from the general fund the sum of one dollar (\$1),
12 or so much thereof as may be necessary, to the Unified Judicial System court automation fund
13 created in § 16-2-38 for costs related to the court automation system.

14 Section 2. The Chief Justice shall approve vouchers and the state auditor shall draw warrants
15 to pay expenditures authorized by this Act.

16 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall
17 revert in accordance with the procedures prescribed in chapter 4-8.

18 Section 4. Whereas, this Act is necessary for the support of the state government and its
19 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
20 full force and effect from and after its passage and approval."

21 1058btb

22 On page 1, line 1, of the printed bill, delete everything after "to" and insert "make an
23 appropriation to the Unified Judicial System court automation fund and to declare an
24 emergency."

25 On page 1, delete line 2.

26 And that as so amended said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration
3 HB 1136 and returns the same with the recommendation that said bill be amended as follows:

4 1136aa

5 On page 1, line 4, of the printed bill, delete everything after "of" and insert "two dollars
6 (\$2),".

7 And that as so amended said bill do pass.

8 Also MR. PRESIDENT:

9 The Committee on Appropriations respectfully reports that it has had under consideration
10 HB 1137 and returns the same with the recommendation that said bill be amended as follows:

11 1137ma

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

13 "Section 1. There is hereby appropriated from the general fund the sum of one dollar (\$1),
14 or so much thereof as may be necessary, to the Bureau of Finance and Management for the
15 purpose of providing a one-time payment to state employees.

16 Section 2. There is hereby appropriated from the general fund the sum of one dollar (\$1),
17 or so much thereof as may be necessary, to the Department of Social Services for the purpose
18 of providing a one-time payment to employees of providers.

19 Section 3. The Bureau of Finance and Management shall approve vouchers and the state
20 auditor shall draw warrants to pay expenditures authorized by this Act.

21 Section 4. Whereas, this Act is necessary for the support of the state government and its
22 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
23 full force and effect from and after its passage and approval."

24 1137mta

25 On page 1, line 1, of the printed bill, delete everything after "to" and insert "make an
26 appropriation to fund one-time payments to state employees and to employees of providers, and
27 to declare an emergency."

28 And that as so amended said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration
3 HB 1242 and returns the same with the recommendation that said bill be amended as follows:

4 1242me

5 On page 1, line 8, of the House Appropriations Committee engrossed bill, delete both "\$1"
6 and insert "\$100".

7 On page 1, line 9, delete both "\$1" and insert "\$100".

8 On page 1, line 12, after "Development" insert "shall".

9 And that as so amended said bill do pass.

10 Also MR. PRESIDENT:

11 The Committee on Appropriations respectfully reports that it has had under consideration
12 HB 1078 which was deferred to the 41st Legislative Day.

13 Respectfully submitted,
14 Corey Brown, Chair

15 Also MR. PRESIDENT:

16 The Committee on Transportation respectfully reports that it has had under consideration
17 HB 1122 which was deferred to the 41st Legislative Day.

18 Respectfully submitted,
19 Mike Vehle, Chair

20 Also MR. PRESIDENT:

21 The Committee on State Affairs respectfully reports that it has had under consideration
22 HB 1093 and 1220 and returns the same with the recommendation that said bills do pass.

23 Also MR. PRESIDENT:

24 The Committee on State Affairs respectfully reports that it has had under consideration
25 HB 1228 and returns the same with the recommendation that said bill be amended as follows:

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1228fg

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On the House engrossed bill, delete everything after the enacting clause and insert:

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"Section 1. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

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Any wind energy facility which installs wind turbines and operates the turbines to create electrical energy is eligible for a rebate of the sales and use taxes and contractors' excise taxes paid on the project. The wind energy facility is eligible for the rebate if the project has a construction date on or after January 1, 2013, and the total project costs exceeds fifty million dollars. For project costs incurred and paid after January 1, 2013, inclusive, the amount of the rebate for the wind energy facility shall be determined by multiplying the nameplate capacity, in megawatts, of the installed turbines by forty-five thousand dollars. The rebate is payable when construction is complete and the sales and use taxes and contractors' excise taxes have been paid in full.

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Section 2. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

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Any new business facility that is an environmental upgrade to an existing electric generation facility is eligible for a rebate of the sales and use taxes and contractors' excise taxes paid on the project. The new business facility is eligible for the rebate if the project has a construction date on or after January 1, 2013, and the total project costs exceeds fifty million dollars. For project costs incurred and paid after January 1, 2013, inclusive, the amount of the rebate for an environmental upgrade shall be fifty percent of the total sales and use taxes and contractors' excise taxes paid. The rebate is payable when construction is complete and the sales and use taxes and contractors' excise taxes have been paid in full."

24

1228ftg

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On page 1, line 1, of the House engrossed bill, delete everything after "Act to" and insert "provide tax rebates for certain energy projects."

27

On page 1, delete line 2.

28

And that as so amended said bill do pass.

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Respectfully submitted,
Larry Rhoden, Chair

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Also MR. PRESIDENT:

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The Committee on Legislative Procedure respectfully reports that SB 22, 37, 42, 46, 47, 70, 72, 82, 84, 90, 104, 128, 137, 154, 176, 177, 189, and 196 were delivered to his Excellency, the Governor, for his approval at 9:40 a.m., February 27, 2012.

1 Also MR. PRESIDENT:

2 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing
3 and Enrolling has carefully compared SB 112, 186, and 192 and finds the same correctly
4 enrolled.

5 Respectfully submitted,
6 Bob Gray, Chair

7 **REPORT OF CONFERENCE COMMITTEE**

8 Cc99a

9 MR. PRESIDENT:

10 The Conference Committee respectfully reports that it has considered SB 99 and the
11 amendments thereto made by the House, and the disagreement of the two houses thereon, and
12 recommends that the Senate do concur with the House amendments.

13	Respectfully submitted,	Respectfully submitted,
14	Jim White	Tom Hansen
15	House Committee Chair	Senate Committee Chair

16 **MESSAGES FROM THE HOUSE**

17 MR. PRESIDENT:

18 I have the honor to return herewith SB 106 and 123 which have been amended by the
19 House and your concurrence in the amendments is respectfully requested.

20 Also MR. PRESIDENT:

21 I have the honor to inform your honorable body that the House has concurred in Senate
22 amendments to HB 1066, 1131, and 1227.

23 Also MR. PRESIDENT:

24 I have the honor to inform your honorable body that the House has appointed Reps.
25 Rausch, Gosch, and Hawley as a committee of three on the part of the House to meet with a like
26 committee on the part of the Senate to adjust the differences between the two houses on SB 157.

1 Also MR. PRESIDENT:

2 I have the honor to return herewith SB 112, 186, and 192 which have passed the House
3 without change.

4 Also MR. PRESIDENT:

5 I have the honor to transmit herewith HCR 1014, 1015, and 1018 which have been adopted
6 by the House and your concurrence is respectfully requested.

7 Also MR. PRESIDENT:

8 I have the honor to inform your honorable body that the House has concurred in Senate
9 amendments to HB 1059 and 1230.

10 Respectfully
11 Karen Gerdes, Chief Clerk

12 **MOTIONS AND RESOLUTIONS**

13 Sen. Rhoden moved that the Senate do concur in House amendments to SB 123.

14 The question being on Sen. Rhoden's motion that the Senate do concur in House
15 amendments to SB 123.

16 And the roll being called:

17 Yeas 31, Nays 3, Excused 1, Absent 0

18 Yeas:

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

23 Nays:

24 Brown; Heineman; Novstrup (Al)

25 Excused:

26 Hundstad

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

1 Sen. Novstrup moved that the Senate do concur in House amendments to SB 106.

2 The question being on Sen. Novstrup's motion that the Senate do concur in House
3 amendments to SB 106.

4 And the roll being called:

5 Yeas 34, Nays 0, Excused 1, Absent 0

6 Yeas:

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

11 Excused:

12 Hundstad

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

15 HCR 1014: A CONCURRENT RESOLUTION, Urging the United States Department of
16 Veterans Affairs to reconsider its proposed closure of certain VA facilities in Hot Springs.

17 Was read the first time, the President waived the referral to committee, and placed
18 HCR 1014 on the calendar of Tuesday, February 28, the 29th legislative day.

19 HCR 1015: A CONCURRENT RESOLUTION, Urging the federal government to secure
20 our national borders and enforce United States immigration laws.

21 Was read the first time, the President waived the referral to committee, and placed
22 HCR 1015 on the calendar of Tuesday, February 28, the 29th legislative day.

23 HCR 1018: A CONCURRENT RESOLUTION, Urging Congress to restore the impact aid
24 program.

25 Was read the first time, the President waived the referral to committee, and placed
26 HCR 1018 on the calendar of Tuesday, February 28th, the 29th legislative day.

27 **CONSIDERATION OF REPORTS OF COMMITTEES**

28 Sen. Olson moved that the reports of the Standing Committees on

1 Local Government on HB 1186 as found on page 552 of the Senate Journal; also
2 Local Government on HB 1096 as found on page 553 of the Senate Journal be adopted.
3 Which motion prevailed.

4 **SECOND READING OF CONSENT CALENDAR ITEMS**

5 HB 1045: FOR AN ACT ENTITLED, An Act to revise various trust provisions.

6 Was read the second time.

7 The question being "Shall HB 1045 pass?"

8 And the roll being called:

9 Yeas 34, Nays 0, Excused 1, Absent 0

10 Yeas:

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

15 Excused:

16 Hundstad

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

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

20 Sen Olson moved that HB 1234 be immediately considered.

21 Which motion prevailed and HB 1234 was up for immediate consideration.

22 HB 1234: FOR AN ACT ENTITLED, An Act to provide incentives to teach in critical
23 need areas, to provide for rewards for the best teachers and those teaching in math and science
24 subject areas, to revise certain provisions regarding evaluation of teachers, to create a system
25 for evaluating principals, to distinguish between tenured and nontenured teachers, to revise
26 certain provisions regarding the employment of teachers, and to repeal provisions regarding the
27 teacher compensation assistance program.

1 Was read the second time.

2 1234mc

3 Sen. Peters moved that HB 1234 be further amended as follows:

4 On page 5, line 22, delete everything after "may" and insert "receive".

5 On page 5, line 23, delete everything before "gifts" .

6 On page 5, delete line 24, and insert "inclusive, of this Act.".

7 On page 6, delete lines 1 and 2.

8 Sen. Frerichs requested a roll call vote.

9 Which request was not supported.

10 The question being on Sen. Peters' motion that HB 1234 be further amended.

11 Which motion prevailed.

12 1234ct

13 Sen. Schlekeway moved that HB 1234 be further amended as follows:

14 On page 6 of the Senate Education Committee engrossed bill, delete lines 7 to 24,
15 inclusive, and insert:

16 "Section 11. There is hereby established the South Dakota Education Reform Advisory
17 Council. The council shall examine the following education reform issues:

- 18 (1) Reforms solutions that will sustain best practices to improve student achievement;
- 19 (2) The advantages and disadvantages of merit pay systems and other initiatives designed
20 to provide increased compensation for teachers;
- 21 (3) The demographics within South Dakota for hard-to-fill teaching positions, the causes
22 and effects of those positions, and solutions to recruit, retain, and train teachers in
23 high-need areas; and
- 24 (4) Reforms that examine continuing contract status.

25 Section 12. The South Dakota Education Reform Advisory Council established in section
26 1 of this Act shall consist of the following members:

- 27 (1) Two members of the Senate, including a member of each political party, appointed
28 by the president pro tempore of the Senate;

- 1 (2) Two members of the House of Representatives, including a member of each political
- 2 party, appointed by the Speaker of the House;
- 3 (3) Three superintendents;
- 4 (4) Three principals; one from an elementary school, one from a middle school, and one
- 5 from a high school;
- 6 (5) Three teachers; one from an elementary school, one from a middle school, and one
- 7 from a high school;
- 8 (6) One member of the Board of Regents;
- 9 (7) One representative of the postsecondary technical institutes; and
- 10 (8) Two school board members.

11 The members in subdivisions (3) to (8), inclusive, shall be appointed by the Executive Board
12 of the Legislative Research Council.

13 In addition, the council shall consist of the following members:

- 14 (1) The secretary of education, who will serve as chair;
- 15 (2) The South Dakota Teachers of the Year for 2011 and 2012;
- 16 (3) One representative of the School Administrators of South Dakota;
- 17 (4) One representative of the South Dakota Education Association; and
- 18 (5) One representative of the Associated School Boards of South Dakota.

19 Section 12. The South Dakota Education Reform Advisory Council shall report its findings
20 to the Governor and to the Legislature. The first report shall be delivered no later than July 31,
21 2012, and the final report shall be delivered no later than November 1, 2012."

22 Delete pages 7 to 27, inclusive.

23 Sen. Schlekeway requested a roll call vote.

24 Which request was supported.

25 The question being on Sen. Schlekeway's motion that HB 1234 be further amended.

26 And the roll being called:

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

28 Yeas:

29 Adelstein; Begalka; Bradford; Buhl; Cutler; Frerichs; Hunhoff (Jean); Schlekeway; Sutton;
30 Tidemann

31 Nays:

32 Brown; Fryslie; Gray; Hansen (Tom); Haverly; Heineman; Holien; Johnston; Juhnke; Kraus;
33 Krebs; Lederman; Maher; Nelson (Tom); Novstrup (Al); Nygaard; Olson (Russell); Peters;
34 Putnam; Rampelberg; Rave; Rhoden; Tieszen; Vehle

1 Excused:
2 Hundstad

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

5 1234cr

6 Sen. Adelstein moved that HB 1234 be further amended as follows:

7 On page 15, line 13, of the Senate Education Committee engrossed bill, delete everything
8 after "denied," and insert "the board shall provide, in writing, to the school district the reasons
9 for the denial. The school district may appeal the decision to the Board of Education, or if the
10 school district chooses not to appeal, the school district may, within ninety days, submit another
11 local teacher reward plan application."

12 On page 15, delete line 14.

13 Sen. Adelstein requested a roll call vote.

14 Which request was supported.

15 The question being on Sen. Adelstein's motion that HB 1234 be further amended.

16 And the roll being called:

17 Yeas 14, Nays 20, Excused 1, Absent 0

18 Yeas:

19 Adelstein; Begalka; Bradford; Buhl; Cutler; Frerichs; Holien; Johnston; Nygaard; Rampelberg;
20 Schlekeway; Sutton; Tidemann; Vehle

21 Nays:

22 Brown; Fryslie; Gray; Hansen (Tom); Haverly; Heineman; Hunhoff (Jean); Juhnke; Kraus;
23 Krebs; Lederman; Maher; Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rave;
24 Rhoden; Tieszen

25 Excused:
26 Hundstad

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

1 1234cs

2 Sen. Adelstein moved that HB 1234 be further amended as follows:

3 On page 6, line 19, of the Senate Education Committee engrossed bill, delete "voluntary"
4 and insert "required".

5 On page 6, line 20, delete everything before "and" and insert "all teachers who meet the
6 requirements in section 14 of this Act,".

7 On page 7, delete line 3, and insert "to participate in the math and science teacher incentive
8 program. A teacher participating".

9 On page 7, line 4, delete "participate".

10 On page 7, line 6, delete "teacher wishing to participate" and insert "participating teacher".

11 On page 8, line 24, delete "Participation in the top teachers rewards program is voluntary
12 for teachers, and" and insert "Top teachers".

13 On page 9, line 1, delete "such".

14 On page 10, delete lines 8 to 14, inclusive, and insert:

15 "Section 22. Participation in the top teachers reward program is required for all teachers
16 who are full-time employees of a participating school district and have received a distinguished
17 rating pursuant to section 23 of this Act."

18 On page 13, line 11, delete "voluntary" and insert "required for all teachers in a school
19 district with an approved local teacher reward plan".

20 Sen. Adelstein requested a roll call vote.

21 Which request was supported.

22 The question being on Sen. Adelstein's motion that HB 1234 be further amended.

23 And the roll being called:

24 Yeas 12, Nays 22, Excused 1, Absent 0

25 Yeas:

26 Adelstein; Bradford; Buhl; Frerichs; Gray; Johnston; Krebs; Nygaard; Rampelberg; Schlekeway;
27 Sutton; Tidemann

1 Nays:

2 Begalka; Brown; Cutler; Fryslie; Hansen (Tom); Haverly; Heineman; Holien; Hunhoff (Jean);
3 Juhnke; Kraus; Lederman; Maher; Nelson (Tom); Novstrup (Al); Olson (Russell); Peters;
4 Putnam; Rave; Rhoden; Tieszen; Vehle

5 Excused:

6 Hundstad

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

9 1234cu

10 Sen. Adelstein moved that HB 1234 be further amended as follows:

11 On page 17, line 11, of the Senate Education Committee engrossed bill, after "teacher"
12 insert ", except those teachers of music, art, special education, and any other elective program
13 that does not lend itself to quantitative evaluation,".

14 Sen. Adelstein requested a roll call vote.

15 Which request was supported.

16 The question being on Sen. Adelstein's motion that HB 1234 be further amended.

17 And the roll being called:

18 Yeas 13, Nays 21, Excused 1, Absent 0

19 Yeas:

20 Adelstein; Begalka; Bradford; Buhl; Frerichs; Gray; Hansen (Tom); Krebs; Maher; Nygaard;
21 Sutton; Tidemann; Vehle

22 Nays:

23 Brown; Cutler; Fryslie; Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus;
24 Lederman; Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave;
25 Rhoden; Schlekeway; Tieszen

26 Excused:

27 Hundstad

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

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1234oa

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Sen. Olson moved that HB 1234 be further amended as follows:

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On page 27, after line 2 of the Senate Education Committee engrossed bill, insert:

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5

6

"Section 64. There is hereby established the South Dakota Education Reform Advisory Council. The council shall advise upon the implementation of this Act, and shall examine further education reform issues including:

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8

(1) The advantages and disadvantages of initiatives designed to provide for increased compensation for teachers;

9

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(2) Future teaching areas of critical need, and solutions to recruit, retain, and train teachers in these critical need areas; and

11

(3) Other ideas to improve student achievement.

12

13

The council shall report its initial findings to the Legislature and the Governor no later than December 1, 2012.

14

15

Section 65. The South Dakota Education Reform Advisory Council established in section 64 of this Act shall consist of the following members:

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(1) Three members of the Senate, including at least one member of each political party, appointed by the president pro tempore of the Senate;

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(2) Three members of the House of Representatives, including a member of each political party, appointed by the speaker of the House;

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(3) The secretary of the Department of Education, who will serve as chair;

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(4) Three superintendents, jointly appointed by the president pro tempore of the Senate and the speaker of the House;

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(5) Three principals, one each from an elementary school, a middle school, and a high school, jointly appointed by the president pro tempore of the Senate and the speaker of the House;

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27

(6) Five teachers, jointly appointed by the president pro tempore of the Senate and the speaker of the House;

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29

(7) Three school board members, jointly appointed by the president pro tempore of the Senate and the speaker of the House;

30

(8) One member of the Board of Regents, selected by the board;

1 (9) One representative of the postsecondary technical institutes, selected by the
2 presidents of the respective institutions;

3 (10) One representative selected by the School Administrators of South Dakota;

4 (11) One representative selected by the South Dakota Education Association; and

5 (12) One representative selected by the Associated School Boards of South Dakota.".

6 Sen. Brown requested a roll call vote.

7 Which request was supported.

8 The question being on Sen. Olson's motion that HB 1234 be further amended.

9 And the roll being called:

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

11 Yeas:

12 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Fryslie; Gray; Hansen (Tom); Haverly;
13 Heineman; Holien; Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson (Tom);
14 Novstrup (Al); Nygaard; Olson (Russell); Peters; Putnam; Rave; Schlekeway; Tidemann;
15 Tieszen; Vehle

16 Nays:

17 Frerichs; Hunhoff (Jean); Rampelberg; Rhoden; Sutton

18 Excused:

19 Hundstad

20 So the motion having received an affirmative vote of a majority of the members present,
21 the President declared the motion carried.

22 Sen. Olson moved the previous question.

23 Which motion prevailed.

24 Sen. Frerichs appealed the ruling of the chair that HB 1234 needed a simple majority.

25 Sen. Frerichs' motion to appeal was withdrawn.

1 The question now being "Shall HB 1234 pass as amended?"

2 And the roll being called:

3 Yeas 22, Nays 12, Excused 1, Absent 0

4 Yeas:

5 Brown; Fryslie; Gray; Hansen (Tom); Haverly; Heineman; Holien; Johnston; Juhnke; Kraus;
6 Krebs; Lederman; Maher; Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Rampelberg;
7 Rave; Rhoden; Tieszen; Vehle

8 Nays:

9 Adelstein; Begalka; Bradford; Buhl; Cutler; Frerichs; Hunhoff (Jean); Nygaard; Putnam;
10 Schlekeway; Sutton; Tidemann

11 Excused:

12 Hundstad

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

15 HB 1046: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding child
16 custody during a soldier's deployment.

17 Was read the second time.

18 The question being "Shall HB 1046 pass as amended?"

19 And the roll being called:

20 Yeas 34, Nays 0, Excused 1, Absent 0

21 Yeas:

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

26 Excused:

27 Hundstad

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

1 HB 1179: FOR AN ACT ENTITLED, An Act to require certain campaign finance
2 requirements to apply to all counties and municipalities.

3 Was read the second time.

4 The question being "Shall HB 1179 pass as amended?"

5 And the roll being called:

6 Yeas 34, Nays 0, Excused 1, Absent 0

7 Yeas:

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

12 Excused:

13 Hundstad

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 Sen. Olson moved that HB 1247 be placed to follow HB 1185 on today's calendar.

17 Which motion prevailed.

18 HB 1206: FOR AN ACT ENTITLED, An Act to make an appropriation for emergency
19 food assistance grants and to repeal the sales tax on food refund program.

20 Was read the second time.

21 The question being "Shall HB 1206 pass as amended?"

22 And the roll being called:

23 Yeas 24, Nays 9, Excused 2, Absent 0

24 Yeas:

25 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Gray; Haverly; Holien; Hunhoff
26 (Jean); Johnston; Krebs; Lederman; Maher; Nelson (Tom); Novstrup (Al); Nygaard; Peters;
27 Putnam; Schlekeway; Sutton; Tidemann; Tieszen

1 Nays:

2 Fryslie; Hansen (Tom); Heineman; Juhnke; Kraus; Rampelberg; Rave; Rhoden; Vehle

3 Excused:

4 Hundstad; Olson (Russell)

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

7 HB 1171: FOR AN ACT ENTITLED, An Act to clarify certain rules of evidence to
8 determine the value of services for which special damages may be awarded in health care
9 malpractice cases.

10 Was read the second time.

11 1171fb

12 Sen. Hunhoff moved that HB 1171 be further amended as follows:

13 On page 1, line 7, of the Senate Health and Human Services Committee engrossed bill,
14 delete "§ 21-3-12" and insert "§ 21-3-11".

15 Which motion prevailed.

16 The question being "Shall HB 1171 pass as amended?"

17 And the roll being called:

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

19 Yeas:

20 Brown; Hansen (Tom); Haverly; Heineman; Hunhoff (Jean); Johnston; Krebs; Lederman;
21 Peters; Rave; Schlekeway; Sutton; Tidemann; Tieszen

22 Nays:

23 Adelstein; Begalka; Bradford; Buhl; Cutler; Frerichs; Fryslie; Gray; Holien; Juhnke; Kraus;
24 Maher; Nelson (Tom); Novstrup (Al); Nygaard; Putnam; Rampelberg; Rhoden; Vehle

25 Excused:

26 Hundstad; Olson (Russell)

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

1 Sen. Brown moved that HB 1126, 1273, 1198, 1253, 1133, 1248, 1185, 1247, and HJR
2 1007 be deferred to Tuesday, February 28, the 29th legislative day.

3 Which motion prevailed.

4 Sen. Brown moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on
5 Tuesday, February 28, the 29th legislative day.

6 Which motion prevailed.

7 **SIGNING OF BILLS**

8 The President publicly read the title to

9 SB 112: FOR AN ACT ENTITLED, An Act to remove the limitation on the number of
10 retail gaming licenses in Deadwood in which a person may have a financial interest.

11 SB 186: FOR AN ACT ENTITLED, An Act to update the definition of the nonsectarian
12 textbooks that are loaned to certain students to include digital materials.

13 SB 192: FOR AN ACT ENTITLED, An Act to make appropriations for the purpose of
14 one-time increases in education and health care funding.

15 HB 1017: FOR AN ACT ENTITLED, An Act to authorize the Bureau of Administration
16 to construct a maintenance shop in Pierre, to make an appropriation therefor, and to declare an
17 emergency.

18 HB 1018: FOR AN ACT ENTITLED, An Act to repeal certain obsolete or unnecessary
19 provisions pertaining to the Department of Game, Fish and Parks.

20 HB 1051: FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building
21 Authority and the Board of Regents to implement the long-term capital project request of the
22 Board of Regents providing for the demolition, construction, remodeling, or renovation of
23 various structures on the campuses of the state's universities and to make appropriations
24 therefor.

25 HB 1117: FOR AN ACT ENTITLED, An Act to provide for the taking of muskrats by
26 shooting under certain conditions.

27 HB 1130: FOR AN ACT ENTITLED, An Act to revise the fee schedule for certain
28 documents filed with the county register of deeds, to create a county and statewide fund for the
29 purpose of modernizing and preserving records, and to distribute certain revenue.

1 HB 1156: FOR AN ACT ENTITLED, An Act to revise procedures and requirements
2 relating to special assessments and the financing of local improvements.

3 HB 1164: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
4 sale of certain surplus property in Yankton County.

5 HB 1178: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the
6 disposal of local government property.

7 HB 1199: FOR AN ACT ENTITLED, An Act to revise certain provisions related to the
8 distribution of funds to sparse school districts.

9 HB 1254: FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the
10 decision of a pregnant mother considering termination of her relationship with her child by an
11 abortion, to establish certain procedures to insure that such decisions are voluntary, uncoerced,
12 and informed, and to revise certain causes of action for professional negligence relating to
13 performance of an abortion.

14 HB 1263: FOR AN ACT ENTITLED, An Act to provide for mandatory HIV testing for
15 any person convicted of prostitution or solicitation of prostitution and to provide for appropriate
16 utilization of the test results.

17 HJR 1006: A JOINT RESOLUTION, Proposing and submitting to the electors at the next
18 general election an amendment to Article XIII, sections 20 and 21 of the Constitution of the
19 State of South Dakota, relating to the trust fund created from the proceeds of the state cement
20 enterprise sales.

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

22 COMMEMORATIONS

23 SC 18 Introduced by: Senators Begalka, Adelstein, Brown, Frerichs, Fryslie, Gray, Haverly,
24 Heineman, Holien, Hunhoff (Jean), Juhnke, Kraus, Krebs, Maher, Novstrup (Al), Olson
25 (Russell), Rhoden, Sutton, Tieszen, and Vehle and Representatives Greenfield, Brunner,
26 Deelstra, Haggar, Hickey, Jensen, Kirschman, Kloucek, Kopp, Magstadt, Nelson (Stace), Perry,
27 Rausch, Sly, Solum, Street, Tulson, Venner, Wick, and Willadsen

28 A LEGISLATIVE COMMEMORATION, Acknowledging the Waverly-South Shore High
29 School Football Team for winning the 2011 State 9B Football Championship.

30 WHEREAS, the Waverly-South Shore Coyote Football Team, with a 12-0 record, won the
31 2011 State 9B Football Championship under the dedicated leadership of head coach Billy Kirch;
32 and

33 WHEREAS, the Waverly-South Shore High School Football Team was held together by
34 extraordinary unity and team spirit throughout the championship season by all of the players

1 including Virgil Leclercq, Sam Pond, Bailey Comes, Taylor Zemlicka, Carson Britzman,
2 Branden Thyen, Zach Stricherz, Chris Arthur, Brent Zemlicka, Jordan Buchholz, Tyson
3 Zemlicka, Austin Buchholz, Tyler Mundahl, Gage Whitted, Zach Adair, Andrew Thyen, Elton
4 Schmeling, Jason Thyen, Louis Clark, Jesse Bush, and Ridge Lindberg; and

5 WHEREAS, all of the students, coaches, faculty, and the great communities of Waverly and
6 South Shore demonstrated outstanding support and sportsmanship during the quest to achieve
7 the 2011 State 9B Football Championship, the first in the communities' histories:

8 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of
9 the State of South Dakota, that the Waverly-South Shore High School Football Team and its
10 coaching staff be congratulated and commended for their outstanding performances in the 2011
11 season.

12 SC 19 Introduced by: Senators Begalka, Adelstein, Brown, Frerichs, Fryslie, Gray, Haverly,
13 Heineman, Holien, Hunhoff (Jean), Juhnke, Kraus, Krebs, Maher, Novstrup (Al), Olson
14 (Russell), Rhoden, Sutton, Tieszen, and Vehle and Representatives Street, Brunner, Deelstra,
15 Greenfield, Haggar, Hickey, Jensen, Kirschman, Kloucek, Kopp, Magstadt, Nelson (Stace),
16 Perry, Rausch, Sly, Solum, Tulson, Venner, Wick, and Willadsen

17 A LEGISLATIVE COMMEMORATION, Congratulating the Deuel High School Girls
18 Gymnastics Team for winning the 2012 State Class A Gymnastics Team Tournament.

19 WHEREAS, Deuel High School defended their title from the previous year; and

20 WHEREAS, the Deuel High School Gymnastics Team scored 145.846 points to top the nine
21 team field and break their own State Class A record team score; and

22 WHEREAS, the State Class A Gymnastics winning teammates who displayed extraordinary
23 unity and team spirit are: Sam Wiekamp, Meaghan Sievers, Alex Stein, Karina Noem, Kaitlyn
24 Plut, Kelly Wollschlager, and Steph Greber; and

25 WHEREAS, head coach Lynn Gudmundson and assistant coach Joan Niemann directed the
26 team with dedication and determination; and

27 WHEREAS, on February 18, 2012, in individual competition, freshman Meaghan Sievers
28 won all-around with the top scores in floor exercise and balance beam and second in uneven
29 bars and vault; and

30 WHEREAS, junior Sam Wiekamp finished second in all-around with a first place finish in
31 uneven bars and vault and second place in floor exercise and balance beam; and

32 WHEREAS, junior Alex Stein finished seventh in all-around, freshman Kelly Wollschlager
33 finished 17th in all-around, and freshman Kaitlyn Plut finished 18th in all-around. Plut and
34 Wollschlager attend school at Grant-Deuel, which is in its first year of a cooperative agreement
35 with Deuel School for gymnastics:

1 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of
2 the State of South Dakota, that the Deuel High School Girls Gymnastics Team be honored for
3 its achievements at the 2012 State Class A Gymnastics Tournament.

4 Sen. Begalka moved that the Senate do now adjourn, which motion prevailed and at
5 5:15 p.m., the Senate adjourned.

6

Fee Jacobsen, Secretary