

# *JOURNAL OF THE SENATE*

## *NINETY-SEVENTH SESSION*

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THIRTY-EIGHTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Monday, March 28, 2022

The Senate convened at 11:00 a.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 Sequoia Altamirano.

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 37th 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

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**COMMUNICATIONS AND PETITIONS**

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March 25, 2022

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The Honorable Larry Rhoden

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President of the Senate

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500 East Capitol Avenue

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Pierre, SD 57501

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Dear Mr. President and Members of the Senate,

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I respectfully return to you Senate Bill 151 with my VETO. Senate Bill 151 is an Act to revise the automatic removal of certain convictions from a background check record.

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This bill provides for the automatic removal from a public background check for Class 1 misdemeanors related to the use or possession of marijuana or any of its derivatives. It also essentially codifies a convicted person's ability to be dishonest about their previous arrest and conviction by not requiring disclosure of the prior drug conviction.

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Current South Dakota law does allow for automatic removal for low-level Class 2 misdemeanors. However, Senate Bill 151 expands that policy for marijuana crimes, carving out special exceptions for marijuana, thereby making the use and possession of marijuana the only Class 1 misdemeanors to have an automatic removal in state law.

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This bill is also retroactive, which is bad precedent for criminal justice issues where fairness is paramount. Further, even with the legalization of medical cannabis, there must remain consequences for using illegal drugs at a time when the use and possession of marijuana, even for alleged medical purposes, was illegal. Looking ahead, if this bill were to become law, the automatic removal of any future conviction for the use or possession of marijuana in South Dakota would be for the recreational use of this drug or for the use or possession not in accordance with our state's medical cannabis program.

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I believe in second chances. Our current laws and criminal procedures already provide sufficient avenues for people who have earned that second chance. But those individuals must at least show good cause or a need for such relief, such as suspended imposition of sentence procedures, county youth diversion programs, or executive clemency that can be requested online at no cost.

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For these reasons, I oppose Senate Bill 151 and ask that you sustain my veto.

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Respectfully submitted,

Kristi Noem

Governor

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March 15, 2022

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Mr. President and Members of the Senate:

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I have the honor to inform you that on March 15, 2022, I approved Senate Bills 22, 33, 51, 53, 77, 81, 83, 119, 120, 136, 144, 195, and 199, and the same have been deposited in the office of the Secretary of State.

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Respectfully submitted,

Kristi Noem

Governor

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1 March 16, 2022

2 Mr. President and Members of the Senate:

3 I have the honor to inform you that on March 16, 2022, I approved Senate Bills 56, 57, 90,  
4 108, 122, 131, 156, 187, and 203, and the same have been deposited in the office of the Secretary  
5 of State.

6 Respectfully submitted,  
7 Kristi Noem  
8 Governor

9 March 18, 2022

10 Mr. President and Members of the Senate:

11 I have the honor to inform you that on March 18, 2022, I approved Senate Bills 19, 21, 24,  
12 26, 31, 41, 48, 49, 58, 63, 86, 98, 118, 147, 162, 165, 169, 188, 197, 201, and 212, and the same  
13 have been deposited in the office of the Secretary of State.

14 Respectfully submitted,  
15 Kristi Noem  
16 Governor

17 March 21, 2022

18 Mr. President and Members of the Senate:

19 I have the honor to inform you that on March 21, 2022, I approved Senate Bills 42, 43, 61,  
20 95, 132, 133, 154, and 167, and the same have been deposited in the office of the Secretary of  
21 State.

22 Respectfully submitted,  
23 Kristi Noem  
24 Governor

25 March 22, 2022

26 Mr. President and Members of the Senate:

27 I have the honor to inform you that on March 22, 2022, I approved Senate Bills 34, 50, and  
28 62, and the same have been deposited in the office of the Secretary of State.

29 Respectfully submitted,  
30 Kristi Noem  
31 Governor

32 March 23, 2022

33 Mr. President and Members of the Senate:

34 I have the honor to inform you that on March 23, 2022, I approved Senate Bills 44 and 55,  
35 and the same have been deposited in the office of the Secretary of State.

36 Respectfully submitted,  
37 Kristi Noem  
38 Governor

1 March 24, 2022

2 Mr. President and Members of the Senate:

3 I have the honor to inform you that on March 24, 2022, I approved Senate Bills 54, 59, 60,  
4 79, 84, 97, 103, 107, 130, 152, 155, 161, 170, 174, and 196, and the same have been deposited  
5 in the office of the Secretary of State.

6 Respectfully submitted,  
7 Kristi Noem  
8 Governor

9 **REPORTS OF STANDING COMMITTEES**

10 MR. PRESIDENT:

11 The Joint Committee on Appropriations respectfully reports that it has had under consideration  
12 **SB 213** and returns the same with the recommendation that said bill do pass.

13 Respectfully submitted,  
14 Chris Karr, Co-Chair

Respectfully submitted,  
Jean Hunhoff, Co-Chair

15 **CONSIDERATION OF EXECUTIVE VETOES AND RECOMMENDATIONS**

16 The Senate proceeded to the reconsideration of **SB 151**, pursuant to the veto of the Governor  
17 and the veto message found on page 542 of the Senate Journal as provided in Article IV, Section 4,  
18 of the Constitution of the State of South Dakota.

19 The question being "Shall **SB 151** pass, the veto of the Governor notwithstanding?"

20 And the roll being called:

21 Yeas 17, Nays 17, Excused 1, Absent 0

22 Yeas: Crabtree, Diedrich, Foster, Heinert, Johns, David Johnson, Maher, Nesiba, Herman Otten,  
23 Rohl, Rusch, Schoenfish, V. J. Smith, Steinhauer, Symens, Tobin, and Wheeler

24 Nays: Bolin, Breitling, Cammack, Castleberry, Duhamel, Duvall, Frye-Mueller, Brock  
25 Greenfield, Hunhoff, Klumb, Kolbeck, Novstrup, Schoenbeck, Stalzer, Sutton, Wiik, and Zikmund

26 Excused: Curd

27 So the bill not having received an affirmative vote of a two-thirds majority of the members-  
28 elect, the President declared the bill lost, sustaining the Governor's veto.

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

30 **SB 213:** FOR AN ACT ENTITLED, An Act to revise Senate Bill 60, the General Appropriations  
31 Act for fiscal year 2022, as previously enacted in the Ninety-Seventh Session of the South Dakota  
32 Legislature.

33 Introduced by: The Joint Committee on Appropriations

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

2 Sen. Cammack moved that **SB 213** be placed on today's calendar of March 28, 2022, the 38<sup>th</sup>  
3 legislative day.

4 Which motion prevailed and **SB 213** was so placed.

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

6 **SB 213:** FOR AN ACT ENTITLED, An Act to revise Senate Bill 60, the General Appropriations  
7 Act for fiscal year 2022, as previously enacted in the Ninety-Seventh Session of the South Dakota  
8 Legislature.

9 Was read the second time.

10 The question being "Shall **SB 213** pass?"

11 And the roll being called:

12 Yeas 33, Nays 1, Excused 1, Absent 0

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

17 Nays: Frye-Mueller

18 Excused: Curd

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

21 There being no objection, the Senate reverted to Order of Business No. 5 - Reports of Standing  
22 Committees.

23 **REPORTS OF STANDING COMMITTEES**

24 MR. PRESIDENT:

25 The Committee on Legislative Procedure respectfully reports that the Senate has, pursuant to  
26 the Governor's veto of **SB 151**, sustained that veto and delivered the same to his Excellency, the  
27 Secretary of State, for filing at 12:10 p.m., March 28, 2022.

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Respectfully submitted,  
Lee A. Schoenbeck, Chair

1 MR. PRESIDENT:

2 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and  
3 Enrolling has carefully compared **SB 213** and finds the same correctly enrolled.

4 Respectfully submitted,  
5 Lee A. Schoenbeck, Chair

6 **MESSAGES FROM THE HOUSE**

7 MR. PRESIDENT:

8 I have the honor to return herewith **SB 213** which has passed the House without change.

9 Respectfully,  
10 Patricia Miller, Chief Clerk

11 **SIGNING OF BILLS**

12 The President publicly read the title to

13 **SB 213**: FOR AN ACT ENTITLED, An Act to revise Senate Bill 60, the General Appropriations  
14 Act for fiscal year 2022, as previously enacted in the Ninety-Seventh Session of the South Dakota  
15 Legislature.

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

17 MR. PRESIDENT:

18 The Committee on Legislative Procedure respectfully reports that **SB 213** was delivered to her  
19 Excellency, the Governor, for her approval at 1:10 p.m., March 28, 2022.

20 Respectfully submitted,  
21 Lee A. Schoenbeck, Chair

22 The following prayer was offered by President Rhoden.

23 Oh gracious heavenly father, Lord we just pause to thank you for the day, we thank you for  
24 the opportunities you have put before us, and Lord for your wisdom and the decisions we made for  
25 South Dakota. We thank you for the way you've blessed our state. And Lord we pray that you would  
26 continue those blessings. We are needy people, we could use a great deal of rain in our state Lord  
27 so we would pray for rain. We pray for your continued guidance, pray for journey mercies as we  
28 travel home. Lord we are just grateful for the way you have blessed us. In Christ's holy name we  
29 pray. Amen.

30 Sen. Cammack moved that the Senate do now adjourn sine die in accordance with Article III,  
31 Section 16 of the South Dakota Constitution, which motion prevailed, and at 1:30 p.m. the Senate  
32 adjourned.

33 Kay Johnson, Secretary