

JOURNAL OF THE SENATE

NINETY-SEVENTH SESSION

FOURTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, February 01, 2022

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

The prayer was offered by the Chaplain, Rev. Sam Handschke, followed by the Pledge of Allegiance led by Senate page Jack Sandvig.

Roll Call: All members present except Sen. Curd who was 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 13th 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 20, 2022

3

The Honorable Larry Rhoden

4

President of the Senate

5

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 1-16H of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have reappointed Ani Aprahamian, of St. Joseph County, Notre Dame, Indiana, to the South Dakota Science and Technology Authority.

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This reappointment is effective January 7, 2022, and shall continue until December 9, 2027.

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Sincerely,
Kristi Noem
Governor

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The President announced the referral of the reappointment to the Committee on Education.

16

January 11, 2022

17

The Honorable Larry Rhoden

18

President of the Senate

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State Capitol

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Pierre, SD 57501

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Dear President and Members of the Senate:

22

Pursuant to the provisions of Chapter 24-13 of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have reappointed Kenneth D. Albers, of Lincoln County, Canton, South Dakota, to the Board of Pardons and Paroles.

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This reappointment is effective January 18, 2022, and shall continue until January 17, 2026.

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Sincerely,
Kristi Noem
Governor

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The President announced the referral of the reappointment to the Committee on Judiciary.

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REPORTS OF STANDING COMMITTEES

31

MR. PRESIDENT:

32

The Committee on Senate Education respectfully reports that it has had under consideration **SB 105 and 106** which were deferred to the 41st Legislative Day.

33

1 Also MR. PRESIDENT:

2 The Committee on Senate Education respectfully reports that it has had under consideration
3 **SB 110** and returns the same with the recommendation that said bill be amended as follows:

4 110A

5 On page 1, line 4, of the Introduced bill, delete " \$50,000,000" and insert " \$1"

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

8 Respectfully submitted,
9 Kyle Schoenfish, Vice-Chair

10 MR. PRESIDENT:

11 The Committee on Senate Judiciary respectfully reports that it has had under consideration
12 **SB 77** and returns the same with the recommendation that said bill be amended as follows:

13 77A

14 On page 1, line 9, of the Introduced bill, after "felony." insert "

15 An allegation that a defendant is registered as a sex offender pursuant to chapter 22-24B
16 must be filed as a separate information at the time of, or before, arraignment. The separate
17 information must state the time and place of the defendant's conviction and the specific sex crime
18 that resulted in the defendant's conviction. The separate information must be signed by the
19 prosecutor. "

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

21 Also MR. PRESIDENT:

22 The Committee on Senate Judiciary respectfully reports that it has had under consideration
23 **SB 103** and returns the same with the recommendation that said bill be referred to the Joint
24 Committee on Appropriations with a Do Pass recommendation.

25 Also MR. PRESIDENT:

26 The Committee on Senate Judiciary respectfully reports that it has had under consideration
27 **SB 107, and HB 1065, 1104, and 1105** and returns the same with the recommendation that said
28 bills do pass, and having been certified as uncontested, be placed on the consent calendar.

29 Also MR. PRESIDENT:

30 The Committee on Senate Judiciary respectfully reports that it has had under consideration
31 **HB 1069** and returns the same with the recommendation that said bill do pass.

32 Respectfully submitted,
33 Arthur Rusch, Chair

34 MR. PRESIDENT:

35 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
36 had under consideration **SB 73** and returns the same with the recommendation that said bill be
37 amended as follows:

1

73G

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

3 "

4 **Section 1. That § 41-8-17 be AMENDED:**

5 **41-8-17.** Between sunset and sunrise, no person may use or possess night-vision
 6 equipment or throw or cast the rays of a spotlight, motor vehicle headlight, or other artificial
 7 light onto a highway, or into any field, pasture, woodland, forest, or prairie, for the purpose
 8 of spotting, locating, taking, attempting to take, or hunting any animal, if the person is in
 9 possession or control of a firearm, bow, or other implement by which an animal could be
 10 killed. The prohibitions set forth in this section do not apply to a law enforcement officer in
 11 the performance of the officer's duties.

12 Notwithstanding the prohibitions set forth in this section:

13 (1) A person may use a handheld light, while the person is on foot, to ~~take~~:

14 (a) Take raccoons after the raccoons have been treed by dogs, ~~or to~~
 15 ~~engage; or~~

16 (b) Engage in trapping activity and ~~to take~~ trapped fur-bearing animals;

17 (2) ~~A person who owns or occupies land and up to two guests accompanying the person~~
 18 ~~may use an artificial light and~~ From January first to August thirty-first, inclusive, a
 19 person may use night vision equipment on the person's land, but not artificial light,
 20 to take jackrabbits, coyotes, beaver during its hunting season, foxes, raccoons,
 21 opossums, badgers, skunks, and rodents, provided they use the person is on public
 22 land and uses:

23 (a) A shotgun and shotshells; or

24 (b) A firearm and a cartridge having a bullet diameter of less than .225
 25 inches;

26 (3) ~~If a person who is at least eighteen years of age owns or occupies land, that person~~
 27 ~~may grant permission for up to two guests to hunt unaccompanied on that person's~~
 28 ~~land for~~ From January first to August thirty-first, a person may use night vision
 29 equipment, but not artificial light, to take jackrabbits, coyotes, beaver during its
 30 hunting season, foxes, raccoons, opossums, badgers, skunks, and rodents, and such
 31 guests may use night vision equipment, provided they use the person is on private
 32 land that is under lease to the Department of Game, Fish and Parks for the purpose
 33 of providing public access, has the permission of the landowner, and uses:

34 (a) A shotgun and shot shells; or

35 (b) A firearm and a cartridge having a bullet diameter of less than .225
 36 inches;

37 (4) A person may use night vision equipment and artificial light to take
 38 jackrabbits, coyotes, beaver during its hunting season, foxes, raccoons, opossums,
 39 badgers, skunks, and rodents, provided the person is on private land, and uses:

40 (a) A shotgun and shot shells; or

41 (b) A firearm and a cartridge having a bullet diameter of less than .225 inches;

42 and

1 ~~(4)~~(5) An employee of the Department of Game, Fish and Parks may, while performing
 2 animal damage control, use night-vision equipment and artificial lights, provided the
 3 employee obtains permission from the person owning or occupying the land prior to
 4 taking an animal that is causing damage.

5 For purposes of this section, "artificial light" means a man-made light or lighting
 6 device that projects lamination for an unaided eye.

7 For purposes of this section, "night-vision equipment" means an electronic or
 8 battery-powered device that enhances a person's ability to see in the dark.

9 A violation of this section is a Class 2 misdemeanor."

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

11 Also MR. PRESIDENT:

12 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
 13 had under consideration **HB 1035** and returns the same with the recommendation that said bill do
 14 pass.

15 Respectfully submitted,
 16 Joshua Klumb, Chair

17 MR. PRESIDENT:

18 The Committee on Senate Commerce and Energy respectfully reports that it has had under
 19 consideration **SJR 502** and returns the same with the recommendation that said resolution be
 20 amended as follows:

21 SJR502B

22 On page 2, line 9, of the Introduced bill, after "platform" insert " is offered by or in partnership
 23 with a licensed casino and"

24 And that as so amended, said resolution do pass.

25 Also MR. PRESIDENT:

26 The Committee on Senate Commerce and Energy respectfully reports that it has had under
 27 consideration **HB 1044** and returns the same with the recommendation that said bill do pass.

28 Also MR. PRESIDENT:

29 The Committee on Senate Commerce and Energy respectfully reports that it has had under
 30 consideration **HB 1043** and returns the same with the recommendation that said bill do pass, and
 31 having been certified as uncontested, be placed on the consent calendar.

32 Respectfully submitted,
 33 Casey Crabtree, Chair

34 **MESSAGES FROM THE HOUSE**

35 MR. PRESIDENT:

36 I have the honor to return herewith **SB 28, 35, 36, 38, 39, and 74** which have passed the
 37 House without change.

1 Also MR. PRESIDENT:

2 I have the honor to transmit herewith **HB 1026, 1037, 1061, and 1070** which have passed
3 the House and your favorable consideration is respectfully requested.

4 Respectfully,
5 Patricia Miller, Chief Clerk

6 **MOTIONS AND RESOLUTIONS**

7 **SCR 602:** A CONCURRENT RESOLUTION, To provide for an interim study to examine mitigation
8 efforts to curtail the spread of aquatic invasive species.

9 Introduced by: **Senator** Rohl

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

11 **CONSIDERATION OF REPORTS OF COMMITTEES**

12 Sen. Cammack moved that the reports of the Standing Committees on
13 Military and Veterans Affairs on **SB 41** as found on page 136 of the Senate Journal; and
14 Taxation on **SB 98** as found on page 137 of the Senate Journal be adopted.
15 Which motion prevailed and the reports were adopted.

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

17 **SB 175:** FOR AN ACT ENTITLED, An Act to make an appropriation to the Department of Game,
18 Fish and Parks for building a shooting range in western South Dakota and to declare an emergency.

19 Introduced by: **Senator** David Johnson

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

21 **SB 180:** FOR AN ACT ENTITLED, An Act to amend certain provisions relating to the small
22 business credit initiative fund.

23 Introduced by: The Committee on Commerce and Energy

24 Was read the first time and referred to the Committee on Commerce and Energy.

25 **SB 174:** FOR AN ACT ENTITLED, An Act to make an appropriation to provide a grant for the
26 construction of a facility to provide certain health facilities and services and to declare an emergency.

27 Introduced by: **Senator** Kolbeck

28 **SB 177:** FOR AN ACT ENTITLED, An Act to revise provisions regarding medical cannabis.

29 Introduced by: **Senator** Heinert

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

2 **SB 172:** FOR AN ACT ENTITLED, An Act to revise provisions regarding eligibility for parole for
3 certain persons sentenced to life imprisonment.

4 Introduced by: **Senator** Rusch

5 **SB 173:** FOR AN ACT ENTITLED, An Act to establish standards for live or photographic lineups
6 conducted by law enforcement.

7 Introduced by: **Senator** Rusch

8 Were read the first time and referred to the Committee on Judiciary.

9 **SB 179:** FOR AN ACT ENTITLED, An Act to modify certain provisions regarding municipal
10 campgrounds.

11 Introduced by: **Senator** Novstrup

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

13 **SB 178:** FOR AN ACT ENTITLED, An Act to replace the name of Custer State Park.

14 Introduced by: **Senator** Heinert

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

16 **SB 176:** FOR AN ACT ENTITLED, An Act to revise provisions regarding self-propelled
17 agriculture units.

18 Introduced by: **Senator** Duvall

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

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

21 **HB 1061:** FOR AN ACT ENTITLED, An Act to codify an advisory council for the appraiser
22 certification program.

23 Was read the first time and referred to the Committee on Commerce and Energy.

24 **HB 1026:** FOR AN ACT ENTITLED, An Act to prohibit eligibility for a suspended imposition of
25 sentence for the crime of rape.

26 **HB 1037:** FOR AN ACT ENTITLED, An Act to revise the penalty for certain willful violations by
27 grain buyers and grain warehouse operators.

28 Were read the first time and referred to the Committee on Judiciary.

1 **HB 1070:** FOR AN ACT ENTITLED, An Act to clarify certain provisions of the rural access
2 infrastructure improvements grant program.

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

4 **SECOND READING OF CONSENT CALENDAR ITEMS**

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

7 **SB 93:** FOR AN ACT ENTITLED, An Act to revise certain provisions related to the use of
8 epinephrine and supraglottic airway devices by ambulance services.

9 **HB 1002:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
10 investments authorized for state public funds.

11 **HB 1009:** FOR AN ACT ENTITLED, An Act to revise certain provisions of the Higher Education
12 Savings Plan Act.

13 **HB 1028:** FOR AN ACT ENTITLED, An Act to update certain provisions related to the licensure
14 of optometrists.

15 **HB 1063:** FOR AN ACT ENTITLED, An Act to revise the approval process for state employee
16 household moving allowances.

17 Were read the second time.

18 The question being "Shall **HB 1028** pass as amended, and **SB 86 and 93, and HB 1002,**
19 **1009, and 1063** pass?"

20 And the roll being called:

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

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

26 Excused: Curd

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

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

30 Sen. Cammack moved that **HB 1025** be placed to follow **HB 1068** on today's calendar.

31 **HB 1036:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding search
32 warrants for tracking devices.

33 Was read the second time.

34 The question being "Shall **HB 1036** pass?"

1 And the roll being called:

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

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

7 Nays: Foster, Heinert, Maher, and Nesiba

8 Excused: Curd

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

11 **HB 1068:** FOR AN ACT ENTITLED, An Act to clarify the processing of sexual assault kits
12 performed on individuals ages sixteen and seventeen.

13 Was read the second time.

14 The question being "Shall **HB 1068** pass as amended?"

15 And the roll being called:

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

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

21 Excused: Curd

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

24 **HB 1025:** FOR AN ACT ENTITLED, An Act to update legal holidays in South Dakota.

25 Was read the second time.

26 Sen. Wheeler moved that **HB 1025** be amended as follows:

27 1025A

28 On page 1, line 16, of the Introduced bill, remove the overstrikes from "the first day of January,
29 "

30 On page 1, line 16, of the Introduced bill, after "January, " insert "the nineteenth day of June,
31 the fourth day of July, "

32 On page 1, line 16, of the Introduced bill, remove the overstrikes from "the eleventh day of
33 November, or the twenty-fifth day of December"

34 On page 1, line 17, of the Introduced bill, after "December " delete "a holiday "

1 Sen. Duvall moved that Sen. Wheeler's amendment to **HB 1025** be amended as follows:

2 1025B

3 On amendment (1025A),

4 On page 1, line 19, remove the overstrikes from " any such day"

5 On page 1, line 19, after "day" delete " a holiday"

6 Sen. Duvall's motion to amend 1025A prevailed.

7 Sen. Wheeler's motion to amend prevailed.

8 The question being "Shall **HB 1025** pass as amended?"

9 And the roll being called:

10 Yeas 23, Nays 11, Excused 1, Absent 0

11 Yeas: Bolin, Breitling, Cammack, Crabtree, Diedrich, Duhamel, Duvall, Foster, Brock
12 Greenfield, Heinert, Hunhoff, Johns, Klumb, Kolbeck, Nesiba, Rohl, Rusch, Schoenfish, V. J. Smith,
13 Steinhauer, Sutton, Wheeler, and Wiik

14 Nays: Castleberry, Frye-Mueller, David Johnson, Maher, Novstrup, Herman Otten, Schoenbeck,
15 Stalzer, Symens, Tobin, and Zikmund

16 Excused: Curd

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 **SIGNING OF BILLS**

20 The President publicly read the title to

21 **HB 1003:** FOR AN ACT ENTITLED, An Act to update references to certain federal motor carrier
22 regulations.

23 **HB 1059:** FOR AN ACT ENTITLED, An Act to permit nonresponsive insurance producer
24 applications be deemed withdrawn as to not constitute a refusal or administrative action.

25 **HB 1062:** FOR AN ACT ENTITLED, An Act to revise a provision regarding when a license is not
26 required of a person installing electric wiring.

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

28 Sen. Brock Greenfield moved that the Senate do now adjourn, which motion prevailed and at
29 2:46 p.m. the Senate adjourned.

30

Kay Johnson, Secretary