

# *JOURNAL OF THE SENATE*

## *NINETY-SEVENTH SESSION*

---

FIFTH DAY

---

STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Tuesday, January 18, 2022

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

The prayer was offered by the Chaplain, Pastor Jarvis Wipf, followed by the Pledge of Allegiance led by Senate page Madison Decker.

Roll Call: All members present except Sen. Heinert who was excused and Sens. Brock Greenfield, Nesiba, and Symens who were 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 4th 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 The oath of office was administered by the President to the following:  
 2 Legislative Interns - Cage Consoer, Ashley Gustafson, and Sky Nockels  
 3 Page - Savannah Tunheim  
 4 Which was subscribed to and placed on file in the office of the Secretary of State.

5 **REPORTS OF STANDING COMMITTEES**

6 MR. PRESIDENT:

7 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
 8 **SB 1 and 2** and returns the same with the recommendation that said bills do pass, and having been  
 9 certified as uncontested, be placed on the consent calendar.

10 Respectfully submitted,  
 11 Arthur Rusch, Chair

12 MR. PRESIDENT:

13 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has  
 14 had under consideration **SB 38** and returns the same with the recommendation that said bill do  
 15 pass, and having been certified as uncontested, be placed on the consent calendar.

16 Respectfully submitted,  
 17 Joshua Klumb, Chair

18 MR. PRESIDENT:

19 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
 20 consideration **SB 36** and returns the same with the recommendation that said bill be amended as  
 21 follows:

36A

- 22 On page 1, line 5, of the Introduced bill, after "solar" insert " energy"
- 23 On page 1, line 12, of the Introduced bill, after "solar" insert " energy"
- 24 On page 1, line 14, of the Introduced bill, after "solar" insert " energy"
- 25 On page 1, line 16, of the Introduced bill, after "solar" insert " energy"
- 26 On page 1, line 19, of the Introduced bill, after "solar" insert " energy"
- 27 On page 1, line 22, of the Introduced bill, after "solar" insert " energy"
- 28 On page 1, line 23, of the Introduced bill, after "solar" insert " energy"
- 29 On page 2, line 1, of the Introduced bill, after "solar" insert " energy"
- 30 On page 2, line 2, of the Introduced bill, after "solar" insert " energy"
- 31 On page 2, line 2, of the Introduced bill, after "solar" insert " energy"

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

3 Also MR. PRESIDENT:

4 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
5 consideration **SB 47** and returns the same with the recommendation that said bill do pass, and  
6 having been certified as uncontested, be placed on the consent calendar.

7 Also MR. PRESIDENT:

8 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
9 consideration **SB 45** and returns the same with the recommendation that said bill do pass.

10 Respectfully submitted,  
11 Casey Crabtree, Chair

12 MR. PRESIDENT:

13 The Committee on Senate Education respectfully reports that it has had under consideration  
14 **SB 42** and returns the same with the recommendation that said bill be referred to the Joint  
15 Committee on Appropriations with a Do Pass recommendation.

16 Also MR. PRESIDENT:

17 The Committee on Senate Education respectfully reports that it has had under consideration  
18 **SB 43** and returns the same with the recommendation that said bill be referred to the Joint  
19 Committee on Appropriations with a Do Pass recommendation.

20 Also MR. PRESIDENT:

21 The Committee on Senate Education respectfully reports that it has had under consideration  
22 **SB 44** and returns the same with the recommendation that said bill be referred to the Joint  
23 Committee on Appropriations with a Do Pass recommendation.

24 Also MR. PRESIDENT:

25 The Committee on Senate Education respectfully reports that it has had under consideration  
26 **SB 59** and returns the same with the recommendation that said bill be referred to the Joint  
27 Committee on Appropriations with a Do Pass recommendation.

28 Also MR. PRESIDENT:

29 The Committee on Senate Education respectfully reports that it has had under consideration  
30 **SB 61** and returns the same with the recommendation that said bill be referred to the Joint  
31 Committee on Appropriations with a Do Pass recommendation.

32 Also MR. PRESIDENT:

33 The Committee on Senate Education respectfully reports that it has had under consideration  
34 **SB 71** and returns the same with the recommendation that said bill be amended as follows:

35 71A

36 On page 1, line 1, of the Introduced bill, delete " the tax credit limit for" and insert " certain  
37 provisions related to"

38 On page 1, after line 2, of the Introduced bill, insert: "

1 **Section 1. That § 13-65-1 be AMENDED:**

2 **13-65-1.** Terms, as used in this chapter, mean:

- 3 (1) "Division," the Division of Insurance in the Department of Labor and Regulation;
- 4 (2) "Educational scholarship," a grant to an eligible student to cover all or part of the tuition and  
5 fees at a qualifying school. The average value of all scholarships awarded by a scholarship  
6 granting organization may not exceed eighty-two and five-tenths percent of the state's share  
7 of the per student equivalent, as defined in § 13-13-10.1;
- 8 (3) "Eligible student," any student entering kindergarten through twelfth grade who resides in South  
9 Dakota while receiving the educational scholarship and:
  - 10 (a) Is a member of a household whose total annual income, the year before the student enters  
11 the program, did not exceed one hundred fifty percent of the income standard used to qualify  
12 for a free or reduced-price lunch under the national free or reduced-price lunch program. If  
13 sufficient funding is available, once a student meets the initial income eligibility requirement,  
14 the student remains income eligible for three years or if the student is entering high school,  
15 until the student graduates high school regardless of household income. After the initial  
16 period of income eligibility, a student remains eligible if the student is a member of a  
17 household whose total annual income in the prior year did not exceed two hundred percent  
18 of the income standard used to qualify for a free or reduced-price lunch; ~~and or~~
  - 19 (b) ~~Resides in South Dakota while receiving the educational scholarship~~ Is in foster care;
- 20 (4) "Low-income eligible student," any student who is a member of a household whose total annual  
21 income, the year before the student enters the program, did not exceed one hundred percent  
22 of the income standard used to qualify for a free or reduced-price lunch under the national  
23 free or reduced-price lunch program;
- 24 (5) "Parent," any guardian, custodian, or other person with authority to act in place of a parent for  
25 the child;
- 26 (6) "Program," the partners in education tax credit program established pursuant to this chapter;
- 27 (7) "Qualifying school," any nonpublic school that operates within the boundaries of South Dakota  
28 or any tribally controlled school on a federally recognized Indian reservation that operates  
29 within the boundaries of South Dakota, is accredited by the Department of Education,  
30 provides education to elementary or secondary students, and has notified a scholarship  
31 granting organization of its intention to participate in the program and comply with the  
32 program requirements. This term excludes any school that receives a majority of its revenues  
33 from public funds;
- 34 (8) "Scholarship granting organization," a nonprofit organization that complies with the  
35 requirements of the program and provides educational scholarships to students."

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

37 Respectfully submitted,  
38 R. Blake Curd, Chair

39 **CONSIDERATION OF REPORTS OF COMMITTEES**

40 Sen. Schoenbeck moved that the report of the Standing Committee on Senate Legislative  
41 Procedures as found on page 54 of the Senate Journal be adopted.

1 The question being on Sen. Schoenbeck's motion that the report of the Standing Committee  
2 on Senate Legislative Procedures be adopted.

3 And the roll being called:

4 Yeas 31, Nays 3, Excused 1, Absent 0

5 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Frye-  
6 Mueller, Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Novstrup,  
7 Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton,  
8 Symens, Tobin, Wheeler, and Zikmund

9 Nays: Foster, Nesiba, and Wiik

10 Excused: Heinert

11 So the motion having received an affirmative vote of a majority of the members-elect, the  
12 President declared the motion carried.

13 Sen. Schoenbeck moved that the report of the Standing Committee on Joint Legislative  
14 Procedure as found on page 55 of the Senate Journal be adopted.

15 The question being on Sen. Schoenbeck's motion that the report of the Standing Committee  
16 on Joint Legislative Procedure be adopted.

17 And the roll being called:

18 Yeas 30, Nays 4, Excused 1, Absent 0

19 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Frye-  
20 Mueller, Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Novstrup,  
21 Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Symens,  
22 Tobin, Wheeler, and Zikmund

23 Nays: Foster, Nesiba, Sutton, and Wiik

24 Excused: Heinert

25 So the motion having received an affirmative vote of a majority of the members-elect, the  
26 President declared the motion carried.

27 Sen. Cammack moved that the report of the Standing Committee on

28 State Affairs on **SB 46** as found on page 56 of the Senate Journal be adopted.

29 Which motion prevailed and the report was adopted.

### 30 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

31 **SB 85**: FOR AN ACT ENTITLED, An Act to create the ARPA water and environment fund, create  
32 a subfund, to make an appropriation therefor, and to declare an emergency.

33 Introduced by: **Senator** Duhamel

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

1 **SB 86:** FOR AN ACT ENTITLED, An Act to revise certain definitions in laws regarding physical  
2 therapists.

3 Introduced by: **Senator** Duhamel

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

5 **SB 87:** FOR AN ACT ENTITLED, An Act to update the South Dakota Coordinate System to  
6 conform to national standards.

7 Introduced by: **Senator** Duvall

8 Was read the first time and referred to the Committee on Transportation.

9 **SECOND READING OF CONSENT CALENDAR ITEMS**

10 **SB 29:** FOR AN ACT ENTITLED, An Act to authorize highway maintenance vehicles to operate  
11 at less than the posted minimum speed on interstate highways.

12 Was read the second time.

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

14 And the roll being called:

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

16 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall,  
17 Foster, Frye-Mueller, Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher,  
18 Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Symens,  
19 Tobin, Wheeler, Wiik, and Zikmund

20 Excused: Heinert, Schoenbeck, and Sutton

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

24 **SB 35:** FOR AN ACT ENTITLED, An Act to increase penalties for actions related to grain  
25 transactions.

26 Was read the second time.

27 The question being "Shall **SB 35** pass?"

28 And the roll being called:

29 Yeas 34, Nays 0, Excused 1, Absent 0

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

1           Excused: Heinert

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

4           **SB 39**: FOR AN ACT ENTITLED, An Act to reduce the period for filing claims upon the revocation  
5 of a grain buyer license.

6           Was read the second time.

7           The question being "Shall **SB 39** pass?"

8           And the roll being called:

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

10          Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall,  
11 Foster, Frye-Mueller, Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher,  
12 Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton,  
13 Symens, Tobin, Wheeler, Wiik, and Zikmund

14          Excused: Heinert and Schoenbeck

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          **SB 37**: FOR AN ACT ENTITLED, An Act to repeal the bingo distributor license and bingo  
18 manufacturer license and to repeal the bingo tax.

19          Was read the second time.

20          The question being "Shall **SB 37** pass?"

21          And the roll being called:

22          Yeas 34, Nays 0, Excused 1, Absent 0

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

27          Excused: Heinert

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

30          There being no objection, the Senate reverted to Order of Business No. 7 - Messages from  
31 the House.

1

---

**MESSAGES FROM THE HOUSE**

2 MR. PRESIDENT:

3 I have the honor to inform your honorable body that the House has adopted the report of the  
4 Joint Committee on Legislative Procedure relative to the permanent joint rules for the Ninety-  
5 seventh Legislative Session.

6 Also MR. PRESIDENT:

7 I have the honor to inform your honorable body that Speaker Gosch appointed Rep. Hansen to  
8 replace Rep. Olson and Rep. Lesmeister to replace Rep. Bordeaux on the Joint-Select Committee  
9 appointed to arrange for a memorial recognition of deceased former members of the House and  
10 Senate.

11  
12

Respectfully,  
Patricia Miller, Chief Clerk

13 Sen. Duhamel moved that the Senate do now adjourn, which motion prevailed and at 2:38  
14 p.m. the Senate adjourned.

15

Kay Johnson, Secretary