

# *JOURNAL OF THE SENATE*

## *NINETY-FIFTH SESSION*

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NINETEENTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Wednesday, February 12, 2020

The Senate convened at 2:00 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 pages Victoria Donovan and Hunter Eide.

Roll Call: All members present except Sen. Curd who was excused.

The oath of office was administered to Legislative Page, Hunter Eide, on February 12, 2020, by the Honorable Lieutenant Governor, Larry Rhoden.

Which was subscribed to and placed on file in the office of the Secretary of the State.

### **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 eighteenth 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.

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32 **SB 155** and returns the same with the recommendation that said bill be amended as follows:

On page 1, line 3, of the Introduced bill, after "Dakota:" insert "

**Section 1.** That § 58-17H-1 be AMENDED:

58-17H-1. Definitions.

Terms used in this chapter mean:

(1) "Adverse determination," any of the following:

(a) A determination by a health carrier or the carrier's designee utilization review organization that, based upon the information provided, a request by a covered person for a benefit under the health carrier's health benefit plan upon application of any utilization review technique does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness or is determined to be experimental or investigational and the requested benefit is therefore denied, reduced, or terminated or payment is not provided or made, in whole or in part, for the benefit;

(b) The denial, reduction, termination, or failure to provide or make payment in whole or in part, for a benefit based on a determination by a health carrier or the carrier's designee utilization review organization of a covered person's eligibility to participate in the health carrier's health benefit plan;

(c) Any prospective review or retrospective review determination that denies, reduces, terminates, or fails to provide or make payment, in whole or in part, for a benefit; or

(d) A rescission of coverage determination;

(2) "Ambulatory review," utilization review of health care services performed or provided in an outpatient setting;

(3) "Authorized representative," a person to whom a covered person has given express written consent to represent the covered person for purposes of this chapter, a person authorized by law to provide substituted consent for a covered person, a family member of the covered person or the covered person's treating health care professional if the covered person is unable to provide consent, or a health care professional if the covered person's health benefit plan requires that a request for a benefit under the plan be initiated by the health care professional. For any urgent care request, the term includes a health care professional with knowledge of the covered person's medical condition;

(4) "Case management," a coordinated set of activities conducted for individual patient management of serious, complicated, protracted, or other health conditions;

(5) "Certification," a determination by a health carrier or the carrier's designee utilization review organization that a request for a benefit under the health carrier's health benefit plan has been reviewed and, based on the information provided, satisfies the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, and effectiveness;

(6) "Clinical practice guidelines," a systematically developed statement to assist decision making by health care professionals and patient decisions about appropriate health care for specific clinical circumstances and conditions;

(7) "Clinical peer," a physician or other health care professional who holds a nonrestricted license in a state of the United States and in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review;

- 1        ~~(7)~~(8) "Clinical review criteria," the written screening procedures, decision abstracts, clinical  
2        protocols, and practice guidelines used by the health carrier to determine the medical  
3        necessity and appropriateness of health care services;
- 4        ~~(8)~~(9) "Concurrent review," utilization review conducted during a patient's hospital stay or  
5        course of treatment in a facility or other inpatient or outpatient health care setting;
- 6        ~~(9)~~(10) "Covered benefits" or "benefits," those health care services to which a covered  
7        person is entitled under the terms of a health benefit plan;
- 8        ~~(10)~~(11) "Covered person," a policyholder, subscriber, enrollee, or other individual  
9        participating in a health benefit plan;
- 10       ~~(11)~~(12) "Director," the director of the Division of Insurance;
- 11       ~~(12)~~(13) "Discharge planning," the formal process for determining, prior to discharge from  
12       a facility, the coordination and management of the care that a patient receives following  
13       discharge from a facility;
- 14       ~~(13)~~(14) "Emergency medical condition," a medical condition manifesting itself by acute  
15       symptoms of sufficient severity, including severe pain, such that a prudent layperson,  
16       who possesses an average knowledge of health and medicine, could reasonably expect  
17       that the absence of immediate medical attention, would result in serious impairment to  
18       bodily functions or serious dysfunction of a bodily organ or part, or would place the  
19       person's health or, with respect to a pregnant woman, the health of the woman or her  
20       unborn child, in serious jeopardy;
- 21       ~~(14)~~(15) "Emergency services," with respect to an emergency medical condition:
- 22                (a) A medical screening examination that is within the capability of the emergency  
23                department of a hospital, including ancillary services routinely available to the  
24                emergency department to evaluate such emergency condition; and
- 25                (b) Such further medical examination and treatment, to the extent they are within  
26                the capability of the staff and facilities at a hospital to stabilize a patient;
- 27       ~~(15)~~(16) "Facility," an institution providing health care services or a health care setting,  
28       including hospitals and other licensed inpatient centers, ambulatory surgical or treatment  
29       centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory,  
30       and imaging centers, and rehabilitation, and other therapeutic health settings;
- 31       ~~(16)~~(17) "Health care professional," a physician or other health care practitioner licensed,  
32       accredited, or certified to perform specified health services consistent with state law;
- 33       ~~(17)~~(18) "Health care provider" or "provider," a health care professional or a facility;
- 34       ~~(18)~~(19) "Health care services," services for the diagnosis, prevention, treatment, cure, or  
35       relief of a health condition, illness, injury, or disease;
- 36       ~~(19)~~(20) "Health carrier," an entity subject to the insurance laws and regulations of this  
37       state, or subject to the jurisdiction of the director, that contracts or offers to contract, or  
38       enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of  
39       the costs of health care services, including a sickness and accident insurance company,  
40       a health maintenance organization, a nonprofit hospital and health service corporation,  
41       or any other entity providing a plan of health insurance, health benefits, or health  
42       services;
- 43       ~~(20)~~(21) "Managed care contractor," a person who establishes, operates, or maintains a  
44       network of participating providers; or contracts with an insurance company, a hospital  
45       or medical service plan, an employer, an employee organization, or any other entity

- 1 providing coverage for health care services to operate a managed care plan or health  
2 carrier;
- 3 ~~(21)~~(22) "Managed care entity," a licensed insurance company, hospital or medical service  
4 plan, health maintenance organization, or an employer or employee organization, that  
5 operates a managed care plan or a managed care contractor. The term does not include  
6 a licensed insurance company unless it contracts with other entities to provide a network  
7 of participating providers;
- 8 ~~(22)~~(23) "Managed care plan," a plan operated by a managed care entity that provides for  
9 the financing or delivery of health care services, or both, to persons enrolled in the plan  
10 through any of the following:
- 11 (a) Arrangements with selected providers to furnish health care services;
- 12 (b) Explicit standards for the selection of participating providers; or
- 13 (c) Financial incentives for persons enrolled in the plan to use the participating  
14 providers and procedures provided for by the plan;
- 15 ~~(23)~~(24) "Network," the group of participating providers providing services to a health  
16 carrier;
- 17 ~~(24)~~(25) "Participating provider," a provider who, under a contract with the health carrier  
18 or with its contractor or subcontractor, has agreed to provide health care services to  
19 covered persons with an expectation of receiving payment, other than coinsurance,  
20 copayments, or deductibles, directly or indirectly, from the health carrier;
- 21 (26) "Pharmaceutical sample," a unit of a prescription drug that is not intended to be sold and  
22 is intended to promote the sale of the drug;
- 23 ~~(25)~~(27) "Prospective review," utilization review conducted prior to an admission or the  
24 provision of a health care service or a course of treatment in accordance with a health  
25 carrier's requirement that the health care service or course of treatment, in whole or in  
26 part, be approved prior to its provision;
- 27 ~~(26)~~(28) "Rescission," a cancellation or discontinuance of coverage under a health benefit  
28 plan that has a retroactive effect. The term does not include a cancellation or  
29 discontinuance of coverage under a health benefit plan if:
- 30 (a) The cancellation or discontinuance of coverage has only a prospective effect; or
- 31 (b) The cancellation or discontinuance of coverage is effective retroactively to the  
32 extent it is attributable to a failure to timely pay required premiums or  
33 contributions towards the cost of coverage;
- 34 ~~(27)~~(29) "Retrospective review," any review of a request for a benefit that is not a  
35 prospective review request, which does not include the review of a claim that is limited  
36 to veracity of documentation, or accuracy of coding, or adjudication for payment;
- 37 ~~(28)~~(30) "Second opinion," an opportunity or requirement to obtain a clinical evaluation by  
38 a provider other than the one originally making a recommendation for a proposed health  
39 care service to assess the medical necessity and appropriateness of the initial proposed  
40 health care service;
- 41 ~~(29)~~(31) "Secretary," the secretary of the Department of Health;
- 42 ~~(30)~~(32) "Stabilized," with respect to an emergency medical condition, that no material  
43 deterioration of the condition is likely, with reasonable medical probability, to result from

1 or occur during the transfer of the individual from a facility or, with respect to a pregnant  
2 woman, the woman has delivered, including the placenta;

3 ~~(31)~~(33) "Utilization review," a set of formal techniques used by a managed care plan or  
4 utilization review organization to monitor and evaluate the medical necessity,  
5 appropriateness, and efficiency of health care services and procedures including  
6 techniques such as ambulatory review, prospective review, second opinion, certification,  
7 concurrent review, case management, discharge planning, and retrospective review;

8 (34) "Step therapy override exception," a step therapy protocol should be overridden in favor  
9 of coverage of the prescription drug selected by a health care professional within the applicable time  
10 frames in § 58-17H-55 and in compliance with chapter 58-17H. This determination is based on a  
11 review of the covered person's or health care professional's request for an override, along with  
12 supporting rationale and documentation;

13 (35) "Step therapy protocol," a protocol or program that establishes a specific sequence in  
14 which prescription drugs are covered under a pharmacy or medical benefit by a health  
15 carrier, a health benefit plan, or a utilization review organization for a specified medical  
16 condition and medically appropriate for a health carrier, a health benefit plan, or  
17 utilization review organization, including self-administered drugs and drugs administered  
18 by a health care professional. and

19 ~~(32)~~(36) "Utilization review organization," an entity that conducts utilization review other  
20 than a health carrier performing utilization review for its own health benefit plans. (SL  
21 2012, ch 239, § 1 provides: "The provisions of chapter 219 of the 2011 Session Laws  
22 shall be deemed repealed if the Patient Protection and Affordable Care Act, Pub. L. No.  
23 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education  
24 Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010) is found to be  
25 unconstitutional in its entirety by a final decision of a federal court of competent  
26 jurisdiction and all appeals exhausted or time for appeals elapsed.")

27 "

28 On page 1, line 3, of the Introduced bill, after "Dakota:" insert "

29 **Section 2.** That a NEW SECTION be added:

30 58-17H-53. Step therapy protocols.

31 A health carrier, health benefit plan, or utilization review organization shall consider available  
32 recognized evidence-based and peer-reviewed clinical practice guidelines when establishing a step  
33 therapy protocol. Upon written request of a covered person, a health carrier, health benefit plan, or  
34 utilization review organization shall provide any clinical review criteria applicable to a specific  
35 prescription drug covered by the health carrier, health benefit plan, or utilization review  
36 organization.

37 "

38 On page 1, line 3, of the Introduced bill, after "Dakota:" insert "

39 **Section 3.** That a NEW SECTION be added:

40 58-17H-54. Step therapy protocols--Process--Transparency.

41 When coverage of a prescription drug for the treatment of any medical condition is restricted  
42 for use by a health carrier, health benefit plan, or utilization review organization through the use of  
43 a step therapy protocol, the covered person and the prescribing health care professional shall have  
44 access to a clear, readily accessible, and convenient process to request a step therapy override  
45 exception. A health carrier, health benefit plan, or utilization review organization may use its existing

medical exceptions process to satisfy this requirement. The process used shall be easily accessible on the internet site of the health carrier, health benefit plan, or utilization review organization.

"

On page 1, line 3, of the Introduced bill, after "Dakota:" insert "

**Section 4.** That a NEW SECTION be added:

58-17H-55. Step therapy override exceptions.

A step therapy override exception shall be approved by a health carrier, health benefit plan, or utilization review organization if any of the following circumstances apply:

(1) The prescription drug required under the step therapy protocol is contraindicated pursuant to the drug manufacturer's prescribing information for the drug or, due to a documented adverse event with a previous use or a documented medical condition, including a comorbid condition, is likely to do any of the following:

(a) Cause an adverse reaction to a covered person;

(b) Decrease the ability of a covered person to achieve or maintain reasonable functional ability in performing daily activities;

(c) Cause physical or mental harm to a covered person;

(2) The prescription drug required under the step therapy protocol is expected to be ineffective based on the known clinical characteristics of the covered person, such as the covered person's adherence to or compliance with the covered person's individual plan of care, and any of the following:

(a) The known characteristics of the prescription drug regimen as described in peer-reviewed literature or in the manufacturer's prescribing information for the drug;

(b) The health care professional's medical judgment based on clinical practice guidelines or peer-reviewed journals;

(c) The covered person's documented experience with the prescription drug regimen;

(3) The covered person has had a trial of a therapeutically equivalent dose of the prescription drug under the step therapy protocol while under the covered person's current or previous health benefit plan for a period of time to allow for a positive treatment outcome, and such prescription drug was discontinued by the covered person's health care professional due to lack of effectiveness;

(4) The covered person is currently receiving a positive therapeutic outcome on a prescription drug selected by the covered person's health care professional for the medical condition under consideration while under the covered person's current or previous health benefit plan. This subdivision may not be construed to encourage the use of a pharmaceutical sample for the sole purpose of meeting the requirements for a step therapy override exception.

Upon approval of a step therapy override exception, the health carrier, health benefit plan, or utilization review organization shall authorize coverage for the prescription drug selected by the covered person's prescribing health care professional if the prescription drug is a covered prescription drug under the covered person's health benefit plan.

Except in the case of an urgent care request, a health carrier, health benefit plan, or utilization review organization shall make a determination to approve or deny a request for a step therapy override exception within five calendar days after receipt of complete, clinically relevant written documentation supporting a step therapy override exception under subdivisions (1) through (4) of this section. In the case of an urgent care request, a health carrier, health benefit plan, or utilization

review organization shall approve or deny a request for a step therapy override exception within seventy-two hours after receipt of such documentation. If a request for a step therapy override exception is incomplete or additional clinically relevant information is required, the health carrier, health benefit plan, or utilization review organization may request such information within the applicable time period provided in this section. Once the information is submitted, the applicable time period for approval or denial shall begin again. If a health carrier, health plan, or utilization review organization fails to respond to the request for a step override exception within the applicable time, the step therapy override exception shall be deemed granted.

If a nonurgent care request for a step therapy override exception is denied, the denial is an adverse determination and the health carrier, health benefit plan, or utilization review organization shall provide notification of adverse determination pursuant to § 58-17H-32. If an urgent care request is denied, the health carrier, health benefit plan, or utilization review organization shall provide notification of adverse determination pursuant to § 58-17H-48. Any denial of a request for a step therapy override exception is subject to the grievance procedures under chapter 58-171.

"

On page 1, line 3, of the Introduced bill, after "Dakota:" insert "

**Section 5.** That a NEW SECTION be added:

58-17H-56. Limitations.

Nothing in §§ 58-17H-53 to 55-17H-56 shall be construed to prevent:

(1) A health carrier, health benefit plan, or utilization review organization from requiring a covered person to try a prescription drug with the same generic name and demonstrated bioavailability or biological product that is an interchangeable biological product pursuant to §§ 36-11-46.1 and 36-11-46.9 before providing coverage for the equivalent branded prescription drug;

(2) A health care professional from prescribing a prescription drug that is determined to be medically appropriate.

"

On page 1, line 3, of the Introduced bill, after "Dakota:" insert "

**Section 6.** That § 58-17-156 be AMENDED:

58-17-156. Policies, contracts, certificates, and plans subject to §§ 58-17-154 to 58-17-162.

Except as provided in § 58-17-155, §§ 58-17-154 to ~~through 58-17-162, inclusive,~~ apply to all individual and group health insurance policies, contracts, and certificates issued by health carriers as defined in ~~subdivision 58-17H-1(19)~~ § 58-17H-1 and self-funded nonfederal governmental plans with the exception of the state employee health plan sponsored by the State of South Dakota.

"

On page 1, line 3, of the Introduced bill, after "Dakota:" insert "

**Section 7.** Sections 58-17H-53 to 55-17H-56 only apply to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2021.

"

And that as so amended, said bill do pass.

Respectfully submitted,  
Bob Ewing, Chair



1 MR. PRESIDENT:

2 The Committee on Senate Health and Human Services respectfully reports that it has had  
3 under consideration **SB 81** and returns the same with the recommendation that said bill be amended  
4 as follows:

5 81A

6 On page 1, line 2, of the Introduced bill, delete " Education" and insert " Educational"

7 On page 5, line 29, of the Introduced bill, delete " an" and insert " any"

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

10 Also MR. PRESIDENT:

11 The Committee on Senate Health and Human Services respectfully reports that it has had  
12 under consideration **SB 152** and returns the same with the recommendation that said bill do pass.

13 Also MR. PRESIDENT:

14 The Committee on Senate Health and Human Services respectfully reports that it has had  
15 under consideration the nomination of Shawnie Rechtenbaugh of Hughes County, Pierre, South  
16 Dakota, to the position of Secretary of the Department of Human Services and returns the same  
17 with the recommendation that the Senate advise and consent to the confirmation of said  
18 appointment.

19 Respectfully submitted,  
20 Deb Sohlt, Chair

21 MR. PRESIDENT:

22 The Committee on Senate Taxation respectfully reports that it has had under consideration  
23 **SB 76 and 122** which were deferred to the 41st Legislative Day.

24 Also MR. PRESIDENT:

25 The Committee on Senate Taxation respectfully reports that it has had under consideration  
26 **HB 1020** and returns the same with the recommendation that said bill do pass, and having been  
27 certified as uncontested, be placed on the consent calendar.

28 Respectfully submitted,  
29 Jeff Monroe, Chair

30 Mr. PRESIDENT:

31 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and  
32 Enrolling has carefully compared **SB 23** and finds the same correctly enrolled.

33 Respectfully submitted,  
34 Brock L. Greenfield, Chair

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**MESSAGES FROM THE HOUSE**

MR. PRESIDENT:

I have the honor to transmit herewith **HB 1008, 1065, 1067, 1089, 1113, 1114, 1126, 1127, 1164, and 1178** which have passed the House and your favorable consideration is respectfully requested.

Also Mr. PRESIDENT:

I have the honor to transmit herewith **HCR 6003** which has been adopted by the House and your concurrence is respectfully requested.

Respectfully,  
Mary Lou Goehring, Chief Clerk

**MOTIONS AND RESOLUTIONS**

**HCR 6003:** A CONCURRENT RESOLUTION, Supporting the Electoral College.

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

Sen. Langer moved that **SB 92, and HB 1032** be deferred to Thursday, February 13, 2020, the 20<sup>th</sup> legislative day.

Which motion prevailed.

Sen. Langer moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on Thursday, February 13, 2020, the 20<sup>th</sup> legislative day.

Which motion prevailed.

**CONSIDERATION OF REPORTS OF COMMITTEES**

Sen. Langer moved that the reports of the Standing Committees on Appropriations on **SB 24** as found on page 185 of the Senate Journal; also Judiciary on **SB 46** as found on page 182 of the Senate Journal; also Judiciary on **SB 65** as found on page 183 of the Senate Journal; also Judiciary on **SB 120** as found on page 184 of the Senate Journal; also Commerce and Energy on **SB 139** as found on page 185 of the Senate Journal; also Commerce and Energy on **SB 146** as found on page 185 of the Senate Journal be adopted. Which motion prevailed and the reports were adopted.

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**CONSIDERATION OF EXECUTIVE APPOINTMENTS**

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The Senate proceeded to the consideration of the executive appointment of David Gienapp of Lake County, Madison, South Dakota, to the Government Accountability Board.

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The question being "Does the Senate advise and consent to the executive appointment of David Gienapp pursuant to the executive message as found on page 89 of the Senate Journal?"

6

And the roll being called:

7

Yeas 33, Nays 0, Excused 2, Absent 0

8

Yeas:

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

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13

Excused:

14

Curd and Youngberg

15

So the question having received an affirmative vote of a majority of the members-elect, the President declared the appointment confirmed.

16

17

Sen. Langer moved that the consideration of the appointment of Dr. Benjamin Jones be deferred to Tuesday, February 18, 2020, the 21<sup>st</sup> legislative day.

18

19

Which motion prevailed.

20

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

21

The President declared that **SB 110** was withdrawn at the request of the prime sponsor pursuant to Joint Rule 6B-1.1.

22

23

The President declared that **SB 179** changed prime sponsor at the request of the prime sponsor from Sen. Youngberg to Sen. Heinert.

24

25

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

26

**HB 1008:** FOR AN ACT ENTITLED, An Act to legalize the growth, production, and transportation of industrial hemp in the state, and to declare an emergency.

27

28

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

29

**HB 1065:** FOR AN ACT ENTITLED, An Act to revise drone surveillance protections.

30

**HB 1067:** FOR AN ACT ENTITLED, An Act to modify certain provisions regarding notice, service, and execution of judgments.

31

**HB 1089:** FOR AN ACT ENTITLED, An Act to provide for the discharge of certain persons who received a suspended imposition of sentence for a misdemeanor.

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

**HB 1113:** FOR AN ACT ENTITLED, An Act to provide for remote participation in a shareholders' meeting.

**HB 1114:** FOR AN ACT ENTITLED, An Act to authorize additional abbreviations in naming corporations, limited liability companies, and limited liability partnerships.

**HB 1126:** FOR AN ACT ENTITLED, An Act to provide authority for real estate brokers to conduct real property evaluations.

**HB 1127:** FOR AN ACT ENTITLED, An Act to revise provisions regarding real estate appraisers.

**HB 1164:** FOR AN ACT ENTITLED, An Act to codify legislation enacted in 2019.

**HB 1178:** FOR AN ACT ENTITLED, An Act to revise the seller's property condition disclosure statement.

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

#### CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS

The Senate proceeded to the consideration of the executive appointments of Charles Spring of Meade County, Union Center, South Dakota, to the Game, Fish and Parks Commission (SJ 89), and

David Koupal of Fall River County, Edgemont, South Dakota, to the State Brand Board (SJ 87), and

Hunter Roberts of Hughes County, Pierre, South Dakota, to the Secretary of the Department of Environment and Natural Resources (SJ 81), and

Lyle Spring of Meade County, Union Center, South Dakota, to the State Brand Board (SJ 87), and

The Senate proceeded to the consideration of the executive reappointments of Donald L. Kettering of Yankton County, Yankton, South Dakota, to the Board of Economic Development (SJ 84), and

Joseph F. Kafka of Minnehaha County, Valley Springs, South Dakota, to the South Dakota Lottery Commission (SJ 127), and

Scott A. Vance of Meade County, Faith, South Dakota, to the State Brand Board (SJ 96).

The question being "Does the Senate advise and consent to the executive appointments of Charles Spring, David Koupal, Hunter Roberts, and Lyle Spring, and the executive reappointments of Donald Kettering, Joseph F. Kafka, and Scott A. Vance."

And the roll being called:

Yeas 33, Nays 0, Excused 2, Absent 0

Yeas:

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

1 Excused:  
2 Curd and White

3 So the question having received an affirmative vote of a majority of the members-elect, the  
4 President declared the appointments confirmed.

5 **SECOND READING OF CONSENT CALENDAR ITEMS**

6 Sen. Russell requested that **HB 1083** be removed from the Consent Calendar.

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

8 Was read the second time.

9 The question being "Shall **SB 149** pass as amended?"

10 And the roll being called:

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

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

17 Excused:  
18 Curd

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

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

22 **SB 19**: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding marriage and  
23 family therapists.

24 Was read the second time.

25 The question being "Shall **SB 19** pass?"

26 And the roll being called:

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

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

33 Nays:  
34 Russell

1 Excused:  
2 Curd

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

5 **SB 18:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding professional  
6 counselors.

7 Was read the second time.

8 The question being "Shall **SB 18** pass as amended?"

9 And the roll being called:

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

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

16 Nays:  
17 Russell

18 Excused:  
19 Curd

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

22 **SB 26:** FOR AN ACT ENTITLED, An Act to increase the assessment of liquidated court costs  
23 and to revise the disposition of the funds collected.

24 Having had its second reading was up for reconsideration and final passage.

25 Sen. Rusch moved that **SB 26** be amended as follows:

26 26E

27 On page 1, line 1, of the Introduced bill, after "increase " insert "for one year "

28 On page 1, line 7, of the Introduced bill, remove the overstrikes from " forty"

29 On page 1, line 7, of the Introduced bill, after "forty" delete " fifty"

30 On page 1, line 12, of the Introduced bill, after "ordinances." insert "

31 For the period beginning on July 1, 2020, and ending on June 30, 2021, the liquidated costs  
32 levied under this section shall be in the amount of fifty dollars."

33 On page 1, line 21, of the Introduced bill, remove the overstrikes from " forty"

34 On page 1, line 21, of the Introduced bill, after "forty" delete " fifty"

- 
- 1 On page 1, line 22, of the Introduced bill, remove the overstrikes from " forty"
- 2 On page 1, line 22, of the Introduced bill, after "forty" delete " fifty"
- 3 On page 1, line 23, of the Introduced bill, remove the overstrikes from " forty"
- 4 On page 1, line 23, of the Introduced bill, after "forty" delete " fifty"
- 5 On page 1, line 24, of the Introduced bill, remove the overstrikes from "one dollar "
- 6 On page 1, line 24, of the Introduced bill, after "dollar " delete "eleven dollars"
- 7 On page 1, line 24, of the Introduced bill, remove the overstrikes from " forty"
- 8 On page 1, line 24, of the Introduced bill, after "forty" delete " fifty"
- 9 On page 2, line 1, of the Introduced bill, remove the overstrikes from " forty"
- 10 On page 2, line 1, of the Introduced bill, after "forty" delete " fifty"
- 11 On page 2, line 2, of the Introduced bill, after "fund." insert "
- 12 For the period beginning on July 1"
- 13 On page 2, line 1, of the Introduced bill, after "fund." insert the comma
- 14 On page 2, line 1, of the Introduced bill, after "fund." insert " 2020, and ending on June 30,
- 15 2021, the state treasurer shall place thirty dollars of the fifty dollar fee into the law enforcement
- 16 officers training fund, six dollars of the fifty dollar fee into the court appointed attorney and public
- 17 defender payment fund, two dollars of the fifty dollar fee into the court appointed special advocates
- 18 fund, eleven dollars of the fifty dollar fee into the 911 telecommunicator training fund, and one
- 19 dollar of the fifty dollar fee into the abused and neglected child defense fund."
- 20 On page 2, line 3, of the Introduced bill, after "fund." delete "Section 3. That § 23-3-53 be
- 21 AMENDED:
- 22 23-3-53. [Effective July 1, 2021] Collection by clerk of courts--Transmittal to state treasurer-
- 23 -Funds--Uses.
- 24 After a determination by the court of the amount due, the clerk of courts shall collect the
- 25 amount due and transmit such the amount monthly to the state treasurer. The state treasurer shall
- 26 place thirty thirty-seven dollars of the forty fifty dollar fee into the law enforcement officers training
- 27 fund, six dollars seven dollars and fifty cents of the forty fifty dollar fee into the court appointed
- 28 attorney and public defender payment fund, two dollars of the forty fifty dollar fee into the court
- 29 appointed special advocates fund, one dollar two dollars and fifty cents of the forty fifty dollar fee
- 30 into the 911 telecommunicator training fund, and one dollar of the forty fifty dollar fee into the
- 31 abused and neglected child defense fund.
- 32 Section 4. Section 3 of this Act is effective on July 1, 2021."
- 33 Which motion prevailed.
- 34 The question being "Shall **SB 26** pass as amended?"
- 35 And the roll being called:
- 36 Yeas 31, Nays 3, Excused 1, Absent 0

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

6 Nays:  
7 Phil Jensen, Russell, and Wismer

8 Excused:  
9 Curd

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

12 **SB 90:** FOR AN ACT ENTITLED, An Act to revise the distribution of motor fuel tax revenue,  
13 create a small structure and large culvert fund, provide for the use and administration of the fund,  
14 and to make an appropriation thereof.

15 Was read the second time.

16 The question being "Shall **SB 90** pass as amended?"

17 And the roll being called:

18 Yeas 18, Nays 16, Excused 1, Absent 0

19 Yeas:  
20 Blare, Ewing, Foster, Brock Greenfield, Heinert, Phil Jensen, Klumb, Kolbeck, Langer, Maher,  
21 Nesiba, Novstrup, Rusch, Russell, Schoenfish, V. J. Smith, Steinhauer, and Wismer

22 Nays:  
23 Bolin, Cammack, Castleberry, Duhamel, Kennedy, Lake, Monroe, Ernie Otten, Partridge,  
24 Schoenbeck, Soholt, Stalzer, Sutton, White, Wiik, and Youngberg

25 Excused:  
26 Curd

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

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

31 Was read the second time.

32 Sen. Schoenfish moved that **SB 137** be amended as follows:

33 137A

34 On page 2, line 26, of the Introduced bill, after "sidewalk" insert " commensurate with the  
35 benefit to the property"

36 On page 4, line 5, of the Introduced bill, delete "§§ 9-43-81 through 9-43-139 " and insert  
37 "chapter 9-43 "



1 Which motion prevailed.

2 The question being "Shall **SB 137** pass as amended?"

3 And the roll being called:

4 Yeas 32, Nays 0, Excused 3, Absent 0

5 Yeas:

6 Blare, Bolin, Cammack, Castleberry, Duhamel, Ewing, Foster, Brock Greenfield, Heinert, Phil  
7 Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten,  
8 Partridge, Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton, White,  
9 Wiik, and Wismer

10 Excused:

11 Curd, Soholt, and Youngberg

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

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

16 Was read the second time.

17 Sen. Stalzer moved that **SB 103** be amended as follows:

18 103B

19 On page 1, line 9, of the Introduced bill, after "president" insert " or vice president of the  
20 United States"

21 On page 1, line 13, of the Introduced bill, delete "Unless a recount has been requested pursuant  
22 to chapter 12-21, no " and insert "An "

23 On page 1, line 15, of the Introduced bill, after "the " insert "unofficial "

24 On page 1, line 15, of the Introduced bill, after "president" insert " or vice president"

25 On page 1, line 15, of the Introduced bill, delete " until after the time set by law for the meeting  
26 and voting of presidential electors has passed in all states" and insert " provided that the certified  
27 copy of the official county canvass and the abstract by state canvassers of county returns are publicly  
28 released in accordance with §§ 12-20-38.1 and 12-20-48"

29 On page 2, line 1, of the Introduced bill, after "districts." insert "

30 **Section 8.** That § 12-20-38.1 be AMENDED:

31 12-20-38.1. Certified copy of official county canvass furnished to secretary of state--  
32 Permanent record.

33 The county auditor shall immediately transmit by mail, fax, or electronic means to the secretary  
34 of state a certified copy of the official county canvass of votes prepared pursuant to § 12-20-38  
35 which shall be used for the official state canvass. The certified copy shall bear a visible county seal.  
36 If the copy is faxed or sent by electronic means, the original certified copy shall also be mailed or  
37 hand-delivered to the secretary of state. The certified copies shall be microfilmed to become  
38 permanent records of the State of South Dakota and be kept by the secretary of state.

Neither the county auditor nor the secretary of state may publicly disclose the number of votes cast for electors for the president and vice president of the United States until after the time set by law for the meeting and voting of presidential electors has passed in all states.

"

On page 2, line 1, of the Introduced bill, after "districts." insert "

**Section 9.** That § 12-20-48 be AMENDED:

12-20-48. Abstract by state canvassers of county returns--Signature and seal--Recording and filing of abstracts.

The Board of State Canvassers shall make an abstract stating the number of votes cast for each of such officers, the names of all persons voted for, for what office they respectively received the votes, and the number of votes each received, in words at length, and stating whom they declare to be elected to each office, which abstract shall be signed by the canvassers in their official capacity and as state canvassers, and have the great seal of the state affixed.

The secretary of state shall record such abstracts in a book to be kept for recording the result of state elections, called the "election book," and also file such abstracts.

Neither the Board of State Canvassers nor the secretary of state may publicly disclose the abstract stating the number of votes cast for electors for the president and vice president of the United States until after the time set by law for the meeting and voting of presidential electors has passed in all states.

"

On page 2, line 1, of the Introduced bill, delete "Section 12-20-17. 1 " and insert "This Act "

Which motion prevailed.

Sen. Bolin moved that **SB 103** be laid on the table.

The question being on Sen. Bolin's motion that **SB 103** be laid on the table.

And the roll being called:

Yeas 32, Nays 1, Excused 2, Absent 0

Yeas:

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

Nays:

Monroe

Excused:

Curd and Soholt

So the motion having received an affirmative vote of a majority of the members-elect, the President declared the motion carried and **SB 103** was tabled.

1 Sen. Langer moved that **SB 113** be placed to follow **HB 1029** on today's calendar.

2 Which motion prevailed.

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

5 Was read the second time.

6 The question being "Shall **SB 119** pass?"

7 And the roll being called:

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

9 Yeas:

10 Bolin, Cammack, Castleberry, Duhamel, Ewing, Lake, Maher, Monroe, Novstrup, Ernie Otten,  
11 Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton, White, Wiik, and  
12 Youngberg

13 Nays:

14 Blare, Foster, Brock Greenfield, Heinert, Phil Jensen, Kennedy, Klumb, Kolbeck, Langer,  
15 Nesiba, Partridge, Russell, Soholt, and Wismer

16 Excused:

17 Curd

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 33:** FOR AN ACT ENTITLED, An Act to authorize the Department of the Military to construct  
21 a storage building located in Brown County, to make an appropriation therefor, and to declare an  
22 emergency.

23 Was read the second time.

24 The question being "Shall **SB 33** pass?"

25 And the roll being called:

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

27 Yeas:

28 Blare, Bolin, Cammack, Castleberry, Duhamel, Ewing, Foster, Brock Greenfield, Heinert, Phil  
29 Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten,  
30 Partridge, Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton,  
31 White, Wiik, Wismer, and Youngberg

32 Excused:

33 Curd

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

**SB 35:** FOR AN ACT ENTITLED, An Act to revise the appropriation for the State Veterans' Cemetery and to declare an emergency.

Was read the second time.

The question being "Shall **SB 35** pass?"

And the roll being called:

Yeas 33, Nays 0, Excused 2, Absent 0

Yeas:

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

Excused:

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

Was read the second time.

The question being "Shall **SB 124** pass?"

And the roll being called:

Yeas 34, Nays 0, Excused 1, Absent 0

Yeas:

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

Excused:

Curd

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 HOUSE BILLS AND JOINT RESOLUTIONS

**HB 1024:** FOR AN ACT ENTITLED, An Act to make an appropriation for the payment of extraordinary litigation expenses and to declare an emergency.

Was read the second time.

1 The question being "Shall **HB 1024** pass?"

2 And the roll being called:

3 Yeas 32, Nays 2, Excused 1, Absent 0

4 Yeas:

5 Blare, Bolin, Cammack, Castleberry, Duhamel, Ewing, Foster, Brock Greenfield, Heinert,  
6 Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten, Partridge,  
7 Rusch, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White, Wiik,  
8 Wismer, and Youngberg

9 Nays:

10 Phil Jensen and Russell

11 Excused:

12 Curd

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

15 **HB 1027:** FOR AN ACT ENTITLED, An Act to make an appropriation from the coordinated  
16 natural resources conservation fund to the State Conservation Commission and to declare an  
17 emergency.

18 Was read the second time.

19 The question being "Shall **HB 1027** pass?"

20 And the roll being called:

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

22 Yeas:

23 Blare, Bolin, Cammack, Castleberry, Duhamel, Ewing, Foster, Brock Greenfield, Heinert, Phil  
24 Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten,  
25 Partridge, Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton,  
26 White, Wiik, Wismer, and Youngberg

27 Excused:

28 Curd

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

31 **HB 1029:** FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to  
32 suppression of wildfires in the state and to declare an emergency.

33 Was read the second time.

34 The question being "Shall **HB 1029** pass?"

35 And the roll being called:

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

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

6 Excused:  
7 Curd

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

10 There being no objection, the Senate reverted to Order of Business No. 13 - Second Reading  
11 of Senate Bills.

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

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

15 Was read the second time.

16 Sen. Langer moved that **SB 113** be amended as follows:

17 113B

18 On page 4, line 9, of the Senate Transportation bill, after "service" insert " or meeting"

19 Which motion prevailed.

20 The question being "Shall **SB 113** pass as amended?"

21 And the roll being called:

22 Yeas 19, Nays 14, Excused 2, Absent 0

23 Yeas:  
24 Blare, Bolin, Cammack, Duhamel, Foster, Heinert, Kennedy, Nesiba, Ernie Otten, Partridge,  
25 Rusch, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Steinhauer, White, Wismer, and Youngberg

26 Nays:  
27 Castleberry, Ewing, Brock Greenfield, Phil Jensen, Klumb, Kolbeck, Lake, Langer, Maher,  
28 Monroe, Novstrup, Russell, Sutton, and Wiik

29 Excused:  
30 Curd and Stalzer

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

---

**SIGNING OF BILLS**

1

2

The President publicly read the title to

3

4

**SB 23:** FOR AN ACT ENTITLED, An Act to repeal the high school graduation or equivalent requirement for certain licensed professionals.

5

6

7

**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.

8

9

**HB 1022:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding dealer licenses for motor vehicle, snowmobile, and boat sales.

10

11

**HB 1038:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding manufactured home construction and safety standards.

12

And signed the same in the presence of the Senate.

13

14

Sen. Cammack moved that the Senate do now adjourn, which motion prevailed and at 4:24 p.m. the Senate adjourned.

15

Kay Johnson, Secretary

