

# *JOURNAL OF THE HOUSE*

## *NINETY-SIXTH SESSION*

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TWENTY-SECOND DAY

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STATE OF SOUTH DAKOTA  
House of Representatives, Pierre  
Tuesday, February 16, 2021

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

The prayer was offered by the Chaplain, Fr. Joe Holzouser, followed by the Pledge of Allegiance led by House page Avery Wolff.

Roll Call: All members present except Reps. Marty and Wink who were excused and Reps. Aylward, Bartels, Cwach, Duba, Lana Greenfield, Howard, Phil Jensen, Karr, Lesmeister, Mortenson, Olson, Pischke, Pourier, Rehfeldt, St. John, Tidemann, and York who were present remotely.

### **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 twenty-first 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,  
Spencer R. Gosch, Chair

Which motion prevailed.

1

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**COMMUNICATIONS AND PETITIONS**

2 February 12, 2021

3 Mr. Speaker and Members of the House:

4 I have the honor to inform you that on February 12, 2021, I approved House Bills 1001, 1002,  
5 1003, 1009, 1022, 1023, 1024, 1025, 1030, 1043, 1048, 1070, 1082, and 1083, and the same have  
6 been deposited in the office of the Secretary of State.

7

Respectfully submitted,

8

Kristi Noem

9

Governor

10

**REPORTS OF STANDING COMMITTEES**

11 MR. SPEAKER:

12 The Committee on House Agriculture and Natural Resources respectfully reports that it has had  
13 under consideration **HB 1140** and returns the same with the recommendation that said bill do pass.

14 Also MR. SPEAKER:

15 The Committee on House Agriculture and Natural Resources respectfully reports that it has had  
16 under consideration **HB 1240** and returns the same with the recommendation that said bill be  
17 referred to the House Committee on Appropriations.

18 Also MR. SPEAKER:

19 The Committee on House Agriculture and Natural Resources respectfully reports that it has had  
20 under consideration **SCR 604** and returns the same with the recommendation that said resolution  
21 do pass, and having been certified as uncontested, be placed on the consent calendar.

22

Respectfully submitted,

23

Marty Overweg, Chair

24 Also MR. SPEAKER:

25 The Committee on House Health and Human Services respectfully reports that it has had under  
26 consideration **HB 1147** and returns the same with the recommendation that said bill do pass.

27 Also MR. SPEAKER:

28 The Committee on House Health and Human Services respectfully reports that it has had under  
29 consideration **HB 1163** which was deferred to the 41st Legislative Day.

30 Also MR. SPEAKER:

31 The Committee on House Health and Human Services respectfully reports that it has had under  
32 consideration **HB 1248** and returns the same with the recommendation that said bill be amended  
33 as follows:

34

1248E

35 On page 1, line 1, of the Introduced bill, delete "provide for certain reporting" and insert "  
36 require reports"

1 On page 1, line 1, of the Introduced bill, after "regarding " insert "the intentional disposal,  
2 destruction, or other disposition of "

3 On page 1, line 3, of the Introduced bill, after "Dakota:" delete "Section 1. That § 34-14-20 be  
4 AMENDED.

5 "

6 On page 1, line 4, of the Introduced bill, after "AMENDED." delete "34-14-20. "

7 On page 1, line 4, of the Introduced bill, after "34-14-20. " delete "Human embryo--Definition."

8 On page 1, line 4, of the Introduced bill, after "embryo--Definition." delete "

9 For purposes of §§ 34-14-16 to 34-14-20 34-14-20. 1, inclusive, the term, human embryo,  
10 means a living organism of the species Homo sapiens, at the earliest stages of development (  
11 including the single-celled stage), that is not located in a woman's body."

12 On page 1, line 12, of the Introduced bill, delete "(1) The number of embryos created in the  
13 preceding calendar year;

14 (2) The number of embryos that were transferred to a woman's womb in the preceding  
15 calendar year;

16 (3) (a) The number of embryos that were created in the preceding calendar year and stored,  
17 but never transferred to a woman's womb; and

18 (b) The location at which the embryos were stored;

19 (4) (a) The number of embryos in storage on the preceding December thirty-first, regardless  
20 of their date of creation; and

21 (b) The location of the storage;

22 (5) (a) The number of embryos transferred during the preceding calendar year to a location  
23 other than the facility in which they were created or a woman's womb;

24 (b) The location to which the embryos were transferred; and

25 (c) The purpose for the transfer of the embryos; and

26 (6) (a) The number of embryos disposed of in the preceding calendar year; and

27 (b)" and insert

28 On page 2, line 1, of the Introduced bill, delete "The reason, by category, for the disposal of  
29 the embryos" and insert " T

30 (1) The number of embryos intentionally disposed of or destroyed, in this state, during the  
31 preceding calendar year;

32 (2) The number of embryos shipped or transported out of this state, during the preceding  
33 calendar year, for their intentional disposal or destruction in another state; and

34 (3) The number of embryos shipped or transported out of this state, during the preceding  
35 calendar year, for any purpose"

36 On page 2, line 2, of the Introduced bill, after "section " insert "must be provided by the  
37 department and "

1 On page 2, line 9, of the Introduced bill, after "34-14-20" insert ", and includes an embryo  
2 laboratory, as defined in 42 U. S. C. § 263a-7, on March 1, 2021"

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

4 Respectfully submitted,  
5 Kevin D. Jensen, Chair

6 Also MR. SPEAKER:

7 The Committee on House Transportation respectfully reports that it has had under  
8 consideration **HB 1190** which was tabled.

9 Also MR. SPEAKER:

10 The Committee on House Transportation respectfully reports that it has had under  
11 consideration **SB 101 and 136** and returns the same with the recommendation that said bills do  
12 pass, and having been certified as uncontested, be placed on the consent calendar.

13 Respectfully submitted,  
14 Caleb Finck, Chair

15 Also MR. SPEAKER:

16 The Committee on House Local Government respectfully reports that it has had under  
17 consideration **SB 81** and returns the same with the recommendation that said bill do pass.

18 Also MR. SPEAKER:

19 The Committee on House Local Government respectfully reports that it has had under  
20 consideration **SB 92** and returns the same with the recommendation that said bill do pass, and  
21 having been certified as uncontested, be placed on the consent calendar.

22 Respectfully submitted,  
23 Greg Jamison, Vice-Chair

24 The Speaker has made the following temporary House appointment: Rep. Gosch has been  
25 appointed to fill Rep. Howard's seat on the House Committee on Appropriations and the Joint  
26 Committee on Appropriations on the days of February 16, 17, and 18, 2021.

## 27 MESSAGES FROM THE SENATE

28 Mr. SPEAKER:

29 I have the honor to inform your honorable body that the Senate has concurred in House  
30 amendments to **SB 53**.

31 Respectfully,  
32 Kay Johnson, Secretary

1

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**MOTIONS AND RESOLUTIONS**

2

Rep. Kent Peterson moved that **HB 1155** be referred from the Committee on Agriculture and Natural Resources to the Committee on Taxation.

4

Which motion prevailed.

5

**SCR 602:** A CONCURRENT RESOLUTION, Supporting a United States Constitutional amendment to retain nine justices on the United States Supreme Court.

7

Was read the second time.

8

Rep. Chris Johnson moved that **SCR 602** as found on page 273 of the House Journal be concurred in.

10

The question being on Rep. Chris Johnson's motion that **SCR 602** be concurred in.

11

And the roll being called:

12

Yeas 60, Nays 8, Excused 2, Absent 0

13

Yeas:

14

Anderson, Aylward, Bartels, Barthel, Beal, Blare, Chaffee, Chase, Davis, Dennert, Derby, Deutsch, Drury, Finck, Fitzgerald, Goodwin, Lana Greenfield, Gross, Hansen, Haugaard, Hoffman, Howard, Jamison, Kevin Jensen, Phil Jensen, Chris Johnson, Karr, Koth, Ladner, May, Mills, Milstead, Miskimins, Mortenson, Mulally, Odenbach, Olson, Ernie Otten, Overweg, Perry, Kent Peterson, Sue Peterson, Pischke, Randolph, Reed, Rehfeldt, Reimer, Schneider, Soye, St. John, Stevens, Thomason, Tidemann, Vasgaard, Weis, Weisgram, Wiese, Willadsen, York, and Speaker Gosch

20

Nays:

21

Bordeaux, Cwach, Duba, Healy, Keintz, Lesmeister, Pourier, and Jamie Smith

22

Excused:

23

Marty and Wink

24

So the motion having received an affirmative vote of a majority of the members-elect, the Speaker declared the motion carried and **SCR 602** was concurred in.

26

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

27

The Speaker declared that **HB 1142, 1149, 1193, and 1257, and HCR 6002** were withdrawn at the request of the prime sponsors pursuant to Joint Rule 6B-1.1.

28

29

The following bills were read on February 4, 2021, and today the Speaker assigned these bills to committee:

30

31

**HB 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, and 1281** were referred to the House Committee on Appropriations.

32

1 The following bill was read on February 2, 2021, and today the Speaker assigned this bill to  
2 committee:

3 **HB 1243** was referred to the Committee on State Affairs.

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

5 The following bills were read on February 11, 2021, and today the Speaker assigned these bills  
6 to committees:

7 **SB 178** was referred to the Committee on Commerce and Energy.

8 **SB 135 and 146** were referred to the Committee on Judiciary.

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

10 **HB 1055:** FOR AN ACT ENTITLED, An Act to authorize certain children who are subject to a  
11 military relocation to be eligible for registration with a state-approved distance learning provider.

12 Having had its second reading was up for consideration and final passage.

13 The question being "Shall **HB 1055** pass as amended?"

14 And the roll being called:

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

16 Yeas:

17 Anderson, Aylward, Bartels, Barthel, Beal, Blare, Bordeaux, Chaffee, Chase, Cwach, Davis,  
18 Dennert, Derby, Deutsch, Drury, Duba, Finck, Fitzgerald, Goodwin, Lana Greenfield, Gross, Hansen,  
19 Haugaard, Healy, Hoffman, Howard, Jamison, Kevin Jensen, Phil Jensen, Chris Johnson, Karr, Keintz,  
20 Koth, Ladner, Lesmeister, May, Mills, Milstead, Miskimins, Mortenson, Mulally, Odenbach, Olson,  
21 Ernie Otten, Overweg, Perry, Kent Peterson, Sue Peterson, Pischke, Pourier, Randolph, Reed,  
22 Rehfeldt, Reimer, Schneider, Jamie Smith, Soye, St. John, Stevens, Thomason, Tidemann,  
23 Vasgaard, Weis, Weisgram, Wiese, Willadsen, York, and Speaker Gosch

24 Excused:

25 Marty and Wink

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

28 **HB 1066:** FOR AN ACT ENTITLED, An Act to authorize the transfer of wind energy tax revenue  
29 from a school district general fund.

30 Having had its second reading was up for consideration and final passage.

31 The question being "Shall **HB 1066** pass as amended?"

32 And the roll being called:

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

1 Yeas:  
 2 Anderson, Aylward, Bartels, Barthel, Beal, Blare, Bordeaux, Chaffee, Chase, Cwach, Davis,  
 3 Dennert, Derby, Deutsch, Drury, Duba, Finck, Fitzgerald, Goodwin, Lana Greenfield, Gross, Hansen,  
 4 Haugaard, Healy, Hoffman, Howard, Jamison, Kevin Jensen, Phil Jensen, Chris Johnson, Karr, Keintz,  
 5 Koth, Ladner, Lesmeister, May, Mills, Milstead, Miskimins, Mortenson, Mulally, Odenbach, Olson,  
 6 Ernie Otten, Overweg, Perry, Kent Peterson, Sue Peterson, Pischke, Pourier, Randolph, Reed,  
 7 Rehfeldt, Reimer, Schneider, Jamie Smith, Soye, St. John, Stevens, Thomason, Tidemann,  
 8 Vasgaard, Weis, Weisgram, Wiese, Willadsen, York, and Speaker Gosch

9 Excused:  
 10 Marty and Wink

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

13 **HB 1262:** FOR AN ACT ENTITLED, An Act to prohibit the sale or distribution of certain  
 14 substances to those under twenty-one.

15 Was read the second time.

16 Rep. Perry moved that **HB 1262** be amended as follows:

17 1262D

18 On page 1, line 1, of the House Commerce and Energy bill, delete "prohibit the sale or  
 19 distribution of certain substances to " and insert "regulate kratom for "

20 On page 1, line 1, after "under" insert " the age of"

21 On the House Commerce and Energy bill, delete everything after the enacting clause and  
 22 insert:

23 "**Section 1.** That a NEW SECTION be added:

24 34-20B-115. Kratom--Under age--Misdemeanor.

25 The following actions are unlawful:

26 (1) To knowingly sell or distribute kratom to a person under the age of twenty-one;

27 (2) The purchase or attempt to purchase, the receipt or attempt to receive, the possession, or  
 28 the consumption of kratom by a person under the age of twenty-one; and

29 (3) To purchase kratom on behalf of, or to give kratom to, any person under the age of twenty-  
 30 one, unless the purchaser is a parent or guardian of the person under the age of twenty-one.

31 Kratom, for the purposes of this section, is a substance that contains 7-hydroxymitragynine,  
 32 Mitragynine, or Mitragynine pseudoindoxyl. A violation of this section is a Class 2 misdemeanor.

33 "

34 Speaker requested a roll call vote due to having members participating remotely.

35 And the roll being called:

36 Yeas 66, Nays 2, Excused 2, Absent 0

1 Yeas:

2 Anderson, Aylward, Bartels, Barthel, Beal, Blare, Bordeaux, Chaffee, Chase, Cwach, Davis,  
3 Dennert, Derby, Deutsch, Drury, Duba, Finck, Fitzgerald, Goodwin, Lana Greenfield, Gross, Hansen,  
4 Haugaard, Healy, Hoffman, Howard, Jamison, Kevin Jensen, Phil Jensen, Chris Johnson, Karr, Keintz,  
5 Koth, Ladner, Lesmeister, Mills, Milstead, Miskimins, Mortenson, Mulally, Odenbach, Olson, Ernie  
6 Otten, Overweg, Perry, Kent Peterson, Sue Peterson, Pourier, Randolph, Reed, Rehfeldt, Reimer,  
7 Schneider, Jamie Smith, Soye, St. John, Stevens, Thomason, Tidemann, Vasgaard, Weis, Weisgram,  
8 Wiese, Willadsen, York, and Speaker Gosch

9 Nays:

10 May and Pischke

11 Excused:

12 Marty and Wink

13 So the motion having received an affirmative vote of a majority of the members-elect, the  
14 Speaker declared the motion prevailed.

15 The question being "Shall **HB 1262** pass as amended?"

16 And the roll being called:

17 Yeas 62, Nays 6, Excused 2, Absent 0

18 Yeas:

19 Anderson, Bartels, Barthel, Beal, Blare, Bordeaux, Chaffee, Chase, Cwach, Davis, Dennert,  
20 Derby, Deutsch, Drury, Duba, Finck, Fitzgerald, Goodwin, Lana Greenfield, Gross, Hansen,  
21 Haugaard, Healy, Hoffman, Jamison, Kevin Jensen, Chris Johnson, Karr, Keintz, Koth, Ladner,  
22 Lesmeister, Mills, Milstead, Miskimins, Mortenson, Mulally, Odenbach, Olson, Ernie Otten, Overweg,  
23 Perry, Kent Peterson, Sue Peterson, Pourier, Reed, Rehfeldt, Reimer, Schneider, Jamie Smith, Soye,  
24 St. John, Stevens, Thomason, Tidemann, Vasgaard, Weis, Weisgram, Wiese, Willadsen, York, and  
25 Speaker Gosch

26 Nays:

27 Aylward, Howard, Phil Jensen, May, Pischke, and Randolph

28 Excused:

29 Marty and Wink

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

32 **HJR 5003:** A JOINT RESOLUTION, Proposing and submitting to the voters at the next general  
33 election a new section to Article XI of the Constitution of the State of South Dakota, relating to a  
34 three-fifths requirement for certain initiated constitutional amendments or measures.

35 Was read the second time.

36 Rep. Hansen moved that **HJR 5003** be amended as follows:

37 HJR5003B

38 On page 1, line 3, of the House State Affairs bill, after "three-fifths" insert " vote"

39 On page 1, line 3, of the House State Affairs bill, after "initiated " insert "or Legislature-  
40 proposed "



- 1 On page 1, line 4, of the House State Affairs bill, after "amendments" delete " or"
- 2 On page 1, line 4, of the House State Affairs bill, after "or " insert "and initiated or Legislature-  
3 referred "
- 4 On page 1, line 16, of the House State Affairs bill, after "amendment" delete " referred"
- 5 On page 1, line 16, of the House State Affairs bill, after "referred " insert "proposed and  
6 submitted "
- 7 On page 1, line 18, of the House State Affairs bill, after "amendment" delete " referred"
- 8 On page 1, line 18, of the House State Affairs bill, after "referred " insert "proposed and  
9 submitted "
- 10 On page 1, line 22, of the House State Affairs bill, after "statute" delete ", respectively,"

11 Speaker requested a roll call vote due to having members participating remotely.

12 And the roll being called:

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

14 Yeas:

15 Anderson, Aylward, Bartels, Barthel, Beal, Blare, Bordeaux, Chaffee, Chase, Cwach, Davis,  
16 Dennert, Derby, Deutsch, Drury, Duba, Finck, Fitzgerald, Goodwin, Lana Greenfield, Gross, Hansen,  
17 Haugaard, Healy, Hoffman, Howard, Jamison, Kevin Jensen, Phil Jensen, Chris Johnson, Karr, Keintz,  
18 Koth, Ladner, Lesmeister, May, Mills, Milstead, Miskimins, Mortenson, Mulally, Odenbach, Olson,  
19 Ernie Otten, Overweg, Perry, Kent Peterson, Sue Peterson, Pischke, Pourier, Randolph, Reed,  
20 Rehfeldt, Reimer, Schneider, Jamie Smith, Soye, St. John, Stevens, Thomason, Tidemann,  
21 Vasgaard, Weis, Weisgram, Wiese, Willadsen, York, and Speaker Gosch

22 Excused:

23 Marty and Wink

24 So the motion having received an affirmative vote of a majority of the members-elect, the  
25 Speaker declared the motion prevailed.

26 The question being "Shall **HJR 5003** pass as amended?"

27 And the roll being called:

28 Yeas 56, Nays 12, Excused 2, Absent 0

29 Yeas:

30 Anderson, Aylward, Bartels, Barthel, Beal, Blare, Chaffee, Chase, Davis, Dennert, Deutsch,  
31 Drury, Finck, Fitzgerald, Goodwin, Lana Greenfield, Gross, Hansen, Haugaard, Hoffman, Howard,  
32 Jamison, Kevin Jensen, Phil Jensen, Chris Johnson, Karr, Koth, Ladner, May, Mills, Milstead,  
33 Miskimins, Mortenson, Mulally, Odenbach, Ernie Otten, Overweg, Perry, Kent Peterson, Sue  
34 Peterson, Pischke, Randolph, Rehfeldt, Reimer, Schneider, Soye, St. John, Stevens, Thomason,  
35 Vasgaard, Weis, Weisgram, Wiese, Willadsen, York, and Speaker Gosch

36 Nays:

37 Bordeaux, Cwach, Derby, Duba, Healy, Keintz, Lesmeister, Olson, Pourier, Reed, Jamie Smith,  
38 and Tidemann

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1 Excused:  
2 Marty and Wink

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

6 **SB 52:** FOR AN ACT ENTITLED, An Act to revise the permit duration on certain concentrated  
7 animal feeding operations.

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

9 The question being "Shall **SB 52** pass?"

10 And the roll being called:

11 Yeas 54, Nays 14, Excused 2, Absent 0

12 Yeas:

13 Anderson, Aylward, Bartels, Barthel, Beal, Blare, Chaffee, Chase, Davis, Dennert, Derby,  
14 Deutsch, Drury, Finck, Goodwin, Lana Greenfield, Gross, Hansen, Haugaard, Hoffman, Howard,  
15 Jamison, Kevin Jensen, Phil Jensen, Chris Johnson, Karr, Koth, Ladner, May, Milstead, Miskimins,  
16 Mortenson, Mulally, Olson, Overweg, Perry, Kent Peterson, Sue Peterson, Pischke, Randolph, Reed,  
17 Rehfeldt, Reimer, Schneider, Soye, Thomason, Tidemann, Vasgaard, Weis, Weisgram, Wiese,  
18 Willadsen, York, and Speaker Gosch

19 Nays:

20 Bordeaux, Cwach, Duba, Fitzgerald, Healy, Keintz, Lesmeister, Mills, Odenbach, Ernie Otten,  
21 Pourier, Jamie Smith, St. John, and Stevens

22 Excused:  
23 Marty and Wink

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

26 Rep. Reimer moved that the House do now adjourn, which motion prevailed and at 3:22 p.m.  
27 the House adjourned.

28 Patricia Miller, Chief Clerk