

JOURNAL OF THE HOUSE

NINETY-SEVENTH SESSION

FIFTEENTH DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Wednesday, February 02, 2022

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

The prayer was offered by the Chaplain, David Hussey, followed by the Pledge of Allegiance led by House pages Shane Rist and Patience Swift.

Roll Call: All members present except Reps. Ernie Otten and Reimer who were excused and Reps. Gross, Mills, Randolph, and Reed 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 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,
Spencer R. Gosch, Chair

Which motion prevailed.

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COMMUNICATIONS AND PETITIONS

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The Speaker has made the following temporary House appointment: Rep. Gosch has been appointed to fill Rep. Randolph's seat on the House Military and Veterans Affairs Committee and will act as chair.

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REPORTS OF STANDING COMMITTEES

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Mr. SPEAKER:

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The Committee on Legislative Procedure respectfully reports that **HB 1003, 1059, and 1062** were delivered to her Excellency, the Governor, for her approval at 9:10 a.m., February 2, 2022.

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Respectfully submitted,
Spencer R. Gosch, Chair

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Mr. SPEAKER:

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The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and Enrolling has carefully compared **HB 1002, 1009, 1027, 1036, 1046, and 1063** and finds the same correctly enrolled.

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Respectfully submitted,
Spencer R. Gosch, Chair

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MR. SPEAKER:

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The Committee on House Education respectfully reports that it has had under consideration **HB 1091 and 1170** which were deferred to the 41st Legislative Day.

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Respectfully submitted,
Lana Greenfield, Chair

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MR. SPEAKER:

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The Committee on House Commerce and Energy respectfully reports that it has had under consideration **HB 1173** and returns the same with the recommendation that said bill be amended as follows:

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1173A

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On page 1, line 20, of the Introduced bill, after "business" delete " entity"

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

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On page 1, line 22, of the Introduced bill, delete " 28" and insert " 26"

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On page 1, line 23, of the Introduced bill, after "2022." insert " The department shall promulgate rules pursuant to chapter 1-26 to determine when a common paymaster relationship exists between business entities."

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And that as so amended, said bill do pass.

1 Also MR. SPEAKER:

2 The Committee on House Commerce and Energy respectfully reports that it has had under
3 consideration **HB 1177** and returns the same with the recommendation that said bill do pass.

4 Respectfully submitted,
5 Lynn Schneider, Vice-Chair

6 MR. SPEAKER:

7 The Committee on House State Affairs respectfully reports that it has had under consideration
8 **HB 1033** and returns the same with the recommendation that said bill do pass.

9 Also MR. SPEAKER:

10 The Committee on House State Affairs respectfully reports that it has had under consideration
11 **HB 1073 and 1139** which were deferred to the 41st Legislative Day.

12 Respectfully submitted,
13 Kent Peterson, Chair

14 MR. SPEAKER:

15 The Committee on House Judiciary respectfully reports that it has had under consideration
16 **HB 1136** and returns the same with the recommendation that said bill do pass.

17 Also MR. SPEAKER:

18 The Committee on House Judiciary respectfully reports that it has had under consideration
19 **HB 1160** and returns the same with the recommendation that said bill be amended as follows:

20 1160B

21 On the Introduced bill, delete the previously adopted amendment (1160A).

22 On page 1, line 5, delete ", provided the court finds the defendant has the present and
23 continued ability to pay the costs of the program. A person may not be jailed for the inability to pay
24 the costs of the pre-trial 24/7 program." and insert " However, no person may be jailed nor a
25 person's bond or pre-trial release revoked for failure to pay the associated costs and expenses of
26 the program unless a court has found that the person has the present and continued ability to pay
27 the costs of the program. Any costs and expenses of the program not paid by the person prior to
28 the disposition of a criminal case may be imposed upon disposition of the person's case if a court
29 finds the person has the ability to pay the costs of the program."

30 On page 1, line 9, after "program." insert "The burden of proof must be consistent with § 23A-
31 27-25. 5."

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

33 Respectfully submitted,
34 Jon Hansen, Chair

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MESSAGES FROM THE SENATE

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Mr. SPEAKER:

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I have the honor to return herewith **HB 1002, 1009, 1036, and 1063** which have passed the Senate without change.

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Also Mr. SPEAKER:

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I have the honor to return herewith **HB 1025, 1028, and 1068** which have been amended by the Senate and your concurrence in the amendments is respectfully requested.

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Also Mr. SPEAKER:

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I have the honor to transmit herewith **SB 86 and 93** which have passed the Senate and your favorable consideration is respectfully requested.

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Respectfully,

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Kay Johnson, Secretary

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CONSIDERATION OF REPORTS OF COMMITTEES

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Rep. Kent Peterson moved that the reports of the Standing Committees on

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Taxation on **HB 1082** as found on page 164 of the House Journal; and

16

Health and Human Services on **HB 1098** as found on page 164 of the House Journal be adopted.

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Which motion prevailed and the reports were adopted.

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FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

20

The Speaker declared that **HB 1179, 1182, and 1216, and HR 7002** were withdrawn at the request of the prime sponsors pursuant to Joint Rule 6B-1.1.

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HB 1290: FOR AN ACT ENTITLED, An Act to prohibit lobbying by state officials and employees.

23

Introduced by: **Representative** Milstead

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HB 1291: FOR AN ACT ENTITLED, An Act to classify 911 telecommunicators as Class B members of the South Dakota Retirement System.

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Introduced by: **Representative** Milstead

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- 1 **HB 1292:** FOR AN ACT ENTITLED, An Act to regulate delta-8 tetrahydrocannabinol for those
2 under the age of twenty-one.
- 3 Introduced by: **Representative** Rehfeldt
- 4 **HB 1293:** FOR AN ACT ENTITLED, An Act to limit liability for certain child welfare agency
5 licensees.
- 6 Introduced by: **Representative** Healy
- 7 **HB 1294:** FOR AN ACT ENTITLED, An Act to address early learning and child care.
- 8 Introduced by: **Representative** Healy
- 9 **HB 1295:** FOR AN ACT ENTITLED, An Act to require an annual report from associations that
10 represent boards of school districts.
- 11 Introduced by: **Representative** Weis
- 12 **HB 1296:** FOR AN ACT ENTITLED, An Act to provide for the killing of mountain lions under
13 certain circumstances.
- 14 Introduced by: **Representative** Overweg
- 15 **HB 1297:** FOR AN ACT ENTITLED, An Act to revise the authorization for a tribal flag display in
16 the rotunda of the capitol building.
- 17 Introduced by: **Representative** Bordeaux
- 18 **HB 1299:** FOR AN ACT ENTITLED, An Act to establish requirements for higher education.
- 19 Introduced by: **Representative** Tidemann
- 20 **HB 1300:** FOR AN ACT ENTITLED, An Act to provide for certain permissible dates for municipal
21 and school district elections.
- 22 Introduced by: **Representative** Mortenson
- 23 **HB 1303:** FOR AN ACT ENTITLED, An Act to address elementary and secondary education.
- 24 Introduced by: **Representative** Duba
- 25 **HB 1304:** FOR AN ACT ENTITLED, An Act to address child care.
- 26 Introduced by: **Representative** Duba
- 27 **HB 1305:** FOR AN ACT ENTITLED, An Act to revise provisions regarding the procurement of
28 tax deeds.
- 29 Introduced by: **Representative** Chase
- 30 **HB 1307:** FOR AN ACT ENTITLED, An Act to revise the definition of cremation.
- 31 Introduced by: **Representative** Lesmeister

1 **HB 1308:** FOR AN ACT ENTITLED, An Act to provide for the payment of signing bonuses to
2 school district staff members.

3 Introduced by: **Representative** Soye

4 **HB 1309:** FOR AN ACT ENTITLED, An Act to prohibit the use of political litmus tests in
5 education.

6 Introduced by: **Representative** Sue Peterson

7 **HB 1310:** FOR AN ACT ENTITLED, An Act to authorize parental review of instructional and
8 curricular materials.

9 Introduced by: **Representative** Sue Peterson

10 **HB 1311:** FOR AN ACT ENTITLED, An Act to clarify the means of voluntarily terminating a
11 relationship between a birth mother and a child.

12 Introduced by: **Representative** Soye

13 **HB 1312:** FOR AN ACT ENTITLED, An Act to establish due process rights for students during
14 disciplinary proceedings.

15 Introduced by: **Representative** Sue Peterson

16 **HB 1313:** FOR AN ACT ENTITLED, An Act to expand the definition of community safety zone
17 in relation to the sex offender registry.

18 Introduced by: **Representative** Miskimins

19 **HB 1314:** FOR AN ACT ENTITLED, An Act to prohibit the personal possession of a loaded
20 firearm while in possession of cannabis or cannabis products and to provide a penalty therefor.

21 Introduced by: **Representative** Kevin Jensen

22 **HB 1315:** FOR AN ACT ENTITLED, An Act to clarify provisions related to foster care.

23 Introduced by: **Representative** York

24 **HB 1316:** FOR AN ACT ENTITLED, An Act to revise provisions regarding soil health in resource
25 conservation and forestry and conservation districts.

26 Introduced by: **Representative** Jamie Smith

27 **HB 1317:** FOR AN ACT ENTITLED, An Act to enhance the Battleship South Dakota Memorial.

28 Introduced by: **Representative** Willadsen

29 **HB 1322:** FOR AN ACT ENTITLED, An Act to provide for the direct sale of certain home-
30 produced or home-processed foods and food products.

31 Introduced by: **Representative** Wiese

1 **HB 1324:** FOR AN ACT ENTITLED, An Act to provide additional time for camping permit
2 acquisition by residents.

3 Introduced by: **Representative** Wiese

4 **HB 1326:** FOR AN ACT ENTITLED, An Act to reinstate the prohibition against certain acts
5 causing the termination of an unborn human life, and to prescribe a penalty therefor.

6 Introduced by: **Representative** Haugaard

7 **HB 1328:** FOR AN ACT ENTITLED, An Act to require law enforcement to report certain seizures
8 of property.

9 Introduced by: **Representative** Aylward

10 **HB 1329:** FOR AN ACT ENTITLED, An Act to require a forensic audit of election results after
11 each presidential general election.

12 Introduced by: **Representative** Howard

13 **HB 1330:** FOR AN ACT ENTITLED, An Act to limit the increase of assessed value of property
14 for the purpose of taxation, and to limit the property tax due on property.

15 Introduced by: **Representative** Howard

16 **HB 1331:** FOR AN ACT ENTITLED, An Act to clarify the description of common carrier pipelines.

17 Introduced by: **Representative** Gosch

18 **HB 1332:** FOR AN ACT ENTITLED, An Act to allow persons moving from certain municipal
19 zones to retain property assessments from original homes.

20 Introduced by: **Representative** Mills

21 **HJR 5003:** A JOINT RESOLUTION, proposing and submitting to the voters at the next general
22 election a new section to Article VI of the Constitution of the State of South Dakota, relating to the
23 definition of a human being.

24 Introduced by: **Representative** Haugaard

25 Were read the first time.

26 **HB 1298:** FOR AN ACT ENTITLED, An Act to reallocate federal payments from national forests.

27 Introduced by: **Representative** Bordeaux

28 **HB 1320:** FOR AN ACT ENTITLED, An Act to appropriate funds to reconstruct Custer West Dam
29 and to declare an emergency

30 Introduced by: **Representative** Goodwin

31 **HB 1321:** FOR AN ACT ENTITLED, An Act to prohibit frivolous or vexatious complaints against
32 commercial pesticide applicators and to provide a penalty therefor.

33 Introduced by: **Representative** Goodwin

1 **HB 1323:** FOR AN ACT ENTITLED, An Act to increase the amount transferred into the
2 coordinated natural resources conservation fund.

3 Introduced by: **Representative** Goodwin

4 **HB 1325:** FOR AN ACT ENTITLED, An Act to revise the classification of agricultural land
5 according to soil type.

6 Introduced by: **Representative** Chaffee

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

8 **HB 1302:** FOR AN ACT ENTITLED, An Act to modify tuition responsibilities for children in
9 residential treatment centers.

10 Introduced by: **Representative** Duba

11 Was read the first time and referred to the Committee on Education.

12 **HB 1318:** FOR AN ACT ENTITLED, An Act to prohibit medical abortion by telemedicine, to
13 increase the penalty for the unlicensed practice of medicine when performing a medical abortion,
14 and to declare an emergency.

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

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

17 **HB 1319:** FOR AN ACT ENTITLED, An Act to prohibit contributions from federal campaign
18 committees.

19 Introduced by: **Representative** Dennert

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

21 **HB 1301:** FOR AN ACT ENTITLED, An Act to revise percentages regarding certain municipal
22 proceeds of gaming revenues.

23 Introduced by: **Representative** Odenbach

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

25 **HB 1306:** FOR AN ACT ENTITLED, An Act to make an appropriation to rural access
26 infrastructure funds and to declare an emergency.

27 Introduced by: **Representative** Finck

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

1 **HB 1327:** FOR AN ACT ENTITLED, An Act to reduce certain gross receipts tax rates and a use
2 tax rate, and to repeal a conditional reduction of certain gross receipts tax rates.

3 Introduced by: **Representative** Karr

4 Was read the first time and referred to the Joint Committee on Appropriations.

5 The following bills were read on January 27, 2022, and today the Speaker assigned these bills
6 to committees:

7 **HB 1238, 1239, and 1240** were referred to the House Committee on Appropriations.

8 The following bills were read on February 1, 2022, and today the Speaker assigned these bills
9 to committees:

10 **HB 1288** was referred to the Committee on Judiciary.

11 **HB 1286** was referred to the Committee on Local Government.

12 **HB 1284** was referred to the Committee on Taxation.

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

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

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

18 Were read the first time.

19 **SCR 601:** A CONCURRENT RESOLUTION, expressing support for the 2021 South Dakota
20 Coordinated Plan for Natural Resources Conservation.

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

22 The following bills were read on February 1, 2022, and today the Speaker assigned these bills
23 to committees:

24 **SB 88** was referred to the Committee on Agriculture and Natural Resources.

25 **SB 40** was referred to the Committee on Commerce and Energy.

26 **SECOND READING OF CONSENT CALENDAR ITEMS**

27 **HB 1097:** FOR AN ACT ENTITLED, An Act to clarify conduct that is not required related to
28 medical cannabis.

29 **HB 1128:** FOR AN ACT ENTITLED, An Act to protect the integrity of reemployment assistance.

1 **SB 5:** FOR AN ACT ENTITLED, An Act to revise acceptable conduct related to the medical use
2 of cannabis.

3 Were read the second time.

4 The question being "Shall **HB 1128** pass as amended, and **HB 1097, and SB 5** pass?"

5 And the roll being called:

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

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

14 Excused: Ernie Otten and Reimer

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

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

18 **HB 1086:** FOR AN ACT ENTITLED, An Act to provide for the redistribution of donated
19 prescription drugs and medical supplies.

20 Was read the second time.

21 The question being "Shall **HB 1086** pass as amended?"

22 And the roll being called:

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

24 Yeas: Anderson, Aylward, Bartels, Barthel, Beal, Blare, Bordeaux, Chaffee, Chase, Cwach,
25 Davis, Dennert, Derby, Deutsch, Drury, Duba, Finck, Fitzgerald, Goodwin, Lana Greenfield, Gross,
26 Hansen, Haugaard, Healy, Hoffman, Howard, Jamison, Kevin Jensen, Phil Jensen, Chris Johnson,
27 Karr, Keintz, Koth, Ladner, Lesmeister, Marty, May, Mills, Milstead, Miskimins, Mortenson, Mulally,
28 Odenbach, Olson, Overweg, Perry, Kent Peterson, Sue Peterson, Pischke, Pourier, Randolph, Reed,
29 Rehfeldt, Schneider, Jamie Smith, Soye, St. John, Stevens, Thomason, Tidemann, Vasgaard, Weis,
30 Weisgram, Wiese, Willadsen, Wink, York, and Speaker Gosch

31 Excused: Ernie Otten and Reimer

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

34 **HB 1110:** FOR AN ACT ENTITLED, An Act to revise a provision related to the appointment of
35 a guardian ad litem or a special advocate to represent an abused or neglected child.

36 Was read the second time.

1 The question being "Shall **HB 1110** pass as amended?"

2 And the roll being called:

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

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

11 Excused: Ernie Otten and Reimer

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

14 **HB 1120:** FOR AN ACT ENTITLED, An Act to include carbon dioxide and carbon dioxide capture
15 companies in certain provisions regarding pipeline taxation.

16 Was read the second time.

17 The question being "Shall **HB 1120** pass?"

18 And the roll being called:

19 Yeas 65, Nays 3, Excused 2, Absent 0

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

27 Nays: Goodwin, Kevin Jensen, and Speaker Gosch

28 Excused: Ernie Otten and Reimer

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

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

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

34 Was read the second time.

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

2 And the roll being called:

3 Yeas 63, Nays 5, Excused 2, Absent 0

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

11 Nays: Anderson, Bordeaux, Goodwin, Lesmeister, and Milstead

12 Excused: Ernie Otten and Reimer

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

15 **SIGNING OF BILLS**

16 The Speaker publicly read the title to

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

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

21 **HB 1027:** FOR AN ACT ENTITLED, An Act to place certain substances on the controlled
 22 substances schedule and to declare an emergency.

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

25 **HB 1046:** FOR AN ACT ENTITLED, An Act to revise the disposal fee for large-scale solid waste
 26 disposal facilities operated by political subdivisions.

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

29 And signed the same in the presence of the House.

30 Rep. Chaffee moved that the House do now adjourn, which motion prevailed and at 2:47 p.m.
 31 the House adjourned.

32 Patricia Miller, Chief Clerk