

# *JOURNAL OF THE SENATE*

## *NINETY-SEVENTH SESSION*

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FIFTEENTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Wednesday, February 02, 2022

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

The prayer was offered by the Chaplain, Fr. Joe Holzhauser, followed by the Pledge of Allegiance led by Senate page Ellie Jo Simpson.

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 14th 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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**SIGNING OF BILLS**

The President publicly read the title to

**SB 28:** FOR AN ACT ENTITLED, An Act to disqualify for life any person from driving a commercial vehicle who is convicted of a felony offense involving human trafficking.

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

**SB 36:** FOR AN ACT ENTITLED, An Act to require financial security for the decommissioning of solar facilities.

**SB 38:** FOR AN ACT ENTITLED, An Act to prohibit a grain broker from engaging in certain transactions or activities and to provide a penalty therefor.

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

**SB 46:** FOR AN ACT ENTITLED, An Act to protect fairness in women's sports.

**SB 71:** FOR AN ACT ENTITLED, An Act to revise certain provisions related to the partners in education tax credit program.

**SB 74:** FOR AN ACT ENTITLED, An Act to revise provisions regarding out-of-service motor carrier violations.

**SB 76:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the minimum amount of a lottery prize that is subject to setoff.

**SB 80:** FOR AN ACT ENTITLED, An Act to exempt the provision of electricity through electric vehicle charging stations from the definition of electric utility.

And signed the same in the presence of the Senate.

**REPORTS OF STANDING COMMITTEES**

MR. PRESIDENT:

The Committee on Senate Transportation respectfully reports that it has had under consideration **SB 91** and returns the same with the recommendation that said bill be amended as follows:

91A

On page 1, line 5, of the Introduced bill, after "Transportation," delete " any motor vehicle authorized by a county highway department,"

On page 1, line 16, of the Introduced bill, delete " while on duty maintaining the highway" and insert " in performance of winter highway maintenance duties"

On page 1, line 18, of the Introduced bill, delete "The authorization" and insert " Authorization for use of a blue light in accordance with this chapter"

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 Jessica Castleberry, Vice-Chair

5 MR. PRESIDENT:

6 The Committee on Senate Local Government respectfully reports that it has had under  
7 consideration **HB 1076** and returns the same with the recommendation that said bill do pass.

8 Also MR. PRESIDENT:

9 The Committee on Senate Local Government respectfully reports that it has had under  
10 consideration **SB 138** and returns the same with the recommendation that said bill do pass, and  
11 having been certified as uncontested, be placed on the consent calendar.

12 Respectfully submitted,  
13 Herman Otten, Chair

14 MR. PRESIDENT:

15 The Committee on Senate Taxation respectfully reports that it has had under consideration  
16 **SB 99** and returns the same with the recommendation that said bill be referred to the Joint  
17 Committee on Appropriations.

18 Also MR. PRESIDENT:

19 The Committee on Senate Taxation respectfully reports that it has had under consideration  
20 **HB 1010 and 1011** and returns the same with the recommendation that said bills do pass, and  
21 having been certified as uncontested, be placed on the consent calendar.

22 Respectfully submitted,  
23 Timothy R. Johns, Chair

24 MR. PRESIDENT:

25 The Committee on Senate State Affairs respectfully reports that it has had under consideration  
26 **SB 54** 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 State Affairs respectfully reports that it has had under consideration  
30 **SB 130** 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 Respectfully submitted,  
33 Gary L. Cammack, Chair

34 MR. PRESIDENT:

35 The Committee on Senate Health and Human Services respectfully reports that it has had  
36 under consideration **SB 109** and returns the same with the recommendation that said bill be  
37 referred to the Joint Committee on Appropriations with a Do Pass recommendation.

1 Also MR. PRESIDENT:

2 The Committee on Senate Health and Human Services respectfully reports that it has had  
3 under consideration **HB 1004** which was deferred to the 41st Legislative Day.

4 Respectfully submitted,  
5 Wayne H. Steinhauer, Chair

6 MR. PRESIDENT:

7 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and  
8 Enrolling has carefully compared **SB 28, 35, 36, 38, 39, 46, 71, 74, 76, and 80** and finds the  
9 same correctly enrolled.

10 Respectfully submitted,  
11 Lee A. Schoenbeck, Chair

12 MR. PRESIDENT:

13 The Committee on Legislative Procedure respectfully reports that **SB 29 and 47** were delivered  
14 to her Excellency, the Governor, for her approval at 9:10 a.m., February 2, 2022.

15 Respectfully submitted,  
16 Lee A. Schoenbeck, Chair

17 **MESSAGES FROM THE HOUSE**

18 MR. PRESIDENT:

19 I have the honor to return herewith **SB 46, 71, 76, and 80** which have passed the House  
20 without change.

21 Also MR. PRESIDENT:

22 I have the honor to transmit herewith **HB 1005, 1084, 1103, and 1117** which have passed  
23 the House and your favorable consideration is respectfully requested.

24 Also MR. PRESIDENT:

25 I have the honor to transmit herewith **HCR 6007** which has been adopted by the House and  
26 your concurrence is respectfully requested.

27 Respectfully,  
28 Patricia Miller, Chief Clerk

29 **MOTIONS AND RESOLUTIONS**

30 **HCR 6007:** A CONCURRENT RESOLUTION, Celebrating the sister-state relationship with  
31 Taiwan.

32 Was read the first time and the President waived the committee referral pursuant to JR 6D-1.

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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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Agriculture and Natural Resources on **SB 73** as found on page 147 of the Senate Journal; also

4

Judiciary on **SB 77** as found on page 147 of the Senate Journal; also

5

Education on **SB 110** as found on page 147 of the Senate Journal; and

6

Commerce and Energy on **SJR 502** as found on page 149 of the Senate Journal be adopted.

7

Which motion prevailed and the reports were adopted.

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

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**SB 181:** FOR AN ACT ENTITLED, An Act to require the Department of Agriculture and Natural Resources to assemble a task force to study the adoption of a watershed ecosystems management approach.

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Introduced by: **Senator** Foster

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**SB 184:** FOR AN ACT ENTITLED, An Act to provide for limited elk licenses to landowners.

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Introduced by: **Senator** Duvall

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**SB 193:** FOR AN ACT ENTITLED, An Act to require legislative approval for the acquisition, construction, or expansion of certain campgrounds.

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Introduced by: **Senator** Frye-Mueller

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**SB 200:** FOR AN ACT ENTITLED, An Act to make an appropriation to the Department of Game, Fish and Parks to purchase and construct boat cleaning stations, and to declare an emergency.

20

Introduced by: **Senator** V. J. Smith

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**SB 201:** FOR AN ACT ENTITLED, An Act to revise provisions regarding industrial hemp and to declare an emergency.

23

Introduced by: **Senator** Klumb

24

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

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**SB 182:** FOR AN ACT ENTITLED, An Act to prohibit discriminatory actions against persons engaged with the firearm industry.

27

Introduced by: **Senator** David Johnson

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**SB 183:** FOR AN ACT ENTITLED, An Act to increase the limit on the number of video lottery machines in a licensed establishment.

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Introduced by: **Senator** Rohl

1       **SB 188:** FOR AN ACT ENTITLED, An Act to allow for unlicensed businesses to store alcoholic  
2 beverages.

3       Introduced by: **Senator** Steinhauer

4       **SB 203:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding utility facilities  
5 and revenue bonds.

6       Introduced by: **Senator** Schoenfish

7       **SB 204:** FOR AN ACT ENTITLED, An Act to establish a process for the abandonment of certain  
8 pipelines.

9       Introduced by: **Senator** Breitling

10       **SB 211:** FOR AN ACT ENTITLED, An Act to provide statutory COVID-19 vaccine exemptions  
11 and to declare an emergency.

12       Introduced by: The Committee on State Affairs at the request of the Office of the Governor

13       Were read the first time and referred to the Committee on Commerce and Energy.

14       **SB 192:** FOR AN ACT ENTITLED, An Act to increase the South Dakota Opportunity Scholarship  
15 award.

16       Introduced by: **Senator** Nesiba

17       **SB 194:** FOR AN ACT ENTITLED, An Act to make an appropriation to the Department of  
18 Education to provide grants to organizations that provide early education programs.

19       Introduced by: **Senator** Maher

20       **SB 210:** FOR AN ACT ENTITLED, An Act to provide for the establishment of education savings  
21 accounts.

22       Introduced by: **Senator** Castleberry

23       Were read the first time and referred to the Committee on Education.

24       **SB 186:** FOR AN ACT ENTITLED, An Act to expand Medicaid eligibility by the Legislature.

25       Introduced by: **Senator** Steinhauer

26       **SB 189:** FOR AN ACT ENTITLED, An Act to make an appropriation to pay increased costs  
27 incurred in the development and construction of a low-intensity residential treatment facility and to  
28 declare an emergency.

29       Introduced by: **Senator** Sutton

30       **SB 196:** FOR AN ACT ENTITLED, An Act to make an appropriation to provide grants for certain  
31 residential alternative care programs and to declare an emergency.

32       Introduced by: **Senator** Hunhoff

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

- 1 **SB 195:** FOR AN ACT ENTITLED, An Act to establish the burden of proof after a claim of  
2 immunity.
- 3 Introduced by: **Senator** Wiik
- 4 **SB 199:** FOR AN ACT ENTITLED, An Act to revise provisions related to a name change for  
5 certain crime victims.
- 6 Introduced by: **Senator** Diedrich
- 7 **SB 207:** FOR AN ACT ENTITLED, An Act to enact the uniform electronic recordation of custodial  
8 interrogations act.
- 9 Introduced by: **Senator** Wheeler
- 10 **SB 208:** FOR AN ACT ENTITLED, An Act to revise the Uniform Unclaimed Property Act.
- 11 Introduced by: **Senator** Johns
- 12 **SB 209:** FOR AN ACT ENTITLED, An Act to limit the provision of state assistance to federal  
13 authorities in certain matters related to firearms.
- 14 Introduced by: **Senator** Castleberry
- 15 Were read the first time and referred to the Committee on Judiciary.
- 16 **SB 190:** FOR AN ACT ENTITLED, An Act to revise provisions regarding municipal zoning of  
17 medical cannabis establishments.
- 18 Introduced by: **Senator** Rohl
- 19 Was read the first time and referred to the Committee on Local Government.
- 20 **SB 185:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding voter registration  
21 records.
- 22 Introduced by: **Senator** Frye-Mueller
- 23 **SB 187:** FOR AN ACT ENTITLED, An Act to require state agencies to provide certain information  
24 for initiated measure or constitutional amendment fiscal notes.
- 25 Introduced by: **Senator** Steinhauer
- 26 **SB 197:** FOR AN ACT ENTITLED, An Act to require the POW/MIA flag be displayed in the Senate  
27 and House of Representative chambers.
- 28 Introduced by: **Senator** Zikmund
- 29 **SB 198:** FOR AN ACT ENTITLED, An Act to revise provisions related to juvenile offenders.
- 30 Introduced by: **Senator** V. J. Smith
- 31 **SB 202:** FOR AN ACT ENTITLED, An Act to update maintenance requirements for voter  
32 registration files.
- 33 Introduced by: **Senator** Frye-Mueller

1 **SB 212:** FOR AN ACT ENTITLED, An Act to revise certain fees collected by the Office of the  
2 Secretary of State.

3 Introduced by: The Committee on State Affairs at the request of the Office of the Governor  
4 Were read the first time and referred to the Committee on State Affairs.

5 **SB 205:** FOR AN ACT ENTITLED, An Act to index a certain level of municipal proceeds regarding  
6 the disbursements from the Gaming Commission fund to an inflation index.

7 Introduced by: **Senator** Johns

8 **SB 206:** FOR AN ACT ENTITLED, An Act to provide for the assessment of certain agricultural  
9 land as noncropland.

10 Introduced by: **Senator** Heinert

11 Were read the first time and referred to the Committee on Taxation.

12 **SB 191:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding motor vehicle  
13 license plates.

14 Introduced by: **Senator** Bolin

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

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

17 **HB 1117:** FOR AN ACT ENTITLED, An Act to revise a certain provision regarding standard  
18 nonforfeiture amounts for individual deferred annuities.

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

20 **HB 1103:** FOR AN ACT ENTITLED, An Act to provide a reimbursement schedule for  
21 chiropractic, dental, and optometric services under the Medicaid program.

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

23 **HB 1005:** FOR AN ACT ENTITLED, An Act to provide for the designated use of public school  
24 multi-occupancy rooms and sleeping rooms.

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

26 **HB 1084:** FOR AN ACT ENTITLED, An Act to provide for the regulation of motorized foot  
27 scooters and to declare an emergency.

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



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**SECOND READING OF CONSENT CALENDAR ITEMS**

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**SB 98:** FOR AN ACT ENTITLED, An Act to add an exemption from the calculation of adjusted gross proceeds from gaming.

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**SB 107:** FOR AN ACT ENTITLED, An Act to provide for the remote witnessing of certain legal instruments.

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**HB 1043:** FOR AN ACT ENTITLED, An Act to revise renewal and licensing requirements for plumbers.

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**HB 1065:** FOR AN ACT ENTITLED, An Act to repeal references to nonresident holders of concealed pistol permits.

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**HB 1104:** FOR AN ACT ENTITLED, An Act to revise provisions related to the location of courtroom facilities.

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**HB 1105:** FOR AN ACT ENTITLED, An Act to allow for a good cause exception to the time for an involuntary commitment hearing.

13

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Were read the second time.

15

The question being "Shall **SB 98** pass as amended, and **SB 107, and HB 1043, 1065, 1104, and 1105** pass?"

16

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And the roll being called:

18

Yeas 34, Nays 0, Excused 1, Absent 0

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

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Excused: Curd

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

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26

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

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**HB 1035:** FOR AN ACT ENTITLED, An Act to allow the Department of Agriculture and Natural Resources to collect receipts from timber sales on federal lands and disburse those receipts according to federal law.

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Was read the second time.

31

The question being "Shall **HB 1035** pass?"

32

And the roll being called:

33

Yeas 31, Nays 3, Excused 1, Absent 0

34

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

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1 Nays: Foster, Heinert, and Nesiba

2 Excused: Curd

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

5 **HB 1044:** FOR AN ACT ENTITLED, An Act to adopt the 2021 edition of the Uniform Plumbing  
6 Code.

7 Was read the second time.

8 Sen. Steinhauer moved that **HB 1044** be amended as follows:

9 1044A

10 On page 1, line 13, of the Introduced bill, after "state." insert "

11 The governing body of any local unit of government may delete any portion of the Uniform  
12 Plumbing Code before adopting the provisions within. Additional deletions or amendments to the  
13 adopted provisions of the Uniform Plumbing Code may be made by the governing body, and are  
14 effective upon their filing with the county auditor."

15 On page 1, after line 13, of the Introduced bill, insert: "

16 **Section 2. That § 36-25-16 be AMENDED:**

17 **36-25-16.** Nothing in this chapter shall prohibit any municipality by ordinance from making  
18 and enforcing requirements and standards regarding plumbing, and from making inspections and  
19 collecting fees relating thereto. Any such ordinances shall be deemed the applicable standards as to  
20 any plumbing work in such municipality, provided that the standards as contained in such ordinances  
21 meet the minimum standards of the State Plumbing Code as adopted by the commission and altered  
22 as provided for in this section or section 1 of this Act, and that any person registered by the  
23 commission may do plumbing work in such municipality for a period of six months following  
24 application for a permit or license in said municipality.

25 The governing body of any local unit of government may delete any portion of the State  
26 Plumbing Code before adopting the provisions within. Additional deletions or amendments to the  
27 adopted provisions of the State Plumbing Code may be made by the governing body, and are  
28 effective upon their filing with the county auditor."

29 Sen. Maher requested a roll call vote.

30 Which request was supported.

31 The question being on Sen. Steinhauer's motion that **HB 1044** be amended.

32 And the roll being called:

33 Yeas 20, Nays 14, Excused 1, Absent 0

34 Yeas: Bolin, Castleberry, Crabtree, Duhamel, Frye-Mueller, Brock Greenfield, Johns, Klumb,  
35 Kolbeck, Maher, Novstrup, Herman Otten, Rohl, Schoenbeck, V. J. Smith, Stalzer, Steinhauer,  
36 Sutton, Symens, and Tobin

1 Nays: Breitling, Cammack, Diedrich, Duvall, Foster, Heinert, Hunhoff, David Johnson, Nesiba,  
2 Rusch, Schoenfish, Wheeler, Wiik, and Zikmund

3 Excused: Curd

4 So the motion having received an affirmative vote of a majority of the members-elect, the  
5 President declared the motion prevailed.

6 The question being "Shall **HB 1044** pass as amended?"

7 And the roll being called:

8 Yeas 24, Nays 10, Excused 1, Absent 0

9 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Diedrich, Duhamel, Duvall, Frye-  
10 Mueller, Brock Greenfield, Hunhoff, Johns, David Johnson, Herman Otten, Rohl, Rusch, Schoenbeck,  
11 Schoenfish, V. J. Smith, Stalzer, Steinhauer, Symens, Tobin, and Wiik

12 Nays: Foster, Heinert, Klumb, Kolbeck, Maher, Nesiba, Novstrup, Sutton, Wheeler, and  
13 Zikmund

14 Excused: Curd

15 So the bill having received an affirmative vote of a majority of the members-elect, the President  
16 declared the bill passed.

17 The question being on the title.

18 Sen. Brock Greenfield moved that the title to **HB 1044** be amended as follows:

19 1044B

20 On page 1, line 1, of the Introduced bill, after "Code" insert ", and allow for selective adoption  
21 of provisions within the Uniform Plumbing Code by municipalities"

22 Which motion prevailed and the title was so amended.

23 Sen. Heinert requested a prison or jail population cost estimate on **HB 1069** pursuant to  
24 JR 6C-1.1.

25 Which request was supported.

26 Sen. Maher moved that the Senate do now adjourn, which motion prevailed and at 2:55 p.m.  
27 the Senate adjourned.

28 Kay Johnson, Secretary

