

JOURNAL OF THE SENATE

NINETY-EIGHTH SESSION

TENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, January 24, 2023

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

The prayer was offered by the Chaplain, Pastor Sam Handschke, followed by the Pledge of Allegiance led by Senate pages Shayna Farlee and Emily Olsen.

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 9th 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

REPORTS OF STANDING COMMITTEES

2 Mr. President:

3 The Committee on Senate Judiciary respectfully reports that it has had under consideration
4 **SB 7, 28, 48, and 51** and returns the same with the recommendation that said bills do pass, and
5 having been certified as uncontested, be placed on the consent calendar.

6 Also Mr. President:

7 The Committee on Senate Judiciary respectfully reports that it has had under consideration
8 **SB 50** and returns the same with the recommendation that said bill be amended as follows:

9 50A

10 On page 1, line 6, of the Introduced bill, after "who " insert "corruptly "

11 On page 1, line 7, of the Introduced bill, after "or " insert "corruptly "

12 On page 1, line 17, of the Introduced bill, after "felony." insert "

13 For the purposes of this section, the term, corruptly, means wrongful or immoral and done
14 with an intent to impede the administration of justice."

15 And that as so amended, **SB 50** do pass, and having been certified as uncontested, be placed
16 on the consent calendar.

17 Also Mr. President:

18 The Committee on Senate Judiciary respectfully reports that it has had under consideration
19 **SB 64** and returns the same with the recommendation that said bill be amended as follows:

20 64A

21 On page 1, line 4, of the Introduced bill, after "Dakota:" delete "Section 1. That § 16-22-24 be
22 AMENDED:

23 "

24 On page 1, line 5, of the Introduced bill, after "AMENDED:" delete "16-22-24. Treatment and
25 intervention programs, as used in this section, mean substance abuse, mental health, or cognitive
26 based treatment received by probationers or parolees.

27 All treatment and intervention programs for parolees and probationers shall be intended to
28 reduce recidivism as demonstrated by research or documented evidence.

29 Payment for substance abuse or mental health treatment services may be made only if the
30 services are recommended through an assessment conducted by a provider accredited by the
31 Department of Social Services. Payment for cognitive based treatment services may be made only
32 if the services are recommended through a risk and needs assessment tool used by the Department
33 of Corrections or the Unified Judicial System.

34 The Department of Social Services shall collect data related to the participation, completion
35 and treatment outcomes of all probationers and parolees receiving treatment services paid for by
36 the Department of Social Services. The Department of Social Services shall report this information
37 semiannually to the oversight council.

1 The Department of Corrections shall collect data on the recidivism outcomes of parolees
 2 receiving treatment and interventions. The Department of Corrections shall report this information
 3 semiannually to the oversight council.

4 The Unified Judicial System shall collect data on the recidivism outcomes of probationers
 5 receiving treatment and interventions, the number and the percentage of probationers referred for
 6 mental health assessment, the number and the percentage of probationers referred for mental
 7 health treatment, and the annual cost of probationer mental health assessments and treatment both
 8 in total and separated by funding source. The Unified Judicial System shall report this information
 9 semiannually to the oversight body established pursuant to § 16-22-21."

10 And that as so amended, **SB 64** do pass, and having been certified as uncontested, be placed
 11 on the consent calendar.

12 Respectfully submitted,
 13 Helene Duhamel, Chair

14 Mr. President:

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

17 3A

18 On page 1, line 13, of the Introduced bill, delete " information disclosed pursuant to this section
 19 to a school official is governed by the federal Family Educational Rights and Privacy Act (FERPA), as
 20 implemented in 34 C. F. R. part 99, as effective on January 1, 2001. Law enforcement shall disclose
 21 the information to the chief administrator of a nonpublic school only upon request and upon the
 22 execution of an agreement to follow the provisions of the federal Family Educational Rights and
 23 Privacy Act (FERPA) with regard to the information, where applicable" and insert " notice shall be
 24 confidential"

25 And that as so amended, **SB 3** do pass.

26 Also Mr. President:

27 The Committee on Senate Education respectfully reports that it has had under consideration
 28 **SB 45** and returns the same with the recommendation that said bill do pass.

29 Also Mr. President:

30 The Committee on Senate Education respectfully reports that it has had under consideration
 31 **SB 59** with the recommendation that said bill be amended as follows:

32 59A

33 On page 1, line 2, of the Introduced bill, after "projects" insert ", and to declare an emergency"

34 On page 2, after line 1, of the Introduced bill, insert: "

35 **Section 6.** Whereas, this Act is necessary for the support of the state government and its
 36 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
 37 force and effect from and after its passage and approval."

38 And that as so amended said bill be referred to the Joint Committee on Appropriations with a
 39 Do Pass recommendation.

40 Respectfully submitted,
 41 Kyle Schoenfish, Chair

1 Mr. President:

2 The Committee on Senate Commerce and Energy respectfully reports that it has had under
3 consideration **SB 62** and returns the same with the recommendation that said bill be amended as
4 follows:

5 62A

6 On page 1, line 20, of the Introduced bill, after "electronic" insert " means"

7 And that as so amended, **SB 62** do pass, and having been certified as uncontested, be placed
8 on the consent calendar.

9 Also Mr. President:

10 The Committee on Senate Commerce and Energy respectfully reports that it has had under
11 consideration **HB 1015** and returns the same with the recommendation that said bill be amended
12 as follows:

13 1015A

14 On page 5, line 7, of the Introduced bill, after "licensed " insert "as a funeral director "

15 On page 5, line 11, of the Introduced bill, delete "Direct " and insert "Conduct "

16 On page 5, line 11, of the Introduced bill, after "supervise" delete " funerals"

17 On page 5, line 11, of the Introduced bill, after "practice" insert " funeral services and burials
18 of casketed remains"

19 On page 5, line 12, of the Introduced bill, after "practice;

20 (4)" delete "Practice funeral service"

21 On page 5, line 13, of the Introduced bill, after "maintain" delete "(5)"

22 And that as so amended, **HB 1015** do pass, and having been certified as uncontested, be
23 placed on the consent calendar.

24 Also Mr. President:

25 The Committee on Senate Commerce and Energy respectfully reports that it has had under
26 consideration **HB 1012** and returns the same with the recommendation that said bill do pass, and
27 having been certified as uncontested, be placed on the consent calendar.

28 Also Mr. President:

29 The Committee on Senate Commerce and Energy respectfully reports that it has had under
30 consideration **HB 1011** and returns the same with the recommendation that said bill do pass.

31
32

Respectfully submitted,
David Wheeler, Chair

1 Mr. President:

2 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
3 had under consideration **SB 21** with the recommendation that said bill be referred to the Joint
4 Committee on Appropriations with a Do Pass recommendation.

5 Respectfully submitted,
6 Herman Otten, Chair

7 Mr. President:

8 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
9 Enrolling has carefully compared **SB 2 and 41** and finds the same correctly enrolled.

10 Respectfully submitted,
11 Lee A. Schoenbeck, Chair

12 MESSAGES FROM THE HOUSE

13 Mr. President:

14 I have the honor to return herewith **SB 2 and 41** which have passed the House without change.

15 Also Mr. President:

16 I have the honor to transmit herewith **HCR 6007** which has been adopted by the House and
17 your concurrence is respectfully requested.

18 Also Mr. President:

19 I have the honor to transmit herewith **HB 1001, 1002, 1029, and 1071** which have passed
20 the House and your favorable consideration is respectfully requested.

21 Respectfully,
22 Patricia Miller, Chief Clerk

23 MOTIONS AND RESOLUTIONS

24 **HCR 6007**: A CONCURRENT RESOLUTION, Affirming the importance of the constitutionally
25 required legislative oath of office.

26 Was read the first time and the President waived the committee referral pursuant to JR 6D-1.

27 FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

28 **SB 93**: FOR AN ACT ENTITLED, An Act to provide an increased appropriation for the
29 construction costs of an athletics events center at Dakota State University, and to declare an
30 emergency.

31 Introduced by: **Senator** Crabtree

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

2 **SB 92:** FOR AN ACT ENTITLED, An Act to require that certain operations obtain their own
3 general or individual water pollution permits .

4 Introduced by: **Senator** Wiik

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

6 **SB 95:** FOR AN ACT ENTITLED, An Act to amend provisions regarding trusts.

7 Introduced by: **Senator** Schoenbeck

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

9 **SB 96:** FOR AN ACT ENTITLED, An Act to provide for the recall of school board members.

10 Introduced by: **Senator** Pischke

11 **SB 100:** FOR AN ACT ENTITLED, An Act to establish the stronger families scholarship program
12 for children in foster care, to make an appropriation therefor, and to declare an emergency.

13 Introduced by: **Senator** Novstrup

14 Were read the first time and referred to the Committee on Education.

15 **SB 89:** FOR AN ACT ENTITLED, An Act to increase the daily maximum award for the alternative
16 care program administered by the Unified Judicial System.

17 Introduced by: **Senator** Hunhoff

18 **SB 90:** FOR AN ACT ENTITLED, An Act to provide certain definitions related to the crime of
19 rape.

20 Introduced by: **Senator** Reed

21 **SB 91:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the crime of rape
22 and provide a penalty therefor.

23 Introduced by: **Senator** Reed

24 **SB 94:** FOR AN ACT ENTITLED, An Act to establish the crime of grooming and provide a penalty
25 therefor.

26 Introduced by: **Senator** Reed

27 **SB 98:** FOR AN ACT ENTITLED, An Act to identify the means of conducting a criminal
28 background check for the renewal of a gold card or an enhanced permit to carry a concealed pistol.

29 Introduced by: **Senator** Stalzer

30 Were read the first time and referred to the Committee on Judiciary.

1 **SB 88:** FOR AN ACT ENTITLED, An Act to amend a provision allowing municipalities to jointly
2 license and regulate intercity services.

3 Introduced by: **Senator** Rohl

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

5 **SB 99:** FOR AN ACT ENTITLED, An Act to authorize counties to issue bonds for certain
6 expenditures funded by a gross receipts tax.

7 Introduced by: **Senator** Novstrup

8 Was read the first time and referred to the Committee on Taxation.

9 **SB 97:** FOR AN ACT ENTITLED, An Act to establish a for-cause requirement for inspections of
10 motor carriers on possible vehicle weight and load violations.

11 Introduced by: **Senator** Pischke

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

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

14 **HB 1029:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the county
15 zoning and appeals process.

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

17 **HB 1002:** FOR AN ACT ENTITLED, An Act to update the official code of laws.

18 **HB 1071:** FOR AN ACT ENTITLED, An Act to establish use of force course standards.

19 Were read the first time and referred to the Committee on Judiciary.

20 **HB 1001:** FOR AN ACT ENTITLED, An Act to allow the Government Operations and Audit
21 Committee to issue subpoenas without Executive Board approval.

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

23 **SECOND READING OF CONSENT CALENDAR ITEMS**

24 **SB 58:** FOR AN ACT ENTITLED, An Act to clarify that the special amusement excise tax applies
25 to the sale of amusement devices.

26 Was read the second time.

27 The question being "Shall **SB 58** pass?"

28 And the roll being called:

29 Yeas 32, Nays 3, Excused 0, Absent 0

1 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,
2 Duhamel, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck, Steve Kolbeck,
3 Larson, Maher, Mehlhaff, Nesiba, Novstrup, Herman Otten, Reed, Rohl, Schoenbeck, Schoenfish,
4 Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

5 Nays: Foster, Frye-Mueller, and Pischke

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

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

9 Sen. Crabtree moved that **SB 54** be placed to follow **SB 46** on today's calendar.

10 Which motion prevailed.

11 **SB 56: FOR AN ACT ENTITLED, An Act to revise requirements to relocate a county seat.**

12 Was read the second time.

13 Sen. Maher moved that **SB 56** be amended as follows:

14 56F

15 On page 1, line 14, of the Senate Local Government Engrossed bill, after "section" delete " and
16 section 2 of this Act"

17 Which motion prevailed.

18 The question being "Shall **SB 56** pass as amended?"

19 And the roll being called:

20 Yeas 31, Nays 4, Excused 0, Absent 0

21 Yeas: Beal, Bolin, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel, Frye-
22 Mueller, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Maher,
23 Mehlhaff, Novstrup, Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,
24 Wheeler, Wiik, Wink, and Zikmund

25 Nays: Bordeaux, Foster, Larson, and Nesiba

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

28 **SB 46: FOR AN ACT ENTITLED, An Act to enhance the penalty for petition circulation perjury.**

29 Was read the second time.

1 The question being "Shall **SB 46** pass as amended?"

2 And the roll being called:

3 Yeas 31, Nays 4, Excused 0, Absent 0

4 Yeas: Beal, Bolin, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel, Frye-
5 Mueller, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Maher,
6 Mehlhaff, Novstrup, Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,
7 Wheeler, Wiik, Wink, and Zikmund

8 Nays: Bordeaux, Foster, Larson, and Nesiba

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

11 **SB 54:** FOR AN ACT ENTITLED, An Act to require a convicted defendant to reimburse for the
12 cost of digital forensic examination fees.

13 Was read the second time.

14 Sen. Duhamel moved that **SB 54** be amended as follows:

15 54C

16 On page 1, line 1, of the Senate Judiciary Engrossed bill, after "to " insert "authorize the court
17 to "

18 On page 1, line 5, of the Senate Judiciary Engrossed bill, delete "A " and insert "As part of the
19 sentence imposed, the court may require a "

20 On page 1, line 5, of the Senate Judiciary Engrossed bill, delete "or misdemeanor may, as part
21 of the sentence imposed by the court, " and insert "to "

22 On page 1, line 9, of the Senate Judiciary Engrossed bill, after "dollars" insert " for each device"

23 Which motion prevailed.

24 The question being "Shall **SB 54** pass as amended?"

25 And the roll being called:

26 Yeas 15, Nays 20, Excused 0, Absent 0

27 Yeas: Bolin, Breitling, Castleberry, Deibert, Diedrich, Duhamel, Brent "B.R." Hoffman, Steve
28 Kolbeck, Mehlhaff, Novstrup, Reed, Schoenbeck, Stalzer, Wiik, and Wink

29 Nays: Beal, Bordeaux, Crabtree, Davis, Foster, Frye-Mueller, Hunhoff, David Johnson, Klumb,
30 Jack Kolbeck, Larson, Maher, Nesiba, Herman Otten, Pischke, Rohl, Schoenfish, Tobin, Wheeler, and
31 Zikmund

32 So the bill not having received an affirmative vote of a two-thirds majority of the members-
33 elect, the President declared the bill lost.

1

COMMEMORATIONS

2

SC 803: A LEGISLATIVE COMMEMORATION, honoring the 2021-2022 Outstanding School Administrators of South Dakota: Dr. Steve Willard, Belle Fourche School Superintendent; Julie Marshall, Timber Lake Middle School Principal; Trista Olney, Douglas School Business Official; Chantal Ligtenberg, Meade Elementary School Principal; Collin Knudson, Tea Secondary School Principal; Brad Hartzler, Harrisburg Assistant High School Principal; Dr. Michelle Vande Weerd, Brookings Curriculum Leader; and Marie Ivers, Milbank Director of Special Education.

8

Introduced by: **Senators** Schoenfish, Bolin, Bordeaux, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel, David Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher, Nesiba, Novstrup, Herman Otten, Reed, Rohl, Schoenbeck, Stalzer, Wiik, and Zikmund and **Representatives** Olson, Aylward, Bartels, Blare, Callies, Chaffee, DeGroot, Deutsch, Duba, Emery, Fitzgerald, Gross, Healy, Heermann, Koth, Kull, Massie, Mills, Moore, Mortenson, Nelson, Ernie Otten, Perry, Pinnow, Pourier, Reimer, Reisch, Stevens, Tordsen, Venhuizen, and Wittman

14

SIGNING OF BILLS

15

The President publicly read the title to

16

SB 2: FOR AN ACT ENTITLED, An Act to revise Department of Corrections reporting requirements concerning abuse and neglect of individuals in private contracted facilities.

18

SB 41: FOR AN ACT ENTITLED, An Act to establish a program for housing infrastructure loans and grants, make an appropriation therefor, and to declare an emergency.

20

And signed the same in the presence of the Senate.

21

Sen. David Johnson moved that the Senate do now adjourn, which motion prevailed and at 3:01 p.m. the Senate adjourned.

23

Kay Johnson, Secretary