

JOURNAL OF THE SENATE

NINETY-SIXTH SESSION

TWENTY-SEVENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, February 24, 2021

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

The prayer was offered by the Chaplain, Pastor Greg Kroger, followed by the Pledge of Allegiance led by Senate pages Collin Engebretson and Claire Grismer.

Roll Call: All members present.

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 26th 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,
Lee A. Schoenbeck, Chair

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COMMUNICATIONS AND PETITIONS

February 24, 2021

Mr. President and Members of the Senate:

I have the honor to inform you that on February 24, 2021, I approved Senate Bills 52, 53, and 60, and the same have been deposited in the office of the Secretary of State.

Respectfully submitted,
Kristi Noem
Governor

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Senate Local Government respectfully reports that it has had under consideration **SB 66** which was tabled.

Also MR. PRESIDENT:

The Committee on Senate Local Government respectfully reports that it has had under consideration **HB 1125** and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Senate Local Government respectfully reports that it has had under consideration **HB 1007, 1008, and 1119** and returns the same with the recommendation that said bills do pass, and having been certified as uncontested, be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Senate Local Government respectfully reports that it has had under consideration **HB 1235** and returns the same with the recommendation that said bill be amended as follows:

1235A

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

"

Section 1. That a NEW SECTION be added:

11-6-40.1. Transfer of ownership plat

Any municipality authorized under § 11-6-40 to require by ordinance that a parcel of land be platted before the sale or transfer of the land may also allow by ordinance for a transfer of ownership plat option that is only for the purpose to plat one larger piece of land to transfer from one owner to another. A transfer of ownership plat is not at a point that is eligible for building permits or incorporating new easements. The entire development process and updated plat is required before a building permit will be allowed.

"

1 And that as so amended, said bill do pass, and having been certified as uncontested, be placed
2 on the consent calendar.

3 Respectfully submitted,
4 Herman Otten, Chair

5 MR. PRESIDENT:

6 The Senate Committee on Appropriations respectfully reports that it has had under
7 consideration **SB 139** and returns the same with the recommendation that said bill do pass.

8 Respectfully submitted,
9 Jean Hunhoff, Chair

10 MR. PRESIDENT:

11 The Committee on Senate Taxation respectfully reports that it has had under consideration
12 **HB 1013** and returns the same with the recommendation that said bill be referred to the Joint
13 Committee on Appropriations with a Do Pass recommendation.

14 Also MR. PRESIDENT:

15 The Committee on Senate Taxation respectfully reports that it has had under consideration
16 **HB 1085** and returns the same with the recommendation that said bill be amended as follows:

17 1085J

18 On page 1, line 11, of the House bill, after "ownership" insert ". For purposes of this section,
19 the term, principal use, means the primary use to which the land is devoted. This definition is
20 intended to reference the primary and predominant use of the land as opposed to a mere secondary
21 and incidental use"

22 On page 1, line 26, of the House bill, delete " and" and insert " or"

23 On page 2, line 22, of the House bill, after "unit." delete "Section 2. That a NEW SECTION be
24 added:

25 10-6-31. 10. Land prevented from classification as agricultural.

26 For tax purposes, land may not be classified as agricultural land and any agricultural land
27 classification shall be removed if the land is platted as a subdivision with three or more lots.

28 For purposes of this section, the term, subdivision, means the division of any tract or parcel of
29 land into two or more lots, sites, or other division for the purpose, whether immediate or future, of
30 sale or building development and includes re-subdivision. The term does not apply to the conveyance
31 of a portion of any previously platted tract, parcel, lot, or site if the conveyance does not cause the
32 tract, parcel, lot, or site from which the portion is severed to be in violation of any existing zoning
33 ordinance or subdivision regulation applying to the tract, parcel, lot, or site."

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

35 Respectfully submitted,
36 Timothy R. Johns, Chair

1 MR. PRESIDENT:

2 The Committee on Senate State Affairs respectfully reports that it has had under consideration
3 **SB 118, 119, 120, and 121** and returns the same with the recommendation that said bills do pass.

4 Also MR. PRESIDENT:

5 The Committee on Senate State Affairs respectfully reports that it has had under consideration
6 **SB 155** and returns the same with the recommendation that said bill be amended as follows:

7 155D

8 On page 1, line 1, of the Introduced bill, after "for " insert "multi-family "

9 On page 1, after line 3, of the Introduced bill, insert "

10 **Section 1.** There is hereby appropriated from the general fund the sum of \$40,000,000, to
11 the Governor's Office of Economic Development to be used for multi-family workforce housing
12 projects for counties with a population of one hundred thousand or less.

13 "

14 On page 1, line 4, of the Introduced bill, delete " \$5,000,000" and insert " \$10,000,000"

15 On page 1, line 5, of the Introduced bill, delete "South Dakota Housing Development Authority
16 " and insert "Governor's Office of Economic Development "

17 On page 1, line 6, of the Introduced bill, after "for " insert "multi-family "

18 On page 1, line 7, of the Introduced bill, delete " the Sioux Falls and Rapid City areas" and
19 insert " Minnehaha County"

20 On page 1, after line 7, of the Introduced bill, insert "

21 **Section 3.** There is hereby appropriated from the general fund the sum of \$10,000,000, to
22 the Governor's Office of Economic Development to be used for grants for the purpose of providing
23 low-interest, revolving loans for developers and property owners for multi-family workforce housing
24 projects in Pennington County.

25 "

26 On page 1, line 8, of the Introduced bill, delete "executive director of the South Dakota Housing
27 Development Authority " and insert "commissioner of the Governor's Office of Economic
28 Development "

29 And that as so amended said bill be referred to the Joint Committee on Appropriations with a
30 Do Pass recommendation.

31 Also MR. PRESIDENT:

32 The Committee on Senate State Affairs respectfully reports that it has had under consideration
33 **SJR 502** which was deferred to the 41st Legislative Day.

1 Also MR. PRESIDENT:

2 The Committee on Senate State Affairs respectfully reports that it has had under consideration
3 the nomination of Gene P. Kean of Minnehaha County, Sioux Falls, South Dakota, to the Government
4 Accountability Board and returns the same with the recommendation that the Senate advise and
5 consent to the confirmation of said reappointment, and that said reappointment having been
6 certified as uncontested, be placed on the consent calendar.

7 Respectfully submitted,
8 Gary L. Cammack, Chair

9 Mr. PRESIDENT:

10 The Committee on Legislative Procedure respectfully reports that **SB 94 and 102** were
11 delivered to her Excellency, the Governor, for her approval at 9:15 a.m., February 24, 2021.

12 Respectfully submitted,
13 Lee A. Schoenbeck, Chair

14 **MESSAGES FROM THE HOUSE**

15 Mr. PRESIDENT:

16 I have the honor to transmit herewith **HB 1197, 1199, 1228, 1256, 1264, 1265, 1266,**
17 **1269, 1272, 1273, 1275, 1276, 1277, 1278, 1279, and 1280** which have passed the House
18 and your favorable consideration is respectfully requested.

19 Also Mr. PRESIDENT:

20 I have the honor to transmit herewith **HCR 6006 and 6007** which have been adopted by the
21 House and your concurrence is respectfully requested.

22 Respectfully,
23 Patricia Miller, Chief Clerk

24 **MOTIONS AND RESOLUTIONS**

25 **HCR 6006:** A CONCURRENT RESOLUTION, Urging efforts to increase competition and
26 transparency among livestock packers.

27 **HCR 6007:** A CONCURRENT RESOLUTION, To provide for an interim study regarding foreign
28 ownership of agricultural land.

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

30 Sen. Cammack moved that **SB 130, 131, 132, 133, and 143** be deferred to Thursday,
31 February 25, 2021, the 28th legislative day.

32 Which motion prevailed.

1 Sen. Cammack moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on
2 Thursday, February 25, 2021, the 28th legislative day.

3 Which motion prevailed.

4 **CONSIDERATION OF REPORTS OF COMMITTEES**

5 Sen. Cammack moved that the reports of the Standing Committees on
6 Judiciary on **SB 126** as found on page 322 of the Senate Journal; also
7 Judiciary on **SB 173** as found on page 323 of the Senate Journal; also
8 Judiciary on **SB 189** as found on page 323 of the Senate Journal; also
9 Senate Appropriations on **SB 27** as found on page 326 of the Senate Journal; also
10 Joint Appropriations on **SB 171** as found on page 327 of the Senate Journal be adopted.

11 Which motion prevailed and the reports were adopted.

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

13 **HB 1228:** FOR AN ACT ENTITLED, An Act to revise provisions regarding industrial hemp and
14 to declare an emergency.

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

16 **HB 1199:** FOR AN ACT ENTITLED, An Act to establish the Office of Liaison for Missing and
17 Murdered Indigenous Persons.

18 **HB 1256:** FOR AN ACT ENTITLED, An Act to make an appropriation for the cleanup of the Big
19 Sioux watershed and River and to declare an emergency.

20 **HB 1264:** FOR AN ACT ENTITLED, An Act to make appropriations from the water and
21 environment fund and its revolving fund subfunds for various water and environmental purposes
22 and to declare an emergency.

23 **HB 1265:** FOR AN ACT ENTITLED, An Act to make an appropriation for the improvement of
24 the state radio system in South Dakota and to declare an emergency.

25 **HB 1266:** FOR AN ACT ENTITLED, An Act to make an appropriation for the improvement of
26 information technology servers and infrastructure of state government and to declare an emergency.

27 **HB 1269:** FOR AN ACT ENTITLED, An Act to make an appropriation for the creation of a
28 missing persons clearinghouse website and to declare an emergency.

29 **HB 1272:** FOR AN ACT ENTITLED, An Act to transfer funds to the state aeronautics fund and
30 to declare an emergency.

31 **HB 1273:** FOR AN ACT ENTITLED, An Act to transfer funds to the health care trust fund and
32 to declare an emergency.

1 **HB 1275:** FOR AN ACT ENTITLED, An Act to make an appropriation for the purchase of
2 metrology lab equipment and to declare an emergency.

3 **HB 1276:** FOR AN ACT ENTITLED, An Act to make an appropriation for capital improvements
4 to the State Veterans' Home and to declare an emergency.

5 **HB 1277:** FOR AN ACT ENTITLED, An Act to make an appropriation for the installation of a
6 sprinkler system at the State Veterans' Cemetery and to declare an emergency.

7 **HB 1278:** FOR AN ACT ENTITLED, An Act to make an appropriation for the purchase of a new
8 skid steer and to declare an emergency.

9 **HB 1279:** FOR AN ACT ENTITLED, An Act to make an appropriation for the development of a
10 K-12 civics and history curriculum and to declare an emergency.

11 **HB 1280:** FOR AN ACT ENTITLED, An Act to make an appropriation for updating the educator
12 certification system within the Department of Education and to declare an emergency.

13 Were read the first time and referred to the Senate Committee on Appropriations.

14 **HB 1197:** FOR AN ACT ENTITLED, An Act to require the attorney general be licensed to
15 practice law in the state.

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

17 **SECOND READING OF CONSENT CALENDAR ITEMS**

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

20 **HB 1057:** FOR AN ACT ENTITLED, An Act to establish resident tuition requirements for
21 veterans and armed forces personnel and family members.

22 **HB 1074:** FOR AN ACT ENTITLED, An Act to limit the liability regarding authorized boiler
23 inspections.

24 **HB 1098:** FOR AN ACT ENTITLED, An Act to authorize the shipment of cigars to persons in
25 this state under certain conditions and to provide a penalty.

26 Were read the second time.

27 The question being "Shall **HB 1055 and 1057** pass as amended, and **HB 1074 and 1098**
28 pass?"

29 And the roll being called:

30 Yeas 35, Nays 0, Excused 0, Absent 0

31 Yeas:

32 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
33 Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher,
34 Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer,
35 Steinhauer, Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

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

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

2 **SB 166:** FOR AN ACT ENTITLED, An Act to revise provisions regarding hate crimes.

3 Was read the second time.

4 Sen. Foster moved that **SB 166** be amended as follows:

5 166D

6 On page 1, line 17, of the Senate Judiciary bill, after "felony." insert " For purposes of this
7 section, Native American Two-Spirit means a culturally and spiritually distinct gender traditionally
8 recognized among Native American nations. "

9 Which motion prevailed.

10 The question being "Shall **SB 166** pass as amended?"

11 And the roll being called:

12 Yeas 8, Nays 27, Excused 0, Absent 0

13 Yeas:

14 Foster, Heinert, Nesiba, Rohl, Rusch, Schoenfish, V. J. Smith, and Wheeler

15 Nays:

16 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Frye-
17 Mueller, Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Novstrup,
18 Herman Otten, Schoenbeck, Stalzer, Steinhauer, Sutton, Symens, Tobin, Wiik, and Zikmund

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

21 **SB 97:** FOR AN ACT ENTITLED, An Act to modify provisions regarding the State-Tribal
22 Relations Committee.

23 Was read the second time.

24 The question being "Shall **SB 97** pass as amended?"

25 And the roll being called:

26 Yeas 30, Nays 5, Excused 0, Absent 0

27 Yeas:

28 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Frye-
29 Mueller, Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Novstrup,
30 Herman Otten, Rohl, Rusch, Schoenbeck, Stalzer, Steinhauer, Sutton, Symens, Tobin, Wheeler,
31 Wiik, and Zikmund

32 Nays:

33 Foster, Heinert, Nesiba, Schoenfish, and V. J. Smith

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

1 **SB 187**: FOR AN ACT ENTITLED, An Act to establish criteria regarding marijuana.

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

3 The question now being on Sen. Brock Greenfield's pending motion to amend **SB 187** as found
4 on page 308 of the Senate Journal.

5 Which motion prevailed.

6 The question being "Shall **SB 187** pass as amended?"

7 And the roll being called:

8 Yeas 19, Nays 16, Excused 0, Absent 0

9 Yeas:

10 Cammack, Crabtree, Curd, Diedrich, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson,
11 Klumb, Kolbeck, Maher, Nesiba, Herman Otten, Rusch, Schoenfish, V. J. Smith, Steinhauer, and
12 Tobin

13 Nays:

14 Bolin, Breitling, Castleberry, Duhamel, Duvall, Foster, Frye-Mueller, Novstrup, Rohl,
15 Schoenbeck, Stalzer, Sutton, Symens, Wheeler, Wiik, and Zikmund

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

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

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

21 Was read the second time.

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

23 And the roll being called:

24 Yeas 35, Nays 0, Excused 0, Absent 0

25 Yeas:

26 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
27 Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher,
28 Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer,
29 Steinhauer, Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

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 **HB 1113**: FOR AN ACT ENTITLED, An Act to revise certain references to the International
33 Building Code.

34 Was read the second time.

1 The question being "Shall **HB 1113** pass?"

2 And the roll being called:

3 Yeas 29, Nays 6, Excused 0, Absent 0

4 Yeas:

5 Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster, Heinert,
6 Hunhoff, Johns, David Johnson, Klumb, Nesiba, Herman Otten, Rohl, Rusch, Schoenbeck,
7 Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

8 Nays:

9 Bolin, Frye-Mueller, Brock Greenfield, Kolbeck, Maher, and Novstrup

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

12 **SIGNING OF BILLS**

13 The President publicly read the title to

14 **HB 1029:** FOR AN ACT ENTITLED, An Act to require a permit to conduct mining operations for
15 certain ore milling facilities.

16 **HB 1053:** FOR AN ACT ENTITLED, An Act to establish an annual fee for certain electric motor
17 vehicles.

18 **HB 1067:** FOR AN ACT ENTITLED, An Act to modify identification requirements for a marriage
19 license and to provide certain provisions for a name change.

20 **HB 1069:** FOR AN ACT ENTITLED, An Act to modify the expenditures that are recoverable as
21 disbursements by a prevailing party in a civil action or a special proceeding.

22 **HB 1073:** FOR AN ACT ENTITLED, An Act to authorize dentists to void certain contract terms
23 with insurers.

24 **HB 1079:** FOR AN ACT ENTITLED, An Act to limit certain actions that may be taken by the
25 executive branch relative to nonprofit corporations or charitable trusts.

26 **HB 1090:** FOR AN ACT ENTITLED, An Act to modify certain requirements for domestic not-
27 for-profit corporations and to declare an emergency.

28 **HB 1196:** FOR AN ACT ENTITLED, An Act to provide free tuition and fees to visually impaired
29 residents for courses not subsidized by the state general fund.

30 **HB 1234:** FOR AN ACT ENTITLED, An Act to make certain revisions to the seller's property
31 condition disclosure statement.

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

33 Sen. Frye-Mueller moved that the Senate do now adjourn, which motion prevailed and at
34 3:26 p.m. the Senate adjourned.

35

Kay Johnson, Secretary