

JOURNAL OF THE SENATE

NINETY-EIGHTH SESSION

TWENTY-FIFTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, February 16, 2023

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

The prayer was offered by the Chaplain, Father David Hussey, followed by the Pledge of Allegiance led by Senate page Mary Kolbeck.

Roll Call: All members present except Sens. Diedrich and David Johnson who were 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 24th 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 Health and Human Services respectfully reports that it has had
4 under consideration **SB 106** which was tabled.

5 Also Mr. President:

6 The Committee on Senate Health and Human Services respectfully reports that it has had
7 under consideration **SB 122, 125, and 154** which were deferred to the 41st Legislative Day.

8 Also Mr. President:

9 The Committee on Senate Health and Human Services respectfully reports that it has had
10 under consideration **SB 177** with the recommendation that said bill be referred to the Joint
11 Committee on Appropriations with a Do Pass recommendation.

12 Also Mr. President:

13 The Committee on Senate Health and Human Services respectfully reports that it has had
14 under consideration **SB 191** and returns the same with the recommendation that said bill do pass.

15 Also Mr. President:

16 The Committee on Senate Health and Human Services respectfully reports that it has had
17 under consideration **SB 201** and returns the same with the recommendation that said bill be
18 amended as follows:

19 201D

20 On page 1, line 1, of the Introduced bill, delete "exclude delta-9 tetrahydrocannabinol from
21 felony ingestion charges" and insert "provide treatment for the ingestion of controlled substances"

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

23 "

24 **Section 1. That § 22-42-5.1 be AMENDED:**25 **22-42-5.1.** No person may knowingly ingest a controlled drug or substance or have a
26 controlled drug or substance in an altered state in the body unless the substance was obtained
27 directly or pursuant to a valid prescription or order from a practitioner, while acting in the course of
28 the practitioner's professional practice or except as otherwise authorized by chapter 34-20B. ~~A~~
29 ~~violation of this section for a substance in Schedules I or II is a Class 5 felony. A violation of this~~
30 ~~section for a substance in Schedules III or IV is a Class 6 felony. A first violation of this section, or~~
31 ~~a second violation of this section within ten years of a first conviction for, or plea of guilty to, a~~
32 ~~violation of this section is a Class 1 misdemeanor. A third or subsequent violation of this section~~
33 ~~within ten years of a first conviction for, or plea of guilty to, a violation of this section is a Class 6~~
34 ~~felony.~~35 In determining whether the offense is the second, third, or subsequent violation of this section,
36 the court may not consider any previous conviction for, or plea of guilty to, a violation of this section
37 occurring more than ten years prior to the current violation. In calculating whether the time period
38 provided in this section has elapsed, the court may not include any period of time during which the
39 defendant was incarcerated.40 Any person convicted for a violation of this section shall undergo a court-ordered evaluation
41 by an addiction counselor licensed or certified by the South Dakota Board of Addiction and Prevention

1 Professionals pursuant to chapter 36-34, or a licensed or certified health care professional with
2 specialized training in chemical dependency evaluation, to determine if the defendant is chemically
3 dependent. The defendant shall pay the cost of the evaluation. The evaluator shall provide a copy
4 of recommendations from the evaluation to the referring judge."

5 And that as so amended, **SB 201** do pass.

6 Also Mr. President:

7 The Committee on Senate Health and Human Services respectfully reports that it has had
8 under consideration **SB 205** and returns the same with the recommendation that said bill be
9 amended as follows:

10 205B

11 On page 1, line 1, of the Introduced bill, delete "require mental health evaluations for inpatient
12 treatment of controlled substance use" and insert "reduce the penalty for unlawful possession of a
13 cannabis product and provide exceptions"

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

15 "

16 **Section 1. That chapter 22-42 be amended with a NEW SECTION:**

17 Notwithstanding any other provision of law, unlawful possession of a cannabis product, as
18 defined by subdivision 34-20G-1(3), is a Class 1 misdemeanor, unless the amount of cannabis
19 product unlawfully possessed exceeds one-third of the amount authorized by the Department of
20 Health in rules promulgated pursuant to subdivision 34-20G-72(9), or the cannabis product is
21 unlawfully possessed with the intent to distribute."

22 And that as so amended, **SB 205** do pass.

23 Respectfully submitted,
24 Erin Tobin, Chair

25 Mr. President:

26 The Committee on Senate Education respectfully reports that it has had under consideration
27 **SB 168** and returns the same with the recommendation that said bill be amended as follows:

28 168A

29 On page 1, line 1, of the Introduced bill, delete "revise certain provisions" and insert " authorize
30 a board of a school district to adopt policies"

31 On page 1, line 1, delete " with rape convictions" and insert " who are registered sex offenders,
32 and to declare an emergency"

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

34 "

35 **Section 1. That chapter 13-28 be amended with a NEW SECTION:**

36 A board of a school district may adopt a policy that requires a student who is registered as a
37 sex offender, pursuant to § 22-24B-2, to receive instruction through remote or distance learning or
38 an alternative educational program.

Section 2. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval."

And that as so amended, **SB 168** do pass.

Also Mr. President:

The Committee on Senate Education respectfully reports that it has had under consideration **SB 193** which was deferred to the 41st Legislative Day.

Respectfully submitted,
Kyle Schoenfish, Chair

Mr. President:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 208** which was tabled.

Also Mr. President:

The Committee on Senate Judiciary respectfully reports that it has had under consideration the nomination of Jan Steele of Deuel County, Gary, South Dakota, to the Board of Pardons and Paroles and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

Also Mr. President:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **HB 1090** and returns the same with the recommendation that said bill do pass.

Also Mr. President:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 115, and HB 1222** and returns the same with the recommendation that said bills do pass, and having been certified as uncontested, be placed on the consent calendar.

Respectfully submitted,
Helene Duhamel, Chair

Mr. President:

The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration **SB 159** and returns the same with the recommendation that said bill be amended as follows:

159B

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

"

Section 1. That § 32-6B-1 be AMENDED:

32-6B-1. Terms as used in this chapter mean:

-
- 1 (1) "Administrator," the administrator of the dealer licensing and inspection program of
2 the Department of Revenue;
- 3 (2) "Auctioneer," a person who presides over a public auction where following an initial
4 starting price, bids are taken from two or more people until a final bid or price is established for a
5 motor vehicle;
- 6 (3) "Authorized emergency vehicle," any vehicle of a fire department and any
7 ambulance and emergency vehicle of a municipal department or public service corporation that are
8 designated or authorized by the Department of Public Safety or the Department of Health;
- 9 (4) "Broker," a person who, for a fee, commission, or other valuable consideration,
10 arranges or offers to arrange a transaction involving the sale or exchange of vehicles, and who is
11 not:
- 12 (a) A dealer or a bona fide agent or employee of a dealer;
- 13 (b) A representative or a bona fide agent or employee of a manufacturer; or
- 14 (c) At any point in the transaction the bona fide owner of the vehicle involved in the
15 transactions;
- 16 (5) "Chassis cab," any incomplete motor vehicle, with a completed occupant
17 compartment, that requires only the addition of cargo carrying, work performing, or load bearing
18 components to perform the vehicle's intended function;
- 19 (6) "Community," the franchisee's area of responsibility as stipulated in the franchise or
20 a minimum radius of ten miles around an existing dealership;
- 21 (7) "Converter," a person who modifies or installs on previously assembled chassis
22 special bodies or equipment that, when completed, form an integral part of the vehicle and that
23 constitutes a major manufacturing alteration and who may issue a supplemental or secondary
24 statement of origin;
- 25 (8) "Demonstration," the noncommercial use of a dealer owned vehicle by any employee
26 of the dealership for any purpose in the ordinary course of business relating to the sale of the vehicle
27 within the trade or market area of the dealership or demonstration by any prospective buyer for a
28 period of three days. The term includes vehicles donated by a dealership to a community or
29 organization and used for a one-day parade or event;
- 30 (9) "Department," the Department of Revenue;
- 31 (10) "Emergency vehicle dealer," any person who converts or manufacturers authorized
32 emergency vehicles and who, for commission or with intent to make a profit or gain, sells,
33 exchanges, rents with option to purchase, offers, or attempts to negotiate a sale or exchange of
34 new, or new and used authorized emergency vehicles, or who is engaged wholly or in part in the
35 business of selling new, or new and used authorized emergency vehicles;
- 36 (11) "Event," a fair, exposition, vehicle show, vehicle rally, or fishing tournament that is
37 held once each year and lasts at least three days including any setup time but does not exceed
38 fifteen days;
- 39 (12) "Final stage manufacturer dealer," any person who assembles or installs on a
40 previously assembled new motor vehicle chassis cab any special body or equipment that forms an
41 integral part of the motor vehicle, constitutes a major manufacturing alteration, and completes the
42 vehicle;
- 43 (13) "Franchise," a written or oral agreement or contract between a franchisor and
44 franchisee that fixes the legal rights and liabilities of the parties to the agreement or contract;

- 1 (14) "Franchisee," person who receives vehicles from a franchisor under a franchise and
2 who offers and sells the vehicles to the general public;
- 3 (15) "Franchisor," any person engaged in the manufacturing or distribution of vehicles
4 including any person who acts for the franchisor;
- 5 (16) "Good faith," honesty in fact and the observance of reasonable, nondiscriminatory
6 commercial standards of fair dealing in the trade;
- 7 (17) "In-transit," the noncommercial use of a dealer owned vehicle by any employee of
8 the dealership for travel to and from any service facility, detail shop, repair shop, gas station, car
9 wash, dealer auction, another lot owned by the dealer, a supplemental lot, temporary special events
10 lot, temporary supplemental lot, or any other location to facilitate a dealer trade;
- 11 (18) "Manufacturer," a person who manufactures or assembles vehicles, including motor
12 homes, ~~or any parts, components, complete assemblies, or sub-assemblies of vehicles and who~~
13 ~~issues the original or first manufacturer's statement of origin.~~ The term includes a central or principal
14 sales corporation through which it distributes its products to franchised dealers;
- 15 (19) "Off-road vehicle," any self-propelled, two or more wheeled vehicle designed
16 primarily to be operated on land other than a highway and includes any all terrain vehicle, dune
17 buggy, and vehicle whose manufacturer's statement of origin or manufacturer's certificate of origin
18 states that the vehicle is not for highway use;
- 19 (20) "Public auction," a business that is open to the public where South Dakota titled
20 motor vehicles are consigned, displayed, and auctioned to the highest bidder by an auctioneer;
- 21 (21) "Sell-it-yourself lot," any space provided to a person for a fee to display that person's
22 boat or vehicle for sale;
- 23 (22) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,
24 designed and used in conjunction with a fifth wheel connecting device on a motor vehicle and
25 constructed so that some part of its weight and that of its load rests upon or is carried by another
26 vehicle;
- 27 (23) "Supplemental lot," a physically separate location owned and maintained by a
28 licensed dealer within the same county as the principal place of business;
- 29 (24) "Trailer," any vehicle without motive power designed to be coupled to or drawn by
30 a motor vehicle and constructed so that no part of its weight or that of its load rests upon the towing
31 vehicle;
- 32 (25) "Trailer dealer," any person who, for commission or with intent to make a profit or
33 gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or
34 exchange of new or used trailers, semitrailers or travel trailers or who is engaged in the business of
35 selling new or used trailers, semitrailers or travel trailers whether or not the vehicles are owned by
36 the person;
- 37 (26) "Travel trailer," any trailer or semitrailer that provides as its primary purpose
38 adequate, comfortable, temporary living quarters while on pleasure excursions or while touring for
39 business, professional, educational or recreational purposes;
- 40 (27) "Used vehicle dealer," any person who, for commission or with intent to make a
41 profit or gain sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale
42 or exchange of used vehicles or who is engaged in the business of selling used vehicles;
- 43 (28) "Vehicle," any new or used automobile, truck, truck tractor, motorcycle, off-road
44 vehicle, motor home, trailer, semitrailer or travel trailer of the type and kind required to be titled
45 and registered under chapters 32-3 and 32-5, or required to be titled under chapter 32-20 except
46 any manufactured home, used mobile home, moped, or snowmobile; and

1 (29) "Vehicle dealer," any person who, for commission or with intent to make a profit or
2 gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or
3 exchange of new, or new and used vehicles, or who is engaged wholly or in part in the business of
4 selling new, or new and used vehicles.

5 **Section 2. That chapter 32-6B be amended with a NEW SECTION:**

6 Except as provided in section 3 of this Act, a manufacturer may not charge back to a dealer
7 any warranty claim that has been paid and approved if:

8 (1) The repair work was covered under the manufacturer's warranty;

9 (2) The repair work corrected the defective condition that needed to be repaired; and

10 (3) The dealer provided documentation of the parts repaired and the process used to make the
11 repairs.

12 **Section 3. That chapter 32-6B be amended with a NEW SECTION:**

13 A manufacturer may charge back a warranty claim if:

14 (1) The claim was false or fraudulent; or

15 (2) The repairs were not necessary to correct the defective condition under accepted standards
16 of workmanship."

17 And that as so amended, **SB 159** do pass, and having been certified as uncontested, be placed
18 on the consent calendar.

19 Also Mr. President:

20 The Committee on Senate Commerce and Energy respectfully reports that it has had under
21 consideration **SB 167** which was tabled.

22 Also Mr. President:

23 The Committee on Senate Commerce and Energy respectfully reports that it has had under
24 consideration **HB 1133 and 1230** which were deferred to the 41st Legislative Day.

25 Respectfully submitted,
26 David Wheeler, Chair

27 Mr. President:

28 The Senate Committee on Appropriations respectfully reports that it has had under
29 consideration **SB 104, 105, and 196** and returns the same with the recommendation that said bills
30 do pass.

31 Also Mr. President:

32 The Senate Committee on Appropriations respectfully reports that it has had under
33 consideration **SB 138** which was deferred to the 41st Legislative Day.

34 Respectfully submitted,
35 Jean Hunhoff, Chair

1 Mr. President:

2 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
3 had under consideration **SB 152** and returns the same with the recommendation that said bill be
4 amended as follows:

5 152B

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

7 "

8 **Section 1. That § 34A-13-20 be AMENDED:**

9 **34A-13-20.** A petroleum release compensation and tank inspection fee is imposed upon any
10 petroleum products upon which the fuel excise tax is imposed by §§ 10-47B-5 to 10-47B-10,
11 inclusive, 10-47B-9.1, and 10-47B-13. None of the exemptions from fuel excise tax allowed in § 10-
12 47B-19 apply to this fee. The parties required to pay the fuel excise tax pursuant to the provisions
13 of §§ 10-47B-21 to 10-47B-26, inclusive, and 10-47B-29 and 10-47B-31 are liable for payment of
14 the petroleum release and tank inspection fee. In cases where the fuel is exempt from the fuel
15 excise tax under the provisions of subdivisions 10-47B-19(1), (3), and (5), the supplier shall pay
16 the fee. Responsibility for payment of the fee ceases if the petroleum product is sold and delivered
17 by a licensed exporter outside of the state. The amount of the fee imposed is twenty dollars per one
18 thousand gallons of petroleum. ~~The revenue collected pursuant to this section shall be distributed~~
19 ~~monthly in the following manner:~~

20 ~~(1) — In fiscal year 2019, fifty five percent shall be deposited in the state capital~~
21 ~~construction fund, twenty five percent shall be deposited in the ethanol fuel fund, and twenty~~
22 ~~percent shall be deposited in the petroleum release compensation fund;~~

23 ~~(2) — In fiscal year 2020, sixty percent shall be deposited in the state capital construction~~
24 ~~fund, twenty percent shall be deposited in the ethanol fuel fund, nineteen percent shall be deposited~~
25 ~~in the petroleum release compensation fund, and one percent shall be deposited in the ethanol~~
26 ~~infrastructure incentive fund as created in § 10-47B-164.1;~~

27 ~~(3) — In fiscal year 2021, sixty six percent shall be deposited in the state capital~~
28 ~~construction fund, fifteen percent shall be deposited in the ethanol fuel fund, eighteen percent shall~~
29 ~~be deposited in the petroleum release compensation fund, and one percent shall be deposited in the~~
30 ~~ethanol infrastructure incentive fund;~~

31 ~~(4) — In fiscal year 2022, seventy two percent shall be deposited in the state capital~~
32 ~~construction fund, ten percent shall be deposited in the ethanol fuel fund, seventeen percent shall~~
33 ~~be deposited in the petroleum release compensation fund, and one percent shall be deposited in the~~
34 ~~ethanol infrastructure incentive fund; and~~

35 ~~(5) — Beginning in fiscal year 2023 and each year thereafter, eighty-one-and-one-half~~
36 ~~percent shall must be deposited in the state capital construction fund, seventeen percent shall must~~
37 ~~be deposited in the petroleum release compensation fund, and one-and-one-half percent shall~~
38 ~~must be deposited in the ethanol infrastructure incentive fund water and environment fund, provided~~
39 ~~in § 46A-1-60.~~

40 **Section 2.** The state treasurer must transfer all funds in the ethanol infrastructure incentive
41 fund, provided in § 10-47B-164.1, into the water and environment fund, provided in § 46A-1-60.

42 **Section 3. That § 5-27-4 be REPEALED:**

43 ~~In fiscal year 2019, the Bureau of Finance and Management shall transfer each month twenty-~~
44 ~~one and one-half percent of the monthly state capital construction fund revenues from the state~~
45 ~~capital construction fund to the ethanol fuel fund. In fiscal year 2020, the Bureau of Finance and~~
46 ~~Management shall transfer each month fifteen percent of the monthly state capital construction fund~~

1 ~~revenues from the state capital construction fund to the ethanol fuel fund. In fiscal year 2021, the~~
2 ~~Bureau of Finance and Management shall transfer each month ten percent of the monthly state~~
3 ~~capital construction fund revenues from the state capital construction fund to the ethanol fuel fund.~~
4 ~~In fiscal year 2022, the Bureau of Finance and Management shall transfer each month five percent~~
5 ~~of the monthly state capital construction fund revenues from the state capital construction fund to~~
6 ~~the ethanol fuel fund."~~

7 And that as so amended, **SB 152** do pass.

8 Also Mr. President:

9 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
10 had under consideration **SB 156** with the recommendation that said bill be amended as follows:

11 156A

12 On page 1, line 2, of the Introduced bill, delete "preconstruction activities of water resources
13 in western South Dakota" and insert "eligible water projects"

14 On page 1, line 6, of the Introduced bill, after "Recovery" insert " Fund"

15 On page 1, line 6, of the Introduced bill, delete " Department of Agriculture and Natural
16 Resources" and insert " Board of Water and Natural Resources"

17 On page 1, line 7, of the Introduced bill, delete " a grant to local project sponsors for the
18 engineering, design, and preconstruction activities of the Western Dakota Regional Water System
19 project." and insert " grants for eligible water projects in accordance with the guidance provided in
20 section 2 of this Act. Monies shall be provided according to the terms and conditions established by
21 the board. "

22 On page 1, after line 9, of the Introduced bill, insert: "

23 **Section 2.** The board and the Department of Agriculture and Natural Resources shall comply
24 with any federal guidance on using American Rescue Plan Act State Fiscal Recovery Fund monies to
25 provide grants for water projects."

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

28 Also Mr. President:

29 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
30 had under consideration **HB 1121** and returns the same with the recommendation that said bill do
31 pass, and having been certified as uncontested, be placed on the consent calendar.

32 Respectfully submitted,
33 Herman Otten, Chair

34 Mr. President:

35 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
36 Enrolling has carefully compared **SB 88 and 162** and finds the same correctly enrolled.

37 Respectfully submitted,
38 Lee A. Schoenbeck, Chair

1

MESSAGES FROM THE HOUSE

2 Mr. President:

3 I have the honor to return herewith **SB 88 and 162** which have passed the House without
4 change.

5 Also Mr. President:

6 I have the honor to transmit herewith **HB 1116, 1183, and 1239** which have passed the
7 House and your favorable consideration is respectfully requested.

8

9

Respectfully,
Patricia Miller, Chief Clerk

10

MOTIONS AND RESOLUTIONS11 SENATE PAGE RESOLUTION 3 Introduced by: Senators Beal; Bolin; Bordeaux; Breitling;
12 Castleberry; Crabtree; Davis; Deibert; Diedrich; Duhamel; Foster; Frye-Mueller; Hoffman; Hunhoff;
13 Johnson; Klumb; Kolbeck, Jack; Kolbeck, Steve; Larson; Maher; Mehlhaff; Nesiba; Novstrup; Otten,
14 Herman; Pischke; Reed; Rohl; Schoenbeck; Schoenfish; Stalzer; Tobin; Wheeler; Wiik; Wink;
15 Zikmund16 A RESOLUTION, Expressing the appreciation and gratitude of the Senate of the Ninety-eighth
17 Legislature of the State of South Dakota to Jayden Bender, Annie Farley, Alyssa Feather, Kinley
18 Kirkley, Mary Kolbeck, Brynlee Patterson, Noah Schaeftbauer, Katie Sheridan, Alexandria Squier,
19 Sarah Swier, and Jorja Whempner.20 WHEREAS, the above named served loyally as pages for the Senate of the Ninety-eighth
21 Legislative Session; and22 WHEREAS, the members of the Ninety-eighth Senate express their most sincere appreciation
23 to these young people for their service to the state; and

24 WHEREAS, the members extend to these young people their wishes for every success in life:

25 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-eighth Legislature of the
26 State of South Dakota, that a personal copy of this resolution be duly certified and furnished to each
27 page on this last day of service.

28 Sen. Steve Kolbeck moved that Senate Page Resolution 3 be adopted.

29 The question being on Sen. Steve Kolbeck's motion that Senate Page Resolution 3 be adopted.

30 And the roll being called:

31 Yeas 33, Nays 0, Excused 2, Absent 0

32 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Duhamel, Foster,
33 Frye-Mueller, Brent "B.R." Hoffman, Hunhoff, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher,
34 Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer,
35 Tobin, Wheeler, Wiik, Wink, and Zikmund

36 Excused: Diedrich and David Johnson

1 So the motion having received an affirmative vote of a majority of the members-elect, the
2 President declared the motion prevailed.

3 Sen. Maher moved that the Senate do concur in House amendments to **SB 56**.

4 The question being on Sen. Maher's motion that the Senate do concur in House amendments
5 to **SB 56**.

6 And the roll being called:

7 Yeas 29, Nays 4, Excused 2, Absent 0

8 Yeas: Beal, Bolin, Breitling, Castleberry, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller,
9 Brent "B.R." Hoffman, Hunhoff, Klumb, Jack Kolbeck, Steve Kolbeck, Maher, Mehlhaff, Novstrup,
10 Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink,
11 and Zikmund

12 Nays: Bordeaux, Foster, Larson, and Nesiba

13 Excused: Diedrich and David Johnson

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

16 Sen. Schoenbeck moved that **SB 89, 118, and 149** be referred from the Joint Committee on
17 Appropriations to the Senate Committee on Appropriations.

18 Which motion prevailed.

19 Sen. Crabtree moved that **SB 185, and HB 1042** be deferred to Tuesday, February 21, 2023,
20 the 26th legislative day.

21 Which motion prevailed.

22 **CONSIDERATION OF REPORTS OF COMMITTEES**

23 Sen. Crabtree moved that the reports of the Standing Committees on

24 Local Government on **SB 174** as found on page 266 of the Senate Journal; also

25 State Affairs on **SB 189** as found on page 268 of the Senate Journal; and

26 Taxation on **SB 202** as found on page 267 of the Senate Journal be adopted.

27 Which motion prevailed and the reports were adopted.

1

CONSIDERATION OF EXECUTIVE APPOINTMENTS

2

The Senate proceeded to the consideration of the executive reappointment of Greg Whitlock of Codington County, Watertown, South Dakota, to the position of Secretary of the Department of Veterans Affairs.

3

4

The question being "Does the Senate advise and consent to the executive reappointment of Greg Whitlock pursuant to the executive message as found on page 89 of the Senate Journal?"

5

6

And the roll being called:

7

Yeas 32, Nays 1, Excused 2, Absent 0

8

Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Duhamel, Foster, Frye-Mueller, Brent "B.R." Hoffman, Hunhoff, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

9

10

11

12

13

Nays: Mehlhaff

14

Excused: Diedrich and David Johnson

15

16

So the question having received an affirmative vote of a majority of the members-elect, the President declared the reappointment confirmed.

17

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

18

19

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

20

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

21

22

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

23

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

24

25

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

26

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

27

SECOND READING OF CONSENT CALENDAR ITEMS

28

Sen. Nesiba requested that **SB 206** be removed from the Consent Calendar.

29

30

Sen. Crabtree requested that **SB 111, 112, 113, and 114** be removed from the Consent Calendar.

1 **SB 134:** FOR AN ACT ENTITLED, An Act to revise membership of the Medical Marijuana
2 Oversight Committee.

3 Was read the second time.

4 The question being "Shall **SB 134** pass as amended?"

5 And the roll being called:

6 Yeas 33, Nays 0, Excused 2, Absent 0

7 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Duhamel, Foster,
8 Frye-Mueller, Brent "B.R." Hoffman, Hunhoff, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher,
9 Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer,
10 Tobin, Wheeler, Wiik, Wink, and Zikmund

11 Excused: Diedrich and David Johnson

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

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

15 **SB 120:** FOR AN ACT ENTITLED, An Act to increase an amount of property value owned by a
16 local industrial development corporation that is exempt from taxation.

17 Was read the second time.

18 The question being "Shall **SB 120** pass as amended?"

19 And the roll being called:

20 Yeas 21, Nays 12, Excused 2, Absent 0

21 Yeas: Beal, Bordeaux, Castleberry, Crabtree, Davis, Duhamel, Klumb, Jack Kolbeck, Steve
22 Kolbeck, Larson, Mehlhaff, Nesiba, Novstrup, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Wheeler,
23 Wiik, and Zikmund

24 Nays: Bolin, Breitling, Deibert, Foster, Frye-Mueller, Brent "B.R." Hoffman, Hunhoff, Maher,
25 Herman Otten, Pischke, Tobin, and Wink

26 Excused: Diedrich and David Johnson

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

29 **SIGNING OF BILLS**

30 The President publicly read the title to

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

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

