

JOURNAL OF THE HOUSE

NINETY-EIGHTH SESSION

THIRTY-FIRST DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Tuesday, February 28, 2023

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

The prayer was offered by the Chaplain, Rev. Mercy Hobbs, followed by the Pledge of Allegiance led by House pages Faith Gaye and Benjamin Lust.

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 30th 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

COMMUNICATIONS AND PETITIONS

2

February 27, 2023

3

Mr. Speaker and Members of the House:

4

I have the honor to inform you that on February 27, 2023, I approved House Bill 1054, and the same has been deposited in the office of the Secretary of State.

5

6

Respectfully submitted,

7

Kristi Noem

8

Governor

9

February 28, 2023

10

Mr. Speaker and Members of the House:

11

I have the honor to inform you that on February 28, 2023, I approved House Bills 1145 and 1222, and the same have been deposited in the office of the Secretary of State.

12

13

Respectfully submitted,

14

Kristi Noem

15

Governor

16

REPORTS OF STANDING COMMITTEES

17

Mr. Speaker:

18

The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and Enrolling has carefully compared **HB 1006, 1007, 1009, 1032, 1056, 1114, 1162, 1196, and 1215** and finds the same correctly enrolled.

19

20

21

Respectfully submitted,

22

Hugh M. Bartels, Chair

23

Mr. Speaker:

24

The Committee on House Health and Human Services respectfully reports that it has had under consideration **SB 1** and returns the same with the recommendation that said bill be amended as follows:

25

26

27

1E

28

On page 3, line 4, of the Introduced bill, after "seizures;" insert " or"

29

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

30

(h)" delete "Glaucoma; or"

31

On page 3, line 6, of the Introduced bill, after "or" delete "(i)"

32

And that as so amended, **SB 1** do pass.

1 Also Mr. Speaker:

2 The Committee on House Health and Human Services respectfully reports that it has had under
3 consideration **SB 87** which was deferred to the 41st Legislative Day.

4 Also Mr. Speaker:

5 The Committee on House Health and Human Services respectfully reports that it has had under
6 consideration **SB 181** and returns the same with the recommendation that said bill do pass, and
7 having been certified as uncontested, be placed on the consent calendar.

8 Respectfully submitted,
9 Kevin D. Jensen, Chair

10 Mr. Speaker:

11 The Committee on House Taxation respectfully reports that it has had under consideration
12 **SB 145** and returns the same with the recommendation that said bill do pass.

13 Respectfully submitted,
14 Kirk Chaffee, Chair

15 Also Mr. Speaker:

16 I have the honor to return herewith **HB 1006, 1007, 1009, 1032, 1056, 1114, 1135, 1148,**
17 **1162, 1175, 1196, 1209, and 1215** which have passed the Senate without change.

18 Also Mr. Speaker:

19 I have the honor to return herewith **HB 1108, 1124, 1165, and 1185** which have been
20 amended by the Senate and your concurrence in the amendments is respectfully requested.

21 Also Mr. Speaker:

22 I have the honor to transmit herewith **SB 16, 17, 21, 23, 35, 59, 79, 155, 156, 158, 161,**
23 **172, and 173** which have passed the Senate and your favorable consideration is respectfully
24 requested.

25 **MOTIONS AND RESOLUTIONS**

26 Rep. Mortenson moved that **SB 191** be deferred to Wednesday, March 1, 2023, the 32nd
27 legislative day.

28 Which motion prevailed.

29 Rep. Wangsness moved that the House do concur in Senate amendments to **HB 1090**.

30 The question being on Rep. Wangsness' motion that the House do concur in Senate
31 amendments to **HB 1090**.

1 And the roll being called:

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

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

10 Nays: Aylward, Phil Jensen, Karr, Mills, Mulally, Pourier, and Randolph

11 So the motion having received an affirmative vote of a majority of the members-elect, the
12 Speaker declared the motion carried and the amendments were concurred in.

13 **CONSIDERATION OF REPORTS OF COMMITTEES**

14 Rep. Mortenson moved that the reports of the Standing Committees on

15 Judiciary on **SB 3** as found on page 378 of the House Journal; and

16 State Affairs on **SB 160** as found on page 382 of the House Journal be adopted.

17 Which motion prevailed and the reports were adopted.

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

19 **SB 16:** FOR AN ACT ENTITLED, An Act to make an appropriation to rehabilitate the rail line
20 from the city of Milbank to the city of Sisseton and to declare an emergency.

21 **SB 17:** FOR AN ACT ENTITLED, An Act to make appropriations for water and environmental
22 purposes and to declare an emergency.

23 **SB 21:** FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to the Black
24 Hills National Forest Land and Resource Management Plan revision process and to declare an
25 emergency.

26 **SB 23:** FOR AN ACT ENTITLED, An Act to make an appropriation for the modernization of the
27 state's enterprise resource planning systems and to declare an emergency.

28 **SB 35:** FOR AN ACT ENTITLED, An Act to make an appropriation to expand laboratory space
29 at the Sanford Underground Research Facility and to declare an emergency.

30 **SB 59:** FOR AN ACT ENTITLED, An Act to make an appropriation to the Department of
31 Education for grants to support career and technical education infrastructure projects, and to declare
32 an emergency.

33 **SB 79:** FOR AN ACT ENTITLED, An Act to make an appropriation to the Department of Game,
34 Fish and Parks to improve and repair infrastructure around Hiddenwood Lake and to declare an
35 emergency.

36 **SB 155:** FOR AN ACT ENTITLED, An Act to create the jail improvement and construction fund
37 for the improvement and construction of jails, to make an appropriation therefor, and to declare an
38 emergency.

1 **SB 156:** FOR AN ACT ENTITLED, An Act to make an appropriation of American Rescue Plan
2 Act monies for eligible water projects and to declare an emergency.

3 **SB 158:** FOR AN ACT ENTITLED, An Act to make an appropriation to provide funding for major
4 infrastructure projects to support South Dakota airports.

5 **SB 161:** FOR AN ACT ENTITLED, An Act to make an appropriation to the Office of the Secretary
6 of State for voter roll maintenance, ballot machines, and election security.

7 **SB 172:** FOR AN ACT ENTITLED, An Act to make an appropriation for design costs related to
8 the health services center at Black Hills State University–Rapid City, and to declare an emergency.

9 **SB 173:** FOR AN ACT ENTITLED, An Act to make an appropriation for design costs related to
10 the new Lincoln Hall at Northern State University, and to declare an emergency.

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

12 **SECOND READING OF CONSENT CALENDAR ITEMS**

13 **SB 42:** FOR AN ACT ENTITLED, An Act to modify power of attorney requirements for certain
14 vehicle transfer authorizations.

15 **SB 75:** FOR AN ACT ENTITLED, An Act to revise provisions related to parental support for
16 expenses related to pregnancy and childbirth.

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

20 **SB 115:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding consideration of
21 out-of-state convictions for driving under the influence.

22 Were read the second time.

23 The question being "Shall **SB 42, 75, 103, and 115** pass?"

24 And the roll being called:

25 Yeas 66, Nays 4, Excused 0, Absent 0

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

33 Nays: Aylward, Phil Jensen, Mulally, and Randolph

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

1 SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS

2 Speaker Pro tempore Stevens now presiding.

3 **SJR 505:** A JOINT RESOLUTION, Proposing and submitting to the electors at the next general
4 election an amendment to the Constitution of the State of South Dakota, updating references to
5 certain officeholders and persons.

6 Was read the second time.

7 The question being "Shall **SJR 505** pass as amended?"

8 And the roll being called:

9 Yeas 58, Nays 12, Excused 0, Absent 0

10 Yeas: Arlint, Auch, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot, Derby,
11 Deutsch, Donnell, Drury, Duba, Duffy, Emery, Fitzgerald, Gross, Hansen, Healy, Heermann,
12 Jamison, Kevin Jensen, Kassin, Koth, Krull, Kull, Ladner, Lesmeister, Massie, Mills, Moore,
13 Mortenson, Mulder, Nelson, Odenbach, Olson, Perry, Drew Peterson, Sue Peterson, Pinnow, Pourier,
14 Rehfeldt, Reimer, Reisch, Sauder, Schaeffbauer, Schneider, Shorma, St. John, Stevens, Teunissen,
15 Tordsen, Venhuizen, Wangsness, Weisgram, Wittman, and Speaker Bartels

16 Nays: Aylward, Phil Jensen, Karr, Krohmer, Lems, May, Mulally, Ernie Otten, Overweg,
17 Randolph, Sjaarda, and Soye

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

20 **SB 139:** FOR AN ACT ENTITLED, An Act to revise residency requirements for the purposes of
21 voter registration.

22 Was read the second time.

23 Rep. Kevin Jensen moved that **SB 139** be amended as follows:

24 139H

25 On page 2, line 14, of the Senate Engrossed bill, delete " at the address provided on the
26 registration form" and insert " in South Dakota"

27 Which motion prevailed.

28 The question being "Shall **SB 139** pass as amended?"

29 And the roll being called:

30 Yeas 68, Nays 2, Excused 0, Absent 0

31 Yeas: Arlint, Auch, Aylward, Blare, Callies, Cammack, Chaffee, Chase, DeGroot, Derby,
32 Deutsch, Donnell, Drury, Duba, Duffy, Emery, Fitzgerald, Gross, Hansen, Healy, Heermann,
33 Jamison, Kevin Jensen, Phil Jensen, Karr, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lems,
34 Lesmeister, Massie, May, Mills, Moore, Mortenson, Mulally, Mulder, Nelson, Odenbach, Olson, Ernie
35 Otten, Overweg, Perry, Sue Peterson, Pinnow, Pourier, Randolph, Rehfeldt, Reimer, Reisch, Sauder,

1 Schaeffbauer, Schneider, Shorma, Sjaarda, Soye, St. John, Stevens, Teunissen, Tordsen, Venhuizen,
2 Wangsness, Weisgram, Wittman, and Speaker Bartels

3 Nays: Bahmuller and Drew Peterson

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

6 Speaker Bartels now presiding.

7 **SB 146**: FOR AN ACT ENTITLED, An Act to limit parole for violent offenders.

8 Was read the second time.

9 Rep. Reisch moved that **SB 146** be amended as follows:

10 146E

11 On page 1, line 19, of the House Judiciary Engrossed bill, after "§ 22-33-9.1;" delete " and"

12 On page 1, line 20, of the House Judiciary Engrossed bill, delete the period and insert ";

13 (14) Vehicular homicide, as defined in § 22-16-41;

14 (15) Aggravated assault, as defined in § 22-18-1.1;

15 (16) Aggravated criminal battery of an unborn child, as defined in § 22-18-1.3;

16 (17) Kidnapping in the second degree, as defined in § 22-19-1.1;

17 (18) Second degree burglary, as defined in § 22-32-3;

18 (19) Riot, as defined in § 22-10-1;

19 (20) Manslaughter in the second degree, as defined in § 22-16-20;

20 (21) Second degree human trafficking, as defined in § 22-49-3;

21 (22) Felony child abuse, as defined in § 26-10-1; and

22 (23) Attempt to commit, or a conspiracy to commit, or a solicitation to commit any offense
23 enumerated in section 1 of this Act."

24 On page 1, line 21, of the House Judiciary Engrossed bill, delete "An " and insert "Except as
25 provided in §§ 24-15A-55 to 24-15A-68, inclusive, an "

26 On page 1, line 21, of the House Judiciary Engrossed bill, after "section" insert " must serve
27 the length of sentence established pursuant to § 24-15A-32, plus an additional . 20 of the sentence
28 imposed by the court, prior to becoming eligible for parole"

29 On page 1, line 21, of the House Judiciary Engrossed bill, after "section" delete ", for a crime
30 committed on or after July 1, 2023, is not eligible for parole by the Board of Pardons and Paroles,
31 except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An inmate shall serve the full term of
32 imprisonment imposed by the court for the offense"

1 On page 2, line 6, of the House Judiciary Engrossed bill, after "court." delete "Section 2. That
2 chapter 24-15 be amended with a NEW SECTION:"

3 On page 2, line 7, of the House Judiciary Engrossed bill, after "SECTION:" delete "For the
4 purposes of this section, the term, offense, means any of the following:

5 (1) Vehicular homicide, as defined in § 22-16-41;

6 (2) Aggravated assault, as defined in § 22-18-1. 1;

7 (3) Aggravated criminal battery of an unborn child, as defined in § 22-18-1. 3;

8 (4) Kidnapping in the second degree, as defined in § 22-19-1. 1;

9 (5) Second degree burglary, as defined in § 22-32-3;

10 (6) Riot, as defined in § 22-10-1;

11 (7) Manslaughter in the second degree, as defined in § 22-16-20;

12 (8) Second degree human trafficking, as defined in § 22-49-3;

13 (9) Felony child abuse, as defined in § 26-10-1; and

14 (10) Attempt to commit, or a conspiracy to commit, or a solicitation to commit any
15 offense enumerated in section 1 of this Act.

16 An inmate convicted of and sentenced for an offense as specified in this section, for a crime
17 committed on or after July 1, 2023, is not eligible for parole by the Board of Pardons and Paroles
18 except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An inmate shall serve the full term of
19 imprisonment imposed by the court for the offense. The court shall retain the discretion to suspend
20 a portion of the prison sentence required. If the court suspends a portion of the prison sentence,
21 the Board of Pardons and Paroles shall supervise the suspended time and has the authority to revoke
22 the suspended portion of the sentence for failing to follow the conditions of release.

23 An inmate may earn any credit for which the inmate is eligible. However, such credits may
24 only be used for increased privileges and may not be used to reduce the sentence imposed by the
25 court, except as otherwise provided in this section.

26 Discharge credits earned pursuant to §§ 24-15A-50 and 24-15A-50. 1 may be used to reduce
27 an inmate's sentence by up to fifteen percent of the sentence imposed by the court that the inmate
28 must serve before becoming eligible for release on parole. Discharge credits may not be used to
29 alter the inmate's sentence expiration date."

30 On page 3, line 2, of the House Judiciary Engrossed bill, delete "For a crime committed before
31 July 1, 2023, each " and insert "Each "

32 On page 3, line 6, of the House Judiciary Engrossed bill, after "term," insert " plus an additional
33 . 20 pursuant to section 1 this Act, if applicable,"

34 On page 4, line 23, of the House Judiciary Engrossed bill, after "grid." delete "For a crime
35 committed on or after July 1, 2023, each inmate sentenced to a penitentiary term, except those
36 under a sentence of life or death, or determined to be ineligible for parole as authorized in §§ 24-
37 15A-32. 1, section 1 of this Act, and section 2 of this Act, must have an initial parole date set by
38 the department. The date must be calculated by applying the percentage indicated in the following
39 grid to the full term of the sentence, minus any suspended time. Any of the following crimes, or any
40 attempt to commit, a conspiracy to commit, or a solicitation to commit any of the following crimes
41 is considered a violent crime for the purpose of setting an initial parole date: felony stalking as
42 defined in §§ 22-19A-2 and 22-19A-3, felony assault as defined in §§ 22-18-26 and 22-18-29,
43 felony simple assault as defined in § 22-18-1, discharging a firearm at an occupied structure or

1 motor vehicle as defined in § 22-14-20, discharging a firearm from a moving vehicle as defined in
 2 § 22-14-21, threatening to commit a sexual offense as defined in § 22-22-45, abuse or neglect of
 3 a disabled adult as defined in § 22-46-2, and aggravated incest as defined in §§ 22-22A-3 and 22-
 4 22A-3. 1:

5 Felony Convictions

6 Felony Class

7 First

8 Second

9 Third

10 Nonviolent

11 Class 6

12 . 25

13 . 30

14 . 40

15 Class 5

16 . 25

17 . 35

18 . 40

19 Class 4

20 . 25

21 . 35

22 . 40

23 Class 3

24 . 30

25 . 40

26 . 50

27 Class 2

28 . 30

29 . 40

30 . 50

31 Class 1

1	. 35
2	. 40
3	. 50
4	Class C
5	. 35
6	. 40
7	. 50
8	Violent
9	Class 6
10	. 35
11	. 45
12	. 55
13	Class 5
14	. 40
15	. 50
16	. 60
17	Class 4
18	. 40
19	. 50
20	. 65
21	Class 3
22	. 50
23	. 60
24	. 70
25	Class 2
26	. 50
27	. 65
28	. 75
29	Class 1

1 . 50
 2 . 65
 3 . 75
 4 Class C
 5 . 50
 6 . 65
 7 . 75
 8 Class B
 9 1. 0
 10 1. 0
 11 1. 0
 12 Class A
 13 1. 0
 14 1. 0
 15 1. 0
 16 Section 1
 17 of this Act
 18 1. 0
 19 1. 0
 20 1. 0
 21 Section 2
 22 of this Act
 23 1. 0-. 85
 24 1. 0-. 85
 25 1. 0-. 85

26 The application of the violent or nonviolent column of the grid is based on whether the inmate's
 27 current sentence is for a violent or nonviolent crime. The department shall consider any prior felony
 28 regardless of whether the crime is violent or nonviolent when determining which percentage to apply
 29 to the inmate's parole date calculation. Each inmate shall serve at least sixty days prior to parole
 30 release. An inmate with a life sentence and an inmate who commits an offense as defined in section
 31 1 of this Act is not eligible for parole except as provided in §§ 24-15A-55 to 24-15A-68, inclusive.
 32 An inmate who commits an offense as defined in section 2 of this Act is not eligible for parole except
 33 as provided in section 2 of this Act and §§ 24-15A-55 to 24-15A-68, inclusive. The provisions set

1 forth in sections 1 and 2 of this Act apply to a life sentence that has been commuted to a term of
2 years."

3 On page 6, after line 7, of the House Judiciary Engrossed bill, insert: "

4 **Section 3.** The provisions of this Act apply only to those crimes committed on or after July 1,
5 2023."

6 Rep. Kull requested a roll call vote.

7 Which request was supported.

8 And the roll being called:

9 Yeas 26, Nays 44, Excused 0, Absent 0

10 Yeas: Blare, Callies, Cammack, Chaffee, Duba, Duffy, Emery, Fitzgerald, Healy, Kassin, Koth,
11 Lesmeister, Moore, Mortenson, Nelson, Olson, Drew Peterson, Pourier, Rehfeldt, Reisch, Stevens,
12 Teunissen, Venhuizen, Wangsness, Wittman, and Speaker Bartels

13 Nays: Arlint, Auch, Aylward, Bahmuller, Chase, DeGroot, Derby, Deutsch, Donnell, Drury,
14 Gross, Hansen, Heermann, Jamison, Kevin Jensen, Phil Jensen, Karr, Krohmer, Krull, Kull, Ladner,
15 Lems, Massie, May, Mills, Mulally, Mulder, Odenbach, Ernie Otten, Overweg, Perry, Sue Peterson,
16 Pinnow, Randolph, Reimer, Sauder, Schaeftbauer, Schneider, Shorma, Sjaarda, Soye, St. John,
17 Tordsen, and Weisgram

18 So the motion not having received an affirmative vote of a majority of the members-elect, the
19 Speaker declared the motion lost.

20 The question being "Shall **SB 146** pass as amended?"

21 And the roll being called:

22 Yeas 53, Nays 17, Excused 0, Absent 0

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

29 Nays: Aylward, Callies, Duba, Healy, Koth, Mortenson, Nelson, Olson, Drew Peterson, Pourier,
30 Randolph, Reisch, Stevens, Venhuizen, Wangsness, Wittman, and Speaker Bartels

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

33 Speaker Pro tempore Stevens now presiding.

34 **SJR 502:** A JOINT RESOLUTION, Proposing and submitting to the voters at the next general
35 election amendments to the Constitution of the State of South Dakota revising and establishing
36 certain constitutional provisions regarding the lieutenant governor and the presiding officers of the
37 Senate and House of Representatives.

38 Was read the second time.

1 The question being "Shall **SJR 502** pass?"

2 And the roll being called:

3 Yeas 27, Nays 43, Excused 0, Absent 0

4 Yeas: Callies, Chase, DeGroot, Drury, Duba, Duffy, Emery, Healy, Jamison, Phil Jensen, Koth,
5 Lesmeister, Massie, Mulally, Mulder, Nelson, Ernie Otten, Pourier, Randolph, Rehfeldt, Schneider,
6 St. John, Stevens, Teunissen, Weisgram, Wittman, and Speaker Bartels

7 Nays: Arlint, Auch, Aylward, Bahmuller, Blare, Cammack, Chaffee, Derby, Deutsch, Donnell,
8 Fitzgerald, Gross, Hansen, Heermann, Kevin Jensen, Karr, Kassin, Krohmer, Krull, Kull, Ladner,
9 Lems, May, Mills, Moore, Mortenson, Odenbach, Olson, Overweg, Perry, Drew Peterson, Sue
10 Peterson, Pinnow, Reimer, Reisch, Sauder, Schaeftbauer, Shorma, Sjaarda, Soye, Tordsen,
11 Venhuizen, and Wangsness

12 So the bill not having received an affirmative vote of a majority of the members-elect, the
13 Speaker declared the bill lost.

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

17 Was read the second time.

18 The question being "Shall **SB 108** pass as amended?"

19 And the roll being called:

20 Yeas 36, Nays 34, Excused 0, Absent 0

21 Yeas: Auch, Aylward, Cammack, Chase, Derby, Drury, Duba, Duffy, Emery, Gross, Hansen,
22 Healy, Phil Jensen, Kassin, Krohmer, Kull, Lesmeister, Mortenson, Mulder, Nelson, Odenbach, Olson,
23 Overweg, Pourier, Rehfeldt, Reisch, Sauder, Schaeftbauer, Schneider, St. John, Stevens, Teunissen,
24 Wangsness, Weisgram, Wittman, and Speaker Bartels

25 Nays: Arlint, Bahmuller, Blare, Callies, Chaffee, DeGroot, Deutsch, Donnell, Fitzgerald,
26 Heermann, Jamison, Kevin Jensen, Karr, Koth, Krull, Ladner, Lems, Massie, May, Mills, Moore,
27 Mulally, Ernie Otten, Perry, Drew Peterson, Sue Peterson, Pinnow, Randolph, Reimer, Shorma,
28 Sjaarda, Soye, Tordsen, and Venhuizen

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

31 **SB 129:** FOR AN ACT ENTITLED, An Act to include school employees in certain assault
32 provisions and provide a penalty therefor.

33 Was read the second time.

34 The question being "Shall **SB 129** pass?"

35 And the roll being called:

36 Yeas 40, Nays 30, Excused 0, Absent 0

1 Yeas: Arlint, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot, Derby, Drury,
2 Duba, Duffy, Emery, Fitzgerald, Healy, Heermann, Jamison, Kassin, Koth, Kull, Lesmeister, Massie,
3 Moore, Mortenson, Mulder, Olson, Ernie Otten, Drew Peterson, Rehfeldt, Reimer, Reisch, Sauder,
4 St. John, Stevens, Teunissen, Tordsen, Venhuizen, Wangsness, Weisgram, and Speaker Bartels

5 Nays: Auch, Aylward, Deutsch, Donnell, Gross, Hansen, Kevin Jensen, Phil Jensen, Karr,
6 Krohmer, Krull, Ladner, Lems, May, Mills, Mulally, Nelson, Odenbach, Overweg, Perry, Sue Peterson,
7 Pinnow, Pourier, Randolph, Schaeftbauer, Schneider, Shorma, Sjaarda, Soye, and Wittman

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

10 Speaker Bartels now presiding.

11 **SB 176:** FOR AN ACT ENTITLED, An Act to modify certain requirements for removal from the
12 sex offender registry.

13 Was read the second time.

14 The question being "Shall **SB 176** pass?"

15 And the roll being called:

16 Yeas 59, Nays 11, Excused 0, Absent 0

17 Yeas: Arlint, Auch, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot, Derby,
18 Deutsch, Drury, Duba, Duffy, Emery, Gross, Hansen, Healy, Heermann, Jamison, Kevin Jensen,
19 Karr, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lems, Lesmeister, Massie, May, Mills, Mortenson,
20 Mulder, Nelson, Odenbach, Ernie Otten, Overweg, Perry, Drew Peterson, Sue Peterson, Pinnow,
21 Reimer, Reisch, Sauder, Schneider, Shorma, Sjaarda, Soye, St. John, Stevens, Teunissen, Tordsen,
22 Venhuizen, Wangsness, Weisgram, Wittman, and Speaker Bartels

23 Nays: Aylward, Donnell, Fitzgerald, Phil Jensen, Moore, Mulally, Olson, Pourier, Randolph,
24 Rehfeldt, and Schaeftbauer

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

27 **SB 18:** FOR AN ACT ENTITLED, An Act to revise the appropriation for a livestock and equestrian
28 complex at the State Fair, and to declare an emergency.

29 Was read the second time.

30 The question being "Shall **SB 18** pass?"

31 And the roll being called:

32 Yeas 51, Nays 18, Excused 1, Absent 0

33 Yeas: Arlint, Auch, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot, Derby,
34 Deutsch, Donnell, Drury, Duba, Duffy, Emery, Fitzgerald, Heermann, Jamison, Kevin Jensen, Kassin,
35 Koth, Krull, Kull, Ladner, Lesmeister, Massie, Moore, Mortenson, Mulder, Nelson, Ernie Otten,
36 Overweg, Perry, Drew Peterson, Sue Peterson, Pinnow, Pourier, Rehfeldt, Reimer, Reisch, Sauder,

1 Schneider, Shorma, St. John, Teunissen, Venhuizen, Wangsness, Weisgram, Wittman, and
2 Speaker Bartels

3 Nays: Aylward, Gross, Hansen, Healy, Phil Jensen, Karr, Lems, May, Mills, Mulally, Odenbach,
4 Olson, Randolph, Schaeftbauer, Sjaarda, Soye, Stevens, and Tordsen

5 Excused: Krohmer

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

8 **SB 33:** FOR AN ACT ENTITLED, An Act to amend an appropriation for the revised construction
9 costs of the Mineral Industries Building at the School of Mines and Technology, and to declare an
10 emergency.

11 Was read the second time.

12 The question being "Shall **SB 33** pass?"

13 And the roll being called:

14 Yeas 55, Nays 14, Excused 1, Absent 0

15 Yeas: Arlint, Blare, Callies, Cammack, Chaffee, Chase, DeGroot, Derby, Deutsch, Donnell,
16 Drury, Duba, Duffy, Emery, Fitzgerald, Gross, Hansen, Healy, Heermann, Jamison, Kevin Jensen,
17 Kassin, Koth, Krull, Kull, Ladner, Lesmeister, Massie, Mills, Moore, Mortenson, Mulder, Nelson,
18 Odenbach, Olson, Ernie Otten, Perry, Drew Peterson, Sue Peterson, Pinnow, Pourier, Rehfeldt,
19 Reimer, Reisch, Sauder, Schneider, St. John, Stevens, Teunissen, Tordsen, Venhuizen, Wangsness,
20 Weisgram, Wittman, and Speaker Bartels

21 Nays: Auch, Aylward, Bahmuller, Phil Jensen, Karr, Krohmer, Lems, May, Overweg, Randolph,
22 Schaeftbauer, Shorma, Sjaarda, and Soye

23 Excused: Mulally

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

26 **SB 4:** FOR AN ACT ENTITLED, An Act to modify a court's authority to commit a habitual juvenile
27 offender to the Department of Corrections.

28 Was read the second time.

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

30 And the roll being called:

31 Yeas 62, Nays 7, Excused 1, Absent 0

32 Yeas: Arlint, Auch, Aylward, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot,
33 Derby, Deutsch, Donnell, Drury, Duffy, Fitzgerald, Gross, Hansen, Heermann, Jamison, Kevin
34 Jensen, Phil Jensen, Karr, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lems, Lesmeister, Massie,
35 May, Mills, Moore, Mortenson, Mulder, Odenbach, Olson, Ernie Otten, Overweg, Perry, Drew
36 Peterson, Sue Peterson, Pinnow, Randolph, Rehfeldt, Reimer, Reisch, Sauder, Schaeftbauer,
37 Schneider, Shorma, Sjaarda, Soye, St. John, Teunissen, Tordsen, Venhuizen, Wangsness,
38 Weisgram, and Speaker Bartels

1 Nays: Duba, Emery, Healy, Nelson, Pourier, Stevens, and Wittman

2 Excused: Mulally

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

5 There being no objection, the House reverted to Order of Business No. 8 - Motions and
6 Resolutions.

7 Rep. Mortenson moved that **SB 112** be placed to follow 120 on today's calendar.

8 Which motion prevailed.

9 **SB 112:** FOR AN ACT ENTITLED, An Act to reduce certain gross receipts tax rates and a use
10 tax rate, and to repeal a conditional reduction of certain gross receipts tax rates.

11 Was read the second time.

12 Rep. Mortenson moved that **SB 112** be amended as follows:

13 112A

14 On page 1, line 1, of the Introduced bill, delete "establish and modify provisions related to
15 taxation" and insert "reduce certain gross receipts tax rates and a use tax rate, and to repeal a
16 conditional reduction of certain gross receipts tax rates"

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

18 "

19 **Section 1. That § 10-45-2 be AMENDED:**

20 **10-45-2.** There is hereby imposed a tax upon the privilege of engaging in business as a
21 retailer, a tax of four and ~~one-half percent~~ two-tenths upon the gross receipts of all sales of tangible
22 personal property consisting of goods, wares, or merchandise, except as otherwise provided in this
23 chapter, sold at retail in the ~~State of South Dakota~~ state to consumers or users.

24 **Section 2. That § 10-45-5 be AMENDED:**

25 **10-45-5.** There is imposed a tax at the rate of four and ~~one-half~~ two-tenths percent upon the
26 gross receipts of any person from engaging or continuing in any of the following businesses or
27 services in this state: abstracters; accountants; ancillary services; architects; barbers; beauty
28 shops; bill collection services; blacksmith shops; car washing; dry cleaning; dyeing; exterminators;
29 garage and service stations; garment alteration; cleaning and pressing; janitorial services and
30 supplies; specialty cleaners; laundry; linen and towel supply; membership or entrance fees for the
31 use of a facility or for the right to purchase tangible personal property, any product transferred
32 electronically, or services; photography; photo developing and enlarging; tire recapping; welding
33 and all repair services, except repair services for farm machinery, attachment units, and irrigation
34 equipment used exclusively for agricultural purposes; cable television; and rentals of tangible
35 personal property except leases of tangible personal property between one telephone company and
36 another telephone company, motor vehicles as defined pursuant to § 32-5-1 leased under a single
37 contract for more than twenty-eight days and mobile homes. However, the specific enumeration of
38 businesses and professions made in this section does not, in any way, limit the scope and effect of
39 the provisions of § 10-45-4.

1 **Section 3. That § 10-45-5.3 be AMENDED:**

2 **10-45-5.3.** There is imposed, at the rate of four and ~~one-half~~ two-tenths percent, an excise
3 tax on the gross receipts of any person engaging in oil and gas field services (group no. 138) as
4 enumerated in the Standard Industrial Classification Manual, 1987, as prepared by the Statistical
5 Policy Division of the Office of Management and Budget, Office of the President.

6 **Section 4. That § 10-45-6 be AMENDED:**

7 **10-45-6.** There is hereby imposed a tax of four and ~~one-half~~ two-tenths percent upon the
8 gross receipts from sales, furnishing, or service of gas, electricity, and water, including the gross
9 receipts from such sales by any municipal corporation furnishing gas, and electricity, to the public
10 in its proprietary capacity, except as otherwise provided in this chapter, when sold at retail in the
11 State of South Dakota to consumers or users.

12 **Section 5. That § 10-45-6.1 be AMENDED:**

13 **10-45-6.1.** Except as provided in § 10-45-6.2, there is hereby imposed a tax of four and ~~one-~~
14 ~~half~~ two-tenths percent upon the gross receipts from providing any intrastate, interstate, or
15 international telecommunications service that originates or terminates in this state and that is billed
16 or charged to a service address in this state, or that both originates and terminates in this state.
17 However, the tax imposed by this section does not apply to:

18 (1) Any eight hundred or eight hundred type service unless the service both originates
19 and terminates in this state;

20 (2) Any sale of a telecommunication service to a provider of telecommunication
21 services, including access service, for use in providing any telecommunication service; or

22 (3) Any sale of interstate telecommunication service provided to a call center that has
23 been certified by the secretary of revenue to meet the criterion established in § 10-45-6.3 and the
24 call center has provided to the telecommunications service provider an exemption certificate issued
25 by the secretary indicating that it meets the criterion.

26 If a call center uses an exemption certificate to purchase services not meeting the criterion
27 established in § 10-45-6.3, the call center is liable for the applicable tax, penalty, and interest.

28 **Section 6. That § 10-45-6.2 be AMENDED:**

29 **10-45-6.2.** There is hereby imposed a tax of four and ~~one-half~~ two-tenths percent upon the
30 gross receipts of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January
31 1, 2002, that originate and terminate in the same state and are billed to a customer with a place of
32 primary use in this state or are deemed to have originated or been received in this state and to be
33 billed or charged to a service address in this state if the customer's place of primary use is located
34 in this state regardless of where the service actually originates or terminates. Notwithstanding any
35 other provision of this chapter and for purposes of the tax imposed by this section, the tax imposed
36 upon mobile telecommunication services ~~shall~~ must be administered in accordance with 4 U.S.C.
37 §§ 116-126 as in effect on July 28, 2000.

38 **Section 7. That § 10-45-8 be AMENDED:**

39 **10-45-8.** There is imposed a tax of four and ~~one-half~~ two-tenths percent upon the gross
40 receipts from all sales of tickets or admissions to places of amusement and athletic contests or
41 events, except as otherwise provided in this chapter.

42 **Section 8. That § 10-45-71 be AMENDED:**

43 **10-45-71.** There is imposed a tax of four and ~~one-half~~ two-tenths percent on the gross receipts
44 from the transportation of passengers. The tax imposed by this section shall apply to any

1 transportation of passengers if the passenger boards and exits the mode of transportation within
2 this state.

3 **Section 9. That § 10-46-2.1 be AMENDED:**

4 **10-46-2.1.** For the privilege of using services in South Dakota, except those types of services
5 exempted by § 10-46-17.3, there is imposed on the person using the service an excise tax equal to
6 four and ~~one-half~~ two-tenths percent of the value of the services at the time they are rendered.
7 However, this tax may not be imposed on any service rendered by a related corporation as defined
8 in subdivision 10-43-1(11) for use by a financial institution as defined in subdivision 10-43-1(4) or
9 on any service rendered by a financial institution as defined in subdivision 10-43-1(4) for use by a
10 related corporation as defined in subdivision 10-43-1(11). For the purposes of this section, the term
11 related corporation includes a corporation which together with the financial institution is part of a
12 controlled group of corporations as defined in 26 U.S.C. § 1563 as in effect on January 1, 1989,
13 except that the eighty percent ownership requirements set forth in 26 U.S.C. § 563(a)(2)(A) for a
14 brother-sister controlled group are reduced to fifty-one percent. For the purpose of this chapter,
15 services rendered by an employee for the use of ~~his~~ the employer are not taxable.

16 **Section 10. That § 10-46-2.2 be AMENDED:**

17 **10-46-2.2.** An excise tax is imposed upon the privilege of the use of rented tangible personal
18 property and any product transferred electronically in this state at the rate of four and ~~one-half~~ two-
19 tenths percent of the rental payments upon the property.

20 **Section 11. That § 10-46-58 be AMENDED:**

21 **10-46-58.** There is imposed a tax of four and ~~one-half~~ two-tenths percent on the privilege of
22 the use of any transportation of passengers. The tax imposed by this section ~~shall apply~~ applies
23 to any transportation of passengers if the passenger boards and exits the mode of transportation within
24 this state.

25 **Section 12. That § 10-46-69 be AMENDED:**

26 **10-46-69.** There is hereby imposed a tax of four and ~~one-half~~ two-tenths percent upon the
27 privilege of the use of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of
28 January 1, 2002, that originate and terminate in the same state and are billed to a customer with a
29 place of primary use in this state. Notwithstanding any other provision of this chapter and for
30 purposes of the tax imposed by this section, the tax imposed upon mobile telecommunication
31 services ~~shall~~ must be administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28,
32 2000.

33 **Section 13. That § 10-46-69.1 be AMENDED:**

34 **10-46-69.1.** Except as provided in § 10-46-69, there is hereby imposed a tax of four and ~~one-~~
35 ~~half~~ two-tenths percent upon the privilege of the use of any intrastate, interstate, or international
36 telecommunications service that originates or terminates in this state and that is billed or charged
37 to a service address in this state, or that both originates and terminates in this state. However, the
38 tax imposed by this section does not apply to:

39 (1) Any eight hundred or eight hundred type service unless the service both originates
40 and terminates in this state;

41 (2) Any sale of a telecommunication service to a provider of telecommunication
42 services, including access service, for use in providing any telecommunication service; or

43 (3) Any sale of interstate telecommunication service provided to a call center that has
44 been certified by the secretary of revenue to meet the criterion established in § 10-45-6.3 and the
45 call center has provided to the telecommunications service provider an exemption certificate issued
46 by the secretary indicating that it meets the criterion.

1 If a call center uses an exemption certificate to purchase services not meeting the criterion
2 established in § 10-45-6.3, the call center is liable for the applicable tax, penalty, and interest.

3 **Section 14. That § 10-46-69.2 be AMENDED:**

4 **10-46-69.2.** There is hereby imposed a tax of four and ~~one-half~~ two-tenths percent upon the
5 privilege of the use of any ancillary services.

6 **Section 15. That § 10-46E-1 be AMENDED:**

7 **10-46E-1.** There is hereby imposed an excise tax of four and ~~one-half~~ two-tenths percent on
8 the gross receipts from the sale, resale, or lease of farm machinery, attachment units, and irrigation
9 equipment used exclusively for agricultural purposes. However, if any trade-in or exchange of used
10 farm machinery, attachment units, and irrigation equipment is involved in the transaction, the excise
11 tax is only due and may only be collected on the cash difference.

12 **Section 16. That § 10-58-1 be AMENDED:**

13 **10-58-1.** There is imposed upon owners and operators a special amusement excise tax of four
14 and ~~one-half~~ two-tenths percent of the gross receipts from the operation of any mechanical or
15 electronic amusement device. The tax imposed by this section is in lieu of the tax imposed pursuant
16 to chapter 10-45.

17 **Section 17. That § 10-64-9 be REPEALED:**

18 ~~If the state is able to enforce the obligation to collect and remit sales tax on remote sellers
19 who deliver tangible personal property, products transferred electronically, or services directly to
20 the citizens of South Dakota, the additional net revenue from such obligation shall be used to reduce
21 the rate of certain taxes. The rate of tax imposed by §§ 10-45-2, 10-45-5, 10-45-5.3, 10-45-6, 10-
22 45-6.1, 10-45-6.2, 10-45-8, 10-45-71, 10-46-2.1, 10-46-2.2, 10-46-58, 10-46-69, 10-46-69.1,
23 10-46-69.2, 10-46E-1, and 10-58-1 shall be reduced by one-tenth percent on July first following
24 the calendar year for which each additional twenty million dollar increment of net revenue is
25 collected and remitted by such remote sellers. However, the rate of tax imposed by §§ 10-45-2, 10-
26 45-5, 10-45-5.3, 10-45-6, 10-45-6.1, 10-45-6.2, 10-45-8, 10-45-71, 10-46-2.1, 10-46-2.2, 10-
27 46-58, 10-46-69, 10-46-69.1, 10-46-69.2, 10-46E-1, and 10-58-1 may not be reduced below four
28 percent pursuant to the provisions of this section."~~

29 Which motion prevailed.

30 The question being "Shall **SB 112** pass as amended?"

31 And the roll being called:

32 Yeas 63, Nays 6, Excused 1, Absent 0

33 Yeas: Arlint, Auch, Aylward, Bahmuller, Blare, Callies, Cammack, Chaffee, Chase, DeGroot,
34 Derby, Deutsch, Donnell, Drury, Duffy, Fitzgerald, Gross, Hansen, Heermann, Jamison, Kevin
35 Jensen, Phil Jensen, Karr, Kassin, Koth, Krohmer, Krull, Kull, Ladner, Lems, Lesmeister, Massie,
36 May, Mills, Moore, Mortenson, Mulder, Odenbach, Olson, Ernie Otten, Overweg, Perry, Drew
37 Peterson, Sue Peterson, Pinnow, Randolph, Rehfeldt, Reimer, Reisch, Sauder, Schaeffbauer,
38 Schneider, Shorma, Sjaarda, Soye, St. John, Stevens, Teunissen, Tordsen, Venhuizen, Wangsness,
39 Weisgram, and Speaker Bartels

40 Nays: Duba, Emery, Healy, Nelson, Poirier, and Wittman

41 Excused: Mulally

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

1 Rep. Mortenson moved that the balance of the calendar including **SB 55, 67, 69, 74, 120,**
2 **159, and 180** be deferred to Wednesday, March 1, 2023, the 32nd legislative day.

3 Which motion prevailed.

4 **SIGNING OF BILLS**

5 The Speaker publicly read the title to

6 **HB 1006:** FOR AN ACT ENTITLED, An Act to increase the funding for construction of an addition
7 to the Kinsman Building in Pierre, to make an appropriation therefor, and to declare an emergency.

8 **HB 1007:** FOR AN ACT ENTITLED, An Act to add emergency medical services personnel to
9 Class B public safety membership of the South Dakota Retirement System.

10 **HB 1009:** FOR AN ACT ENTITLED, An Act to update and clarify certain provisions relating to
11 the South Dakota Retirement System.

12 **HB 1032:** FOR AN ACT ENTITLED, An Act to make an appropriation for the demolition and
13 reconstruction of agricultural-use structures at South Dakota State University, and to declare an
14 emergency.

15 **HB 1056:** FOR AN ACT ENTITLED, An Act to modify the limit of consecutive terms for members
16 of the Board of Technical Education.

17 **HB 1114:** FOR AN ACT ENTITLED, An Act to revise the qualifications to be a member of a
18 county recount board.

19 **HB 1162:** FOR AN ACT ENTITLED, An Act to authorize employers to acquire and make available
20 opioid antagonists.

21 **HB 1196:** FOR AN ACT ENTITLED, An Act to make an appropriation for improving the buildings
22 and grounds of the capitol complex and declare an emergency.

23 **HB 1215:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the operation
24 of a golf cart on a state or county highway.

25 **SB 204:** FOR AN ACT ENTITLED, An Act to expand critical incident stress management to
26 health care facility personnel providing emergency services.

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

28 Rep. Drury moved that the House do now adjourn, which motion prevailed and at 5:00 p.m.
29 the House adjourned.

30

Patricia Miller, Chief Clerk

