

# *JOURNAL OF THE SENATE*

## *NINETY-FIFTH SESSION*

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TWELFTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Thursday, January 30, 2020

The Senate convened at 1:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor Sam Handschke, followed by the Pledge of Allegiance led by Senate page Katie Schmit.

Roll Call: All members present except Sen. Sutton 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 eleventh day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Which motion prevailed.

Respectfully submitted,  
Brock L. Greenfield, Chair

1

**REPORTS OF STANDING COMMITTEES**

2 MR. PRESIDENT:

3 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has  
4 had under consideration **SB 53** which was deferred to the 41st Legislative Day.

5  
6

Respectfully submitted,  
Gary L. Cammack, Chair

7 MR. PRESIDENT:

8 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
9 consideration **SB 83** and returns the same with the recommendation that said bill be amended as  
10 follows:

11

83C

12 On page 1, line 6, of the Introduced bill, delete "any " and insert "all "

13 On page 1, line 6, of the Introduced bill, delete "utility having an adjoining service area " and  
14 insert "utilities serving in areas within and adjacent to a municipality that owns and operates its own  
15 electric utility "

16 On page 1, line 9, of the Introduced bill, delete "outside a " and insert "within and adjacent to  
17 the "

18 On page 1, line 9, of the Introduced bill, after "municipality" delete " that owns and operates  
19 its own electric utility"

20 On page 1, line 9, of the Introduced bill, after "utility." insert " The review does not require  
21 any electric utility to provide information that involves critical infrastructure under federal standards,  
22 that would be exempt from disclosure under § 1-27-1. 5(8), or that would require discussing  
23 marketing or pricing strategies when public discussion may be harmful to the competitive position  
24 of the utility."

25 On page 1, line 12, of the Introduced bill, delete " file" and insert " maintain"

26 On page 1, line 12, of the Introduced bill, after "minutes" delete " with the commission"

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

28 Also MR. PRESIDENT:

29 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
30 consideration **HB 1016** and returns the same with the recommendation that said bill do pass, and  
31 having been certified as uncontested, be placed on the consent calendar.

32  
33

Respectfully submitted,  
Jim Stalzer, Chair

1 MR. PRESIDENT:

2 The Committee on Senate Education respectfully reports that it has had under consideration  
3 **SB 59** which was tabled.

4 Respectfully submitted,  
5 R. Blake Curd, Chair

6 MR. PRESIDENT:

7 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
8 **SB 71** and returns the same with the recommendation that said bill do pass.

9 Also MR. PRESIDENT:

10 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
11 **SB 47** and returns the same with the recommendation that said bill be amended as follows:

12 47A

13 On page 3, line 15, of the Introduced bill, after the end of the last paragraph insert "

14 **Section 3.** That § 22-24B-19 be AMENDED:

15 22-24B-19. Criteria for removal from registry as Tier I offender.

16 To be eligible for removal from the registry as a Tier I offender, the petitioner shall show, by  
17 clear and convincing evidence, that all of the following criteria have been met:

18 (1) At least five years have elapsed since the date the petitioner first registered pursuant to  
19 this chapter;

20 (2) The crime requiring registration was for:

21 (a) Statutory rape under subdivision 22-22-1(5), or an attempt to commit statutory  
22 rape under subdivision 22-22-1(5), but only if the petitioner was twenty-one years  
23 of age or younger at the time the offense was committed or attempted;

24 (b) A juvenile adjudication for a sex crime as defined in subdivision 22-24B-1(1);

25 (c) Sexual contact under § 22-22-7 if the victim was between the ages of thirteen  
26 and sixteen and the petitioner was at least three years older than the victim, but  
27 only if the petitioner was twenty-one years of age or younger at the time the  
28 offense was committed;

29 (d) Felony use or dissemination of visual recording or photographic device without  
30 consent under § 22-21-4; or

31 (e) An out-of-state, federal or court martial offense that is comparable to the  
32 elements of the crimes listed in (a), (b), or (c);

33 (3) The circumstances surrounding the crime requiring registration did not involve a child  
34 under the age of thirteen;

35 (4) The petitioner is not a recidivist sex offender;

1 (5) The petitioner has substantially complied in good faith with the registration and re-  
2 registration requirements imposed under chapter 22-24B; and

3 (6) Petitioner demonstrates to the satisfaction of the court that he or she does not pose a  
4 risk or danger to the community.

5 For purposes of this section, any period of time during which the petitioner was incarcerated or  
6 during which the petitioner was confined in a mental health facility does not count toward the five-  
7 year calculation, regardless of whether such incarceration or confinement was for the sex offense  
8 requiring registration or for some other offense.

9 "On page 3, line 17, after the end of the last paragraph insert "

10 **Section 4.** That § 22-21-4 be AMENDED:

11 22-21-4. Use or dissemination of visual recording or photographic device--Violation as  
12 misdemeanor or felony.

13 No person may use or disseminate in any form any visual recording or photographic device to  
14 photograph or visually record any other person without clothing or under or through the clothing,  
15 or with another person depicted in a sexual manner, for the purpose of viewing the body of, or the  
16 undergarments worn by, that other person, without the consent or knowledge of that other person,  
17 with the intent to self-gratify, to harass, or embarrass and invade the privacy of that other person,  
18 under circumstances in which the other person has a reasonable expectation of privacy. A violation  
19 of this section is a Class 1 misdemeanor. However, a violation of this section is a Class 6 felony if  
20 the victim is seventeen years of age or younger and the perpetrator is at least twenty-one years of  
21 age at the time the photograph or recording is made.

22 "

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

24 Also MR. PRESIDENT:

25 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
26 **SB 73** and returns the same with the recommendation that said bill be amended as follows:

27 73B

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

29 "

30 **Section 1.** That a NEW SECTION be added:

31 21-37-5.2. Notice and open court requirements--Exception--Name change of victims--Sealed  
32 records.

33 The court may grant an order changing the name of a person without publication of notice or  
34 a hearing in open court if all of the following conditions are met:

35 (1) It appears from the pleadings that the petitioner has been a resident of the county  
36 in which the petition is filed for at least six months;

37 (2) The petitioner is a victim of human trafficking, domestic abuse, or child abuse;

38 (3) That sufficient basis exists to grant an exception to §§ 21-23-4 and 21-37-5;

39 (4) That the pleadings disclose if the petitioner has a protection order or restraining  
40 order; and

1 (5) It appears to the court that the name change is in the petitioner’s best interests.

2 If good cause exists, the court may order all records regarding the petition and order be sealed.  
3 The records shall only be opened by a court order based upon showing good cause or at the  
4 petitioner’s request.

5 73C

6 On the previously adopted amendment (73B), On page 1, line 11, delete "§§ 21-23-4 " and  
7 insert "§§ 21-37-4 "

8 On the previously adopted amendment (73B), On page 1, line 13, after "order; " delete "and"

9 On the previously adopted amendment (73B), On page 1, line 14, after "interests" insert "  
10 and

11 (6) The court finds that the name change is not done for the purposes of fraud"

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

14 Respectfully submitted,  
15 Lance Russell, Chair

16 **MESSAGES FROM THE HOUSE**

17 Mr. PRESIDENT:

18 I have the honor to transmit herewith **HB 1023, 1055, 1057, and 1061** which have passed  
19 the House and your favorable consideration is respectfully requested.

20 Respectfully,  
21 Mary Lou Goehring, Chief Clerk

22 **MOTIONS AND RESOLUTIONS**

23 **SCR 603:** A CONCURRENT RESOLUTION, Recognizing June 5, 2020, as Gun Safety Awareness  
24 Day.

25 Introduced by: **Senator** Nesiba

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

27 Sen. Langer moved that **SB 4, 20, 26, 56, and 74** be deferred to Tuesday, February 4, 2020,  
28 the 13<sup>th</sup> legislative day.

29 Which motion prevailed.

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**CONSIDERATION OF REPORTS OF COMMITTEES**

2

Sen. Langer moved that the report of the Standing Committee on

3

Agriculture and Natural Resources on **SB 24** as found on page 97 of the Senate Journal be adopted.

4

5

Which motion prevailed and the report was adopted.

6

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

7

The President declared that **SB 77 and 86** were withdrawn at the request of the prime sponsors pursuant to Joint Rule 6B-1.1.

8

9

**SB 104:** FOR AN ACT ENTITLED, An Act to limit entitlement to mechanics' liens.

10

Introduced by: **Senator** Cammack

11

**SB 108:** FOR AN ACT ENTITLED, An Act to revise the time period allowable for certain covenants not to compete.

12

13

Introduced by: **Senator** Brock Greenfield

14

**SB 119:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding private placement insurance.

15

16

Introduced by: **Senator** Schoenbeck

17

**SB 129:** FOR AN ACT ENTITLED, An Act to prohibit the cancellation or nonrenewal of a health insurance policy for a preexisting condition.

18

19

Introduced by: **Senator** Heinert

20

**SB 139:** FOR AN ACT ENTITLED, An Act to revise provisions regarding replacement nursing facilities.

21

22

Introduced by: **Senator** Steinhauer

23

**SB 146:** FOR AN ACT ENTITLED, An Act to revise provisions related to tribal identification cards.

24

25

Introduced by: **Senator** Heinert

26

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

27

**SB 116:** FOR AN ACT ENTITLED, An Act to establish requirements certain state entities must follow when applying for federal grants.

28

29

Introduced by: **Senator** Stalzer

1 **SB 118:** FOR AN ACT ENTITLED, An Act to revise certain educational programs and promote  
2 efficiency in state government and to make an appropriation therefor.

3 Introduced by: **Senator** Wiik

4 **SB 127:** FOR AN ACT ENTITLED, An Act to transfer certain funds, make an appropriation to  
5 provide horse racing relays, and to declare an emergency.

6 Introduced by: **Senator** Heinert

7 **SB 130:** FOR AN ACT ENTITLED, An Act to to revise certain health programs and make an  
8 appropriation therefor.

9 Introduced by: **Senator** Wiik

10 **SB 131:** FOR AN ACT ENTITLED, An Act to enhance educational opportunities regarding the  
11 Board of Regents and promote efficiency in state government and to make an appropriation therefor.

12 Introduced by: **Senator** Wiik

13 **SB 132:** FOR AN ACT ENTITLED, An Act to accommodate legislation enhancing health care.

14 Introduced by: **Senator** Maher

15 **SB 133:** FOR AN ACT ENTITLED, An Act to revise certain provisions to enhance and promote  
16 South Dakota and to make an appropriation therefor.

17 Introduced by: **Senator** Wiik

18 **SB 134:** FOR AN ACT ENTITLED, An Act to accommodate legislation enhancing education.

19 Introduced by: **Senator** Maher

20 **SB 142:** FOR AN ACT ENTITLED, An Act to establish certain restrictions regarding the state  
21 subsidized dual credit program.

22 Introduced by: **Senator** Brock Greenfield

23 **SB 143:** FOR AN ACT ENTITLED, An Act to establish certain restrictions regarding funds from  
24 the state subsidized dual credit program for certain students.

25 Introduced by: **Senator** Brock Greenfield

26 **SB 144:** FOR AN ACT ENTITLED, An Act to establish certain restrictions regarding participation  
27 in the state subsidized dual credit program for certain students.

28 Introduced by: **Senator** Brock Greenfield

29 **SJR 502:** A JOINT RESOLUTION, Proposing and submitting to the electors at the next general  
30 election, an amendment to Article XII of the Constitution of the State of South Dakota, relating to  
31 the creation and administration of the pooled local investment fund.

32 Introduced by: **Senator** Partridge

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

1 **SB 117:** FOR AN ACT ENTITLED, An Act to require the Department of Education to establish  
2 certain programs for children who are deaf and hard-of-hearing.

3 Introduced by: **Senator** Nesiba

4 **SB 123:** FOR AN ACT ENTITLED, An Act to make an appropriation for the Literacy Intervention  
5 Program.

6 Introduced by: **Senator** Brock Greenfield

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

8 **SB 109:** FOR AN ACT ENTITLED, An Act to provide protections for health care decisions  
9 governed by conscience.

10 Introduced by: **Senator** Stalzer

11 **SB 136:** FOR AN ACT ENTITLED, An Act to authorize certain witnesses to be accompanied by  
12 a certified therapeutic dog in a criminal proceeding.

13 Introduced by: **Senator** Soholt

14 **SB 145:** FOR AN ACT ENTITLED, An Act to recalculate abatement of the basic child support  
15 obligation.

16 Introduced by: **Senator** Phil Jensen

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

18 **SB 114:** FOR AN ACT ENTITLED, An Act to require an incentive program to provide diversion  
19 opportunities for certain substance abuse offenses.

20 Introduced by: **Senator** Kennedy

21 **SB 115:** FOR AN ACT ENTITLED, An Act to revise the penalty for the ingestion of certain  
22 controlled substances.

23 Introduced by: **Senator** Kennedy

24 **SB 120:** FOR AN ACT ENTITLED, An Act to establish exceptions regarding the possession of a  
25 pistol by a minor.

26 Introduced by: **Senator** Stalzer

27 **SB 121:** FOR AN ACT ENTITLED, An Act to revise parenting guidelines and repeal Supreme  
28 Court authority to promulgate guidelines.

29 Introduced by: **Senator** Russell

30 **SB 126:** FOR AN ACT ENTITLED, An Act to provide civil remedies for certain construction  
31 permits issued by the Public Utilities Commission.

32 Introduced by: **Senator** Heinert



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1       **SB 138:** FOR AN ACT ENTITLED, An Act to amend parole provisions regarding life sentences.

2       Introduced by: **Senator** Rusch

3       **SB 148:** FOR AN ACT ENTITLED, An Act to adopt the Uniform Power of Attorney Act.

4       Introduced by: **Senator** Partridge

5       Were read the first time and referred to the Committee on Judiciary.

6       **SB 135:** FOR AN ACT ENTITLED, An Act to increase the bid limit for certain public  
7 improvements.

8       Introduced by: **Senator** Soholt

9       **SB 137:** FOR AN ACT ENTITLED, An Act to revise provisions for repair, replacement, and  
10 construction of sidewalks within a municipality.

11       Introduced by: **Senator** Schoenfish

12       **SJR 501:** A JOINT RESOLUTION, Proposing and submitting to the voters an amendment to  
13 the Constitution of the State of South Dakota, providing for wagering on sporting events and to  
14 revise provisions regarding certain municipal proceeds of gaming revenues.

15       Introduced by: **Senator** Ewing

16       Were read the first time and referred to the Committee on Local Government.

17       **SB 124:** FOR AN ACT ENTITLED, An Act to to revise provisions regarding group pheasant hunts  
18 for disabled veterans.

19       Introduced by: **Senator** Lake

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

21       **SB 103:** FOR AN ACT ENTITLED, An Act to limit the disclosure of presidential election results  
22 and to provide for a suspension of such disclosure.

23       Introduced by: **Senator** Stalzer

24       **SB 105:** FOR AN ACT ENTITLED, An Act to accommodate legislation enhancing education.

25       Introduced by: **Senator** Bolin

26       **SB 106:** FOR AN ACT ENTITLED, An Act to accommodate legislation enhancing health care.

27       Introduced by: **Senator** Bolin

1 **SB 107:** FOR AN ACT ENTITLED, An Act to accommodate legislation enhancing basic  
2 government services in the state.

3 Introduced by: **Senator** Bolin

4 **SB 110:** FOR AN ACT ENTITLED, An Act to permit the Department of Revenue to disclose tax  
5 returns and tax return information to the Legislative Research Council in certain circumstances.

6 Introduced by: **Senator** Nesiba

7 **SB 112:** FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding initiated  
8 measures.

9 Introduced by: **Senator** Nesiba

10 **SB 128:** FOR AN ACT ENTITLED, An Act to revise entities who may contribute to a political  
11 committee.

12 Introduced by: **Senator** Heinert

13 **SB 140:** FOR AN ACT ENTITLED, An Act to provide for the resolution of alleged certain disability  
14 violations.

15 Introduced by: **Senator** Novstrup

16 **SB 141:** FOR AN ACT ENTITLED, An Act to designate the Bobolink as the official songbird of  
17 South Dakota.

18 Introduced by: **Senator** Wismer

19 **SB 147:** FOR AN ACT ENTITLED, An Act to prohibit collective bargaining by certain employees  
20 of the Board of Regents.

21 Introduced by: **Senator** Langer

22 Were read the first time and referred to the Committee on State Affairs.

23 **SB 111:** FOR AN ACT ENTITLED, An Act to exclude certain wind energy tax revenue from the  
24 state aid to education formula.

25 Introduced by: **Senator** Wiik

26 **SB 122:** FOR AN ACT ENTITLED, An Act to impose a severance tax on the quarrying of certain  
27 minerals.

28 Introduced by: **Senator** Maher

29 **SB 125:** FOR AN ACT ENTITLED, An Act to revise provisions regarding the exemption from  
30 taxation of certain substances used for agricultural purposes.

31 Introduced by: **Senator** Lake

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

1 **SB 113:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding instruction  
2 permits and restricted minor's driving permits.

3 Introduced by: **Senator** Soholt

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

5 The following bills were read on January 29, 2020, and today the President assigned these bills  
6 to committees:

7 **SB 101** was referred to the Committee on Commerce and Energy.

8 **SB 102** was referred to the Committee on State Affairs.

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

10 **HB 1023:** FOR AN ACT ENTITLED, An Act to permit the secretary of revenue to issue cease  
11 and desist orders and to impose a civil penalty on certain public auctions.

12 **HB 1061:** FOR AN ACT ENTITLED, An Act to exempt vehicles owned by improvement districts  
13 from certain vehicle registration fees.

14 Were read the first time and referred to the Committee on Transportation.

15 **HB 1055:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the termination  
16 of a political committee under certain circumstances.

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

18 **HB 1057:** FOR AN ACT ENTITLED, An Act to prohibit certain acts against children and provide  
19 a penalty therefor.

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

21 **SECOND READING OF CONSENT CALENDAR ITEMS**

22 Pursuant to Senate Rule 6-1, the President removed **SB 52** from the Consent Calendar.

23 **SB 69:** FOR AN ACT ENTITLED, An Act to revise the penalty for the misuse of emblem specialty  
24 plates on motor vehicles.

25 Was read the second time.

26 The question being "Shall **SB 69** pass?"

27 And the roll being called:

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

1 Yeas:  
2 Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert,  
3 Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten,  
4 Partridge, Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, White,  
5 Wiik, Wismer, and Youngberg

6 Excused:  
7 Sutton

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

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

11 **SB 54:** FOR AN ACT ENTITLED, An Act to regulate the use of auxiliary containers.

12 Was read the second time.

13 The question being "Shall **SB 54** pass?"

14 And the roll being called:

15 Yeas 22, Nays 12, Excused 1, Absent 0

16 Yeas:  
17 Blare, Bolin, Cammack, Castleberry, Ewing, Brock Greenfield, Phil Jensen, Klumb, Kolbeck,  
18 Lake, Langer, Maher, Monroe, Novstrup, Partridge, Russell, Schoenbeck, Schoenfish, Stalzer, White,  
19 Wiik, and Youngberg

20 Nays:  
21 Curd, Duhamel, Foster, Heinert, Kennedy, Nesiba, Ernie Otten, Rusch, V. J. Smith, Soholt,  
22 Steinhauer, and Wismer

23 Excused:  
24 Sutton

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

## 27 **SIGNING OF BILLS**

28 The President publicly read the title to

29 **HB 1005:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the use of  
30 telehealth technologies.

31 **HB 1049:** FOR AN ACT ENTITLED, An Act to establish a maximum on the number of words  
32 contained in a statement of a proponent or opponent for the ballot question pamphlet.

33 **HB 1052:** FOR AN ACT ENTITLED, An Act to change a reference from a secondary election to  
34 a runoff election to maintain consistency in terms.

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

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1 Sen. Foster moved that the Senate do now adjourn, which motion prevailed and at 1:49 p.m.  
2 the Senate adjourned.

3

Kay Johnson, Secretary

