

# *JOURNAL OF THE SENATE*

## *NINETY-SIXTH SESSION*

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TWENTY-FIRST DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Thursday, February 11, 2021

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

The prayer was offered by the Chaplain, Pastor Craig Wexler, followed by the Pledge of Allegiance led by Senate pages Maggie Hovde and Claire Koenecke.

Roll Call: All members present except Sens. Frye-Mueller, Heinert, and Rusch who were excused and Sen. Herman Otten who was present remotely.

### **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 20th 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.

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**COMMUNICATIONS AND PETITIONS**

2

December 21, 2020

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The Honorable Larry Rhoden

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President of the Senate

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State Capitol

6

Pierre, SD 57501

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Dear President and Members of the Senate:

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Pursuant to the provisions of Chapter 5-12 of the South Dakota Codified Laws and subject to

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your consent, I have the honor to inform you that I have appointed Julie Bartling, Gregory County,

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Gregory, South Dakota, to the South Dakota Building Authority.

11

This appointment is effective January 19, 2020, and shall continue until January 18, 2025.

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Sincerely,

Kristi Noem

Governor

15

The President announced the referral of the appointment to the Committee on Commerce and

16

Energy.

17

**REPORTS OF STANDING COMMITTEES**

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MR. PRESIDENT:

19

The Committee on Senate Agriculture and Natural Resources respectfully reports that it has

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had under consideration the nomination of Myron Williams of Pennington County, Wall, South

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Dakota, to the State Brand Board and returns the same with the recommendation that the Senate

22

advise and consent to the confirmation of said appointment, and that said appointment having been

23

certified as uncontested, be placed on the consent calendar.

24

Also MR. PRESIDENT:

25

The Committee on Senate Agriculture and Natural Resources respectfully reports that it has

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had under consideration **HB 1042** and returns the same with the recommendation that said bill do

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pass, and having been certified as uncontested, be placed on the consent calendar.

28

Also MR. PRESIDENT:

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The Committee on Senate Agriculture and Natural Resources respectfully reports that it has

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had under consideration **HB 1035, and HCR 6004** and returns the same with the recommendation

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that said bill and resolution do pass.

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Respectfully submitted,  
Joshua Klumb, Vice-Chair

1 MR. PRESIDENT:

2 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
3 consideration **SB 106 and 179** and returns the same with the recommendation that said bills do  
4 pass.

5 Also MR. PRESIDENT:

6 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
7 consideration **SB 103** and returns the same with the recommendation that said bill be amended as  
8 follows:

9 103B

10 On page 1, line 2, of the Introduced bill, after "corporations" delete " and to provide a penalty  
11 therefor"

12 On page 1, line 6, of the Introduced bill, delete "47-24-22" and insert " 47-24-23"

13 On page 1, line 8, of the Introduced bill, after "a" insert " natural"

14 On page 1, line 17, of the Introduced bill, after "agencies--Prohibitions.

15 Any " insert "natural "

16 On page 1, line 20, of the Introduced bill, after "any " insert "natural "

17 On page 1, line 20, of the Introduced bill, after "person" insert " or nonprofit corporation"

18 On page 1, line 22, of the Introduced bill, after "information;

19 (2)" delete "Require any nonprofit corporation to provide the public agency with personal  
20 affiliation information or otherwise compel the release of personal affiliation information;"

21 On page 2, line 1, of the Introduced bill, after "information;" delete "(3) "

22 On page 2, line 3, of the Introduced bill, delete "(4)" and insert "(3)"

23 On page 2, line 6, of the Introduced bill, after "support." delete "A person who knowingly  
24 violates this section is guilty of a Class 1 misdemeanor."

25 On page 2, line 9, of the Introduced bill, delete "Personal affiliation information is precluded  
26 from public disclosure in accordance with § 1-27-3" and insert " A natural person alleging a violation  
27 of § 47-24-19 may bring a civil action for appropriate injunctive relief, actual damages, or both.

28 In an action brought under this section, a court may award all or a portion of the costs of  
29 litigation, including reasonable attorney fees and witness fees, to the complainant in the action if  
30 the court determines that the award is appropriate"

31 On page 2, line 13, of the Introduced bill, delete "47-24-22" and insert " 47-24-20"

32 On page 2, line 28, of the Introduced bill, after "cause;" delete " or"

33 On page 2, line 30, of the Introduced bill, delete the period and insert "; or

34 (7) A review of personal affiliation information necessary for purposes of an audit, examination,  
35 or investigation of a nonprofit corporation pursuant to chapter 4-11."

1 On page 2, line 31, of the Introduced bill, after "Revenue." delete "Section 5. That a NEW  
2 SECTION be added:"

3 On page 2, line 32, of the Introduced bill, after "violation--Penalties." delete "A person alleging  
4 a violation of § 47-24-19 may bring a civil action for appropriate injunctive relief, actual damages,  
5 or both.

6 In an action brought under this section, a court may award all or a portion of the costs of  
7 litigation, including reasonable attorney fees and witness fees, to the complainant in the action if  
8 the court determines that the award is appropriate."

9 On page 3, after line 3, of the Introduced bill, insert "

10 **Section 5.** That a NEW SECTION be added:

11 47-24-22. Personal affiliation information--Public benefit.

12 Personal affiliation information derived from a donation to a nonprofit corporation that is  
13 affiliated with a public agency may be disclosed if the donor has not previously requested anonymity  
14 from the nonprofit corporation.

15 "

16 On page 3, after line 3, of the Introduced bill, insert "

17 **Section 6.** That a NEW SECTION be added:

18 47-24-23. Personal affiliation information--Fraud investigation.

19 The provisions of § 47-24-19 do not apply to any information required for, or obtained in the  
20 course of, a state fraud investigation or an enforcement action by the state. Any information  
21 obtained shall be confidential, and its disclosure is restricted as provided by law.

22 "

23 And that as so amended, said bill do pass.

24 Also MR. PRESIDENT:

25 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
26 consideration **HB 1090** and returns the same with the recommendation that said bill be amended  
27 as follows:

28 1090A

29 On page 1, line 1, of the Introduced bill, after "corporations" insert " and to declare an  
30 emergency"

31 On page 2, after line 6, of the Introduced bill, insert "

32 **Section 4.** This Act is necessary for the immediate preservation of the public peace, health,  
33 or safety.

34 "

35 And that as so amended, said bill do pass.

36  
37

Respectfully submitted,  
Casey Crabtree, Chair

1 MR. PRESIDENT:

2 The Committee on Senate Education respectfully reports that it has had under consideration  
3 **SB 175** and returns the same with the recommendation that said bill be amended as follows:

4 175A

5 On page 1, line 13, of the Introduced bill, after "student " insert "entering kindergarten through  
6 twelfth grade "

7 And that as so amended, said bill do pass.

8 Also MR. PRESIDENT:

9 The Committee on Senate Education respectfully reports that it has had under consideration  
10 **SB 177** and returns the same with the recommendation that said bill be amended as follows:

11 177C

12 On page 9, line 10, of the Introduced bill, after "a" delete "Any student "

13 On page 9, line 10, of the Introduced bill, after "receiving " delete "being provided with  
14 alternative instruction pursuant to § 13-27-3 is eligible to participate in any interscholastic activity  
15 sponsored by the South Dakota High School Activities Association. The parent or guardian of a child  
16 being provided alternative instruction shall notify the appropriate school official if the child becomes  
17 ineligible under South Dakota High School Activities Association, or under local school eligibility  
18 requirements in so far as those standards apply to § 13-27-3."

19 On page 9, line 16, of the Introduced bill, after "13-27-3." insert "All public school districts  
20 shall allow participation in athletics, fine arts, or activities for a child being provided alternative  
21 instruction pursuant to § 13-27-3 within the district in which the child resides. The parent, guardian,  
22 or other person in control of a child being provided alternative instruction shall submit proof of age  
23 when participating in athletics, fine arts, or activities. All children being provided with alternative  
24 instruction and participating in South Dakota High School Activities Association activities are held to  
25 the same local training rules and South Dakota High School Activities Association transfer and non-  
26 academic eligibility rules as enrolled students.

27 Pursuant to § 13-27-3 and before the current season of the sport or activity the alternative  
28 instruction child is participating in, the parent, guardian, or other person in control of a child being  
29 provided alternative instruction shall provide the appropriate school official with a copy of a  
30 transcript of the previous semester's completed coursework that is issued by the parent or guardian.  
31 The parent, guardian, or other person in control of a child being provided alternative instruction  
32 shall notify the appropriate school official if the child becomes ineligible under South Dakota High  
33 School Activities Association or under local school rules in so far as those standards apply to § 13-  
34 27-3.

35 "

36 On page 9, line 18, of the Introduced bill, delete "accredited school" and insert " enrolled"

37 On page 9, line 19, of the Introduced bill, delete " enters an alternative instruction program"  
38 and insert " who will be provided alternative instruction"

39 And that as so amended, said bill do pass.

40 Also MR. PRESIDENT:

41 The Committee on Senate Education respectfully reports that it has had under consideration  
42 the nomination of Terry Nebelsick of Beadle County, Huron, South Dakota, to the South Dakota

1 Board of Education Standards and returns the same with the recommendation that the Senate advise  
2 and consent to the confirmation of said appointment.

3 Also MR. PRESIDENT:

4 The Committee on Senate Education respectfully reports that it has had under consideration  
5 the nomination of Steve Willard of Butte County, Belle Fourche, South Dakota, to the South Dakota  
6 Board of Education Standards and returns the same with the recommendation that the Senate advise  
7 and consent to the confirmation of said appointment.

8 Respectfully submitted,  
9 R. Blake Curd, Chair

10 Mr. PRESIDENT:

11 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and  
12 Enrolling has carefully compared **SB 3, 74, and 87** and finds the same correctly enrolled.

13 Respectfully submitted,  
14 Lee A. Schoenbeck, Chair

15 Mr. PRESIDENT:

16 The Committee on Legislative Procedure respectfully reports that **SB 22 and 78** were delivered  
17 to her Excellency, the Governor, for her approval at 9:50 a.m., February 11, 2021.

18 Respectfully submitted,  
19 Lee A. Schoenbeck, Chair

20 **MESSAGES FROM THE HOUSE**

21 Mr. PRESIDENT:

22 I have the honor to return herewith **SB 60** which has been amended by the House and your  
23 concurrence in the amendments is respectfully requested.

24 Also Mr. PRESIDENT:

25 I have the honor to transmit herewith **HB 1017, 1018, 1026, 1038, 1115, 1126, 1143,**  
26 **1195, and 1235** which have passed the House and your favorable consideration is respectfully  
27 requested.

28 Also Mr. PRESIDENT:

29 I have the honor to return herewith **SB 74 and 87** which have passed the House without  
30 change.

1 Also Mr. PRESIDENT:

2 I have the honor to inform your honorable body that the House has concurred in Senate  
3 amendments to **HB 1071 and 1078**.

4 Respectfully,  
5 Patricia Miller, Chief Clerk

6 **MOTIONS AND RESOLUTIONS**

7 Sen. V. J. Smith moved that the Senate do concur in House amendments to **SB 53**.

8 The question being on Sen. V. J. Smith's motion that the Senate do concur in House  
9 amendments to **SB 53**.

10 And the roll being called:

11 Yeas 32, Nays 0, Excused 3, Absent 0

12 Yeas:

13 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,  
14 Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Nesiba, Novstrup, Herman  
15 Otten, Rohl, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton, Symens, Tobin,  
16 Wheeler, Wiik, and Zikmund

17 Excused:

18 Frye-Mueller, Heinert, and Rusch

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

21 **CONSIDERATION OF EXECUTIVE APPOINTMENTS**

22 The Senate proceeded to the consideration of the executive appointment of Tona Rozum of  
23 Davison County, Mitchell, South Dakota, to the South Dakota Lottery Commission.

24 The question being "Does the Senate advise and consent to the executive appointment of Tona  
25 Rozum pursuant to the executive message as found on page 69 of the Senate Journal?"

26 And the roll being called:

27 Yeas 32, Nays 0, Excused 3, Absent 0

28 Yeas:

29 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,  
30 Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Nesiba, Novstrup, Herman  
31 Otten, Rohl, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton, Symens, Tobin,  
32 Wheeler, Wiik, and Zikmund

33 Excused:

34 Frye-Mueller, Heinert, and Rusch

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

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**CONSIDERATION OF REPORTS OF COMMITTEES**

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Sen. Cammack moved that the reports of the Standing Committees on

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State Affairs on **SB 100** as found on page 234 of the Senate Journal; and

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State Affairs on **SB 123** as found on page 234 of the Senate Journal; also

5

Local Government on **SB 152** as found on page 233 of the Senate Journal; and

6

Transportation on **SB 169** as found on page 232 of the Senate Journal be adopted.

7

Which motion prevailed and the reports were adopted.

8

**FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

9

**HB 1038:** FOR AN ACT ENTITLED, An Act to make an appropriation from the coordinated natural resources conservation fund to the State Conservation Commission and declare an emergency.

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**HB 1115:** FOR AN ACT ENTITLED, An Act to revise the qualifications of Game, Fish and Parks commissioners.

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Were read the first time and referred to the Committee on Agriculture and Natural Resources.

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16

**HB 1195:** FOR AN ACT ENTITLED, An Act to authorize the participation of certified registered nurse anesthetists in the recruitment assistance program.

17

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

18

19

**HB 1026:** FOR AN ACT ENTITLED, An Act to make an appropriation for the payment of extraordinary litigation expenses and to declare an emergency.

20

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

21

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**HB 1143:** FOR AN ACT ENTITLED, An Act to authorize certain municipalities to offer limited incentives for industrial development.

23

24

**HB 1235:** FOR AN ACT ENTITLED, An Act to provide for the platting of certain land without infrastructure requirements.

25

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

26

27

**HB 1017:** FOR AN ACT ENTITLED, An Act to to revise the appropriation for the construction of a cold storage building located in Sioux Falls and to declare an emergency.

28

29

**HB 1018:** FOR AN ACT ENTITLED, An Act to authorize the construction of a National Guard Readiness Center in Sioux Falls, to make an appropriation therefor, and to declare an emergency.

30

Were read the first time and referred to the Committee on Military and Veterans Affairs.



1 **HB 1126:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding absentee  
2 ballots.

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

4 Sen. Cammack moved that the balance of the calendar including **SB 111, 117, and 124, and**  
5 **HB 1051, 1069, and 1079** be deferred to Tuesday, February 16, 2021, the 22<sup>nd</sup> legislative day.

6 Which motion prevailed.

7 **SIGNING OF BILLS**

8 The President publicly read the title to

9 **SB 3:** FOR AN ACT ENTITLED, An Act to enforce directives regarding contagious disease  
10 control.

11 **SB 74:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding drones.

12 **SB 87:** FOR AN ACT ENTITLED, An Act to exempt health benefit plans sponsored by nonprofit  
13 agricultural organizations from insurance regulation.

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

15 Sen. David Johnson moved that the Senate do now adjourn, which motion prevailed and at  
16 1:22 p.m. the Senate adjourned.

17 Kay Johnson, Secretary

