

JOURNAL OF THE SENATE

NINETY-NINTH SESSION

SIXTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, February 01, 2024

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

The prayer was offered by the Chaplain, Rev. Bill Meirose, followed by the Pledge of Allegiance led by Senate page Elijah Morrissette.

Roll Call: All members present except Sens. Diedrich, Foster, and Wiik 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 15th 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 31, 2024

3

Mr. President and Members of the Senate:

4

I have the honor to inform you that on January 31, 2024, I approved Senate Bills 3 and 7, and the same have been deposited in the office of the Secretary of State.

5

6

Respectfully submitted,

7

Kristi Noem

8

Governor

9

REPORTS OF STANDING COMMITTEES

10

MR. PRESIDENT:

11

The Committee on Senate Education respectfully reports that it has had under consideration **SB 155, 157, 159, and 161** which were deferred to the 41st Legislative Day.

12

13

Respectfully submitted,

14

Kyle Schoenfish, Chair

15

MR. PRESIDENT:

16

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

17

18

6A

19

On page 1, line 10, of the Introduced bill, after "if" delete " the person is in possession of"

20

On page 1, line 11, of the Introduced bill, after "following" insert " aggravating circumstances apply"

21

22

On page 1, line 12, of the Introduced bill, delete "Three " and insert "The person is in possession of three "

23

24

On page 1, line 13, of the Introduced bill, delete "A " and insert "The person is in possession of a "

25

26

On page 1, line 15, of the Introduced bill, delete "Bulk " and insert "The person is in possession of bulk "

27

28

On page 1, line 16, of the Introduced bill, delete "Materials " and insert "The person is in possession of materials "

29

30

On page 1, line 19, of the Introduced bill, delete "Drug " and insert "The person is in possession of drug "

31

32

On page 2, line 21, of the Introduced bill, after "felony." insert " If three or more of the above aggravating circumstances apply, the person is guilty of a Class 1 felony."

33

1 On page 2, line 21, of the Introduced bill, after "fentanyl" insert " and the person knew the
2 substance was fentanyl"

3 And that as so amended, **SB 6** do pass.

4 Also MR. PRESIDENT:

5 The Committee on Senate Judiciary respectfully reports that it has had under consideration
6 **SB 84** and returns the same with the recommendation that said bill be amended as follows:

7 84C

8 On page 1, line 1, of the Introduced bill, after "damages" delete " or appraised values"

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

10 **Section 1. That § 21-3-10 be AMENDED:**

11 **21-3-10.** The Guide for Plant Appraisal, ~~Ninth Edition~~ Tenth Edition Revised, as published by
12 the International Society of Arboriculture as of January 1, 2007, shall be used as a guide to measure
13 the actual damages for the wrongful injury to trees or plants."

14 84D

15 On amendment (84C),

16 On page 1, line 6, after "Arboriculture" delete " as of January 1, 2007"

17 And that as so amended, **SB 84** do pass, and having been certified as uncontested, be placed
18 on the consent calendar.

19 Also MR. PRESIDENT:

20 The Committee on Senate Judiciary respectfully reports that it has had under consideration
21 **SB 109 and 122** which were deferred to the 41st Legislative Day.

22 Respectfully submitted,
23 Helene Duhamel, Chair

24 MR. PRESIDENT:

25 The Committee on Senate Commerce and Energy respectfully reports that it has had under
26 consideration **SB 132** which was deferred to the 41st Legislative Day.

27 Also MR. PRESIDENT:

28 The Committee on Senate Commerce and Energy respectfully reports that it has had under
29 consideration **SB 165, and HB 1095** and returns the same with the recommendation that said bills
30 do pass.

31 Also MR. PRESIDENT:

32 The Committee on Senate Commerce and Energy respectfully reports that it has had under
33 consideration **SB 177** and returns the same with the recommendation that said bill be amended as
34 follows:

1 177A

2 On page 1, line 1, of the Introduced bill, delete "prohibit" and insert "permit the appointment
3 of"

4 On page 1, line 1, of the Introduced bill, after "justice" delete " from being appointed"

5 On page 1, line 2, of the Introduced bill, after "Commission" insert " in place of a disqualified
6 or incapacitated commissioner"

7 177C

8 On page 1, line 15, of the Introduced bill, remove the overstrikes from " an elected
9 constitutional officer, other than the attorney general,"

10 On page 1, line 16, of the Introduced bill, after "general," insert " or"

11 And that as so amended, **SB 177** do pass.

12 Respectfully submitted,
13 David Wheeler, Chair

14 MR. PRESIDENT:

15 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
16 had under consideration **SB 131** and returns the same with the recommendation that said bill be
17 amended as follows:

18 131A

19 On page 1, line 22, of the Introduced bill, remove the overstrikes from " concerning productivity
20 for any of the factors listed in this section"

21 On page 2, line 8, of the Introduced bill, delete " a planted vegetative barrier with a linear
22 configuration composed of trees or shrubs designed to serve as a windbreak along a field, pasture,
23 or farmstead" and insert " field shelterbelts, farmstead windbreaks, wildlife tree plantings, living
24 snow fences, and other tree plantings made specifically for conservation purposes, but excluding
25 trees planted for ornamental or commercial purposes"

26 And that as so amended, **SB 131** do pass, and having been certified as uncontested, be placed
27 on the consent calendar.

28 Also MR. PRESIDENT:

29 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
30 had under consideration **SB 139 and 140** which were deferred to the 41st Legislative Day.

31 Also MR. PRESIDENT:

32 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
33 had under consideration **SB 153** with the recommendation that said bill be referred to the Joint
34 Committee on Appropriations with a Do Pass recommendation.

35 Respectfully submitted,
36 Herman Otten, Chair

1 MR. PRESIDENT:

2 The Committee on Legislative Procedure respectfully reports that **SB 38, 41, 54, 59, and 60**
3 were delivered to her Excellency, the Governor, for her approval at 12:15 p.m., February 1, 2024.

4 Respectfully submitted,
5 Lee A. Schoenbeck, Chair

6 **MESSAGES FROM THE HOUSE**

7 MR. PRESIDENT:

8 I have the honor to inform your honorable body that the House has concurred in Senate
9 amendments to **HB 1024**.

10 Also MR. PRESIDENT:

11 I have the honor to transmit herewith **HB 1092, 1125, and 1127** which have passed the
12 House and your favorable consideration is respectfully requested.

13 Also MR. PRESIDENT:

14 I have the honor to return herewith **SJR 502** which the House has passed without change.

15 Respectfully,
16 Patricia Miller, Chief Clerk

17 **MOTIONS AND RESOLUTIONS**

18 **SCR 604:** A CONCURRENT RESOLUTION, Urging the South Dakota Congressional delegation
19 to work with the Biden administration to address the nation's immigration system.

20 Was read the second time.

21 Sen. Nesiba moved that **SCR 604** as found on page 216 of the Senate Journal be adopted.

22 The question being on Sen. Nesiba's motion that **SCR 604** be adopted.

23 And the roll being called:

24 Yeas 3, Nays 28, Excused 3, Absent 0

25 Yeas: Bordeaux, Larson, and Nesiba

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

30 Excused: Diedrich, Foster, and Wiik

31 So the motion not having received an affirmative vote of a majority of the members-elect, the
32 President declared the motion lost.

1 Sen. Crabtree moved that **SCR 605** be deferred to Tuesday, February 6, 2024, the 19th
2 legislative day.

3 Which motion prevailed.

4 Sen. Crabtree moved that **HB 1090** be deferred to Friday, February 2, 2024, the 17th
5 legislative day.

6 Which motion prevailed.

7 Sen. Crabtree moved that **HB 1034 and 1043** be deferred to Monday, February 5, 2024, the
8 18th legislative day.

9 Which motion prevailed.

10 Sen. Crabtree moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on
11 Friday, February 2, the 17th legislative day.

12 Which motion prevailed.

13 **CONSIDERATION OF REPORTS OF COMMITTEES**

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

15 Joint Appropriations on **SB 16** as found on page 212 of the Senate Journal; also

16 Joint Appropriations on **SB 28** as found on page 213 of the Senate Journal; and

17 State Affairs on **SB 119** as found on page 214 of the Senate Journal be adopted.

18 Which motion prevailed and the reports were adopted.

19 **CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS**

20 The Senate proceeded to the consideration of the executive reappointments of David Cull of
21 Yankton County, Yankton, South Dakota, to the Game, Fish, and Parks Commission (SJ 80), and

22 Travis Bies of Custer County, Fairburn, South Dakota, to the Game, Fish, and Parks
23 Commission (SJ 80).

24 And the roll being called:

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

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

30 Excused: Diedrich, Foster, and Wiik

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

1

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

2

3

The President declared that **SB 102** was withdrawn at the request of the prime sponsor pursuant to JR 6B-1.1.

4

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

5

6

7

HB 1125: FOR AN ACT ENTITLED, An Act to prohibit the chemical modification or conversion of industrial hemp and the sale or distribution of chemically modified or converted industrial hemp and to provide a penalty therefor.

8

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

9

10

HB 1092: FOR AN ACT ENTITLED, An Act to revise provisions regarding the 911 emergency surcharge.

11

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

12

13

HB 1127: FOR AN ACT ENTITLED, An Act to modify requirements for incorporating municipalities that are within three miles of another incorporated municipality.

14

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

15

SECOND READING OF CONSENT CALENDAR ITEMS

16

Sen. Deibert requested that **SB 112** be removed from the Consent Calendar.

17

18

HB 1101: FOR AN ACT ENTITLED, An Act to provide a special motor vehicle license plate for recipients of the Legion of Merit award.

19

Was read the second time.

20

The question being "Shall **HB 1101** pass?"

21

And the roll being called:

22

Yeas 31, Nays 0, Excused 3, Absent 0

23

24

25

26

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

27

Excused: Diedrich, Foster, and Wiik

28

29

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

1

SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS

2

SB 44: FOR AN ACT ENTITLED, An Act to make an appropriation to reimburse health care professionals who have complied with the requirements for health care recruitment assistance programs, and to declare an emergency.

3

4

Was read the second time.

5

The question being "Shall **SB 44** pass?"

6

And the roll being called:

7

Yeas 29, Nays 2, Excused 3, Absent 0

8

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

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Nays: Frye-Mueller and Hoffman

14

Excused: Diedrich, Foster, and Wiik

15

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

16

17

SB 58: FOR AN ACT ENTITLED, An Act to revise provisions regarding money transmission.

18

Was read the second time.

19

The question being "Shall **SB 58** pass as amended?"

20

And the roll being called:

21

Yeas 29, Nays 2, Excused 3, Absent 0

22

23

24

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

25

Nays: Frye-Mueller and Pischke

26

Excused: Diedrich, Foster, and Wiik

27

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

28

29

SB 77: FOR AN ACT ENTITLED, An Act to revise a provision related to threatening law enforcement officers.

30

31

Was read the second time.

32

Sen. Mehlhaff moved that **SB 77** be amended as follows:

1

77G

2 On page 1, line 8, of the Senate Judiciary Engrossed bill, delete " Class 5 felony" and insert "
3 Class 1 misdemeanor"

4 Sen. Maher requested a roll call vote.

5 Which request was supported.

6 The question being on Sen. Mehlhaff's motion to **SB 77** be amended.

7 And the roll being called:

8 Yeas 17, Nays 14, Excused 3, Absent 0

9 Yeas: Beal, Bolin, Bordeaux, Frye-Mueller, Hoffman, Johnson, Kolbeck (Jack), Kolbeck (Steve),
10 Larson, Maher, Mehlhaff, Nesiba, Novstrup, Otten (Herman), Pischke, Rohl, and Schoenfish

11 Nays: Breitling, Crabtree, Davis, Deibert, Duhamel, Hunhoff, Klumb, Reed, Schoenbeck,
12 Stalzer, Tobin, Wheeler, Wink, and Zikmund

13 Excused: Diedrich, Foster, and Wiik

14 So the motion having received an affirmative vote of a majority of the members present, the
15 President declared the motion prevailed.

16 The question being "Shall **SB 77** pass as amended?"

17 And the roll being called:

18 Yeas 27, Nays 4, Excused 3, Absent 0

19 Yeas: Bolin, Bordeaux, Crabtree, Davis, Deibert, Frye-Mueller, Hoffman, Hunhoff, Johnson,
20 Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Mehlhaff, Nesiba, Novstrup, Otten (Herman),
21 Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wink, and Zikmund

22 Nays: Beal, Breitling, Duhamel, and Maher

23 Excused: Diedrich, Foster, and Wiik

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

26 **SB 85**: FOR AN ACT ENTITLED, An Act to revise a provision related to an action to quiet title
27 to real property.

28 Was read the second time.

29 The question being "Shall **SB 85** pass?"

30 And the roll being called:

31 Yeas 29, Nays 2, Excused 3, Absent 0

32 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Hoffman, Hunhoff,
33 Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff, Nesiba, Novstrup,
34 Otten (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wink, and Zikmund

1 Nays: Frye-Mueller and Pischke

2 Excused: Diedrich, Foster, and Wiik

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

5 **SB 108:** FOR AN ACT ENTITLED, An Act to revise a provision related to retrocession of
6 jurisdiction over federal enclaves.

7 Was read the second time.

8 The question being "Shall **SB 108** pass?"

9 And the roll being called:

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

11 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Hoffman, Hunhoff,
12 Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff, Nesiba, Novstrup,
13 Otten (Herman), Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wink, and
14 Zikmund

15 Nays: Frye-Mueller

16 Excused: Diedrich, Foster, and Wiik

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

19 **SB 111:** FOR AN ACT ENTITLED, An Act to revise requirements for mining and mineral
20 exploration.

21 Was read the second time.

22 The question being "Shall **SB 111** pass as amended?"

23 And the roll being called:

24 Yeas 28, Nays 3, Excused 3, Absent 0

25 Yeas: Beal, Bolin, Bordeaux, Crabtree, Davis, Deibert, Duhamel, Frye-Mueller, Hoffman,
26 Hunhoff, Johnson, Kolbeck (Steve), Larson, Maher, Mehlhaff, Nesiba, Novstrup, Otten (Herman),
27 Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wink, and Zikmund

28 Nays: Breitling, Klumb, and Kolbeck (Jack)

29 Excused: Diedrich, Foster, and Wiik

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

32 **SB 167:** FOR AN ACT ENTITLED, An Act to limit annual valuation increases on owner-occupied
33 single-family dwellings.

34 Was read the second time.

1 The question being "Shall **SB 167** pass?"

2 And the roll being called:

3 Yeas 11, Nays 20, Excused 3, Absent 0

4 Yeas: Beal, Frye-Mueller, Hoffman, Johnson, Kolbeck (Jack), Kolbeck (Steve), Maher, Mehlhaff,
5 Novstrup, Otten (Herman), and Zikmund

6 Nays: Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Hunhoff, Klumb, Larson,
7 Nesiba, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, and Wink

8 Excused: Diedrich, Foster, and Wiik

9 So the bill not having received an affirmative vote of a majority of the members-elect, the
10 President declared the bill lost.

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

12 **HB 1017:** FOR AN ACT ENTITLED, An Act to adopt the psychology interjurisdictional licensure
13 compact.

14 Was read the second time.

15 The question being "Shall **HB 1017** pass?"

16 And the roll being called:

17 Yeas 29, Nays 2, Excused 3, Absent 0

18 Yeas: Beal, Bolin, Bordeaux, Breitling, Crabtree, Davis, Deibert, Duhamel, Hoffman, Hunhoff,
19 Johnson, Klumb, Kolbeck (Jack), Kolbeck (Steve), Larson, Maher, Mehlhaff, Nesiba, Novstrup, Otten
20 (Herman), Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wink, and Zikmund

21 Nays: Frye-Mueller and Pischke

22 Excused: Diedrich, Foster, and Wiik

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

25 **HB 1046:** FOR AN ACT ENTITLED, An Act to prohibit the intentional disarming of a law
26 enforcement officer and to provide a penalty therefor.

27 Was read the second time.

28 The question being "Shall **HB 1046** pass?"

29 And the roll being called:

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

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

1 Excused: Diedrich, Foster, and Wiik

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

4 **HB 1047:** FOR AN ACT ENTITLED, An Act to enhance the penalties for eluding law
5 enforcement.

6 Was read the second time.

7 The question being "Shall **HB 1047** pass?"

8 And the roll being called:

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

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

14 Excused: Diedrich, Foster, and Wiik

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

17 **SIGNING OF BILLS**

18 The President publicly read the title to

19 **SJR 502:** A JOINT RESOLUTION, Providing legislative approval for a future use water permit
20 application by the Lewis and Clark Regional Water System.

21 And signed the same in the presence of the Senate.

22 Sen. Tobin moved that the Senate do now adjourn, which motion prevailed and at 4:01 p.m.
23 the Senate adjourned.

24

Peggy Laurenz, Secretary