

JOURNAL OF THE SENATE

NINETY-SEVENTH SESSION

TWENTIETH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, February 09, 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 pages Bailey Feistner and Jack Freeburg.

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 19th 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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COMMUNICATIONS AND PETITIONS

2

January 12, 2022

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The Honorable Larry Rhoden

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President of the Senate

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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 41-2 of the South Dakota Codified Laws and subject to

9

your consent, I have the honor to inform you that I have reappointed Jonathan E. Locken, of Brown

10

County, Bath, South Dakota, to the Game, Fish and Parks Commission.

11

This reappointment is effective January 11, 2022, and shall continue until January 10, 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 Agriculture

16

and Natural Resources.

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January 19, 2022

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The Honorable Larry Rhoden

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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:

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Pursuant to the provisions of Chapter 41-2 of the South Dakota Codified Laws and subject to

24

your consent, I have the honor to inform you that I have reappointed Stephanie Rissler, of Clay

25

County, Vermillion, South Dakota, to the Game, Fish and Parks Commission.

26

This reappointment is effective January 11, 2022, and shall continue until January 10, 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 Agriculture

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and Natural Resources.

1 February 8, 2022

2 Mr. President and Members of the Senate:

3 I have the honor to inform you that on February 8, 2022, I approved Senate Bills 29 and 47,
4 and the same have been deposited in the office of the Secretary of State.

5 Respectfully submitted,
6 Kristi Noem
7 Governor

8 **REPORTS OF STANDING COMMITTEES**

9 MR. PRESIDENT:

10 The Committee on Senate Judiciary respectfully reports that it has had under consideration
11 **SB 111, and HB 1005** which were deferred to the 41st Legislative Day.

12 Also MR. PRESIDENT:

13 The Committee on Senate Judiciary respectfully reports that it has had under consideration
14 **SB 137** and returns the same with the recommendation that said bill do pass.

15 Also MR. PRESIDENT:

16 The Committee on Senate Judiciary respectfully reports that it has had under consideration
17 **HB 1085** and returns the same with the recommendation that said bill do pass, and having been
18 certified as uncontested, be placed on the consent calendar.

19 Respectfully submitted,
20 Arthur Rusch, Chair

21 MR. PRESIDENT:

22 The Committee on Senate Transportation respectfully reports that it has had under
23 consideration **SB 115** and returns the same with the recommendation that said bill be amended as
24 follows:

25 115A

26 On page 1, line 5, of the Introduced bill, delete "a grant to the City of Sioux Falls " and insert
27 "grants to first class municipalities as defined in § 9-2-1 "

28 On page 1, line 6, of the Introduced bill, delete " and around Sioux Falls" and insert " South
29 Dakota"

30 On page 1, after line 6, of the Introduced bill, insert: "

31 **Section 2.** For the appropriation provided in section 1 of this Act, the Department of
32 Transportation shall require the grantee to identify matching moneys on a one to one basis for any
33 grant awarded pursuant to this Act."

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

1 Also MR. PRESIDENT:

2 The Committee on Senate Transportation respectfully reports that it has had under
3 consideration **SB 129** which was deferred to the 41st Legislative Day.

4 Also MR. PRESIDENT:

5 The Committee on Senate Transportation respectfully reports that it has had under
6 consideration **SB 176** and returns the same with the recommendation that said bill be amended as
7 follows:

8 176A

9 On page 9, line 29, of the Introduced bill, delete "by an agricultural business or agribusiness "
10 and insert " for use in this state "

11 On page 9, line 33, of the Introduced bill, delete "to " and insert "for "

12 On page 9, line 33, of the Introduced bill, after "purposes." insert " This term does not include
13 a spray unit attached to a motor vehicle chassis."

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

16 Respectfully submitted,
17 Mary Duvall, Chair

18 MR. PRESIDENT:

19 The Committee on Senate Local Government respectfully reports that it has had under
20 consideration **SB 125 and 127** which were tabled.

21 Also MR. PRESIDENT:

22 The Committee on Senate Local Government respectfully reports that it has had under
23 consideration **HB 1075** and returns the same with the recommendation that said bill do pass, and
24 having been certified as uncontested, be placed on the consent calendar.

25 Respectfully submitted,
26 Herman Otten, Chair

27 MR. PRESIDENT:

28 The Committee on Senate Taxation respectfully reports that it has had under consideration
29 **SB 157** and returns the same with the recommendation that said bill be amended as follows:

30 157A

31 On page 1, line 22, of the Introduced bill, after "center" delete ", with an aggregate square-
32 footage of sixteen thousand or more"

33 On page 2, line 5, of the Introduced bill, after "personnel" delete ".

34 In determining the total square footage of a qualified data center, the square footage of office
35 space, meeting space, mechanical space, and other support facility spaces must be included if those
36 spaces are used to support the operation of enterprise information technology equipment"

1 On page 2, line 10, of the Introduced bill, after "refurbished," " delete "ten thousand square
2 feet or more of "

3 On page 3, line 14, of the Introduced bill, after "use." delete "Section 5. The provisions of this
4 Act are repealed on June 30, 2028."

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

6 Also MR. PRESIDENT:

7 The Committee on Senate Taxation respectfully reports that it has had under consideration
8 **SB 165** and returns the same with the recommendation that said bill do pass.

9 Respectfully submitted,
10 Timothy R. Johns, Chair

11 MR. PRESIDENT:

12 The Committee on Senate State Affairs respectfully reports that it has had under consideration
13 **SB 112 and 146, and SJR 503** which were deferred to the 41st Legislative Day.

14 Respectfully submitted,
15 Gary L. Cammack, Chair

16 MR. PRESIDENT:

17 The Committee on Legislative Procedure respectfully reports that **SB 9** was delivered to her
18 Excellency, the Governor, for her approval at 10:15 a.m., February 9, 2022.

19 Respectfully submitted,
Lee A. Schoenbeck, Chair

20 **MESSAGES FROM THE HOUSE**

21 MR. PRESIDENT:

22 I have the honor to transmit herewith **HB 1001, 1060, 1115, 1130, 1169, 1185, and 1196**
23 which have passed the House and your favorable consideration is respectfully requested.

24 Respectfully,
25 Patricia Miller, Chief Clerk

26 **MOTIONS AND RESOLUTIONS**

27 **HCR 6004:** A CONCURRENT RESOLUTION, urging the creation of safe and supportive
28 environments for students with epilepsy.

29 Was read the second time.

1 Sen. Brock Greenfield moved that the Senate do concur in **HCR 6004** as found on page 209
2 of the Senate Journal.

3 The question being on Sen. Brock Greenfield's motion that **HCR 6004** be concurred in.

4 And the roll being called:

5 Yeas 35, Nays 0, Excused 0, Absent 0

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

10 So the motion having received an affirmative vote of a majority of the members-elect, the
11 President declared the motion carried and **HCR 6004** was concurred in.

12 Sen. Schoenbeck moved that the rules be suspended for the sole purpose of introducing, giving
13 first reading to, dispensing with committee referral, and placing on today's calendar **SR 701**.

14 The question being on Sen. Schoenbeck's motion that the rules be suspended for the sole
15 purpose of introducing, giving first reading to, dispensing with committee referral, and placing on
16 today's calendar **SR 701**.

17 And the roll being called:

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

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

23 Nays: Frye-Mueller and Maher

24 So the motion having received an affirmative vote of a two-thirds majority of the members-
25 elect, the President declared the motion carried and the rules were suspended.

26 **SR 701**: A RESOLUTION, Acknowledging authority to spend federal funds as authorized in the
27 general appropriations act for the current fiscal year.

28 Was read the second time.

29 Sen. Schoenbeck moved that **SR 701** as found on page 222 of the Senate Journal be adopted.

30 The question being on Sen. Schoenbeck's motion that **SR 701** be adopted.

31 And the roll being called:

32 Yeas 35, Nays 0, Excused 0, Absent 0

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

1 So the motion having received an affirmative vote of a majority of the members-elect, the
 2 President declared the motion carried and **SR 701** was adopted.

3 Sen. Cammack moved that **SB 118** be deferred to Thursday, February 10, 2022, the 21st
 4 legislative day.

5 Which motion prevailed.

6 Sen. Cammack moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on
 7 Thursday, February 10, 2022, the 21st legislative day.

8 Which motion prevailed.

9 **CONSIDERATION OF REPORTS OF COMMITTEES**

10 Sen. Cammack moved that the reports of the Standing Committees on

11 Commerce and Energy on **SB 53** as found on page 205 of the Senate Journal and **SB 65** as
 12 found on page 206 of the Senate Journal and **SB 171** as found on page 207 of the Senate Journal
 13 and **SB 211** as found on page 208 of the Senate Journal; and

14 Education on **SB 104** as found on page 204 of the Senate Journal be adopted.

15 Which motion prevailed and the reports were adopted.

16 Sen. Curd moved that **HJR 5001** be placed on today's calendar and be immediately considered
 17 pursuant to JR 6F-6.

18 The question being on Sen. Curd's motion that **HJR 5001** be placed on today's calendar and
 19 be immediately considered pursuant to JR 6F-6.

20 And the roll being called:

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

22 Yeas: Bolin, Curd, Heinert, Kolbeck, Maher, Novstrup, Herman Otten, Schoenfish, V. J. Smith,
 23 Stalzer, Steinhauer, Sutton, Symens, Tobin, Wiik, and Zikmund

24 Nays: Breitling, Cammack, Castleberry, Crabtree, Diedrich, Duhamel, Duvall, Foster, Frye-
 25 Mueller, Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Nesiba, Rohl, Rusch, Schoenbeck,
 26 and Wheeler

27 So the motion not having received an affirmative vote of a majority of the members-elect, the
 28 President declared the motion lost.

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

30 **HB 1130:** FOR AN ACT ENTITLED, An Act to specify taxation, authorization, and standards of
 31 practice for the sale of travel insurance.

32 **HB 1169:** FOR AN ACT ENTITLED, An Act to modify the licensing of barbers.

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

1 Sen. Heinert moved that **SB 139** be amended as follows:

2 139A

3 On page 2, line 15, of the Introduced bill, delete " must be approved" and insert " is considered
4 complete"

5 On page 2, line 22, of the Introduced bill, after "avoided;" delete " and"

6 On page 2, line 24, of the Introduced bill, after "achievement" insert "; and

7 (6) An operating agreement, including funding, is proposed"

8 On page 10, line 19, of the Introduced bill, delete " four" and insert " two"

9 Which motion prevailed.

10 The question being "Shall **SB 139** pass as amended?"

11 And the roll being called:

12 Yeas 22, Nays 13, Excused 0, Absent 0

13 Yeas: Bolin, Breitling, Castleberry, Curd, Duvall, Foster, Heinert, Johns, David Johnson, Klumb,
14 Maher, Nesiba, Novstrup, Rohl, Rusch, V. J. Smith, Stalzer, Steinhauer, Sutton, Symens, Tobin, and
15 Zikmund

16 Nays: Cammack, Crabtree, Diedrich, Duhamel, Frye-Mueller, Brock Greenfield, Hunhoff,
17 Kolbeck, Herman Otten, Schoenbeck, Schoenfish, Wheeler, and Wiik

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

20 **SB 101**: FOR AN ACT ENTITLED, An Act to revise provisions regarding the sale or service of
21 alcoholic beverages by persons under the age of twenty-one.

22 Was read the second time.

23 The question being "Shall **SB 101** pass as amended?"

24 And the roll being called:

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

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

30 Nays: Hunhoff and Sutton

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

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

2 Was read the second time.

3 Sen. Herman Otten moved that **SB 184** be amended as follows:

4 184A

5 On page 1, line 1, of the Introduced bill, after "to" insert " resident"

6 On page 1, line 5, of the Introduced bill, after "of " insert "resident "

7 On page 1, line 8, of the Introduced bill, after "a " insert "resident "

8 On page 1, line 10, of the Introduced bill, after "the " insert "resident "

9 Sen. Herman Otten requested a roll call vote.

10 Which request was supported.

11 The question being on Sen. Herman Otten's motion that **SB 184** be amended.

12 And the roll being called:

13 Yeas 24, Nays 11, Excused 0, Absent 0

14 Yeas: Bolin, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Foster, Frye-Mueller, Heinert,
15 Johns, Klumb, Kolbeck, Maher, Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck,
16 Schoenfish, Stalzer, Steinhauer, Sutton, and Zikmund

17 Nays: Breitling, Cammack, Duvall, Brock Greenfield, Hunhoff, David Johnson, V. J. Smith,
18 Symens, Tobin, Wheeler, and Wiik

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

21 The question being "Shall **SB 184** pass as amended?"

22 And the roll being called:

23 Yeas 31, Nays 4, Excused 0, Absent 0

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

28 Nays: Johns, Klumb, Kolbeck, and Novstrup

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

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SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

HB 1056: FOR AN ACT ENTITLED, An Act to revise provisions related to medical cannabis data maintained by the Department of Health.

Was read the second time.

Sen. Wheeler moved that **HB 1056** be amended as follows:

1056C

On page 1, line 18, of the House Judiciary Engrossed bill, after "chapter" delete " or respond to law enforcement or prosecutorial officials engaged in the investigation or enforcement of the criminal provisions of this chapter"

Which motion lost.

The question being "Shall **HB 1056** pass as amended?"

And the roll being called:

Yeas 23, Nays 12, Excused 0, Absent 0

Yeas: Breitling, Cammack, Castleberry, Crabtree, Diedrich, Duhamel, Duvall, Brock Greenfield, Hunhoff, David Johnson, Klumb, Kolbeck, Novstrup, Rusch, Schoenbeck, V. J. Smith, Stalzer, Steinhauer, Sutton, Symens, Tobin, Wiik, and Zikmund

Nays: Bolin, Curd, Foster, Frye-Mueller, Heinert, Johns, Maher, Nesiba, Herman Otten, Rohl, Schoenfish, and Wheeler

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

HB 1080: FOR AN ACT ENTITLED, An Act to prolong requirements for increasing teacher compensation.

Was read the second time.

Sen. Bolin moved that **HB 1080** be deferred to Monday, February 14, 2022, the 22nd legislative day.

Which motion prevailed.

SIGNING OF BILLS

The President publicly read the title to

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

HB 1076: FOR AN ACT ENTITLED, An Act to permit certain municipalities to elect aldermen at large.

