

JOURNAL OF THE HOUSE

NINETY-EIGHTH SESSION

TWENTY-FOURTH DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Wednesday, February 15, 2023

The House convened at 2:00 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Dow Warner, followed by the Pledge of Allegiance led by House pages Harlee Heim and Cohan Pietz.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

Mr. Speaker:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the 23rd day.

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

And we hereby move the adoption of the report.

Which motion prevailed.

Respectfully submitted,
Hugh M. Bartels, Chair

1

REPORTS OF STANDING COMMITTEES

2 Mr. Speaker:

3 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
4 Enrolling has carefully compared **HB 1041 and 1101** and finds the same correctly enrolled.

5

6

Respectfully submitted,
Hugh M. Bartels, Chair

7 Mr. Speaker:

8 The House Committee on Appropriations respectfully reports that it has had under
9 consideration **HB 1138** and returns the same with the recommendation that said bill be amended
10 as follows:

11

1138A

12 On page 1, line 8, of the Introduced bill, after "years. " insert "Any rate models determined by
13 the comprehensive rate model analysis must be reviewed and reported annually to include cost
14 report information, rate model components utilizing the most relevant inflation factor respective of
15 the analysis, and other market factors as warranted pursuant to §§ 28-22-2 and 28-22-3. "

16 On page 1, line 10, of the Introduced bill, after "conditions. " delete "shall annually update the
17 cost report information for each of the providers listed in § 28-22-6."

18 On page 1, line 11, of the Introduced bill, after "28-22-6. " insert "may elect to conduct the
19 analysis earlier or on a more frequent basis if warranted by cost report information or other market
20 conditions. "

21 And that as so amended, **HB 1138** do pass.

22 Also Mr. Speaker:

23 The House Committee on Appropriations respectfully reports that it has had under
24 consideration **HB 1055, 1093, and 1094** and returns the same with the recommendation that said
25 bills do pass.

26 Also Mr. Speaker:

27 The House Committee on Appropriations respectfully reports that it has had under
28 consideration **HB 1153** and returns the same with the recommendation that said bill do pass, and
29 having been certified as uncontested, be placed on the consent calendar.

30 Also Mr. Speaker:

31 The House Committee on Appropriations respectfully reports that it has had under
32 consideration **HB 1095, 1159, and 1197** which were deferred to the 41st Legislative Day.

33

34

Respectfully submitted,
Mike Derby, Chair

35 Mr. Speaker:

36 The Committee on House Judiciary respectfully reports that it has had under consideration
37 **HB 1131** which was deferred to the 41st Legislative Day.

1 Also Mr. Speaker:

2 The Committee on House Judiciary respectfully reports that it has had under consideration
 3 **HB 1160, 1170, and 1231, and SB 98** and returns the same with the recommendation that said
 4 bills do pass.

5 Also Mr. Speaker:

6 The Committee on House Judiciary respectfully reports that it has had under consideration
 7 **HB 1220** and returns the same with the recommendation that said bill be amended as follows:

8 1220A

9 On page 1, line 1, of the Introduced bill, delete " subjected to" and insert " who undergoes"

10 On page 1, line 5, of the Introduced bill, delete " is subjected to" and insert " undergoes"

11 And that as so amended, **HB 1220** do pass, and having been certified as uncontested, be
 12 placed on the consent calendar.

13 Also Mr. Speaker:

14 The Committee on House Judiciary respectfully reports that it has had under consideration
 15 **HB 1240** and returns the same with the recommendation that said bill be amended as follows:

16 1240A

17 On page 1, line 8, of the Introduced bill, after "the " delete "protected "

18 On page 1, line 8, of the Introduced bill, after "person" insert " alleged to be in need of
 19 protection"

20 On page 1, line 8, of the Introduced bill, delete "may" and insert "must"

21 On page 1, line 10, of the Introduced bill, after "person." insert " If a person designated under
 22 a validly executed power of attorney by the person alleged to be in need of protection is not
 23 appointed as the guardian or conservator, the court must issue written findings of facts and
 24 conclusions of law as to why the designated person was not appointed."

25 On page 1, after line 19, of the Introduced bill, insert: "

26 **Section 2. That § 29A-5-309 be AMENDED:**

27 **29A-5-309.** The court shall appoint an attorney for the person alleged to need protection,
 28 either upon the filing of the petition or at any time thereafter, if requested by the person alleged to
 29 need protection, if the person expresses a desire to contest the petition, or if the court determines
 30 that an appointment is otherwise needed to protect the person's interests. In appointing an attorney,
 31 the court shall consider any known preferences of the person alleged to need protection.

32 If the person alleged to need protection is not or will not be represented by an attorney, the
 33 court shall either appoint a court representative to make an investigation and recommendation
 34 concerning the relief requested in the petition; or shall order the person alleged to need protection
 35 to attend the hearing on the petition.

36 If the basis of the petition is that the person alleged to need protection is an absentee, the
 37 court shall appoint an attorney if the court determines that an appointment is needed to protect the
 38 person's interests, but the court need not appoint a court representative or order attendance at the
 39 hearing.

1 A person alleged to need protection who is contesting a petition may have an evaluation done
 2 by a physician, psychologist, or psychiatrist of the person's choice, which must be included in the
 3 file and considered by the court."

4 On page 3, line 1, of the Introduced bill, after "vocational" insert the comma

5 On page 3, line 6, of the Introduced bill, after "behalf;

6 (5)" insert "A statement indicating whether or not the protected person has made any
 7 statements or indications to the guardian, or any other person who has informed the guardian, that
 8 the protected person does not want the guardianship to continue, or that the protected person wants
 9 a different guardian to be appointed;

10 (6) "

11 On page 3, line 8, of the Introduced bill, delete "(6)" and insert "(7)"

12 On page 3, line 10, of the Introduced bill, delete "(7)" and insert "(8)"

13 On page 3, line 12, of the Introduced bill, delete "(8)" and insert "(9)"

14 On page 3, line 14, of the Introduced bill, delete "(9)" and insert "(10)"

15 On page 3, line 22, of the Introduced bill, after "appointments." insert "

16 If the report indicates that the protected person wants to have the guardianship ended, or
 17 wants to have another person to serve as the guardian, the court must determine if a hearing is
 18 necessary, based on the totality of the circumstances, including whether or not a hearing has
 19 previously been held on the same issue."

20 On page 5, line 1, of the Introduced bill, after "period;

21 (5)" insert "A statement indicating whether or not the protected person has made any
 22 statements or indications to the conservator, or any other person who has informed the conservator,
 23 that the protected person does not want the conservatorship to continue, or that the protected
 24 person wants a different conservator to be appointed.

25 (6) "

26 On page 5, line 3, of the Introduced bill, delete "(6)" and insert "(7)"

27 On page 5, line 5, of the Introduced bill, delete "(7)" and insert "(8)"

28 On page 5, line 7, of the Introduced bill, delete "(8)" and insert "(9)"

29 On page 5, line 10, of the Introduced bill, delete "(9)" and insert "(10)"

30 On page 5, line 23, of the Introduced bill, after "account." insert "

31 If the report indicates that the protected person wants to have conservatorship ended, or wants
 32 to have another person serve as the conservator, the court must determine if a hearing is necessary,
 33 based on the totality of the circumstances, including whether or not a hearing has previously been
 34 held on the same issue."

35 On page 5, line 25, of the Introduced bill, delete "An" and insert "The court must grant an"

36 On page 5, line 25, of the Introduced bill, after "party " delete "must have "

1 On page 5, line 25, of the Introduced bill, after "to " insert "some or all of a protected person's
2 "

3 On page 5, line 25, of the Introduced bill, after "records " delete "of the protected person. The
4 court must grant access "

5 On page 5, line 26, of the Introduced bill, after "if" insert ", on the motion of the interested
6 party,"

7 And that as so amended, **HB 1240** do pass.

8 Respectfully submitted,
9 Jon Hansen, Chair

10 Mr. Speaker:

11 The Committee on House Education respectfully reports that it has had under consideration
12 **HB 1214** which was tabled.

13 Also Mr. Speaker:

14 The Committee on House Education respectfully reports that it has had under consideration
15 **HB 1233 and 1234** which were deferred to the 41st Legislative Day.

16 Respectfully submitted,
17 Mike Stevens, Chair

18 Mr. Speaker:

19 The Committee on House State Affairs respectfully reports that it has had under consideration
20 **HB 1105, 1199, and 1232** which were deferred to the 41st Legislative Day.

21 Also Mr. Speaker:

22 The Committee on House State Affairs respectfully reports that it has had under consideration
23 **HB 1141, 1142, and 1144** and returns the same with the recommendation that said bills do pass.

24 Also Mr. Speaker:

25 The Committee on House State Affairs respectfully reports that it has had under consideration
26 **HB 1143** with the recommendation that said bill be amended as follows:

27 1143A

28 On page 1, line 1, of the Introduced bill, delete "improve the health and wellbeing of South
29 Dakotans." and insert "make an appropriation for the restoration, maintenance, and repair of the
30 state capitol and to declare an emergency."

31 On the Introduced bill, delete everything after the enacting clause and insert:

32 "

33 **Section 1.** There is hereby appropriated from the general fund the sum of \$5,000,000 to the
34 Bureau of Administration, for purposes of the restoration, maintenance, and repair of the state
35 capitol building.

1 **Section 2.** The commissioner of the Bureau of Administration shall approve vouchers and the
2 state auditor shall draw warrants to pay expenditures authorized by this Act.

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

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

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

10 Respectfully submitted,
11 Will Mortenson, Chair

12 Mr. Speaker:

13 The Committee on House Commerce and Energy respectfully reports that it has had under
14 consideration **HB 1203** which was tabled.

15 Also Mr. Speaker:

16 The Committee on House Commerce and Energy respectfully reports that it has had under
17 consideration **HB 1207 and 1228** which were deferred to the 41st Legislative Day.

18 Also Mr. Speaker:

19 The Committee on House Commerce and Energy respectfully reports that it has had under
20 consideration **HJR 5006** and returns the same with the recommendation that said resolution do
21 pass.

22 Respectfully submitted,
23 Mike Weisgram, Chair

24 **MESSAGES FROM THE SENATE**

25 Mr. Speaker:

26 I have the honor to transmit herewith **SB 25, 103, 108, and 197** which have passed the
27 Senate and your favorable consideration is respectfully requested.

28 Also Mr. Speaker:

29 I have the honor to return herewith **HB 1101** which has passed the Senate without change.

30 Respectfully,
31 Kay Johnson, Secretary

1

MOTIONS AND RESOLUTIONS

2

Rep. Mortenson moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on Thursday, February 16, 2023, the 25th legislative day.

4

Which motion prevailed.

5

CONSIDERATION OF REPORTS OF COMMITTEES

6

Rep. Mortenson moved that the report of the Standing Committee on

7

Health and Human Services on **HB 1235** as found on page 290 of the House Journal be adopted.

9

Which motion prevailed and the report was adopted.

10

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

11

SB 108: FOR AN ACT ENTITLED, An Act to provide an educational exception to consumption prohibitions for persons over eighteen years of age who are required to taste an alcoholic beverage as part of a course.

12

13

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

14

15

SB 103: FOR AN ACT ENTITLED, An Act to create a pilot program in the Unified Judicial System for risk and lethality assessments for certain persons accused of assault or protection order violations.

16

17

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

18

19

SB 197: FOR AN ACT ENTITLED, An Act to prohibit the spouse of a member of the Legislature from being employed as a private lobbyist.

20

21

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

22

23

SB 25: FOR AN ACT ENTITLED, An Act to make an appropriation to reimburse health care professionals who have complied with the requirements for health care recruitment assistance programs and to declare an emergency.

24

25

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

26

SECOND READING OF CONSENT CALENDAR ITEMS

27

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

28

29

SB 162: FOR AN ACT ENTITLED, An Act to revise public meeting requirements.

1 Were read the second time.

2 The question being "Shall **SB 162** pass as amended, and **SB 88** pass?"

3 And the roll being called:

4 Yeas 70, Nays 0, Excused 0, Absent 0

5 Yeas: Arlint, Auch, Aylward, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot,
6 Derby, Deutsch, Donnell, Drury, Duba, Duffy, Emery, Fitzgerald, Gross, Hansen, Healy, Heermann,
7 Jamison, Kevin Jensen, Phil Jensen, Karr, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lems,
8 Lesmeister, Massie, May, Mills, Moore, Mortenson, Mulally, Mulder, Nelson, Odenbach, Olson, Ernie
9 Otten, Overweg, Perry, Drew Peterson, Sue Peterson, Pinnow, Pourier, Randolph, Rehfeldt, Reimer,
10 Reisch, Sauder, Schaeftbauer, Schneider, Shorma, Sjaarda, Soye, St. John, Stevens, Teunissen,
11 Tordsen, Venhuizen, Wangsness, Weisgram, Wittman, and Speaker Bartels

12 So the bills having received an affirmative vote of a majority of the members-elect, the Speaker
13 declared the bills passed and the titles were agreed to.

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

15 **HB 1116:** FOR AN ACT ENTITLED, An Act to prohibit the use of state resources in hosting lewd
16 or lascivious content.

17 Was read the second time.

18 Rep. Lesmeister rose to a point of order that Rep. Odenbach stay germane to the bill. Speaker
19 Bartels ruled that Rep. Odenbach could continue speaking.

20 The question being "Shall **HB 1116** pass as amended?"

21 And the roll being called:

22 Yeas 60, Nays 10, Excused 0, Absent 0

23 Yeas: Arlint, Auch, Aylward, Bahmuller, Blare, Callies, Cammack, Chaffee, DeGroot, Derby,
24 Deutsch, Donnell, Drury, Duffy, Fitzgerald, Gross, Hansen, Heermann, Jamison, Kevin Jensen, Phil
25 Jensen, Karr, Kassin, Koth, Krohmer, Krull, Ladner, Lems, Massie, May, Mills, Moore, Mortenson,
26 Mulally, Mulder, Odenbach, Ernie Otten, Overweg, Perry, Drew Peterson, Sue Peterson, Pinnow,
27 Randolph, Rehfeldt, Reimer, Reisch, Sauder, Schaeftbauer, Schneider, Shorma, Sjaarda, Soye, St.
28 John, Stevens, Teunissen, Tordsen, Venhuizen, Wangsness, Weisgram, and Speaker Bartels

29 Nays: Chase, Duba, Emery, Healy, Kull, Lesmeister, Nelson, Olson, Pourier, and Wittman

30 So the bill having received an affirmative vote of a majority of the members-elect, the Speaker
31 declared the bill passed and the title was agreed to.

32 **HB 1239:** FOR AN ACT ENTITLED, An Act to prohibit a ban of gas services and appliances used
33 by consumers.

34 Was read the second time.

1 The question being "Shall **HB 1239** pass as amended?"

2 And the roll being called:

3 Yeas 64, Nays 6, Excused 0, Absent 0

4 Yeas: Arlint, Auch, Aylward, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot,
 5 Derby, Deutsch, Donnell, Drury, Duffy, Emery, Fitzgerald, Gross, Hansen, Heermann, Jamison,
 6 Kevin Jensen, Phil Jensen, Karr, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lems, Lesmeister,
 7 Massie, May, Mills, Moore, Mulally, Mulder, Odenbach, Olson, Ernie Otten, Overweg, Perry, Drew
 8 Peterson, Sue Peterson, Pinnow, Pourier, Randolph, Rehfeldt, Reimer, Reisch, Sauder, Schaeffbauer,
 9 Schneider, Shorma, Sjaarda, Soye, St. John, Stevens, Tordsen, Venhuizen, Wangsness, Weisgram,
 10 and Speaker Bartels

11 Nays: Duba, Healy, Mortenson, Nelson, Teunissen, and Wittman

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

14 **HB 1183:** FOR AN ACT ENTITLED, An Act to authorize the state's participation in the interstate
 15 compact on occupational therapy licensure.

16 Was read the second time.

17 Rep. Duba moved that **HB 1183** be amended as follows:

1183A

19 On page 2, line 23, of the Introduced bill, after "encounter;

20 E. "Continuing " insert "competence "

21 On page 2, line 24, of the Introduced bill, delete "or " and insert "and "

22 On page 3, line 17, of the Introduced bill, after "therapy;

23 Q." insert ""Occupational therapy" means the care and services provided by an occupational
 24 therapist or an occupational therapy assistant, as set forth in the member state's statutes and in
 25 rules promulgated by the member state;

26 R. "

27 On page 3, line 19, of the Introduced bill, after "therapy;" delete "R. "Occupational therapy"
 28 means the care and services provided by an occupational therapist or an occupational therapy
 29 assistant, as set forth in the member state's statutes and rules;

30 "

31 On page 3, line 23, of the Introduced bill, after "body " insert "and commission, "

32 On page 5, line 8, of the Introduced bill, delete "an " and insert "a valid, "

33 On page 9, line 2, of the Introduced bill, after "court" insert " of competent jurisdiction"

34 On page 13, line 5, of the Introduced bill, after "applicable" insert " to meetings of the
 35 commission"

36 Which motion prevailed.

1 The question being "Shall **HB 1183** pass as amended?"

2 And the roll being called:

3 Yeas 63, Nays 7, Excused 0, Absent 0

4 Yeas: Arlint, Auch, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot, Derby,
5 Deutsch, Donnell, Drury, Duba, Duffy, Emery, Fitzgerald, Gross, Hansen, Healy, Heermann,
6 Jamison, Kevin Jensen, Karr, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lesmeister, Massie, May,
7 Moore, Mortenson, Mulder, Nelson, Odenbach, Olson, Ernie Otten, Overweg, Perry, Drew Peterson,
8 Sue Peterson, Pinnow, Pourier, Rehfeldt, Reimer, Reisch, Sauder, Schaeffbauer, Schneider, Shorma,
9 Soye, St. John, Stevens, Teunissen, Tordsen, Venhuizen, Wangsness, Weisgram, Wittman, and
10 Speaker Bartels

11 Nays: Aylward, Phil Jensen, Lems, Mills, Mulally, Randolph, and Sjaarda

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

14 Rep. Mortenson moved that the balance of the calendar including **SB 19** be deferred to
15 Thursday, February 16, 2023, the 25th legislative day.

16 Which motion prevailed.

17 **SIGNING OF BILLS**

18 The Speaker publicly read the title to

19 **HB 1041**: FOR AN ACT ENTITLED, An Act to provide an exception to the definition of drug
20 paraphernalia.

21 **HB 1101**: FOR AN ACT ENTITLED, An Act to ensure the proper labeling of American Indian
22 arts and crafts.

23 And signed the same in the presence of the House.

24 Rep. Drury moved that the House do now adjourn, which motion prevailed and at 3:01 p.m.
25 the House adjourned.

26 Patricia Miller, Chief Clerk