JOURNAL OF THE SENATE

NINETY-FIFTH SESSION

THIRTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, February 04, 2020

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor Jake Krahn, followed by the Pledge of Allegiance led by Senate page Julia K. Russell.

Roll Call: All members present except Sens. Castleberry, Partridge, and Soholt who were 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 twelfth 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,
Brock L. Greenfield, Chair

Which motion prevailed.

11 copies were printed on recycled paper by the South Dakota Legislative Research Council at a cost of $.066 per page.

COMMUNICATIONS AND PETITIONS

February 3, 2020

The Honorable Larry Rhoden
President of the Senate
500 East Capitol Avenue
Pierre, SD 57501

Dear Mr. President and Members of the Senate:

Pursuant to the provisions of Article IV, Section 9, of the Constitution, and subject to your consent, I am honored to inform you that I have appointed Shawnie Rechtenbaugh, of Hughes County, Pierre, South Dakota, to the position of Secretary of the Department of Human Services.

This appointment was effective May 9, 2019.

Sincerely,
Kristi Noem
Governor

The President announced the referral of the appointment to the Committee on Health and Human Services.

February 3, 2020

The Honorable Larry Rhoden
President of the Senate
500 East Capitol Avenue
Pierre, SD 57501

Dear Mr. President and Members of the Senate:

Pursuant to the provisions of Article IV, Section 9, of the Constitution, and subject to your consent, I am honored to inform you that I have appointed Dr. Benjamin Jones, of Lincoln County, Sioux Falls, South Dakota, to the position of Secretary of the Department of Education.

This appointment was effective May 7, 2019.

Sincerely,
Kristi Noem
Governor

The President announced the referral of the appointment to the Committee on Education.

January 13, 2020

The Honorable Larry Rhoden
President of the Senate
State Capitol
Pierre, SD 57501

Dear President and Members of the Senate:

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

This appointment is effective January 21, 2020, and shall continue until January 15, 2024.

Sincerely,
Kristi Noem
Governor

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

January 12, 2020

The Honorable Larry Rhoden
President of the Senate
State Capitol
Pierre, SD 57501

Dear President and Members of the Senate:

Pursuant to the provisions of Section 42-7A-17 of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have reappointed Joseph F. Kafka, of Minnehaha County, Valley Springs, South Dakota, to the South Dakota Lottery Commission.

This appointment is effective January 7, 2020, and shall continue until January 1, 2023.

Sincerely,
Kristi Noem
Governor

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

January 12, 2020

The Honorable Larry Rhoden
President of the Senate
State Capitol
Pierre, SD 57501

Dear President and Members of the Senate:

Pursuant to the provisions of Chapter 1-45 of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have appointed Julie Westra, Lincoln County, Sioux Falls, South Dakota, to the South Dakota Board of Education Standards.

This appointment is effective January 7, 2020, and shall continue until December 31, 2023.

Sincerely,
Kristi Noem
Governor

The President announced the referral of the appointment to the Committee on Education.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 51** which was tabled.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 82** which was deferred to the 41st Legislative Day.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 89** and returns the same with the recommendation that said bill be amended as follows:

89A

On page 1, line 6, of the Introduced bill, after "and" insert " victims"

And that as so amended, said bill do pass.

Respectfully submitted,
Lance Russell, Chair

MR. PRESIDENT:

The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration the nomination of David Emery of Pennington County, Rapid City, South Dakota, to the Board of Economic Development and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

Also MR. PRESIDENT:

The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration the nomination of James Yunag of Minnehaha County, Sioux Falls, South Dakota, to the Board of Economic Development and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

Also MR. PRESIDENT:

The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration the nomination of Tina VanCamp of Stanley County, Fort Pierre, South Dakota, to the South Dakota Building Authority and returns the same with the recommendation that the Senate advise and consent to the confirmation of said reappointment, and that said reappointment be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration the nomination of Theodore H. Hustead of Pennington County, Wall, South Dakota, to the Board of Economic Development and returns the same with the recommendation that the Senate advise and consent to the confirmation of said reappointment, and that said reappointment be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration **HB 1018** and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration **HB 1015 and 1017** and returns the same with the recommendation that said bills do pass, and having been certified as uncontested, be placed on the consent calendar.

Respectfully submitted,
Jim Stalzer, Chair

MR. PRESIDENT:

The Committee on Senate Agriculture and Natural Resources respectfully reports that it has had under consideration **SB 75** and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Senate Agriculture and Natural Resources respectfully reports that it has had under consideration **SCR 601** and returns the same with the recommendation that said resolution be amended as follows:

SCR601B

On the Introduced bill, delete everything after the title and insert:

"

<u>WHEREAS, in 2002, Congress amended the Agricultural Marketing Act of 1946 to require that retailers notify customers purchasing covered commodities, including beef and pork, of the commodities' origin, by means of a "Country of Origin Label" (COOL); and</u>

WHEREAS, the COOL requirements were not applicable to restaurants, cafeterias, or processed foods; and

WHEREAS, the COOL requirements were designed to provide retailers with flexible labeling options that included bands, placards, pin tags, signs, stickers, and twist ties, for conveying the information in a legible form and in a conspicuous manner; and

WHEREAS, in May 2015, based on complaints from Canada and Mexico, the World Trade Organization determined that COOL violated United States trade obligations and threatened to impose retaliatory duties of $1.1 billion, unless this country removed the requirement that covered commodities, including beef and pork, be sold with a COOL; and

WHEREAS, in December 2015, Congress removed mandatory COOL requirements for muscle cut beef and pork, and for ground beef and pork; and

WHEREAS, the United States-Mexico-Canada Agreement ultimately did not include COOL:

NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-Fifth Legislature of the State of South Dakota, the House of Representatives concurring therein, that the Legislature urgently requests the President of the United States and the United States Trade Representative to negotiate and execute agreements, with Canada and Mexico, which will remove trade barriers to COOL; and

BE IT FURTHER RESOLVED, that the secretary of the Senate transmit copies of this resolution to the President of the United States, the speaker and clerk of the United States House of Representatives, the president pro tempore and secretary of the United States Senate, and to the members of the South Dakota Congressional delegation.

"

And that as so amended, said resolution do pass.

Respectfully submitted,
Gary L. Cammack, Chair

MR. PRESIDENT:

The Committee on Senate Education respectfully reports that it has had under consideration **SB 88** which was tabled.

Also MR. PRESIDENT:

The Committee on Senate Education respectfully reports that it has had under consideration the nomination of Bob Faehn of Codington County, Watertown, South Dakota, to the South Dakota Board of Technical Education and returns the same with the recommendation that the Senate advise and consent to the confirmation of said reappointment, and that said reappointment be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Senate Education respectfully reports that it has had under consideration the nomination of Scott Peterson of Butte County, Belle Fourche, South Dakota, to the South Dakota Board of Technical Education and returns the same with the recommendation that the Senate advise and consent to the confirmation of said reappointment, and that said reappointment be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Senate Education respectfully reports that it has had under consideration the nomination of Doug Ekeren of Yankton County, Yankton, South Dakota, to the South Dakota Board of Technical Education and returns the same with the recommendation that the Senate advise and consent to the confirmation of said reappointment, and that said reappointment be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Senate Education respectfully reports that it has had under consideration **HB 1030** and returns the same with the recommendation that said bill do pass.

Respectfully submitted,
R. Blake Curd, Chair

MESSAGES FROM THE HOUSE

Mr. PRESIDENT:

I have the honor to transmit herewith **HB 1006, 1039, 1040, and 1063** which have passed the House and your favorable consideration is respectfully requested.

Respectfully,
Mary Lou Goehring, Chief Clerk

MOTIONS AND RESOLUTIONS

Sen. Langer moved that **SB 20, 26, 56, and 74** be deferred to Wednesday, February 5, 2020, the 14th legislative day.

Which motion prevailed.

Sen. Langer moved that **SB 4** be deferred to Thursday, February 6, 2020, the 15th legislative day.

Which motion prevailed.

CONSIDERATION OF REPORTS OF COMMITTEES

Sen. Langer moved that the reports of the Standing Committees on

Commerce and Energy on **SB 83** as found on page 112 of the Senate Journal; also

Judiciary on **SB 47** as found on page 113 of the Senate Journal; also

Judiciary on **SB 73** as found on page 114 of the Senate Journal be adopted.

Which motion prevailed and the reports were adopted.

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

SB 149: FOR AN ACT ENTITLED, An Act to revise provisions regarding emblem specialty plates.

Introduced by: **Senator** Ernie Otten

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

SB 150: FOR AN ACT ENTITLED, An Act to revise nonresident waterfowl licensure.

Introduced by: **Senator** Cammack

Was read the first time.

The President declared that **SB 87 and 93** were withdrawn at the request of the prime sponsors pursuant to Joint Rule 6B-1.1.

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

HB 1006: FOR AN ACT ENTITLED, An Act to authorize the secretary of revenue to contract with certain entities for purposes of creating or maintaining a database to determine agricultural income value and to specify the mandatory and permissive data of the database.

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

HB 1039: FOR AN ACT ENTITLED, An Act to revise the rule-making authority of the Human Resources Commissioner regarding the drug screening program for certain state employees.

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

HB 1040: FOR AN ACT ENTITLED, An Act to increase the frequency of background investigations for certain state employees.

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

HB 1063: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the purchase, distribution, and sale of tobacco products to persons under the age of twenty-one.

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

SECOND READING OF CONSENT CALENDAR ITEMS

HB 1016: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding money transmission.

Was read the second time.

The question being "Shall **HB 1016** pass?"

And the roll being called:

Yeas 32, Nays 0, Excused 3, Absent 0

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

Excused:
Castleberry, Partridge, and Soholt

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

SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS

SB 52: FOR AN ACT ENTITLED, An Act to create a state seal specialty plate emblem.

Was read the second time.

The question being "Shall **SB 52** pass?"

And the roll being called:

Yeas 31, Nays 1, Excused 3, Absent 0

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

Nays:
Klumb

Excused:
Castleberry, Partridge, and Soholt

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

SB 71: FOR AN ACT ENTITLED, An Act to revise the offenses for which an order for interception of communications may be granted.

Was read the second time.

The question being "Shall **SB 71** pass?"

And the roll being called:

Yeas 30, Nays 2, Excused 3, Absent 0

Yeas:
Blare, Bolin, Cammack, Curd, Duhamel, Ewing, Brock Greenfield, Heinert, Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Novstrup, Ernie Otten, Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton, White, Wiik, Wismer, and Youngberg

Nays:
Foster and Nesiba

Excused:
Castleberry, Partridge, and Soholt

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

COMMEMORATIONS

SC 801: A LEGISLATIVE COMMEMORATION, Celebrating and honoring Tabor's Annual Czech Days festivities on the occasion of its seventy-second Anniversary.

Introduced by: Senators Schoenfish, Bolin, Castleberry, Curd, Duhamel, Ewing, Heinert, Kennedy, Klumb, Kolbeck, Lake, Langer, Nesiba, Novstrup, Ernie Otten, Partridge, Rusch, Schoenbeck, V. J. Smith, Soholt, Stalzer, White, Wiik, and Wismer and **Representatives** Kent Peterson, Bartels, Barthel, Beal, Bordeaux, Borglum, Chaffee, Cwach, Dennert, Duba, Duvall, Finck, Goodwin, Gosch, Lana Greenfield, Hammock, Healy, Howard, Hunhoff, Kevin Jensen, Johns, Chris Johnson, Koth, McCleerey, Mills, Miskimins, Olson, Herman Otten, Overweg, Sue Peterson, Pischke, Qualm, Rasmussen, Reed, Reimer, Rounds, Jamie Smith, Steele, Willadsen, and Zikmund

Was read the first time.

Sen. White moved that the Senate do now adjourn, which motion prevailed and at 2:42 p.m. the Senate adjourned.

Kay Johnson, Secretary