

JOURNAL OF THE SENATE

NINETY-NINTH SESSION

SEVENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, January 18, 2024

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

The prayer was offered by the Chaplain, Reverend Sam Handschke, followed by the Pledge of Allegiance led by Senate page Ty Sullivan.

Roll Call: All members present except Sen. Diedrich who was 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 6th 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

COMMUNICATIONS AND PETITIONS

2

January 16, 2024

3

The Honorable Larry Rhoden

4

President of the Senate

5

State Capitol

6

Pierre, SD 57501

7

Dear President and Members of the Senate:

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Pursuant to the provisions of Chapter 24-13-1 of the South Dakota Codified Laws and subject to your confirmation, the Court has appointed John L. Brown, a retired judge from Rapid City, South Dakota, to the Board of Pardons and Paroles. Accordingly, the Court requests that you submit said appointment to the Senate for consent.

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Very truly yours,
Shirley A. Jameson-Fergel

14

The President announced the referral of the appointment to the Committee on Judiciary.

15

REPORTS OF STANDING COMMITTEES

16

MR. PRESIDENT:

17

The Committee on Senate Education respectfully reports that it has had under consideration the nomination of Judith Dittman of Lake County, Madison, South Dakota, to the Board of Regents and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

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21

Also MR. PRESIDENT:

22

The Committee on Senate Education respectfully reports that it has had under consideration the nomination of Randy Frederick of Hamlin County, Hayti, South Dakota, to the Board of Regents and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

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Also MR. PRESIDENT:

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The Committee on Senate Education respectfully reports that it has had under consideration the nomination of James Lochner of Union County, Dakota Dunes, South Dakota, to the Board of Regents and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

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Also MR. PRESIDENT:

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The Committee on Senate Education respectfully reports that it has had under consideration the nomination of Douglas Morrison of Lincoln County, Sioux Falls, South Dakota, to the Board of Regents and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

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1 Also MR. PRESIDENT:

2 The Committee on Senate Education respectfully reports that it has had under consideration
3 the nomination of Randall Rasmussen of Clay County, Vermillion, South Dakota, to the Board of
4 Regents and returns the same with the recommendation that the Senate advise and consent to the
5 confirmation of said appointment.

6 Respectfully submitted,
7 Kyle Schoenfish, Chair

8 MR. PRESIDENT:

9 The Senate Committee on Appropriations respectfully reports that it has had under
10 consideration **HB 1001** which was tabled.

11 Respectfully submitted,
12 Jean Hunhoff, Chair

13 MR. PRESIDENT:

14 The Committee on Senate Judiciary respectfully reports that it has had under consideration
15 **SB 61** and returns the same with the recommendation that said bill do pass, and having been
16 certified as uncontested, be placed on the consent calendar.

17 Also MR. PRESIDENT:

18 The Committee on Senate Judiciary respectfully reports that it has had under consideration
19 **SB 74** which was deferred to the 41st Legislative Day.

20 Respectfully submitted,
21 Helene Duhamel, Chair

22 MR. PRESIDENT:

23 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
24 had under consideration **SB 14** and returns the same with the recommendation that said bill be
25 amended as follows:

26 14A

27 On page 1, line 5, of the Introduced bill, delete "Except as otherwise provided in this section,
28 an" and insert " An"

29 On page 1, line 12, of the Introduced bill, after "section." delete "The"

30 On page 1, line 12, of the Introduced bill, after "section.

31 The " insert "Notwithstanding the "

32 On page 1, line 12, of the Introduced bill, delete " does not apply to" and insert a comma

33 On page 1, line 12, of the Introduced bill, after "individual " delete "using"

34 On page 1, line 12, of the Introduced bill, after "using " insert "may use "

1 On page 1, line 17, of the Introduced bill, after "age;
2 (3)" insert "The individual is not engaged in harassing the coyote;
3 (4) "
4 On page 1, line 18, of the Introduced bill, delete "(4)" and insert "(5)"
5 On page 1, line 20, of the Introduced bill, delete "(5)" and insert "(6)"

6 And that as so amended, **SB 14** do pass, and having been certified as uncontested, be placed
7 on the consent calendar.

8 Also MR. PRESIDENT:

9 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
10 had under consideration **SJR 502** and returns the same with the recommendation that said
11 resolution do pass.

12 Respectfully submitted,
13 Herman Otten, Chair

14 MR. PRESIDENT:

15 The Committee on Senate Commerce and Energy respectfully reports that it has had under
16 consideration **SB 12 and 57** and returns the same with the recommendation that said bills do pass.

17 Also MR. PRESIDENT:

18 The Committee on Senate Commerce and Energy respectfully reports that it has had under
19 consideration **SB 35** and returns the same with the recommendation that said bill do pass, and
20 having been certified as uncontested, be placed on the consent calendar.

21 Respectfully submitted,
22 David Wheeler, Chair

23 **MESSAGES FROM THE HOUSE**

24 MR. PRESIDENT:

25 I have the honor to transmit herewith **HCR 6006** which has been adopted by the House and
26 your concurrence is respectfully requested.

27 Also MR. PRESIDENT:

28 I have the honor to transmit herewith **HB 1003, 1011, 1013, 1025, 1027, 1028, 1063,**
29 **1068, and 1074** which have passed the House and your favorable consideration is respectfully
30 requested.

31 Respectfully,
32 Patricia Miller, Chief Clerk

1

MOTIONS AND RESOLUTIONS

2

Sen. Crabtree moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on Friday, January 19, 2024, the 8th legislative day.

3

4

Which motion prevailed.

5

HCR 6006: A CONCURRENT RESOLUTION, Urging the members of South Dakota's congressional delegation to sponsor and support an amendment to the Payment in Lieu of Taxes (PILT) Act.

6

7

8

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

9

HCR 6004: A CONCURRENT RESOLUTION, Affirming the Legislature's support and commitment of the State of Israel.

10

11

Was read the second time.

12

Sen. Tobin moved that the Senate do concur in **HCR 6004** as found on page 93 of Senate Journal.

13

14

The question being on Sen. Tobin's motion that **HCR 6004** be concurred in.

15

And the roll being called:

16

Yeas 29, Nays 3, Excused 1, Absent 1

17

Yeas: Beal, Bolin, Breitling, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller, Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Maher, Mehlhaff, Novstrup, Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

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Nays: Bordeaux, Larson, and Nesiba

22

Excused: Diedrich

23

Absent: Foster

24

So the motion having received an affirmative vote of a majority of the members-elect, the President declared the motion carried and **HCR 6004** was concurred in.

25

26

Yesterday, Sen. Duhamel announced her intention to reconsider the vote by which **SB 15** lost.

27

Sen. Duhamel moved that the Senate do now reconsider the vote by which **SB 15** lost.

28

The question being on Sen. Duhamel's motion to reconsider the vote by which **SB 15** lost.

29

And the roll being called:

30

Yeas 29, Nays 3, Excused 1, Absent 1

31

Yeas: Beal, Bolin, Breitling, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller, Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff, Novstrup, Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wiik, Wink, and Zikmund

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1 Nays: Bordeaux, Nesiba, and Wheeler

2 Excused: Diedrich

3 Absent: Foster

4 So the motion having received an affirmative vote of a majority of the members-elect, the
5 President declared the motion carried and **SB 15** was up for reconsideration and final passage.

6 **SB 15:** FOR AN ACT ENTITLED, An Act to require a convicted defendant to reimburse the cost
7 of digital forensic examination fees.

8 Having had its second reading was up for reconsideration and final passage.

9 Sen. Duhamel moved that **SB 15** be amended as follows:

10 15C

11 On page 1, line 10, of the Introduced bill, delete " a special revenue fund for reimbursement
12 to the Office of the Attorney General for the costs of administering digital forensic examination
13 procedures." and insert " the internet crimes investigation fund, created in section 3 of this Act."

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

15 **Section 3. That a NEW SECTION be added to chapter 1-11:**

16 There is hereby established in the state treasury the internet crimes investigation fund. The
17 fund consists of all fees imposed pursuant to section 1 of this Act. The attorney general shall
18 maintain and administer the fund. Interest on moneys credited to the fund must be deposited in the
19 fund. Expenditures out of the fund must be appropriated through the General Appropriations Act.
20 Expenditures from the fund must be used for operational expenses including computer hardware,
21 software licensing, and training for the office of internet crimes investigation, established in § 1-11-
22 16 and the internet crimes against children unit."

23 Which motion prevailed.

24 The question being "Shall **SB 15** pass as amended?"

25 And the roll being called:

26 Yeas 29, Nays 4, Excused 1, Absent 0

27 Yeas: Beal, Bolin, Breitling, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller, Hoffman,
28 Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff, Novstrup,
29 Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wiik, Wink, and
30 Zikmund

31 Nays: Bordeaux, Foster, Nesiba, and Wheeler

32 Excused: Diedrich

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

1

CONSIDERATION OF REPORTS OF COMMITTEES

2

Sen. Crabtree moved that the report of the Standing Committee on

3

Health and Human Services on **SB 11** as found on page 92 of the Senate Journal be adopted.

4

Which motion prevailed and the report was adopted.

5

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

6

The President declared that **SJR 503** was withdrawn at the request of the prime sponsor pursuant to JR 6B-1.1.

7

8

SB 94: FOR AN ACT ENTITLED, An Act to amend provisions pertaining to the partners in education tax credit program, and declare an emergency.

9

10

Introduced by: Senator Schoenbeck

11

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

12

SB 95: FOR AN ACT ENTITLED, An Act to exempt one motor vehicle of a debtor from being taken by legal process.

13

14

Introduced by: **Senator** Larson

15

SB 97: FOR AN ACT ENTITLED, An Act to establish the admissibility of evidence of similar crimes in sexual assault cases.

16

17

Introduced by: **Senator** Reed

18

SB 98: FOR AN ACT ENTITLED, An Act to establish the admissibility of evidence of similar crimes in child molestation cases.

19

20

Introduced by: **Senator** Reed

21

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

22

SB 96: FOR AN ACT ENTITLED, An Act to prohibit the use of a deepfake to influence an election, to provide a penalty therefor, and to declare an emergency.

23

24

Introduced by: **Senator** Larson

25

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

26

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

27

HB 1074: FOR AN ACT ENTITLED, An Act to expand eligibility to practice as a dental hygienist under the collaborative supervision of a dentist.

28

29

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

1 **HB 1003:** FOR AN ACT ENTITLED, An Act to update a reference to the Internal Revenue Code
2 for purposes of higher education savings plans.

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

4 **HB 1013:** FOR AN ACT ENTITLED, An Act to adopt the advanced practice registered nurse
5 compact.

6 **HB 1027:** FOR AN ACT ENTITLED, An Act to modify substances listed on the controlled
7 substances schedule and to declare an emergency.

8 **HB 1028:** FOR AN ACT ENTITLED, An Act to classify xylazine as a Schedule III controlled
9 substance, establish permissible uses, and to declare an emergency.

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

11 **HB 1025:** FOR AN ACT ENTITLED, An Act to establish the crime of exposure of a law
12 enforcement officer to a controlled drug or substance and to provide a penalty therefor.

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

14 **HB 1011:** FOR AN ACT ENTITLED, An Act to revise the membership of the South Dakota
15 Capitol Complex Restoration and Beautification Commission.

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

17 **HB 1063:** FOR AN ACT ENTITLED, An Act to amend the valuation service used to value
18 vehicles.

19 **HB 1068:** FOR AN ACT ENTITLED, An Act to allow disabled veterans to obtain a standard issue
20 county motor vehicle or motorcycle license plate.

21 Were read the first time and referred to the Committee on Transportation.

22 **SECOND READING OF CONSENT CALENDAR ITEMS**

23 Sen. Schoenbeck requested that **SB 73** be removed from the Consent Calendar.

24 **SB 59:** FOR AN ACT ENTITLED, An Act to provide for the downgrade of commercial driver
25 licenses and commercial learners permits upon notice of certain drug and alcohol violations.

26 **SB 60:** FOR AN ACT ENTITLED, An Act to update references to certain regulations regarding
27 medical qualifications for certain commercial drivers.

28 Were read the second time.

29 The question being "Shall **SB 59 and 60** pass?"

30 And the roll being called:

31 Yeas 33, Nays 0, Excused 1, Absent 0

1 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Foster, Frye-Mueller,
2 Hoffman, Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff,
3 Nesiba, Novstrup, Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,
4 Wheeler, Wiik, Wink, and Zikmund

5 Excused: Diedrich

6 So the bills having received an affirmative vote of a majority of the members-elect, the
7 President declared the bills passed and the titles were agreed to.

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

9 **SB 10:** FOR AN ACT ENTITLED, An Act to require that a notification of medical cannabis
10 certification be provided to a patient's primary or referring practitioner.

11 Was read the second time.

12 The question being "Shall **SB 10** pass?"

13 And the roll being called:

14 Yeas 30, Nays 3, Excused 1, Absent 0

15 Yeas: Beal, Bolin, Breitling, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller, Hoffman,
16 Hunhoff, Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff, Novstrup,
17 Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink,
18 and Zikmund

19 Nays: Bordeaux, Foster, and Nesiba

20 Excused: Diedrich

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

23 There being no objection, the Senate reverted to Order of Business No. 8 - Motions and
24 Resolutions.

25 **MOTIONS AND RESOLUTIONS**

26 Sen. Crabtree moved that the balance of the calendar including **SB 20, 27, 56, 71, and 78**
27 be deferred to Friday, January 19, 2024, the 8th legislative day.

28 Which motion prevailed.

29 Sen. Bolin moved that the Senate do now adjourn, which motion prevailed and at 2:56 p.m.
30 the Senate adjourned.

31

Peggy Laurenz, Secretary

1

JOINT MEMORIAL SERVICE

2 Pursuant to the report of the Joint-Select Committee, as found on page 34 of the Senate
3 Journal, the Senate and the House of Representatives met in informal joint session in the House
4 Chamber for the purpose of having a memorial service for deceased former members and reading
5 of the following Joint Memorial Resolution:

6 **WHEREAS**, the Great Ruler of the Universe has ordered a final adjournment in the lives of
7 thirteen former members of the South Dakota Legislature, namely: the *Honorable Richard "Dick"*
8 *Belatti, Sr.*; the *Honorable John "Jack" Billion*; the *Honorable Robert J. Burns*; the *Honorable Marie*
9 *C. Ingalls*; the *Honorable Barry M. Jensen*; the *Honorable William C. "Bill" Johnson*; the *Honorable*
10 *John B. Jones*; the *Honorable Richard "Dick" Kelly*; the *Honorable Jerome B. "Jerry" Lammers*; the
11 *Honorable David S. Laustsen*; the *Honorable Gene N. Lebrun*; the *Honorable Edwin "Ed" Olson*; and
12 the *Honorable Franklin "Frank" Simpson*.

13 **WHEREAS**, in the lives of all of these eminent public servants there was noted a profound
14 urgency in an unselfish manner, with trials and vicissitudes often far outweighing honors, but with
15 a consciousness that here in a land of freedom the dignity of the individual is supreme, that justice
16 must be dispensed, and that only by eternal vigilance and unrelenting effort can self-government of
17 a people be preserved; and

18 **WHEREAS**, it is fitting that we humbly honor the memory of those who have thus contributed
19 to the orderly process of government under the Constitution:

20 **NOW, THEREFORE, BE IT RESOLVED**, by the Senate and the House of Representatives of
21 the Ninety-ninth Session of the Legislature of the State of South Dakota duly convened in recess
22 session in recognition of the useful lives and unflinching devotion to the interests of the State of South
23 Dakota, as well as the rectitude of thought and action and fidelity to the highest principles of
24 American citizenship by these honorable people, that the Senate and the House of Representatives
25 do now pause in their labors out of respect for the memory of their late fellow associates in the
26 functions of government, and note that in their passing, the state they have served so well has
27 suffered a distinct loss, and though their labors have ceased and they have been laid to rest, the
28 people of this great state have benefited greatly from the services rendered by them and they have
29 left upon the sands of time an inspiring record of devotion to their fellow citizens under the guiding
30 hand of Almighty God; and

31 **BE IT FURTHER RESOLVED**, that this Resolution be printed in the journals of the Senate
32 and the House of Representatives of the Ninety-ninth Session of the Legislature of the State of South
33 Dakota, now assembled this 18th day of January, 2024, at Pierre, South Dakota.