

# *JOURNAL OF THE SENATE*

## *NINETY-SIXTH SESSION*

---

SECOND DAY

---

STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Wednesday, January 13, 2021

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

The prayer was offered by the Chaplain, Pastor Craig Wexler, followed by the Pledge of Allegiance led by Senate page Shaye Beardsley.

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 1st day.

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

And we hereby move the adoption of the report.

Respectfully submitted,  
Lee A. Schoenbeck, Chair

Which motion prevailed.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

**REPORTS OF JOINT-SELECT COMMITTEES**

MR. PRESIDENT:

Your Joint-Select Committee appointed to make arrangements for a Memorial Service for deceased former members of the South Dakota House of Representatives and Senate respectfully reports that they recommend that the House of Representatives and Senate recess and convene in the House Chamber at 3:00 p.m. on January 21, 2021, and that a Joint Memorial Resolution be introduced in their memory by their colleagues in the House of Representatives and Senate.

A short program will follow the introduction of the Memorial Resolution. At the conclusion of the Memorial Service, the Joint Session will be dissolved.

The Memorial Resolution shall be printed in the House and Senate Journals.

Respectfully submitted,	Respectfully submitted,
Steven G. Haugaard	Gary L. Cammack
Liz May	Brock L. Greenfield
Jamie Smith	Lee Schoenbeck
Rocky Blare	Troy Heinert
House Committee	Senate Committee

**MESSAGES FROM THE HOUSE**

MR. PRESIDENT:

I have the honor to inform your honorable body that the House has appointed Reps. Haugaard, May, Jamie Smith, and Blare as a committee of four on the part of the House to meet with a committee of four on the part of the Senate for the purpose of arranging for a memorial recognition of deceased former members of the House and Senate.

MR. PRESIDENT:

I have the honor to inform your honorable body that the House has approved the adoption of the permanent joint rules of the Ninety-fifth Legislative Session with recommended changes to those joint rules for the Ninety-sixth Legislative Session as adopted in March, 2020, as the temporary joint rules for the Ninety-sixth Legislative Session.

Respectfully,  
Patricia Miller, Chief Clerk

**MOTIONS AND RESOLUTIONS**

Sen. Schoenbeck moved that **SB 64** be referred from the Committee on Appropriations to the Joint Committee on Appropriations.

Which motion prevailed.

Sen. Cammack moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on Thursday, January 14, 2021 the 3<sup>rd</sup> legislative day.

Which motion prevailed.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39

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

**SB 72:** FOR AN ACT ENTITLED, An Act to revise notification requirements for listing and delisting species on the threatened and endangered species list.

Introduced by: **Senator** Hunhoff

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

**SB 73:** FOR AN ACT ENTITLED, An Act to revise provisions regarding the sale of certain government owned vehicles by an auction agency.

Introduced by: **Senator** Castleberry

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

Sen. Marsha Symens moved that the Senate do now adjourn, which motion prevailed and at 1:12 p.m. the Senate adjourned.

Kay Johnson, Secretary

**JOINT SESSION**

The Senate convened with the House of Representatives in the House Chamber for the purpose of receiving a message from the Chief Justice of the Supreme Court, Steven R. Jensen. The President of the Senate, Larry Rhoden, presided.

The following prayer was delivered by Pastor Tom Rooney, Sioux Falls, South Dakota:

Father, in keeping with the instructions we find in the Book of 1<sup>st</sup> Timothy, we come to you first of all with our supplications, prayers, intercessions and giving of thanks for all people – for those who are in authority, that we might lead quiet and peaceable lives in all godliness and reverence – for this is good and acceptable in your sight, God our Savior.

The Bible is clear in its instructions that as your people, we are to seek Your face, humble ourselves, and pray. Your promise in return is to hear from heaven, forgive our sin, and heal our land. Even as our nation has suffered division, disunity, and discord, we pray for healing to bridge the gap.

We are thankful, Lord, to live in a state in which, as our motto declares, "Under God, the people rule." And, it is from your Word, in the book of Isaiah, that our form of government is clearly outlined as we read, "The Lord is our judge, the Lord is our Lawgiver, the Lord is our King; he shall save us!" In this passage, we see the judicial, the legislative, and the executive branches of government that have served us so well for these 240+ years. We pray that each of those branches will do its part to preserve and strengthen this state and our nation well into the future.

Scripture also instructs us that "righteousness exalts a nation." Lord, we pray that the actions taken by this government will uphold righteousness and morality to guide and rule our people. We ask, God, that by Your Holy Spirit, you will remind us as citizens of South Dakota, to pray for this body of lawmakers, that their actions would be wise, and fair, and just.

Lord, You are all knowing, all wise. We seek that wisdom today on behalf of those who serve in our Judicial system, that when they are called upon to resolve disputes and questions of law, they will find a deep reservoir from which to draw wisdom, knowledge and understanding, and that they will administer justice in a fair, even-handed manner.

1 The Secretary of the Senate, Kay Johnson, called the roll of the Senate and the following  
2 members were present:

3 Bolin; Breitling; Cammack; Castleberry; Crabtree; Curd; Diedrich; Duhamel; Duvall; Foster;  
4 Frye-Mueller; Greenfield, Brock; Heinert; Hunhoff; Johns; Johnson, David; Klumb, Kolbeck; Maher;  
5 Nesiba; Novstrup; Otten, Herman; Rohl; Rusch; Schoenbeck; Schoenfish; Smith, VJ; Stalzer;  
6 Steinhauer; Sutton; Symens; Tobin; Wheeler; Wiik; Zikmund.

7 The Chief Clerk of the House of Representatives, Patricia Miller, called the roll of the House and  
8 the following members were present:

9 Anderson; Aylward; Bartels; Barthel; Beal; Blare; Bordeaux; Chaffee; Chase; Cwach; Davis;  
10 Dennert; Derby; Deutsch; Drury; Duba; Finck; Fitzgerald; Goodwin; Greenfield, Lana; Gross;  
11 Hansen; Haugaard; Healy; Hoffman; Howard; Jamison; Jensen, Kevin; Johnson, Chris; Karr; Keintz;  
12 Koth; Ladner; Marty; May; Mills; Milstead; Miskimins; Mortenson; Mulally; Odenbach; Olson; Otten,  
13 Ernie; Overweg; Perry; Peterson, Kent; Peterson, Sue; Pischke; Pourier; Randolph; Reed; Rehfeldt;  
14 Reimer; Smith, Jamie; Soye; St. John; Stevens; Thomason; Tidemann; Vasgaard; Weis; Weisgram;  
15 Wiese; Willadsen; Wink; York; Speaker Gosch.

16 Sen. Cammack moved that a committee of three on the part of the Senate and a committee of  
17 four on the part of the House be appointed to escort Chief Justice Steven R. Jensen to the rostrum.

18 Which motion prevailed and the President announced as such committee Sens. Schoenbeck,  
19 Cammack, and Heinert on the part of the Senate and Reps. Kent Peterson, Hansen, Chris Johnson,  
20 and Smith on the part of the House.

21 The Lieutenant Governor, Larry Rhoden, introduced the Honorable Steven R. Jensen, to deliver  
22 the State of the Judiciary Address.

23 The Sergeant at Arms announced the arrival of Chief Justice Steven R. Jensen who was escorted  
24 to the rostrum.

25 **2021 STATE OF THE JUDICIARY MESSAGE**

26 Governor Noem, Lieutenant Governor Rhoden, members of the Legislature, Constitutional  
27 Officers, my fellow Justices, Judges, Unified Judicial System (UJS) employees and citizens of the  
28 State of South Dakota:

29 It is truly a privilege to address this joint session of the Legislature on behalf of the judicial  
30 branch of government. As I begin my term as Chief Justice, I look forward to working with Governor  
31 Noem and this Legislature on matters impacting the judiciary.

32 Chief Justice David Gilbertson  
33 *Leaving a Legacy*

34 Standing at the podium today, I feel much like I did when I was five years old and stepped  
35 into my dad’s farm boots. My dad’s boots were awfully big for my feet then, and so are the shoes  
36 of my predecessor today. One week ago, Chief Justice David Gilbertson retired after serving as a  
37 justice on the Supreme Court for twenty-five years and as Chief Justice for twenty years. Many of  
38 you witnessed David Gilbertson’s vision, steady-hand and skill as the administrative head of the  
39 judicial branch in South Dakota. A few of his accomplishments as chief justice include establishing  
40 19 problem-solving courts, starting the rural attorney recruitment program, overseeing criminal  
41 justice reform, moving our courts from paper filing to an electronic filing system, and restoring the  
42 Supreme Court Law Library to its original grandeur. One of Chief Justice Gilbertson’s most significant  
43 but intangible contributions, was the collegiality and goodwill he fostered both inside and outside  
44 the court system during his time as Chief Justice. During his tenure, Chief Justice Gilbertson was a  
45 model of humility, dignity, and service.

1 In addition to his administrative responsibilities, Chief Justice Gilbertson maintained a full  
2 case load as a member of the Court. He participated in nearly 6,000 decisions issued by the Court;  
3 2,933 of these decisions resulted in written opinions. To provide you with some perspective, that  
4 work alone involved reading and studying hundreds of thousands of pages of legal briefs and  
5 opinions. Of the 2,933 written opinions issued during his time on the Court, Chief Justice Gilbertson  
6 authored nearly 700 of those opinions. His concise, thoughtful, and common-sense opinions will  
7 continue to impact the jurisprudence in this state for years to come.

8 As a colleague, I have spent many hours with David Gilbertson. I can attest, he is the same  
9 man in private as he is in public. He is kind, patient and considerate. He is truly a man of faith and  
10 integrity. Further, fairness and sense of justice are deeply embedded in the fabric of his being and  
11 have been demonstrated throughout his career as a lawyer, judge and justice. I know I speak for  
12 all the members of the Court who have worked with David Gilbertson, past and present, when I  
13 express how much I appreciate his friendship, collegiality, and mentoring.

14 One week ago, the Court had David Gilbertson's name stenciled onto one of the ceiling tiles  
15 in our renovated Supreme Court Law Library. He is the first modern justice on the South Dakota  
16 Supreme Court to have his name inscribed on the law library tiles. The name "Gilbertson" joins a  
17 distinguished list of names, such as Dighton Corson, Alphonso Kellam, John Bennett, Philemon Bliss,  
18 Charles Whiting, and other early justices who served on the Supreme Court of Dakota Territory and  
19 the South Dakota Supreme Court. We are planning a public ceremony for later next year to unveil  
20 a portrait of Chief Justice Gilbertson that will hang permanently in the law library. It seems only  
21 fitting that the legacy David Gilbertson left on the court system and the State of South Dakota will  
22 be recognized by South Dakotans for generations to come.

23 Please help me in publicly expressing our thanks and appreciation for Chief Justice  
24 Gilbertson's many years of service to our state.

#### 25 The Core Function of the Judicial Branch

26 The courts in South Dakota have seen significant changes over the past several years. Since  
27 2015, the South Dakota Supreme Court has had a complete turnover, with new justices added to  
28 the Court in 2015, 2017, 2018, 2019, and just recently at the beginning of 2021. Additionally,  
29 during that same time, approximately 2/3 of the sitting circuit judges and magistrate judges have  
30 been appointed. As I reflect on these transitions, I am struck that while the names and faces of our  
31 judiciary may change, the fundamental purpose of our courts remains constant. That purpose is  
32 what I would call the core function of the courts – to provide a fair and impartial forum for the  
33 resolution of disputes and to decide those disputes based upon the established rule of law.

34 The courts have served this core function since Abraham Lincoln appointed the first three  
35 justices of the Dakota Territory Supreme Court in 1861. The work of the courts continued when  
36 South Dakota joined the Union and ratified the South Dakota Constitution in 1889. The South  
37 Dakota Constitution established the courts as one of the three co-equal branches of government for  
38 maintaining the peace, safety and functioning of our society; and protecting individual rights of life,  
39 liberty and property. Significantly, the framers of the South Dakota Constitution recognized two  
40 important elements for protecting those rights, stating that "[t]he blessings of a free government  
41 can only be maintained by a firm adherence to justice... and by frequent recurrence to fundamental  
42 principles." S.D. Const. art. VI, § 27.

43 These words on the pages of the State Constitution become very real and practical as we  
44 consider the unique adjudicative role of the courts in protecting the fundamental rights of every  
45 person coming before them. For over 130 years, the courts in South Dakota have ensured the  
46 frequent recurrence to the fundamental principles of liberty and justice. Every day our state courts  
47 hear a variety of criminal and civil cases that directly impact the life, liberty and property of our  
48 citizens. Judges presiding in criminal cases must ensure the rights of the accused, the victims, and  
49 the State in its role as the citizens' prosecuting authority. In a variety of civil cases, our courts hear  
50 business and property disputes, requests for protection orders, personal injury claims, and disputes  
51 involving families and children, just to name a few. Courts also review agency decisions that impact  
52 both individuals and businesses. In each case, judges are responsible to provide a fair and impartial  
53 forum to resolve these disputes.

1 Even those who never step foot into a courtroom are impacted every day by the court  
2 system. Business and commerce in our country has thrived over the years because the courts can  
3 be trusted to fairly and impartially resolve disputes. Additionally, employers must follow labor laws,  
4 drivers must follow the rules of the road, and private property rights must be respected because of  
5 the work of the courts. The importance of the courts to ensuring the daily functioning of society is  
6 so obvious that it is often overlooked.

7 Just as important to our system of justice is the faithful application of the established rules  
8 of law expressed in our state and federal constitutions, statutes and common law. Adherence to  
9 the rule of law recognizes that no one, regardless of status or position, is above the law. The rule  
10 of law also requires that judges apply the law as written and not based upon a preferred outcome.  
11 As the late Justice Antonin Scalia said, "If you are going to be a good and faithful judge, you have  
12 to resign yourself to the fact that you're not always going to like the conclusions you reach. If you  
13 like them all the time, you're probably doing something wrong." Any other application of the rule  
14 of law subjects the law to the whims of a few and threatens the ideals of democracy.

15 In discussing the importance of the rule of law, President Dwight D. Eisenhower stated, "The  
16 clearest way to show what the rule of law means to us in everyday life is to recall what has happened  
17 when there is no rule of law." President Eisenhower's warning can be observed both from historical  
18 and contemporary study. People are often surprised to learn that many authoritarian governments  
19 around the world today have constitutions that provide for freedoms of religion, speech, press, and  
20 other fundamental rights. Yet in practice those freedoms do not exist because the rule of law has  
21 been subjugated to the will of those in power.

22 In the end, we know that the rule of law is only as good as the people that apply and enforce  
23 the rules. It goes without saying that continued selection and retention of good judges who seek to  
24 do justice and are faithful to the rule of law is integral to the rights and liberties that we treasure.

25 Recently, I spoke with a judge who described some of the frustrations and difficulties in his  
26 work. However, when I asked him how he was doing, his answer took me a bit by surprise. He  
27 said he was doing well, and then he added, "I love this job. It's the best job I have ever had." He  
28 proceeded to tell me about the satisfaction he found as a judge in providing a fair and impartial  
29 forum for individuals to resolve their disputes and see that justice is done in the cases that come  
30 before him.

31 We are fortunate to have dedicated judges. I can tell you, from my experience in South  
32 Dakota, that dedicated men and women serving in the judiciary are the norm, not the exception.  
33 Moreover, I believe the people working in our judicial system are the greatest resource we have in  
34 carrying out the core function of the courts. This applies not just to our judges, but also our court  
35 reporters, clerks of court, court services officers, and administrative staff. Like judges, judicial staff  
36 are often the face of justice for individuals involved in the court system. Each member of our judicial  
37 staff plays a significant role in seeing that everyone has access to our courts, that they are treated  
38 fairly and respectfully, and that their cases are resolved with a constant eye toward justice and the  
39 faithful application of the rule of law.

40 When the threat of the pandemic has ended, I invite you to observe a court session in a  
41 courtroom in our state. I am concerned that many may draw conclusions about the courts from  
42 social media, sensational headlines, or courtroom dramas that often do not reflect reality. Yet most  
43 of the work of our courts in South Dakota is done without spectators, fanfare, or notice. Day in and  
44 day out, the men and women of our judiciary work hard to resolve every case fairly and consistently.  
45 This is extremely important, but difficult work. Our judges are repeatedly exposed to detailed  
46 testimony involving tragic and unimaginable events, the heart break of families in crisis, and the  
47 devastating impact of drugs and alcohol on individuals and families. Yet their job is the same in  
48 every case...to see that justice is provided to every person.

49 I am asking this Legislature to consider raises for our judges this year. The State Judicial  
50 Qualifications Commission has warned for several years that inadequate compensation is  
51 contributing to a lack of applicants for judicial positions. The UJS conducted an informal study of  
52 attorneys last year that showed judicial compensation was a significant issue discouraging qualified  
53 attorneys from applying for judicial positions. Over the past ten years, South Dakota judicial salaries  
54 have fallen behind those in nearly every State across the country. As of July 2020, a comparison

1 of the judicial salaries of other states, the District of Columbia, and U.S territories shows that the  
2 salary for South Dakota justices and circuit judges was 51<sup>st</sup> and 49<sup>th</sup>, respectively. To provide some  
3 regional comparisons, the annual salary for our circuit judges trail Nebraska judges by nearly  
4 \$40,000, Wyoming and Minnesota judges by nearly \$30,000, and North Dakota and Iowa judges by  
5 over \$15,000. We have been lucky so far to fill our vacant judicial positions across the state with  
6 qualified individuals. But I would respectfully suggest we should not trust the future of our justice  
7 system to luck. The functioning of our courts is too crucial and too important to just hope that we  
8 will find a good candidate for the next open judicial position.

9 As I talk about the importance of the people working in our court system, I want to take a  
10 moment to highlight our clerks of court, a group that is often overlooked. In addition to managing  
11 the burgeoning case filings and other daily office tasks, our clerks issue warrants, appoint counsel,  
12 set bonds and conduct initial appearances in criminal cases. Our clerks are also responsible for  
13 scheduling court, managing the courtrooms, and summoning and communicating with jurors.  
14 Because there are no judges regularly stationed in many of our rural counties, the clerks in those  
15 counties serve many additional functions. In the larger counties, the workflow and tracking of the  
16 many cases and multiple courtrooms falls on the clerks. Our clerks must also be knowledgeable  
17 about the court process and procedure as they regularly work with unrepresented individuals who  
18 are unable to afford an attorney in civil cases, such as divorce, custody, and protection order  
19 proceedings. The expectations and responsibilities placed upon our clerks has changed significantly  
20 over the past few years, requiring more experience, training and skill for those hired to fill these  
21 positions. On many occasions, I have observed the dedication and professionalism of our clerks.  
22 The work of the courts simply could not be done without them.

23 This year I am requesting funding for additional clerk positions, particularly in Minnehaha  
24 and Lincoln Counties where the caseloads have grown with the area's population. I am grateful to  
25 Governor Noem for including these positions in her recommended budget. Additionally, I am also  
26 asking for an appropriation for targeted raises for certain employees in the UJS. This will particularly  
27 impact clerks. The dollars I am requesting for this appropriation are not large, but the need is  
28 significant to allow us to target positions where we are simply unable to offer competitive salaries.

29 I have attempted to articulate what I believe to be the core function of our courts, and the  
30 importance of attracting and retaining skilled and competent judges and staff to continue carrying  
31 out this function for the citizens of South Dakota. Perhaps, the core function of the courts is best  
32 summed up in the three words of the UJS mission statement - "**Justice for All.**" This statement is  
33 both actual and aspirational. We must always be about doing justice, but we dare not stop the  
34 continued pursuit to improve our system of justice. The "**Justice for All**" mission statement serves  
35 as a powerful reminder of the work to be accomplished in every case that comes before our courts.  
36 It also serves as a directional beacon in setting our goals, priorities and plans moving forward as a  
37 court system.

38 COVID 19

39 I want to touch on a couple of other current topics of significance to the courts. The first is  
40 the impact of the coronavirus pandemic during the past year,

41 In March, the Supreme Court entered an emergency order designed to keep the courts open  
42 and operating safely during the pandemic. The order permits the presiding judge of each circuit,  
43 with the approval of the Chief Justice, to implement circuit-specific protocols which balance the  
44 importance of reducing the spread of the virus with the commitment to conducting court business  
45 as necessary. Videoconferencing technology has been used to conduct many court proceedings  
46 throughout the year. This includes the South Dakota Supreme Court, which for the first time in its  
47 history held oral arguments by videoconference. For necessary in-person proceedings, our judges  
48 and court staff have come up with innovative solutions and protocols to protect the health and safety  
49 of those working in and entering our courts.

50 One of the most significant challenges for our courts has been, and continues to be, our  
51 ability to hold jury trials. A jury trial must be held in person and necessitates bringing in a cross-  
52 section of citizens from the community to potentially serve as jurors in a case. Unfortunately, our  
53 courtrooms, jury boxes and jury deliberation rooms were not built with a pandemic in mind. As a  
54 result, judges and clerks have instituted protocols, such as personal protective equipment, pre-

1 screening jurors, modifying juror check-ins, and using additional courtrooms and other large spaces  
2 to protect the judicial staff, jurors, lawyers, and public. Despite the challenges, our judges report  
3 that South Dakota citizens have continued to respond and faithfully perform their service as jurors  
4 during this time.

5 Although it has been necessary to modify trial schedules in some cases, the South Dakota  
6 courts have still conducted 75 jury trials and more than 2,000 court trials since March of 2020.  
7 While courts in other states cancelled trials for months, our courts held jury trials and court trials  
8 every month in 2020. In addition to trials, our courts have daily held civil and criminal motion  
9 hearings, arraignments, sentencings, protection order proceedings, and many other proceedings  
10 needing immediate resolution.

11 The coronavirus pandemic has also impacted our problem-solving courts and probation  
12 supervision. All nineteen problem-solving courts have continued operating since March, but with  
13 adjustments to their operations. One of the results of the pandemic has also been a reduction in  
14 the number of new applicants since March. This will likely have a short-term impact the number of  
15 future participants in our problem-solving courts. Despite the challenges, I am pleased to report  
16 that our problem-solving courts served and graduated more participants this past year than each  
17 the past three.

18 Court services officers have also adapted their work, using technology and other measures  
19 to continue providing supervision to individuals placed on felony probation. Some of their  
20 supervision work, such as obtaining UA samples from a drug offender, simply cannot be done  
21 remotely, however. Our probation officers are to be particularly commended for their dedication  
22 and commitment during this time. Their supervision of individuals on felony probation plays a  
23 significant role in public safety.

24 I want to take a moment to thank our seven presiding judges for their extra work this past  
25 year in consulting with local health experts, developing safety protocols, and communicating with  
26 judges, employees, and the public to keep our courts operating as safely as possible during the  
27 pandemic. I can guarantee you that the court system in this state would not have been able to  
28 continue operating over the past year without their dedicated service.

29 Additionally, our judges and court staff have gone above and beyond the call of duty to keep  
30 our courts open since the pandemic started. I also want to express my appreciation to the attorneys,  
31 jurors, and parties who have cooperated with additional court protocols in place during this time.  
32 While the courts will have catching up to do after the threat of the pandemic has ended, I am proud  
33 of the fact that our courts have remained open to provide a safe forum for litigants. After all, the  
34 reality is that criminal behavior, domestic abuse, disputes involving families and children, and a  
35 myriad of other cases needing prompt resolution have not taken a break during the coronavirus  
36 crises.

37 Courthouse Security

38 Another important topic of discussion for the UJS over the past year has been judicial  
39 security. One need only read or listen to the news to understand the importance of security for the  
40 courts. This past year the Supreme Court commissioned a group to study courthouse security across  
41 the state. To consider this issue, we brought together a committee consisting of judges, court staff  
42 and law enforcement. The Committee was chaired by Justice Janine Kern. Justice Patty DeVaney  
43 served as Vice Chair. The Committee initially polled judges and court staff about existing security  
44 measures and needs in our county courthouses. The Committee also considered information from  
45 other courts and court security experts. From its work, the Committee developed several  
46 recommendations to improve security in our courthouses. I want to highlight a portion of the  
47 executive summary from the Committee:

48 Of the sixty-six counties, only six have full-time court security with  
49 protective measures in place for all courthouse visitors. In many  
50 courthouses, some security is provided on days when court is in session,  
51 others only have security available when a judicial officer specifically  
52 requests the presence of law enforcement in the courtroom. Any security



1 in the county courthouses is provided by the county sheriff. There is no  
2 employee in the UJS responsible for coordinating judicial security[.]

3 The bottom line is that many of our judges and court staff work with limited security  
4 available to them, particularly in civil cases. Unfortunately, civil cases, such as those involving  
5 domestic relations, are often some of the most emotionally charged cases that our judges hear. I  
6 would venture that if you spoke to a judge or member of our court staff who work with the public,  
7 they would all have at least one story about a significant incident that caused concern for their own  
8 safety or the safety of another while working.

9 While the counties have generally been responsive to security concerns raised by UJS  
10 personnel, but their resources are limited, and our approach to security has often been reactive  
11 rather proactive. For instance, many courthouses have not had an assessment to consider security  
12 risks and needs. Our judges and court staff are well-aware of the importance of security, but often  
13 do not have the expertise or time to address and implement additional security measures. The lack  
14 of a full-time employee within UJS, who has the expertise and is exclusively dedicated to addressing  
15 judicial security, hampers our ability to improve security for the men and women who daily work in,  
16 and participate in court proceedings around the state, as well as members of the public who access  
17 our courts.

18 The Committee recommended several steps to improve security in our courthouses. The  
19 first is to engage a security consultant to develop a statewide plan for court security. The National  
20 Center for State Courts has agreed to provide consultation services to assist the UJS in developing  
21 a security plan. We anticipate that a plan for the UJS will be completed in 2021 and no Legislative  
22 appropriation will be necessary for this consultation.

23 The second recommended step toward improving long-term security for the courts is to hire  
24 a full-time Court Security Coordinator. I am asking the Legislature to authorize funds to allow the  
25 Unified Judicial System to hire a full-time Court Security Coordinator in FY22 after the National  
26 Center has completed its consulting work. The Security Coordinator will be responsible for  
27 developing recommendations and overseeing security assessments at courthouses across the state.  
28 Many of these assessments can be completed by the United States Marshall's Office and the  
29 Department of Homeland Security without additional cost to the State. Once an assessment is  
30 completed, the Security Coordinator will work with local court personnel and county officials to  
31 discuss and implement any additional security measures. The Security Coordinator will also be  
32 responsible for addressing ongoing security concerns, identifying funding for security upgrades,  
33 conducting security trainings, and working with each circuit to develop committees to facilitate  
34 ongoing security measures in courthouses within each circuit.

35 I want to thank Governor Noem for including the funding for this crucial position in her  
36 budget. I also look forward to visiting with legislators during the course of the session about the  
37 importance of this position for the courts.

38 Justice Scott Myren

39 Finally, I want to welcome our newest Justice to the Court, Scott Myren. Governor Noem  
40 appointed Justice Myren to replace Chief Justice Gilbertson. Last week Justice Myren was sworn as  
41 the 53<sup>rd</sup> Justice of the South Dakota Supreme Court. He immediately jumped in with both feet and  
42 is sitting on the January Term of Court.

43 Justice Myren served as a circuit judge in the 5<sup>th</sup> Judicial Circuit for the past 17 years and  
44 has served as the presiding judge in the 5<sup>th</sup> Circuit for the past several years. Justice Myren is  
45 respected around the state for his demeanor, intellect, judgment and practical approach to the law.  
46 He has also been involved in several UJS initiatives over the years, including the Hope Program,  
47 that has enhanced the supervision of probationers who are struggling with drug addiction. Justice  
48 Myren's appointment to the Supreme Court is also a bit of a homecoming as he served as a staff  
49 attorney for the Supreme Court early in his legal career. Justice Myren brings a wealth of experience  
50 and will be a tremendous addition to the Court. Please join me in welcoming Justice Scott Myren to  
51 the South Dakota Supreme Court.

1 I also want to express my appreciation to my colleagues on the Court for their support and  
2 confidence as I begin my position as Chief Justice of the South Dakota Supreme Court. It is truly  
3 an honor to serve on this Court with Justice Janine Kern, Justice Mark Salter, Justice Patty DeVaney  
4 and Justice Scott Myren. They are extremely talented, hard-working jurists who hold the rule of  
5 law in high esteem. I am also grateful for the mutual respect and collaboration that exists between  
6 each of the members of the Court. I consider it a privilege to work with and learn from each of you.

7 Finally, I begin this new year and this new role reflecting on the words of the prophet Micah  
8 in chapter 6, verse 8 of the Bible. He asks himself, "And what does the Lord require of you?" Then  
9 he answers "To act justly, to love Mercy, and to walk humbly with your God." So then, justice is  
10 not just a job, or title, it is a way of life. And it leaves the world a better place.

11 Thank you.  
12  
13  
14

Respectfully Submitted,  
Steven R. Jensen  
Chief Justice

15 Sen. Cammack moved that the Joint Session do now dissolve.

16 Which motion prevailed.