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

The prayer was offered by the Chaplain, Deacon Kris Wollman, followed by the Pledge of Allegiance led by Senate page Abraham Scharles.

Roll Call: All members present except Sen. Ewing 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 twenty-first 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.
February 11, 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 1-16J of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have reappointed Galen Niederwerder, Pennington County, New Underwood, South Dakota, to the South Dakota Ellsworth Development Authority.

This appointment is effective February 6, 2020, and shall continue until January 16, 2023.

Sincerely,
Kristi Noem
Governor

The President announced the referral of the appointment to the Committee on Military and Veterans Affairs.

February 11, 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 1-16J of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have reappointed Quentin L. Riggins, Pennington County, Rapid City, South Dakota, to the South Dakota Ellsworth Development Authority.

This appointment is effective February 6, 2020, and shall continue until January 16, 2023.

Sincerely,
Kristi Noem
Governor

The President announced the referral of the appointment to the Committee on Military and Veterans Affairs.
The Committee on Senate Taxation respectfully submits the following corrected report for the committee action of February 12, 2020:

MR. PRESIDENT:

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

Also MR. PRESIDENT:

The Committee on Senate Taxation respectfully reports that it has had under consideration the nomination of Darin Seeley of Lake County, Wentworth, South Dakota, to the Commissioner of the Bureau of Human Resources and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment, and that said appointment having been certified as uncontested, be placed on the consent calendar.

Also MR. PRESIDENT:

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

Respectfully submitted,

Jeff Monroe, Chair

The Committee on Senate Judiciary respectfully submits the following corrected report for the committee action of February 18, 2020:

MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration SB 96, and HB 1047 and returns the same with the recommendation that said bills do pass.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration SB 148 and returns the same with the recommendation that said bill do pass, and having been certified as uncontested, be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration SB 176 and returns the same with the recommendation that said bill be amended as follows:

On page 1, line 12, of the Introduced bill, delete "essential " and insert "necessary ".

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

Respectfully submitted,

Lance Russell, Chair
MR. PRESIDENT:

The Committee on Senate Local Government respectfully reports that it has had under consideration SB 179 which was deferred to the 41st Legislative Day.

Also MR. PRESIDENT:

The Committee on Senate Local Government respectfully reports that it has had under consideration SB 183 and returns the same with the recommendation that said bill be amended as follows:

183A

On page 1, line 16, of the Introduced bill, after "requirements " delete "for both partisan and independent candidates "

On page 1, line 18, of the Introduced bill, delete "Fifty " and insert "For both partisan and independent candidates, fifty"

On page 1, line 20, of the Introduced bill, delete "The lesser of thirty signatures or signatures from three-quarters of a percent of the registered voters of that particular party in a district for " and insert "For "

On page 1, line 22, of the Introduced bill, after "candidate" insert ":

(a) Partisan candidate petitions shall be signed by the lesser of fifty signatures or signatures from one percent of the voters who voted for that party's gubernatorial candidate, or the party's statewide candidate receiving the highest votes if the party meets the requirement for alternative party status as defined in § 12-1-3. 1, at the last gubernatorial election in the county electing a candidate to fill the office; or

(b) Independent candidate petitions shall be signed by not less than one percent of the total combined vote for Governor at the last certified election within the county electing a candidate to fill the office"

On page 1, line 23, of the Introduced bill, delete "The lesser of fifteen signatures or half " and insert "Half "

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

Also MR. PRESIDENT:

The Committee on Senate Local Government respectfully reports that it has had under consideration HB 1048, 1086, and 1120 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,

Phil Jensen, Chair

MR. PRESIDENT:

The Committee on Senate Retirement Laws respectfully reports that it has had under consideration HB 1105 and 1106 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 White, Chair
MR. PRESIDENT:

The Committee on Senate Transportation respectfully reports that it has had under consideration HB 1059, 1082, and 1091 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,
Rocky Blare, Vice-Chair

MR. PRESIDENT:

The Committee on Senate Health and Human Services respectfully reports that it has had under consideration SB 2 and returns the same with the recommendation that said bill be referred to the Committee on Appropriations.

Also MR. PRESIDENT:

The Committee on Senate Health and Human Services respectfully reports that it has had under consideration SB 136 and returns the same with the recommendation that said bill be amended as follows:

On page 1, line 12, of the Introduced bill, after "certification" delete " from the American Kennel Club,"

On page 1, line 12, of the Introduced bill, after "Club, " insert "and is registered with "

On page 1, line 17, of the Introduced bill, after "training" delete " from an organization accredited by American Kennel Club,"

On page 1, line 18, of the Introduced bill, after "Club, " insert "and is registered with "

On page 1, line 19, of the Introduced bill, after "organization" delete " on"

On page 1, line 19, of the Introduced bill, after "on " insert "for "

On page 2, line 6, of the Introduced bill, delete " certifications" and insert " information"

And that as so amended, said bill do pass.

Also MR. PRESIDENT:

The Committee on Senate Health and Human Services respectfully reports that it has had under consideration SB 145 which was deferred to the 41st Legislative Day.

Respectfully submitted,
Deb Soholt, Chair

Sen. Soholt rose to a point of order stating that when a Committee refers a bill to the Appropriations Committee, the system does not allow the Committee to refer with a "do pass" recommendation.
MR. PRESIDENT:

The Committee on Senate Taxation respectfully reports that it has had under consideration HB 1007 and 1060 and returns the same with the recommendation that said bills do pass.

Respectfully submitted,
Jeff Monroe, Chair

MR. PRESIDENT:

The Committee on Senate State Affairs respectfully reports that it has had under consideration SB 157 and returns the same with the recommendation that said bill be amended as follows:

On page 2, line 8, of the Introduced bill, after "chapter " delete "that provides for conditional uses of real property "

On page 2, line 10, of the Introduced bill, after "that " delete "conditiona"

On page 2, line 10, of the Introduced bill, after "A " delete "conditional "

On page 2, line 12, of the Introduced bill, after "met. " delete "The certification process may include adoption of a simple majority affirmative vote requirement pursuant to subdivision 11-2-53(3) for approval or confirmation that the specified criteria are met."

On page 2, line 17, of the Introduced bill, after "certification " delete "by a zoning officer "

On page 2, line 19, of the Introduced bill, delete "project " and insert "applicant "

On page 2, line 19, of the Introduced bill, delete "and is deemed to meet the requirements set forth in § 11-2-17. 3, but" and insert ". A special permitted use"

On page 3, line 26, of the Introduced bill, delete ", that is not" and insert " to grant or deny the permit. No other appeal such as any relating to"

On page 3, line 27, of the Introduced bill, after "decision" insert " is authorized by this section"

On page 3, line 28, of the Introduced bill, delete "fourteen " and insert "twenty-one "

On page 4, line 15, of the Introduced bill, after "official" delete " or commission on appeal, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance,"

On page 4, line 30, of the Introduced bill, after "official" delete " or commission on appeal"
Section 1. That § 11-2-61.1 be AMENDED:

11-2-61.1. Appeal of grant or denial of conditional use permit.

Any appeal of a decision relating to the grant or denial of a conditional use permit shall be brought under a petition, duly verified, for a writ of certiorari directed to the approving authority and, notwithstanding any provision of law to the contrary, shall be determined under a writ of certiorari standard regardless of the form of the approving authority. The court shall give deference to the decision of the approving authority in interpreting the authority’s ordinances.

And that as so amended, said bill do pass.

Respectfully submitted,
Joshua Klumb, Vice-Chair

Mr. PRESIDENT:
The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and Enrolling has carefully compared SB 31, 32, 34, 50, and 54 and finds the same correctly enrolled.

Respectfully submitted,
Brock L. Greenfield, Chair

Mr. PRESIDENT:
The Committee on Legislative Procedure respectfully reports that SB 14 and 15 were delivered to her Excellency, the Governor, for her approval at 11:30 a.m., February 19, 2020.

Respectfully submitted,
Brock L. Greenfield, Chair

MESSAGES FROM THE HOUSE

Mr. PRESIDENT:
I have the honor to transmit herewith SB 31, 32, 34, and 54 which have passed the House without change.

Also Mr. PRESIDENT:
I have the honor to transmit herewith HB 1069, 1079, 1103, 1109, 1112, 1117, 1152, 1174, and 1181 which have passed the House and your favorable consideration is respectfully requested.

Also Mr. PRESIDENT:
I have the honor to transmit herewith HCR 6012 which has been adopted by the House and your concurrence is respectfully requested.
Also Mr. PRESIDENT:
I have the honor to return herewith SCR 604 in which House has concurred.

Respectfully,
Mary Lou Goehring, Chief Clerk

MOTIONS AND RESOLUTIONS

HCR 6007: A CONCURRENT RESOLUTION, Supporting students and other persons afflicted by epilepsy and raising awareness of epilepsy in South Dakota.

Was read the second time.

Sen. Nesiba moved that HCR 6007 as found on page 165 of the House Journal be concurred in as amended.

The question being on Sen. Nesiba’s motion that HCR 6007 be concurred in as amended.

And the roll being called:

Yeas 33, Nays 0, Excused 2, Absent 0

Yeas:
Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Foster, Brock Greenfield, 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:
Ewing and Heinert

So the motion having received an affirmative vote of a majority of the members-elect, the President declared the motion carried and HCR 6007 was concurred in as amended.

HCR 6012: A CONCURRENT RESOLUTION, Supporting the right to pray in public schools.

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

Sen. Langer moved that SB 155 be deferred to Thursday, February 20, 2020, the 23rd legislative day.

Which motion prevailed.
CONSIDERATION OF EXECUTIVE APPOINTMENTS

The Senate proceeded to the consideration of the executive appointment of Barbara Stork of Union County, North Sioux City, South Dakota, to the State Board of Regents.

The question being “Does the Senate advise and consent to the executive appointment of Barbara Stork pursuant to the message as found on page 82 of the Senate Journal.”

And the roll being called:

Yeas 33, Nays 0, Excused 2, Absent 0

Yeas:
Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Foster, Brock Greenfield, 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:
Ewing and Heinert

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

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

The President declared that SB 94 was withdrawn at the request of the prime sponsor pursuant to Joint Rule 6B-1.1.

The President declared that SB 185 was withdrawn at the request of the prime sponsor pursuant to Joint Rule 6B-1.1.

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

HB 1112: FOR AN ACT ENTITLED, An Act to authorize the hiring of law enforcement officers by the South Dakota State Brand Board and to declare an emergency.

HB 1181: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding bounties for coyotes.

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

HB 1109: FOR AN ACT ENTITLED, An Act to revise the Uniform Limited Liability Company Act.

Was read the first time and referred to the Committee on Commerce and Energy.
HB 1152: FOR AN ACT ENTITLED, An Act to provide financial assistance for school sentinel training.

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

HB 1174: FOR AN ACT ENTITLED, An Act to establish the date of kindergarten enrollment eligibility.

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

HB 1103: FOR AN ACT ENTITLED, An Act to authorize the forensic medical examination of certain minor victims without parental or guardian consent.

HB 1117: FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions regarding riot, to establish the crime of incitement to riot, and to revise provisions regarding civil liability for riot and riot boosting.

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

HB 1079: FOR AN ACT ENTITLED, An Act to authorize a county to assess an administration fee for the processing of certain title applications.

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

HB 1069: FOR AN ACT ENTITLED, An Act to authorize certain veterans to attend courses offered at postsecondary technical institutes without payment of tuition.

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

SECOND READING OF CONSENT CALENDAR ITEMS

Sen. Youngberg requested that SB 162 be removed from the Consent Calendar.

Sen. Bolin requested that SB 167 be removed from the Consent Calendar.

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

SB 181: FOR AN ACT ENTITLED, An Act to revise provisions regarding health benefit plans.

HB 1058: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding water development districts.

Were read the second time.

The question being "Shall SB 181 pass as amended, and SB 148, and HB 1058 pass?"
And the roll being called:

Yeas 33, Nays 0, Excused 2, Absent 0

Yeas:
Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Foster, Brock Greenfield, 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:
Ewing and Heinert

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

SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS

Sen. Nesiba requested a fiscal note on SB 96.
Which request was supported.

SB 150: FOR AN ACT ENTITLED, An Act to revise nonresident waterfowl licensure.
Was read the second time.

Sen. Cammack moved that SB 150 be amended as follows:

150A
On the Introduced bill, delete everything after the enacting clause and insert:

"Section 2. That § 41-6-18.1 be AMENDED:
41-6-18.1. Nonresident waterfowl license, migratory bird permit, and federal stamp required-Violation as misdemeanor--Number of licenses.

It is a Class 2 misdemeanor for a nonresident to hunt, take, or kill migratory waterfowl without a nonresident waterfowl license or a temporary nonresident waterfowl license, a migratory bird certification permit, and a federal migratory bird stamp, or in violation of the conditions of the licenses or the rules of the Game, Fish and Parks Commission.

A nonresident waterfowl license, except as otherwise provided in this title, entitles the licensee to hunt migratory waterfowl for ten-two periods of five consecutive days.

Four dollars received from the sale of each nonresident waterfowl license shall be placed in the land acquisition and development fund. The moneys from this fund shall be used to acquire, by purchase or lease, real property to be used primarily for game production. This license shall be in such form as the Game, Fish and Parks Commission shall prescribe.

The provision in this section limiting the validity of a nonresident waterfowl license to ten-two periods of five consecutive days does not apply in Union, Clay, Bon Homme, Yankton, and Charles Mix counties; and in such counties, the nonresident waterfowl license is valid during the same period as is a resident waterfowl license.
If the Game, Fish and Parks Commission allocates more than four thousand nonresident waterfowl licenses in a calendar year, any increase in the number of licenses allocated may not exceed five percent of the number of licenses allocated in the previous calendar year.

Sen. Partridge requested that Joint Rule 5-17 be invoked on SB 150. Which request was supported and SB 150 with Sen. Cammack’s pending motion to amend was deferred until Friday, February 21, 2020, the 24th legislative day.

SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

HB 1081: FOR AN ACT ENTITLED, An Act to exempt from alcoholic beverage regulations certain uses of alcohol by postsecondary institutions.

Was read the second time.

Sen. V. J. Smith moved that HB 1081 be amended as follows: 1081D

On page 1, line 10, of the House Education bill, after "produce " delete "and securely store "

On page 1, line 12, of the House Education bill, after "year" insert ", and securely store up to two hundred gallons of each at any given time,"

Which motion prevailed.

Sen. V. J. Smith moved that HB 1081 be amended as follows: 1081E

On page 1, line 24, of the House Education bill, after "section. " delete "No person may, while consuming alcohol as permitted by this section, have a blood alcohol content that is at or above 0.08 percent, by weight."

Which motion prevailed.

The question being "Shall HB 1081 pass as amended?"

And the roll being called:

Yeas 32, Nays 2, Excused 1, Absent 0


Nays: Blare and Ernie Otten

Excused: Ewing
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.

HB 1047: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding human trafficking.

Was read the second time.

The question being "Shall HB 1047 pass?"

And the roll being called:

Yeas 34, Nays 0, Excused 1,Absent 0

Yeas:
Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, 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:
Ewing

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.

HB 1033: FOR AN ACT ENTITLED, An Act to provide for the prevention of aquatic invasive species contamination in public waters and to declare an emergency.

Was read the second time.

The question being "Shall HB 1033 pass as amended?"

And the roll being called:

Yeas 33, Nays 1, Excused 1, Absent 0

Yeas:

Nays:
Phil Jensen

Excused:
Ewing

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.
The President publicly read the title to

**SB 31**: FOR AN ACT ENTITLED, An Act to revise and repeal certain provisions relating to the South Dakota Retirement System.

**SB 32**: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the administration of certain family and surviving spouse benefits of the South Dakota Retirement System.

**SB 34**: FOR AN ACT ENTITLED, An Act to establish a qualified benefit preservation arrangement for eligible members of the South Dakota Retirement System.

**SB 50**: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the practice of a certified registered nurse anesthetist.

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

**HB 1020**: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the use of exemption certificates.

**HB 1066**: FOR AN ACT ENTITLED, An Act to revise and repeal provisions regarding aviation.

**HB 1075**: FOR AN ACT ENTITLED, An Act to repeal certain outdated provisions regarding annexation near airports.

**HB 1144**: FOR AN ACT ENTITLED, An Act to remove the requirement for a ballot election in township elections if candidates are unopposed.

And signed the same in the presence of the Senate.

Sen. Wiik moved that the Senate do now adjourn, which motion prevailed and at 3:22 p.m. the Senate adjourned.

Kay Johnson, Secretary