

# *JOURNAL OF THE SENATE*

## *ONE HUNDRED FIRST SESSION*

---

TWENTY-FIFTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Friday, February 20, 2026

The Senate convened at 1:00 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 Tomi White.

Roll Call: All members present except Sen. Beal 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 24th 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,  
Chris Karr, Chair

Which motion prevailed.

1 SENATE PAGE RESOLUTION 3 Introduced by: Senators Beal; Blanc; Carley; Crabtree; Davis;  
2 Deibert; Duhamel; Foster; Grove; Hohn; Howard; Hulse; Jensen; Karr; Kolbeck; Lapka; Larson;  
3 Marty; Mehlhaff; Miskimins; Nelson; Otten; Perry; Peterson; Pischke; Reed; Rohl; Sauder;  
4 Schoenfish; Smith; Vilhauer; Voight; Voita; Wipf; and Zikmund

5 A RESOLUTION, Expressing the appreciation and gratitude of the Senate of the One Hundred  
6 First Legislature of the State of South Dakota to Esther Burkhalter, Richard Carlson, Lee Decker,  
7 Owen Kopfmann, Danni Kotalik, Quynn Nielson, Madison Olson, Ada Rider, Grant Roth, Rachel  
8 Steffensen, and Tomi White.

9 WHEREAS, the above named served loyally as pages for the Senate of the One Hundred First  
10 Legislative Session; and

11 WHEREAS, the members of the One Hundred First Senate express their most sincere  
12 appreciation to these young people for their service to the state; and

13 WHEREAS, the members extend to these young people their wishes for every success in life;

14 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the One Hundred First Legislature of  
15 the State of South Dakota, that a personal copy of this resolution be duly certified and furnished to  
16 each page on this last day of service.

17 Sen. Crabtree moved that Senate Page Resolution 3 be adopted.

18 The question being on Sen. Crabtree's motion that Senate Page Resolution 3 be adopted.

19 And the roll being called:

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

21 Yeas: Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard, Hulse,  
22 Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson, Otten,  
23 Perry, Peterson (Sue), Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight, Voita,  
24 Wipf, and Zikmund

25 Excused: Beal

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

## 28 **COMMUNICATIONS AND PETITIONS**

29 February 5, 2026

30 The Honorable Tonnis H. Venhuizen  
31 President of the Senate  
32 State Capitol  
33 Pierre, SD 57501

34 Dear President and Members of the Senate:

35 Pursuant to the provisions of Section 42-7A-17 of the South Dakota Codified Laws and subject  
36 to your consent, I have the honor to inform you that I have appointed Roy Lindsay Jr., of Lake  
37 County, Madison, South Dakota, to the South Dakota Lottery Commission.

1 This appointment is effective January 28, 2026, and shall continue until January 1, 2029.

2 Sincerely,  
3 Larry Rhoden  
4 Governor

5 The President announced the referral of the appointment to the Committee on Commerce and  
6 Energy.

7 February 5, 2026

8 The Honorable Tonnis H. Venhuizen  
9 President of the Senate  
10 State Capitol  
11 Pierre, SD 57501

12 Dear President and Members of the Senate:

13 Pursuant to the provisions of Chapter 5-12 of the South Dakota Codified Laws and subject to  
14 your consent, I have the honor to inform you that I have reappointed James Breckenridge, of  
15 Minnehaha County, Sioux Falls, South Dakota, to the South Dakota Building Authority.

16 This reappointment is effective January 17, 2026, and shall continue until January 21, 2030.

17 Sincerely,  
18 Larry Rhoden  
19 Governor

20 The President announced the referral of the reappointment to the Committee on Commerce  
21 and Energy.

22 **REPORTS OF STANDING COMMITTEES**

23 MR. PRESIDENT:

24 The Committee on Senate State Affairs respectfully reports that it has had under consideration  
25 **SB 133** and returns the same with the recommendation that said bill be amended as follows:

26 133B

27 On page 1, line 24, of the Introduced bill, after "any" insert " proposed"

28 On page 1, line 24, of the Introduced bill, delete " \$1,000,000" and insert " \$3,000,000"

29 On page 2, line 1, of the Introduced bill, after "the" delete " proposed"

30 On page 2, line 1, of the Introduced bill, delete " five-year" and insert " two-year"

31 On page 3, line 6, of the Introduced bill, delete " 4" and insert " 5"

32 On page 3, line 17, of the Introduced bill, delete " 4" and insert " 5"

- 1 On page 3, line 25, of the Introduced bill, after "§ 1-26-4.2;" delete " the impact statement on  
2 small business required by § 1-26-2. 1;"
- 3 On page 3, line 30, of the Introduced bill, delete " 4" and insert " 5"
- 4 On page 4, line 2, of the Introduced bill, after "§ 1-26-4.2;" delete " the impact statement on  
5 small business required by § 1-26-2. 1;"
- 6 On page 4, line 6, of the Introduced bill, delete " 4" and insert " 5"
- 7 On page 4, line 8, of the Introduced bill, remove the overstrikes from " and"
- 8 On page 4, line 9, of the Introduced bill, delete " the agency's" and insert " a single"
- 9 On page 4, line 9, of the Introduced bill, after "website" insert " designated by the Governor  
10 and maintained by the executive department"
- 11 On page 4, line 9, of the Introduced bill, after "website," insert " a copy of the proposed rule,"
- 12 On page 4, line 10, of the Introduced bill, after "§ 1-26-2.3" insert ", the notice of hearing  
13 required by § 1-26-4. 1, the fiscal note required by § 1-26-4. 2, and the regulatory impact analysis  
14 required by section 5 of this Act"
- 15 On page 4, line 10, of the Introduced bill, after "§ 1-26-2.3;" delete " and"
- 16 On page 4, line 11, of the Introduced bill, after "and" delete "(c) Publish, on a state website  
17 designated for proposed rule filings, the regulatory impact analysis required by section 4 of this  
18 Act;"
- 19 On page 5, line 1, of the Introduced bill, delete " serve" and insert ", at least seven days before  
20 the agency appears before the Interim Rules Review Committee to present the rules:
- 21 (a) Serve"
- 22 On page 5, line 2, of the Introduced bill, after "comments," delete " the impact statement on  
23 small business,"
- 24 On page 5, line 4, of the Introduced bill, delete " 4" and insert " 5"
- 25 On page 5, line 6, of the Introduced bill, delete " at least seven days before the agency appears  
26 before the committee to present the rules" and insert "; and
- 27 (b) Publish, to the website referenced in subsection (3)(b) of this section, code counsel's  
28 advisement referenced in subdivision (5), the agency financial resource information required by §  
29 1-26-4.8, the corrected copy of the rule referenced in subsection (8)(a), and any update to the  
30 regulatory impact analysis required by section 5 of this Act"
- 31 On page 5, line 17, of the Introduced bill, after "agencies" delete " and subdivisions"
- 32 On page 5, line 21, of the Introduced bill, after "hearing." delete " If a proposed rule has a  
33 negative fiscal impact on a political subdivision, the agency must direct the bureau to transmit a  
34 copy of the bureau's fiscal note to the South Dakota Municipal League, the Associated School Boards  
35 of South Dakota, and the South Dakota Association of County Commissioners, as applicable, prior  
36 to the hearing."
- 37 On page 5, line 28, of the Introduced bill, after "analysis" delete " that details whether the  
38 proposed rule is a major rule"
- 39 On page 6, line 9, of the Introduced bill, after "government;" delete " and"

- 1 On page 6, line 11, of the Introduced bill, after "market" insert "; and
- 2 (f) Impact on small business, with an identification of the type and the estimation of the  
3 number of small businesses subject to the proposed rule, and projected reporting and recordkeeping  
4 required for compliance with the proposed rule"
- 5 On page 6, line 14, of the Introduced bill, after "contents." insert "
- 6 For purposes of this section, "small business" means a nongovernmental entity that employs  
7 twenty-five or fewer full-time employees."
- 8 On page 6, line 17, of the Introduced bill, delete " shall" and insert " may"
- 9 On page 6, line 18, of the Introduced bill, delete " consider" and insert " permit consideration  
10 of"
- 11 On page 6, line 19, of the Introduced bill, after "rule;" delete " and"
- 12 On page 6, line 20, of the Introduced bill, after "and
- 13 (2)" insert "Determine there is sufficient legislative authority for the agency to implement the  
14 proposed rule and declare the rulemaking process complete; or
- 15 (3) "
- 16 On page 6, line 20, of the Introduced bill, after "that" delete ", should"
- 17 On page 6, line 20, of the Introduced bill, after "legislation," insert " and that"
- 18 On page 7, line 1, of the Introduced bill, after "substance." delete "Section 7. That § 1-26-5  
19 be AMENDED:
- 20 "
- 21 On page 7, line 2, of the Introduced bill, after "AMENDED:" delete "1-26-5. "
- 22 On page 7, line 2, of the Introduced bill, after "1-26-5. " delete "Prior to the adoption or  
23 amendment of an emergency rule, an agency shall publish the text of the emergency rule on its  
24 website, publish a notice of intent to adopt an emergency rule in the manner prescribed in § 1-26-  
25 4. 1, and serve on the person individual specified by subdivision 1-26-4(1), each member of the  
26 Interim Rules Review Committee, and code counsel:
- 27 (1) A copy of the proposed rule, bearing a special number to distinguish it from a permanent  
28 rule; and
- 29 (2) A statement, with the reasons, that the emergency procedure is necessary for one or more  
30 of the following circumstances:
- 31 (a) Because of imminent peril to the public health, safety, or welfare;
- 32 (b) To prevent substantial unforeseen financial loss to state government; or
- 33 (c) Because of the occurrence of an unforeseen event at a time when the adoption of a rule in  
34 response to such the event by the emergency procedure is required to secure or protect the best  
35 interest of the state or its residents; and
- 36 (3) A statement:
- 37 (a) Explaining whether the proposed rule would be a major rule if made permanent; and

1 (b) If the Legislature is not in session, explaining why the Legislature cannot be called back  
2 into session to consider and vote on the major rule.

3 If a publication is incorporated by reference in the proposed emergency rule, pursuant to § 1-  
4 26-6. 6, the publication and statement statements must also be served on the person individual  
5 specified by subdivision 1-26-4(1) and on code counsel. Code counsel shall return the publication  
6 to the agency upon completion of code counsel's review and the agency shall retain the publication.

7 Any agency may use the emergency rule adoption procedure. An agency may not use the  
8 emergency rule adoption procedure for the convenience of the agency merely to avoid the  
9 consequences for failing to timely promulgate rules.

10 An agency may not use the emergency rule adoption procedure merely to allow for the  
11 enactment of a major rule."

12 On page 8, line 14, of the Introduced bill, after "rule" insert " on which the Interim Rules  
13 Review Committee does not make a determination of sufficient legislative authority pursuant to  
14 subdivision (2) of section 6 of this Act"

15 On page 8, line 15, of the Introduced bill, delete " a" and insert " the"

16 On page 9, line 10, of the Introduced bill, after "rule;" insert " or"

17 On page 9, line 12, of the Introduced bill, delete "; or" and insert a period

18 On page 9, line 12, of the Introduced bill, after "or" delete "

19 (3) Form part of the record before the court in any judicial proceeding concerning a rule, except  
20 for purposes of determining whether or not the rule is in effect."

21 On page 9, after line 14, of the Introduced bill, insert: "

22 **Section 10. That § 1-26-2.1 be REPEALED.**

23 ~~An agency shall, when submitting any proposed rule that will have a direct impact on small  
24 business, prepare an impact statement that includes the following:~~

25 ~~(1) A narrative explanation in plain, easy to read language of the effect of the rule on small  
26 business, the basis for its enactments, and why the rule is needed;~~

27 ~~(2) An identification and estimate of the number of small businesses subject to the proposed  
28 rule;~~

29 ~~(3) The projected reporting and recordkeeping required for compliance with the proposed  
30 rule, including the types of professional skills necessary for preparation of the report or  
31 record; and~~

32 ~~(4) A description of any less intrusive or less costly alternative methods of achieving the  
33 purpose of the proposed rule.~~

34 ~~An agency is only required to use readily available information and existing resources to  
35 prepare the impact statement.~~

36 ~~For purposes of this section, "small business" means a nongovernmental entity that employs  
37 twenty five or fewer full time employees."~~

38 And that as so amended, **SB 133** do pass, and having been certified as uncontested, be placed  
39 on the consent calendar.

1 Also MR. PRESIDENT:

2 The Committee on Senate State Affairs respectfully reports that it has had under consideration  
3 **SB 134** and returns the same with the recommendation that said bill do pass.

4 Also MR. PRESIDENT:

5 The Committee on Senate State Affairs respectfully reports that it has had under consideration  
6 **SB 145** which was deferred to the 41st Legislative Day.

7 Respectfully submitted,  
8 Jim Mehlhaff, Chair

9 MR. PRESIDENT:

10 The Senate Committee on Appropriations respectfully reports that it has had under  
11 consideration **HB 1056** and returns the same with the recommendation that said bill do pass.

12 Respectfully submitted,  
13 Ernie Otten, Chair

14 MR. PRESIDENT:

15 The Committee on Senate Transportation respectfully reports that it has had under  
16 consideration **HB 1188** and returns the same with the recommendation that said bill be amended  
17 as follows:

18 1188B

19 On page 1, line 1, of the House Transportation Engrossed bill, after "to " delete "clarify the  
20 duties and"

21 On page 1, line 16, of the House Transportation Engrossed bill, delete " or" and insert a comma

22 On page 1, line 16, of the House Transportation Engrossed bill, after "state" insert ", or any  
23 removal agency acting on behalf of the state or a political subdivision thereof"

24 On page 2, line 11, of the House Transportation Engrossed bill, delete " or" and insert a comma

25 On page 2, line 12, of the House Transportation Engrossed bill, after "state" insert ", or any  
26 removal agency acting on behalf of the state or a political subdivision thereof"

27 And that as so amended, **HB 1188** do pass, and having been certified as uncontested, be  
28 placed on the consent calendar.

29 Also MR. PRESIDENT:

30 The Committee on Senate Transportation respectfully reports that it has had under  
31 consideration **HB 1189** and returns the same with the recommendation that said bill do pass, and  
32 having been certified as uncontested, be placed on the consent calendar.

33 Respectfully submitted,  
34 Randy Deibert, Chair

1 MR. PRESIDENT:

2 The Committee on Senate Health and Human Services respectfully reports that it has had  
3 under consideration **SB 211** and returns the same with the recommendation that said bill be  
4 amended as follows:

5 211E

6 On page 1, line 6, of the Introduced bill, delete " 8" and insert " 5"

7 On page 2, line 10, of the Introduced bill, delete "Three hundred twenty-five" and insert "Two  
8 hundred seventy-five"

9 On page 2, line 12, of the Introduced bill, after "reimbursement" insert " for emergency medical  
10 services rendered on an out-of-network basis"

11 On page 2, line 12, of the Introduced bill, after "the" delete " out-of-network"

12 On page 2, line 13, of the Introduced bill, delete " no later than thirty days after receipt of a  
13 claim" and insert " in accordance with the provisions set forth in chapter 58-12"

14 On page 2, line 15, of the Introduced bill, after "provider." delete "Section 5. That a NEW  
15 SECTION be added to chapter 58-17:

16 "

17 On page 2, line 16, of the Introduced bill, after "58-17:" delete "On or before January 1, 2027,  
18 the Division of Insurance shall compile and post on the division's website, ambulance reimbursement  
19 rates from any political subdivision that has effectuated rates. The division shall update the posted  
20 rates annually.

21 If a political subdivision fails to submit its rates, as required by this section, an ambulance  
22 service provider located in the political subdivision must be reimbursed at the lesser of:

23 (1) The provider's billed charge; or

24 (2) Three hundred twenty-five percent of the medicare allowable rate for the same service."

25 On page 3, line 1, of the Introduced bill, after "services." delete "Section 7. That a NEW  
26 SECTION be added to chapter 58-17:

27 "

28 On page 3, line 2, of the Introduced bill, after "58-17:" delete "Any person aggrieved by a  
29 violation of sections 3 to 6, inclusive, of this Act may file a complaint with the Division of Insurance  
30 for appropriate relief. The division may investigate any violation of sections 3 to 6, inclusive, and  
31 impose administrative penalties or sanctions in accordance with chapter 58-4."

32 On page 3, line 7, of the Introduced bill, delete " 3 to 6" and insert " 2 to 5"

33 And that as so amended, **SB 211** do pass.

34 Also MR. PRESIDENT:

35 The Committee on Senate Health and Human Services respectfully reports that it has had  
36 under consideration **SB 221** and returns the same with the recommendation that said bill be  
37 amended as follows:

1

221A

2 On page 1, line 1, of the Introduced bill, delete "establish requirements for the distribution and  
3 " and insert "regulate the retail "

4 On page 1, line 1, delete " vapor" and insert " nicotine"

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

6 "

7 **Section 1. That § 10-1-28.2 be AMENDED:**

8 **10-1-28.2.** All lists of taxpayers, licensees, or applicants compiled by the Department of  
9 Revenue are confidential, except licensees which were licensed under the provisions of chapter 10-  
10 47B, 32-6B, 32-6C, 32-7A, or 32-7B, or sections 2 to 21, inclusive, of this Act. It is a Class 2  
11 misdemeanor to disclose any such list except to the extent necessary to carry out the official duties  
12 of the department.

13 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

14 Terms used in this chapter mean:

15 (1) "Licensee," a person licensed under the provisions of this chapter;

16 (2) "Nicotine product," a product intended for human consumption, containing any form of  
17 the chemical nicotine, including any salt or complex, from any source, nicotinic alkaloids,  
18 nicotine analogs, and any substance intended to mimic or replicate the pharmacological  
19 effect of nicotine. The term includes delivery systems, components, parts, or  
20 accessories. The term does not include food, drugs, devices, or combination products,  
21 as defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C § 301 et seq. (January  
22 1, 2026), approved for sale by the United States Food and Drug Administration; and

23 (3) "Retailer," a person engaged in the business of selling a nicotine product to an individual  
24 for any purpose other than resale.

25 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

26 Any communication by, or on behalf of, the manufacturer distributor, or retailer of a tobacco  
27 product that indicates that the product contains a nicotine analog constitutes presumptive evidence  
28 that the product contains a nicotine analog.

29 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

30 A retailer shall secure a license under this chapter to sell a nicotine product in this state. A  
31 separate application and a separate license are required for each place of business of a retailer  
32 where a nicotine product is sold at retail.

33 An application for a license required under this section must be made to the Department of  
34 Revenue, on forms prescribed by the secretary. The application must contain:

35 (1) The contact information of the applicant;

36 (2) The name and mailing address of the registered agent of the applicant;

37 (3) The physical address and mailing address of the place of business of the retailer; and

38 (4) All past and current violations of state or federal law by the applicant relating to the  
39 sale, possession, or transportation of a nicotine product.

1 For retailers where at least fifty percent of the annual gross income in a year for the place of  
2 business is estimated to be generated from the sales of nicotine products, the application must be  
3 accompanied by a fee of five hundred dollars.

4 For retailers where less than fifty percent of the annual gross income in a year for the place of  
5 business is estimated to be generated from the sales of nicotine products, the application must be  
6 accompanied by a fee of two hundred fifty dollars.

7 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

8 A license issued under section 4 of this Act is valid through December thirtieth following the  
9 issuance of the license, unless the license is revoked sooner by the secretary pursuant to this  
10 chapter. A license is valid for an additional three days if the application to renew a license is in the  
11 possession of the department before midnight on the date of expiration.

12 A license issued under section 4 of this Act may be transferred if the new licensee obtains  
13 written approval from the department and is eligible for a license under this chapter.

14 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

15 A licensee may apply to the Department of Revenue for a renewal of the license within:

16 (1) Thirty days prior to the expiration of the license; or

17 (2) Three days after the expiration of the license.

18 For retailers where at least fifty percent of the annual gross income in a year for the place of  
19 business is generated from the sales of nicotine products, the renewal application must be  
20 accompanied by a fee of five hundred dollars.

21 For retailers where less than fifty percent of the annual gross income in a year for the place of  
22 business is generated from the sales of nicotine products, the renewal application must be  
23 accompanied by a fee of two hundred fifty dollars.

24 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

25 The Department of Revenue shall deny an application made under section 4 or 6 of this Act if:

26 (1) The application includes any false information;

27 (2) The applicant is under the age of twenty-one years; or

28 (3) The applicant has violated any state or federal law relating to the sale, possession, or  
29 transportation of a nicotine product.

30 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

31 The place of business of a licensee where a nicotine product is sold may not be located within  
32 five hundred feet of an elementary or secondary school, unless nicotine products were sold at the  
33 place of business prior to July 1, 2026.

34 The distance measured for purposes of this section is from the nearest point of the property  
35 on which the place of business is situated, to the nearest point of the property on which the school  
36 is situated.

37 **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

38 A licensee may not:

- 1       (1) Ship, or cause to be shipped, a nicotine product to an individual to be consumed by the  
2       individual;
- 3       (2) Sell, or offer to sell, a nicotine product to a person under the age of twenty-one years;
- 4       (3) Sell, or offer to sell, a nicotine product in a vending machine;
- 5       (4) Sell a nicotine product by phone, voice transmission, mail, internet, electronic-  
6       application-based service, curbside pick-up, or by any third-party means;
- 7       (5) Provide free samples of nicotine products to an individual;
- 8       (6) Purchase a nicotine product from a person that is not a licensed distributor or licensed  
9       wholesaler under chapter 10-50 or under the provisions of House Bill 1220, as enacted  
10       by the One Hundred First Legislature; or
- 11       (7) Market, advertise, sell, or cause to be sold a nicotine product where the container or  
12       packaging of the nicotine product contains, includes, or is capable of running or  
13       interfacing with video games, mobile games, or interactive software on an integrated  
14       electronic screen, digital interface, or external gaming system, or is marketed as having  
15       gaming functionality.

16       A licensee is responsible for, and may be subject to enforcement action for, any violation of  
17       this chapter committed by the licensee's employee, agency, agent, or clerk, while acting within the  
18       scope of employment or agency.

19       **Section 10. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

20       A licensee shall post a sign, within plain view of any area on the premises where an individual  
21       may purchase nicotine products, stating in text, at least one inch in height, that it is illegal to sell  
22       nicotine products to any individual under the age of twenty-one.

23       Adjacent to the sign, the licensee shall display a valid license issued under this chapter.

24       **Section 11. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

25       A licensee shall keep complete records of all nicotine products held in the licensee's inventory  
26       and all nicotine products sold by the licensee, in a manner set forth in rules promulgated by the  
27       secretary of the Department of Revenue pursuant to chapter 1-26.

28       The records must include information detailing the name, source, origin, manufacturer, and  
29       address of the person supplying, and a copy of the purchase invoice, of the nicotine products in the  
30       licensee's inventory.

31       The licensee shall preserve the records for three years.

32       If the records are not stored at the licensee's place of business, the licensee must, upon request  
33       of the secretary, make the records available, in electronic form, within five business days.

34       **Section 12. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

35       The secretary of the Department of Revenue or an agent of the secretary may, during normal  
36       business hours, inspect the records and premises of any licensee, and may conduct an investigation  
37       to determine whether the licensee has violated any provision of this chapter or rule promulgated  
38       thereunder. The secretary or agent of the secretary shall conduct an inspection or investigation  
39       under this section, in accordance with rules promulgated by the secretary pursuant to chapter 1-  
40       26.

**Section 13. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

Except as otherwise provided in this section, the secretary of the Department of Revenue, or an agent of the secretary, shall conduct an inspection of each licensee at least once every two years.

If a licensee has been determined by the department to have violated any provision of this chapter, the secretary or an agent of the secretary must conduct an inspection of the licensee within six months of the determination.

**Section 14. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

The Department of Revenue shall publish on the department's website the following information for each licensee:

- (1) The licensee's name;
- (2) The name and mailing address of the registered agent of the licensee;
- (3) The physical address of the licensee's place of business;
- (4) The registered agent; and
- (5) The date on which the license was initially issued.

If a licensee is determined to have violated a provision of this chapter or chapter 34-46, the secretary of the department must publish notice of the violation on the department's website.

**Section 15. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

If a licensee is determined to have violated a provision of sections 8 to 11, inclusive, of this Act or a provision of chapter 34-46, the secretary of the Department of Revenue must assess a penalty according to the following schedule:

- (1) For a first violation, a fine not exceeding five hundred dollars;
- (2) For a second violation within a thirty-six-month period, a fine of one thousand dollars;
- (3) For a third violation within a thirty-six-month period, a fine of two thousand dollars, and in addition to the fine assessed under this subdivision the licensee:
  - (a) May not sell, or offer to sell, a nicotine product for the following thirty days; and
  - (b) Must post a sign adjacent to the sign required in section 10 of this Act, stating in text at least one inch in height that due to a violation of state law, nicotine products may not be sold at this location at this time; and
- (4) For a fourth violation within a thirty-six-month period, a fine of five thousand five hundred dollars, and in addition to the fine assessed under this subdivision, the secretary shall revoke the license.

Except as otherwise provided in this section, the secretary may, in accordance with chapter 1-26, revoke or suspend a license issued under this chapter for failure of the licensee to comply with a provision of this chapter or rules promulgated thereunder, or if the licensee is convicted of a felony.

**Section 16. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

A fine assessed under section 15 of this Act is due within thirty days of the Department of Revenue providing notice of the fine to the licensee.

If the department determines that a licensee has failed to pay any fine, fee, or tax imposed by this chapter, or any other fine, fee, or tax imposed by this state or a political subdivision of this state by the due date, the secretary must suspend the license of the retailer until the payment has been made.

**Section 17. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

If the license of a retailer is revoked pursuant to section 15 of this Act, the retailer must destroy all nicotine products possessed by the retailer, at the time of the revocation, in accordance with all state and federal requirements related to hazardous materials. The retailer shall submit verification of the destruction to the Department of Revenue, in a manner provided in rules promulgated by the secretary of the department.

A retailer who fails to comply with this section within seven days from the revocation of the license is subject to a fine of five thousand dollars, imposed by the department.

**Section 18. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

If a licensee is determined to have violated any provision of this chapter, the licensee may appeal an action or decision of the secretary of the Department of Revenue, in the same manner as provided in chapter 1-26.

**Section 19. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

The Department of Revenue shall promulgate rules, in accordance with chapter 1-26, to:

- (1) Establish a procedure for an initial and a renewal license application under this chapter;
- (2) Provide for the manner in which nicotine products must be destroyed and the manner in which verification of the destruction must be submitted;
- (3) Provide the process for assessing and collecting fines under this chapter;
- (4) Establish standards for the keeping of records, as required in section 11 of this Act; and
- (5) Establish a process for the inspection of records and premises, as authorized in section 12 of this Act.

**Section 20. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

A retailer who sells a nicotine product in this state, without a license issued pursuant to this chapter, is subject to a fine of five thousand dollars, per day, imposed by the Department of Revenue.

**Section 21. That a NEW SECTION be added to a NEW CHAPTER in title 10:**

There is created a nicotine enforcement fund. The Department of Revenue shall administer the fund. The purpose of the fund is to defray expenses associated with the enforcement of this chapter.

Moneys collected under this chapter must be forwarded to the state treasurer to be deposited into the fund. Interest on moneys credited to the fund must remain in the fund.

Expenditures from the fund must be budgeted through the general appropriation bill.

**Section 22. That § 34-46-2 be AMENDED:**

**34-46-2.** The following actions are unlawful:

- 1 (1) ~~To knowingly~~ sell or distribute a tobacco product to a person under the age of twenty-  
2 one;
- 3 (2) ~~To purchase or attempt to purchase, to receive or attempt to receive, to possess, or to~~  
4 ~~consume a tobacco product if a person is under the age of twenty-one;~~
- 5 ~~(3)~~—To purchase a tobacco product on behalf of, or to give a tobacco product to, any person  
6 under the age of twenty-one;
- 7 ~~(4)~~(3) To sell cigarettes or nicotine products, as defined in section 2 of this Act, other than in  
8 an unopened package originating with the manufacturer and depicting the warning  
9 labels required by federal law;
- 10 ~~(5)~~(4) To sell tobacco products or nicotine products, as defined in section 2 of this Act, through  
11 a vending machine ~~located in a place other than a place that is open to the public but~~  
12 ~~to which persons under the age of twenty-one are denied access at all times;~~
- 13 ~~(6)~~(5) To sell cigarettes or smokeless tobacco, or both, tobacco products or nicotine products,  
14 as defined in section 2 of this Act, through a self-service display ~~other than a display that~~  
15 ~~is:~~
- 16 (a) ~~—A vending machine permitted under subdivision (5) of this section; or~~
- 17 (b) ~~—Located in a tobacco speciality store; or~~
- 18 ~~(7)~~(6) To distribute tobacco ~~product samples~~ products or nicotine products, as defined in  
19 section 2 of this Act, in or on a public street, sidewalk, or park that is within five hundred  
20 feet of a playground, school, or other facility when the facility is being used primarily by  
21 persons under the age of twenty-one.

22 A person who violates this section is subject to a fine of two hundred fifty dollars, imposed by  
23 the Department of Revenue. Each violation is subject to a fine.

24 **Section 23. That § 34-46-2.2 be AMENDED:**

25 **34-46-2.2.** A merchant shall conspicuously post a notice, on the merchant's premises, stating  
26 that ~~"No no~~ no person under the age of 21 ~~twenty-one~~ may be sold tobacco products."

27 ~~Any owner, lessee, or person having control of any cigarette vending machine shall post, in a~~  
28 ~~conspicuous place on each machine in use within the state, a warning which shall be printed in bold~~  
29 ~~type letters each of which shall be at least one half inch high and which shall be kept in easily legible~~  
30 ~~form and repair stating:~~

31 ~~"Any person under 21 years of age is forbidden by law to purchase cigarettes from this~~  
32 ~~machine." or nicotine products, as defined in section 2 of this Act.~~

33 **Section 24. That § 34-46-21 be AMENDED:**

34 **34-46-21.** No person may sell a vapor product other than in an unopened package originating  
35 with the manufacturer and depicting the warning labels required by federal law, or sell a vapor  
36 product through self-service display other than a display that is:

37 (1) ~~—A vending machine permitted under subdivision 34-46-2(5); or~~

38 (2) ~~—Located~~ located in a tobacco specialty store.

39 ~~A violation of person who violates this section is a Class 2 misdemeanor. A person is not liable~~  
40 ~~for more than one violation of this section on a single day subject to a fine of two hundred fifty~~  
41 ~~dollars, imposed by the Department of Revenue. Each violation is subject to a fine.~~

1 **Section 25.** This Act is effective beginning January 1, 2027.

2 "

3 And that as so amended, **SB 221** do pass.

4 Respectfully submitted,  
5 Kevin D. Jensen, Chair

6 MR. PRESIDENT:

7 The Committee on Senate Taxation respectfully reports that it has had under consideration  
8 **SB 109, 191, 192, 212, and 230** which were tabled.

9 Also MR. PRESIDENT:

10 The Committee on Senate Taxation respectfully reports that it has had under consideration  
11 **SB 199** and returns the same with the recommendation that said bill do pass.

12 Also MR. PRESIDENT:

13 The Committee on Senate Taxation respectfully reports that it has had under consideration  
14 **SB 228** and returns the same with the recommendation that said bill be amended as follows:

15 228A

16 On page 1, line 1, of the Introduced bill, delete " requirements to create a" and insert "  
17 provisions for a"

18 On page 1, after line 2, of the Introduced bill, insert: "

19 **Section 1. That § 10-6-137 be AMENDED:**

20 **10-6-137.** ~~Any~~ Following the construction of any structure classified pursuant to this section,  
21 ~~must, following construction, be valued the valuation of the structure for taxation purposes must~~  
22 ~~occur~~ in the usual manner. The board of county commissioners of the county in which the structure  
23 is located, may adopt a discretionary formula for assessed value to be used for tax purposes. Except  
24 as otherwise provided in § 10-6-137.1, the formula may include, for any or all of the five tax years  
25 following construction, all, any portion, or none of the assessed value for tax purposes. Any formula  
26 ~~adopted must be equally applied to specifically classified properties pursuant to this section may not~~  
27 be used for any property within a tax increment finance district.

28 ~~The board of county commissioners of the county in which the structure is located~~ may, if  
29 requested by the owner of the structure, fully assess the structure without application of the formula.  
30 In waiving the formula for the structure of one owner, the ~~board of county commissioners~~ is not  
31 prohibited from applying the formula for subsequent new structures. The assessed value during any  
32 of the five years may not be less than the assessed value of the property in the year preceding the  
33 first year of the tax years following construction.

34 Any structure that is partially constructed on the assessment date may be valued for tax  
35 purposes, pursuant to this section, and the value may not be less than the assessed value of the  
36 property in the year preceding the beginning of construction. The period that the property is valued  
37 for tax purposes under this section may include the years when the property is partially constructed.

38 Following the five-year period under this section, the property must be assessed at the same  
39 percentage as all other property for tax purposes, except as otherwise provided in § 10-6-137.1.

- 1 Any of the following types of real property may be specifically classified for the purpose of  
2 taxation pursuant to this section:
- 3 (1) Any new industrial ~~or commercial~~ structure, or any addition, renovation, or  
4 reconstruction to an existing structure, ~~located within a designated urban renewal area~~  
5 ~~as defined in § 11-8-4~~, if the new structure, addition, renovation, or reconstruction has  
6 a full and true value of thirty thousand dollars or more;
- 7 (2) Any new industrial structure, including a power generation facility, or an addition to an  
8 existing ~~structure~~ facility, if the new ~~structure~~ facility or addition has a full and true value  
9 of thirty thousand dollars or more;
- 10 (3) Any new nonresidential agricultural structure, or any addition to an existing structure,  
11 if the new structure or addition has a full and true value of ten thousand dollars or more;
- 12 (4) Any new commercial structure, or any addition, renovation, or reconstruction to an  
13 existing structure, except a commercial residential structure as described in subdivision  
14 (5), if the new structure or addition, renovation, or reconstruction has a full and true  
15 value of thirty thousand dollars or more;
- 16 (5) Any new commercial residential structure, or addition to an existing structure,  
17 containing four or more units, if the new structure or addition has a full and true value  
18 of thirty thousand dollars or more;
- 19 (6) Any new affordable housing structure containing four or more units, with a monthly  
20 rental rate of the units at or below the annually calculated rent for the state's sixty  
21 percent area median income being used by the South Dakota Housing Development  
22 Authority for a minimum of ten years following the date of first occupancy, if the  
23 structure has a full and true value of thirty thousand dollars or more;
- 24 (7) Any new residential structure, or addition to or renovation of an existing structure,  
25 located within a redevelopment neighborhood established pursuant to § 10-6-141, if the  
26 new structure, addition, or renovation has a full and true value of five thousand dollars  
27 or more. ~~The structure must be,~~ provided the structure is located in an area defined and  
28 designated as a redevelopment neighborhood based on conditions ~~provided set forth~~ in  
29 § 11-7-2 or 11-7-3; or
- 30 (8) Any commercial, industrial, or nonresidential agricultural property that increases more  
31 than ten thousand dollars in full and true value, as a result of reconstruction or  
32 renovation of the structure."

33 On page 1, after line 2, of the Introduced bill, insert: "

34 **Section 2. That § 10-12-44 be AMENDED:**

35 **10-12-44.** The county auditor having jurisdiction over a school district shall raise additional  
36 revenue, for the general fund and special education fund, from real property taxes, to compensate  
37 for a tax abatement, a tax increment financing district, or a discretionary formula in accordance with  
38 the following:

- 39 (1) For tax increment financing districts created pursuant to chapter 11-9, the county  
40 auditor shall impose an additional tax levy, for an amount not to exceed an amount  
41 equal to the sum of the levies in §§ 10-12-42 and 13-37-16 multiplied by the ~~tax~~  
42 ~~increment value, as defined in § 11-9-1~~ total value of the tax increment financing district  
43 less the tax increment base as determined pursuant to § 11-9-19;
- 44 (2) For property subject to § 10-6-137, 10-6-137.1, or 10-6-144, the county auditor shall  
45 impose an additional tax levy, for an amount not to exceed the amount of taxes that  
46 were not collected, due to the reduction in value based on the maximum levies, pursuant  
47 to §§ 10-12-42 and 13-37-16; and

1 (3) For abated taxes, the county auditor shall impose an additional tax levy, for an amount  
 2 not to exceed the amount of the school district's portion of the taxes that were abated,  
 3 pursuant to chapter 10-18, during the previous tax year.

4 The levies in this section are not subject to the referendum provision of § 10-12-43 and these  
 5 levies must maintain the same proportion to each other, as represented in the mathematical  
 6 relationship at the maximum levies pursuant to § 10-12-42."

7 On page 1, line 6, of the Introduced bill, after "district" insert " in a contiguous geographic area  
 8 within a political subdivision, which is defined and created by resolution of the governing body,  
 9 provided that parcels that are not otherwise adjacent are not contiguous based solely on the  
 10 existence of an easement, right-of-way, transportation corridor, or waterway connecting the parcels,  
 11 unless the parcels are:

12 (a) Separated only by the easement, right-of-way, transportation corridor, or waterway; and

13 (b) Located directly opposite one another"

14 On page 1, line 7, of the Introduced bill, after "district;

15 (3)" delete ""Financing plan," the intended methods and revenue sources by which the political  
 16 subdivision will pay for the project costs;

17 (4) "

18 On page 1, line 9, of the Introduced bill, delete " the board of trustees, the board of  
 19 commissioners, the board of county commissioners, or the common council of a municipality" and  
 20 insert " a board of commissioners, board of trustees, common council, or other authoritative body  
 21 by which a political subdivision is controlled"

22 On page 1, line 11, of the Introduced bill, remove the overstrikes from "(4)"

23 On page 1, line 11, of the Introduced bill, after "municipality;

24 (4)" delete "(5)"

25 On page 1, line 13, of the Introduced bill, remove the overstrikes from "(5)"

26 On page 1, line 13, of the Introduced bill, after "subdivision;

27 (5)" delete "(6)"

28 On page 1, line 13, of the Introduced bill, delete " chapters" and insert " chapter"

29 On page 1, line 14, of the Introduced bill, after "committee" delete " of a governing body"

30 On page 1, line 17, of the Introduced bill, remove the overstrikes from "(6)"

31 On page 1, line 17, of the Introduced bill, after "committee;

32 (6)" delete "(7)"

33 On page 1, line 19, of the Introduced bill, remove the overstrikes from "(7)"

34 On page 1, line 19, of the Introduced bill, after "state;

35 (7)" delete "(8)"

36 On page 1, line 19, of the Introduced bill, delete " the properly" and insert " an"

- 1 On page 1, line 20, of the Introduced bill, after "a" delete " tax increment financing"
- 2 On page 1, line 20, of the Introduced bill, after "all" delete " properly"
- 3 On page 1, line 22, of the Introduced bill, remove the overstrikes from "(8)"
- 4 On page 1, line 22, of the Introduced bill, after "plan;
- 5 (8)" delete "(9)"
- 6 On page 1, line 22, of the Introduced bill, after "plan;
- 7 (8)(9)" delete ""Tax increment financing district," a contiguous geographic area within a
- 8 political subdivision defined and created by resolution of the governing body;
- 9 (9)(10) "
- 10 On page 1, line 24, of the Introduced bill, after "a" delete " tax increment financing"
- 11 On page 2, line 1, of the Introduced bill, delete "(11)" and insert "(9)"
- 12 On page 2, line 1, of the Introduced bill, after "the" delete " tax increment financing"
- 13 On page 2, after line 2, of the Introduced bill, insert: "
- 14 **Section 4. That § 11-9-4 be AMENDED:**
- 15 **11-9-4.** The planning commission shall designate the boundaries of a district that the planning
- 16 commission recommends be created. The planning commission shall submit the recommendation to
- 17 the governing body. The boundaries of a district may not split a whole unit of property that is being
- 18 used for a single purpose."
- 19 On page 2, line 5, of the Introduced bill, after "that" delete " is subject to a referendum under
- 20 the provisions of section 12 of this Act, and which"
- 21 On page 2, line 7, of the Introduced bill, after "included" delete ". The boundaries may not split
- 22 a whole unit of property that is being used for a single purpose"
- 23 On page 2, line 11, of the Introduced bill, delete " ten five" and insert ":
- 24 (a) For a district created by a first class municipality, seven and one-half"
- 25 On page 2, line 13, of the Introduced bill, after "and" insert "
- 26 (b) For all other classes, ten percent of the total assessed value of all taxable property in the
- 27 political subdivision;"
- 28 On page 2, line 17, of the Introduced bill, after "number" insert "; and
- 29 (5) Demonstrates that the district has been reviewed by all affected taxing districts at a public
- 30 meeting held pursuant to chapter 1-25, provided that the affected taxing districts may provide input
- 31 but do not have authority to approve or reject the creation of the district"
- 32 On page 2, after line 17, of the Introduced bill, insert: "
- 33 **Section 6. That § 11-9-6 be AMENDED:**
- 34 **11-9-6.** ~~Subject to any agreement with bondholders, a district may overlap with one or more~~
- 35 ~~existing districts if the boundaries of the districts are not identical.~~Unless otherwise authorized by a

1 joint resolution among the affected political subdivisions, a district established after July 1, 2026,  
 2 may not overlap with any other existing district."

3 On page 2, line 22, of the Introduced bill, remove the overstrikes from " or"

4 On page 2, line 22, of the Introduced bill, after "or" delete " and"

5 On page 2, line 25, of the Introduced bill, remove the overstrikes from " and"

6 On page 2, line 27, of the Introduced bill, after "district" delete "; and"

7 (3) The review required by section 13 of this Act indicates that the social or economic benefits  
 8 of the project exceed its costs to property owners and political subdivisions authorized to impose a  
 9 property tax within the boundaries of the district"

10 On page 3, line 4, of the Introduced bill, after "resolution." delete "

11 No municipality may create a district unless the board of county commissioners of the county  
 12 in which the district is located, either in whole or in part, has consented to the creation of the district  
 13 by resolution."

14 On page 3, line 27, of the Introduced bill, after "improvements" delete ", provided this  
 15 subdivision does not apply to a municipality having fewer than fifteen thousand legal residents"

16 On page 5, line 7, of the Introduced bill, delete "The amount of payments and grants" and  
 17 insert " A recipient for a grant"

18 On page 5, line 7, of the Introduced bill, delete " may not exceed ten percent of the project  
 19 costs" and insert " shall enter into an agreement with the governing body specifying the only  
 20 purposes for which a grant may be used"

21 On page 5, line 13, of the Introduced bill, after "plan." delete "Section 8. That § 11-9-20 be  
 22 AMENDED:

23 "

24 On page 5, line 14, of the Introduced bill, after "AMENDED:" delete "11-9-20. "

25 On page 5, line 14, of the Introduced bill, after "11-9-20. " delete "Upon receiving an  
 26 application by the county auditor or municipal finance officer, as applicable, on a form prescribed  
 27 by the department, the department must determine the aggregate assessed value of the taxable  
 28 property in the district, which aggregate assessed value, on certification to the county auditor or  
 29 the municipal finance officer, as applicable, is the tax increment base of the district.

30 The application must be accompanied by a detailed parcel list of the included legal descriptions,  
 31 property ownership, and value, as provided by the director of equalization office, of the affected  
 32 corresponding county. For purposes of determining the tax increment base, the value of agricultural  
 33 property in the district must be determined in the same manner as nonagricultural property.

34 Except as provided in this section and § 11-9-20. 1, the department shall use the values, as  
 35 last previously certified by the department, adjusted for the value to the date the district was  
 36 created, for any completed buildings or additions and without regard to any reduction pursuant to  
 37 §§ 1-19A-20, 10-6-137, 10-6-137. 1, and 10-6-144."

38 On page 6, line 4, of the Introduced bill, delete " fifteen" and insert " twenty-five"

39 On page 6, line 14, of the Introduced bill, delete " a" and insert " the"

40 On page 6, line 14, of the Introduced bill, delete " under" and insert " pursuant to"

1 On page 6, line 15, of the Introduced bill, after "district" delete the comma

2 On page 6, line 17, of the Introduced bill, after "district." insert "

3 Within thirty days after the termination of a district, the governing body shall provide to the  
4 department a notice, which must include the name of the district and copies of the resolution of  
5 dissolution and the district's final financial statement. The final financial statement must account for  
6 the distribution of any remaining funds pursuant to § 11-9-45."

7 On page 6, line 18, of the Introduced bill, after "district." delete "Section 12. That a NEW  
8 SECTION be added to chapter 11-9:

9 "

10 On page 6, line 19, of the Introduced bill, after "11-9:" delete "If the tax increment base of a  
11 proposed district is greater than one-half percent of the total assessed value of all taxable property  
12 in the political subdivision, the governing body creating the district must call a special election to  
13 determine the question of the establishment of the district. The election must be held on a Tuesday  
14 between forty-five and sixty days from when the governing body adopted the resolution establishing  
15 the district.

16 If the resolution is adopted within the ninety days prior to the political subdivision's regular  
17 election or a primary or general election and with sufficient time to comply with the subdivision's  
18 requirements for publishing notice of the election, the question must be submitted to the voters at  
19 that election.

20 A special election held pursuant to this section must be held upon the same notice and  
21 conducted in the same manner as a regular election of the political subdivision."

22 On page 6, line 31, of the Introduced bill, after "subdivision." delete "Section 13. That a NEW  
23 SECTION be added to chapter 11-9:

24 "

25 On page 7, line 1, of the Introduced bill, after "11-9:" delete "The governing body shall submit  
26 the project plan and financing plan for the district to an independent, certified public accountant or  
27 economist to provide:

28 (1) A cost-benefit analysis of the project;

29 (2) An estimate for the expected change in the distribution of property taxes over time resulting  
30 from the project; and

31 (3) An estimate for the expected effects on employment, housing, and economic output  
32 resulting from the project."

33 On page 7, after line 7, of the Introduced bill, insert: "

34 **Section 15. That a NEW SECTION be added to chapter 11-9:**

35 For any district established after July 1, 2026, a governing body may not approve a project  
36 plan unless an independent fiscal feasibility review has been completed and submitted to all political  
37 subdivisions.

38 The review must be conducted by a third-party who is a municipal advisor registered with the  
39 Municipal Securities Rulemaking Board and the United States Securities and Exchange Commission  
40 pursuant to section 15B of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a to 78qq, inclusive  
41 (January 1, 2026), a licensed certified public accountant, or another independent third-party  
42 reviewer, including a nonprofit or research organization, or attorney, with demonstrated experience  
43 in municipal finance and tax increment financing, approved by the governing body.

The person conducting the review may be compensated for conducting the review but must be independent of any developer, obligated person, and private entity receiving financial assistance or reimbursement under the project plan. If the review is conducted:

(1) By a municipal advisor, the advisor must:

(a) Act in the capacity of municipal advisor to the governing body and may not act on behalf of any developer, underwriter, or other private party; and

(b) Acknowledge in writing that the advisor owes a fiduciary duty to the governing body with respect to any advice provided in the review;

(2) By a certified public accountant, the accountant:

(a) Must perform the review in accordance with applicable professional standards;

(b) May not prepare, or have prepared, any development feasibility analysis, financial projection, or valuation study for the developer or any affiliated entity relating to the district; and

(c) Must acknowledge in writing that the review is conducted for the benefit of the governing body; or

(3) By an independent third-party reviewer, including a nonprofit or research organization, or attorney, approved by the governing body, the third-party reviewer may not receive funding or compensation, other than compensation for conducting the review, from the governing body or any developer, underwriter, or other private entity involved in the project."

On page 7, after line 7, of the Introduced bill, insert: "

**Section 16. That a NEW SECTION be added to chapter 11-9:**

A fiscal feasibility review required pursuant to section 15 of this Act:

(1) Must contain:

(a) A description of the project plan, proposed district boundaries, and estimated project costs;

(b) An analysis of the tax increment base and the projected tax increment valuation for the anticipated duration of the district;

(c) An evaluation of whether the projected tax increment revenue is sufficient to pay the project costs and any other obligation proposed to be paid from the revenue;

(d) An analysis of the timing of projected revenue relative to anticipated expenditures or debt service requirements;

(e) A discussion of material financial risks to the feasibility of the project plan;

(f) A statement identifying material assumptions, limitations, and reliance on information from other third persons; and

(g) A conclusion stating whether, based on the assumptions and analyses described in the report, the project plan is reasonably feasible from a financing standpoint;

(2) Is advisory in nature and does not constitute a guarantee of project completion, revenue, or valuation;



1 Yesterday, Sen. Nelson announced her intention to reconsider the vote by which **SB 218** lost.

2 Sen. Nelson moved that the Senate do now reconsider the vote by which **SB 218** lost.

3 The question being on Sen. Nelson's motion to reconsider the vote by which **SB 218** lost.

4 And the roll being called:

5 Yeas 17, Nays 16, Excused 2, Absent 0

6 Yeas: Blanc, Carley, Deibert, Foster, Grove, Hohn, Howard, Jensen (Kevin), Lapka, Marty,  
7 Mehlhaff, Nelson, Perry, Peterson (Sue), Pischke, Voight, and Voita

8 Nays: Crabtree, Davis, Duhamel, Hulse, Kolbeck (Steve), Larson, Miskimins, Otten, Reed,  
9 Rohl, Sauder, Schoenfish, Smith, Vilhauer, Wipf, and Zikmund

10 Excused: Beal and Karr

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

### 13 **CONSIDERATION OF REPORTS OF COMMITTEES**

14 Sen. Mehlhaff moved that the reports of the Standing Committees on

15 Commerce and Energy on **SB 76** as found on page 306 of the Senate Journal; also

16 Commerce and Energy on **SB 204** as found on page 308 of the Senate Journal; also

17 Agriculture and Natural Resources on **SB 124** as found on page 300 of the Senate Journal;  
18 also

19 Judiciary on **SB 159** as found on page 301 of the Senate Journal; also

20 Education on **SB 229** as found on page 302 of the Senate Journal; and

21 State Affairs on **SB 239** as found on page 303 of the Senate Journal be adopted.

22 Which motion prevailed and the reports were adopted.

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

24 The President declared that **SB 199** changed prime sponsor from Senator Karr to  
25 Senator Lapka at their request.

### 26 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

27 **HB 1254:** FOR AN ACT ENTITLED, An Act to exempt any soil amendment used exclusively for  
28 agricultural purposes from sales tax.

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

1 **HB 1089:** FOR AN ACT ENTITLED, An Act to modify the distributions of revenues collected  
2 from severance taxation on new permits.

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

4 **HB 1311:** FOR AN ACT ENTITLED, An Act to require the reporting of funding given by certain  
5 persons and governments to institutions under the control of the Board of Regents and the South  
6 Dakota Board of Technical Education.

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

8 **HB 1138:** FOR AN ACT ENTITLED, An Act to require the licensure of non-medical home care  
9 agencies, and to provide a penalty therefor.

10 **HB 1199:** FOR AN ACT ENTITLED, An Act to address prior authorization and reporting  
11 requirements by utilization review organizations and health carriers.

12 **HB 1220:** FOR AN ACT ENTITLED, An Act to regulate the sale of nicotine products, and to  
13 provide a penalty therefor.

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

15 **HB 1040:** FOR AN ACT ENTITLED, An Act to revise the child support obligation schedule.

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

17 **HB 1041** was read on February 19, 2026 and today the President Pro Tem waived the referral  
18 to committee pursuant to JR 6D-1.

19 The following bills were read on February 19, 2026, and today the President Pro Tem assigned  
20 these bills to committee:

21 **HB 1162** was referred to the Committee on Health and Human Services.

22 **HB 1108** was referred to the Committee on Judiciary.

23 **HB 1286** was referred to the Committee on State Affairs.

24 **HB 1253** was referred to the Committee on Taxation.

25 **SECOND READING AND CONSIDERATION OF CONSENT CALENDAR ITEMS**

26 Sen. Mehlhaff requested that **SB 219** be removed from the Consent Calendar.

27 **SB 87:** FOR AN ACT ENTITLED, An Act to clarify and establish requirements related to forensic  
28 medical examinations.

29 **SB 236:** FOR AN ACT ENTITLED, An Act to create the county and township infrastructure fund  
30 for the accounting, safekeeping, and allocation of unobligated rural access infrastructure fund  
31 moneys.

1 **HB 1013:** FOR AN ACT ENTITLED, An Act to clarify the purposes permitted for certain  
2 offenders to operate a motor vehicle.

3 **HB 1014:** FOR AN ACT ENTITLED, An Act to modify the surcharge for a responding party in a  
4 forcible entry and detainer action.

5 **HB 1022:** FOR AN ACT ENTITLED, An Act to revise and repeal provisions related to the crime  
6 victims' compensation program.

7 **HB 1111:** FOR AN ACT ENTITLED, An Act to modify the requirements for obtaining an  
8 agricultural processor's lien.

9 Were read the second time.

10 The question being "Shall **SB 87 and 236, and HB 1111** pass as amended, and **HB 1013,**  
11 **1014, and 1022** pass?"

12 And the roll being called:

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

14 Yeas: Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard, Hulse,  
15 Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson, Otten,  
16 Perry, Peterson (Sue), Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight, Voita,  
17 Wipf, and Zikmund

18 Excused: Beal

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

## 21 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

22 **SB 110:** FOR AN ACT ENTITLED, An Act to regulate how broadband internet access service  
23 providers use customer data.

24 Was read the second time.

25 Sen. Kolbeck (Steve) moved that **SB 110** be amended as follows:

26 110C

27 On page 5, line 18, of the Senate State Affairs Engrossed bill, after "customer." delete "Section  
28 12. That a NEW SECTION be added to chapter 49-31:

29 "

30 On page 5, line 19, of the Senate State Affairs Engrossed bill, after "49-31:" delete "Broadband  
31 internet service providers that are small businesses pursuant to 13 C. F. R. § 121. 201 (January 1,  
32 2026) are exempt from sections 2 to 12, inclusive, of this Act."

33 Sen. Rohl requested a roll call vote.

34 Which request was supported.

35 The question being on Sen. Kolbeck (Steve)'s motion that **SB 110** be amended.

1 And the roll being called:

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

3 Yeas: Blanc, Carley, Crabtree, Hohn, Howard, Jensen (Kevin), Karr, Kolbeck (Steve), Lapka,  
4 Marty, Mehlhaff, Miskimins, Nelson, Otten, Perry, Reed, Sauder, Smith, Voight, and Zikmund

5 Nays: Davis, Deibert, Duhamel, Foster, Grove, Hulse, Larson, Peterson (Sue), Pischke, Rohl,  
6 Schoenfish, Vilhauer, Voita, and Wipf

7 Excused: Beal

8 So the motion having received an affirmative vote of a majority of the members present, the  
9 President declared the motion prevailed.

10 The question being "Shall **SB 110** pass as amended?"

11 And the roll being called:

12 Yeas 28, Nays 6, Excused 1, Absent 0

13 Yeas: Blanc, Carley, Davis, Deibert, Foster, Grove, Hohn, Howard, Jensen (Kevin), Karr,  
14 Kolbeck (Steve), Lapka, Larson, Marty, Miskimins, Nelson, Otten, Perry, Pischke, Reed, Rohl,  
15 Sauder, Schoenfish, Smith, Vilhauer, Voight, Voita, and Wipf

16 Nays: Crabtree, Duhamel, Hulse, Mehlhaff, Peterson (Sue), and Zikmund

17 Excused: Beal

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 126:** FOR AN ACT ENTITLED, An Act to increase the amount of value exempt from property  
21 taxes under a tax relief program for disabled veterans and surviving spouses.

22 Was read the second time.

23 The question being "Shall **SB 126** pass as amended?"

24 And the roll being called:

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

26 Yeas: Blanc, Foster, Hohn, Hulse, Kolbeck (Steve), Larson, Nelson, Peterson (Sue),  
27 Schoenfish, Smith, Vilhauer, Voight, Wipf, and Zikmund

28 Nays: Carley, Crabtree, Davis, Deibert, Duhamel, Grove, Howard, Jensen (Kevin), Karr, Lapka,  
29 Marty, Mehlhaff, Miskimins, Otten, Perry, Pischke, Reed, Rohl, Sauder, and Voita

30 Excused: Beal

31 So the bill not having received an affirmative vote of a majority of the members-elect, the  
32 President declared the bill lost.

1 **SB 135**: FOR AN ACT ENTITLED, An Act to protect residents from increased utility costs and  
2 utility shortages caused by data centers and clarify authority to regulate data centers.

3 Was read the second time.

4 Sen. Karr moved that **SB 135** be amended as follows:

5 135F

6 On page 1, line 9, of the Introduced bill, after "all" insert " fair, just, and reasonable"

7 On page 1, line 11, of the Introduced bill, delete " may not:

8 (1) Increase fees, rates, or surcharges imposed on residential customers for the purpose of  
9 financing, offsetting, or subsidizing a data center's infrastructure costs, service demands, or utility  
10 consumption; or

11 (2) Allocate to residential customers any cost associated with the distribution, generation, or  
12 transmission infrastructure, or any other cost attributable to the data center" and insert " shall  
13 establish and maintain separate terms and conditions for electric service applicable to a data center.  
14 The terms and conditions must require that the data center reimburse any provider of electricity for  
15 all costs fairly attributed to the data center for service demand and utility consumption, including  
16 costs incurred to serve the data center if the data center departs the system or materially reduces  
17 its load"

18 On page 2, line 1, of the Introduced bill, after "centers." delete "Section 5. That a NEW  
19 SECTION be added to a NEW CHAPTER in title 49:

20 "

21 On page 2, line 2, of the Introduced bill, after "49:" delete "The state, or any political  
22 subdivision of the state, may not authorize or grant any tax exemption to a data center."

23 Sen. Voita requested a roll call vote.

24 Which request was supported.

25 The question being on Sen. Karr's motion that **SB 135** be amended.

26 And the roll being called:

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

28 Yeas: Blanc, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Hulse, Karr,  
29 Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson, Otten, Perry, Peterson (Sue),  
30 Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight, Wipf, and Zikmund

31 Nays: Carley, Howard, Jensen (Kevin), and Voita

32 Excused: Beal

33 So the motion having received an affirmative vote of a majority of the members present, the  
34 President declared the motion prevailed.

35 The question being "Shall **SB 135** pass as amended?"

36 And the roll being called:

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

1 Yeas: Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard, Hulse,  
2 Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson, Otten,  
3 Perry, Peterson (Sue), Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight, Voita,  
4 Wipf, and Zikmund

5 Excused: Beal

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

8 **SB 193**: FOR AN ACT ENTITLED, An Act to clarify the definition of backup electric generation.

9 Was read the second time.

10 The question being "Shall **SB 193** pass?"

11 And the roll being called:

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

13 Yeas: Crabtree, Davis, Deibert, Duhamel, Hulse, Kolbeck (Steve), Larson, Mehlhaff, Miskimins,  
14 Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Wipf, and Zikmund

15 Nays: Blanc, Carley, Foster, Grove, Hohn, Howard, Jensen (Kevin), Karr, Lapka, Marty, Nelson,  
16 Otten, Perry, Peterson (Sue), Pischke, Voight, and Voita

17 Excused: Beal

18 So the bill not having received an affirmative vote of a majority of the members-elect, the  
19 President declared the bill lost.

20 Sen. Crabtree announced his intention to reconsider the vote by which **SB 193** lost.

21 **SB 208**: FOR AN ACT ENTITLED, An Act to require the award of certain disbursements to  
22 prevailing owners and taxpayers in appeals of property classifications or assessments.

23 Having had its second reading was up for consideration and final passage.

24 The question now being on Sen. Peterson (Sue)'s pending motion to amend **SB 208** as found  
25 on page 313 of the Senate Journal.

26 Sen. Rohl requested a roll call vote.

27 Which request was supported.

28 And the roll being called:

29 Yeas 15, Nays 19, Excused 1, Absent 0

30 Yeas: Blanc, Carley, Foster, Grove, Hohn, Howard, Jensen (Kevin), Karr, Lapka, Marty, Nelson,  
31 Peterson (Sue), Pischke, Voight, and Zikmund

1 Nays: Crabtree, Davis, Deibert, Duhamel, Hulse, Kolbeck (Steve), Larson, Mehlhaff, Miskimins,  
2 Otten, Perry, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voita, and Wipf

3 Excused: Beal

4 So the motion not having received an affirmative vote of a majority of the members present,  
5 the President declared the motion lost.

6 The question being "Shall **SB 208** pass as amended?"

7 And the roll being called:

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

9 Yeas: Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard, Hulse,  
10 Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson, Otten,  
11 Perry, Peterson (Sue), Pischke, Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight, Voita,  
12 Wipf, and Zikmund

13 Excused: Beal

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

16 **SB 237**: FOR AN ACT ENTITLED, An Act to require that counties provide written notice to  
17 township supervisors of conditional use applications and appeals.

18 Was read the second time.

19 The question being "Shall **SB 237** pass as amended?"

20 And the roll being called:

21 Yeas 26, Nays 8, Excused 1, Absent 0

22 Yeas: Crabtree, Davis, Deibert, Duhamel, Grove, Howard, Hulse, Jensen (Kevin), Karr,  
23 Kolbeck (Steve), Larson, Mehlhaff, Miskimins, Otten, Perry, Pischke, Reed, Rohl, Sauder,  
24 Schoenfish, Smith, Vilhauer, Voight, Voita, Wipf, and Zikmund

25 Nays: Blanc, Carley, Foster, Hohn, Lapka, Marty, Nelson, and Peterson (Sue)

26 Excused: Beal

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

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

30 **HB 1012**: FOR AN ACT ENTITLED, An Act to revise and repeal provisions allowing probation  
31 for contempt of a custody or visitation decree.

32 Was read the second time.

1 The question being "Shall **HB 1012** pass?"

2 And the roll being called:

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

4 Yeas: Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Foster, Grove, Hohn, Howard, Hulse,  
5 Jensen (Kevin), Karr, Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Nelson, Otten,  
6 Perry, Peterson (Sue), Reed, Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight, Voita, Wipf, and  
7 Zikmund

8 Nays: Pischke

9 Excused: Beal

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

12 **HB 1062**: FOR AN ACT ENTITLED, An Act to revise a provision related to aggravated assault.

13 Was read the second time.

14 Sen. Duhamel moved that **HB 1062** be amended as follows:

15 1062A

16 On page 1, line 13, of the Introduced bill, after "object" insert " realistically"

17 Which motion prevailed.

18 The question being "Shall **HB 1062** pass as amended?"

19 And the roll being called:

20 Yeas 28, Nays 6, Excused 1, Absent 0

21 Yeas: Blanc, Carley, Crabtree, Davis, Deibert, Duhamel, Hohn, Howard, Hulse, Karr,  
22 Kolbeck (Steve), Lapka, Larson, Marty, Mehlhaff, Miskimins, Otten, Perry, Peterson (Sue), Reed,  
23 Rohl, Sauder, Schoenfish, Smith, Vilhauer, Voight, Wipf, and Zikmund

24 Nays: Foster, Grove, Jensen (Kevin), Nelson, Pischke, and Voita

25 Excused: Beal

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

28 **SIGNING OF BILLS**

29 The President publicly read the title to

30 **SB 73**: FOR AN ACT ENTITLED, An Act to revise provisions relating to state financial practices.

31 **HB 1003**: FOR AN ACT ENTITLED, An Act to amend provisions pertaining to the required  
32 criminal background investigation of certain school employees.



