

JOURNAL OF THE SENATE

NINETY-FIFTH SESSION

TWENTY-SEVENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, February 26, 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 Alexa Dunker.

Roll Call: All members present.

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-sixth 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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REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 7 and 121** which were tabled.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 138** 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 164** and returns the same with the recommendation that said bill be amended as follows:

164A

On page 1, line 12, of the Introduced bill, delete " or" and insert a comma

On page 1, line 12, of the Introduced bill, after "yellow" insert ", or blue"

On page 2, line 3, of the Introduced bill, after "of" delete ":

(1) A "

On page 2, line 4, of the Introduced bill, after "of:

(1) A " insert "a "

On page 2, line 5, of the Introduced bill, delete " or" and insert a comma

On page 2, line 5, of the Introduced bill, after "yellow" insert the comma

On page 2, line 6, of the Introduced bill, after "yellow " insert "or blue "

On page 2, line 6, of the Introduced bill, after "lights" delete ", and the accident does not cause bodily injury to a driver or passenger of that vehicle;

(2) A Class 6 felony if the accident causes bodily injury to a driver or passenger of a stopped emergency vehicle making use of its red visual signals or a stopped vehicle making use of amber or yellow warning lights; or

(3) A Class 3 felony if the accident causes the death of a driver or passenger of a stopped emergency vehicle making use of its red visual signals or a stopped vehicle making use of amber or yellow warning lights"

And that as so amended, said bill do pass.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 172** and returns the same with the recommendation that said bill be amended as follows:

172B

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

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Section 1. That a NEW SECTION be added:

23A-51-1. Civil forfeiture prohibited.

Notwithstanding any other law, there may be no civil forfeiture under South Dakota law. Any forfeiture proceeding shall be held following the trial of the related criminal offense.

Section 2. That a NEW SECTION be added:

23A-51-2. Forfeiture of property--State must establish by clear and convincing evidence.

Property may be forfeited if the state establishes by clear and convincing evidence that the property:

(1) Constitutes, or is derived from, proceeds of the underlying offense for which the person was convicted; or

(2) Was used in any manner or part, to commit, or facilitate the commission of the offense for which the person was convicted.

Nothing in this chapter prevents property from being forfeited by a plea agreement approved by the presiding court, except that a plea agreement may not prevent the claims of a person who has a security interest or is an owner under § 23A-51-6.

Section 3. That a NEW SECTION be added:

23A-51-3. Certain provisions proceeded against under this chapter.

Property forfeitable under §§ 22-24A-15 or 34-20B-70 shall be proceeded against under this chapter.

Section 4. That a NEW SECTION be added:

23A-51-4. Victim's rights not affected.

Nothing in this chapter may be construed to deprive a victim under S.D. Const., Art. VI, § 29 of the victim's right, upon request, to the prompt return of the victim's property when the property is no longer needed as evidence in the case.

Section 5. That a NEW SECTION be added:

23A-51-5. Property taken deemed in custody of attorney general.

Property taken or detained pursuant to this chapter is deemed to be in the custody of the attorney general, subject only to the orders and decrees of a court or official having jurisdiction over the property.

Section 6. That a NEW SECTION be added:

23A-51-6. Person with interest in property--Proof of ownership--Proof of owner knowledge or consent.

Any person, other than a defendant, asserting an interest in the property seized pursuant to this chapter, may petition the court at any time for the return of the person's property. To the extent that the person can establish by clear and convincing evidence that the person has an interest in the property seized, a thing of value is not subject to forfeiture under this chapter by reason of any act or omission, unless the state proves by clear and convincing evidence that the act was committed

1 or the omission occurred with the owner's knowledge or consent. For property not subject to
2 forfeiture, a court shall order the return of the property if the property is not reasonably required to
3 be held for evidentiary reasons.

4 **Section 7.** That a NEW SECTION be added:

5 23A-51-7. Notice of forfeiture proceeding.

6 If the state determines to proceed with forfeiture of property, the state shall provide notice to
7 the defendant and defendant's counsel before the trial for the underlying criminal proceeding. The
8 notice shall provide that the state is seeking forfeiture of the property as an additional sanction
9 related to the criminal violation and shall include:

10 (1) A description of the property seized;

11 (2) The date and place of the seizure;

12 (3) A description of the property's use in the commission of a crime or derivation from the
13 commission of a crime; and

14 (4) The name and address of the agency responsible for the seizure.

15 **Section 8.** That a NEW SECTION be added:

16 23A-51-8. Forfeiture following conviction--Reasonable expenses of law enforcement and
17 state—Waiver of conviction requirement.

18 If the state has provided notice under § 23A-51-7 and the underlying prosecution resulted in
19 a conviction, following the trial for the underlying criminal prosecution, the property may be forfeited
20 in a court proceeding if the state establishes by clear and convincing evidence that the property is
21 subject to forfeiture based on evidence received at the criminal trial or additional evidence offered
22 after conviction.

23 In addition, the court shall determine the extent of reasonable expenses incurred by law
24 enforcement and the state in investigating and prosecuting the underlying criminal case.

25 The court may waive the conviction requirement and grant permanent title to the state if the
26 prosecuting authority files a motion no fewer than one hundred eighty days after seizure and shows
27 by clear and convincing evidence that, before conviction, the defendant:

28 (1) Died;

29 (2) Was deported by the United States government;

30 (3) Is granted immunity or reduced punishment in exchange for testifying or assisting a law
31 enforcement investigation or prosecution;

32 (4) Fled the jurisdiction; or

33 (5) Abandoned the property.

34 **Section 9.** That a NEW SECTION be added:

35 23A-51-9. Sale and distribution of forfeited property.

36 If property is forfeited under this chapter, the attorney general shall sell any forfeited property
37 that is not required to be destroyed by law and that is not harmful to the public, and distribute the
38 proceeds in the following order:

1 (1) The payment of fines or costs ordered to be paid by the defendant;

2 (2) The payment of restitution to any victims of the underlying crime;

3 (3) The payment of reasonable expenses incurred by law enforcement and the state in
4 investigating and prosecuting the underlying criminal case as determined by the court; and

5 (4) Any remaining balance shall be treated in the same manner as fines and distributed to the
6 schools in the manner prescribed in S.D. Const., Art. VIII, § 3.

7 **Section 10.** That a NEW SECTION be added:

8 23A-51-10. Written report of property seized.

9 For any property seized under this chapter, the law enforcement officer or agent of the Division
10 of Criminal Investigation making the seizure, or for any seizure by an officer or agent who is not an
11 officer or agent of the state, the officer or agent shall provide a written report of the seizure to the
12 attorney general on a form prescribed by the attorney general. The report under this section shall
13 include:

14 (1) The date of the seizure;

15 (2) The nature of the property seized;

16 (3) A description of the property seized;

17 (4) The address or location where the seizure occurred and, if seized during a traffic stop on
18 an interstate or state highway, the direction of the traffic flow: eastbound, westbound, southbound,
19 or northbound;

20 (5) The reason or purpose of the seizure;

21 (6) The criminal offense alleged that led to the seizure;

22 (7) The disposition of the property seized;

23 (8) The estimated value of the property seized; and

24 (9) For property seized without court process, the cause of the seizure.

25 **Section 11.** That a NEW SECTION be added:

26 23A-51-11. Report to auditor general—Report published.

27 Before February first of each year, the attorney general shall provide a report to the auditor
28 general that includes the nature and extent of all seizures under this chapter during the previous
29 calendar year. The attorney general shall publish the report provided under this section on the
30 attorney general's website.

31 **Section 12.** That a NEW SECTION be added:

32 23A-51-12. Relinquishing property seized to federal agency prohibited.

33 A local or state law enforcement agency may not refer, transfer, or otherwise relinquish
34 possession of property seized under state law to a federal agency by way of adoption of the seized
35 property or other means by the federal agency for the purpose of the property's forfeiture under the
36 federal Controlled Substances Act, Public Law 91-513, or other federal law.

37 **Section 13.** That §§ 23A-49-1 through 23A-49-20 be REPEALED.

1 **Section 14.** That § 22-24A-15 be AMENDED:

2 22-24A-15. Property subject to forfeiture.

3 Any person who is convicted of an offense under §§ 22-19A-1, 22-24A-1 to 22-24A-20,
4 inclusive, 22-24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, 43-43B-1 to 43-43B-3, inclusive,
5 and 22-23-2, 22-23-8, and 22-23-9, or under 18 U.S.C. §§ 1466A, 1470, 1591, 2251, 2251A, 2252,
6 2252A, 2252B, 2252C, 2260, 2421, 2422, and 2423, as of January 1, 2016, shall forfeit to the state,
7 pursuant to chapter ~~23A-49~~ 23A-51, the person's interest in the following and no property right
8 exists in them:

9 (1) Any photograph, film, videotape, book, digital media or visual depiction that has been
10 manufactured, distributed, purchased, possessed, acquired, or received in violation of
11 §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 23A-27-14.1, and 43-43B-1
12 to 43-43B-3, inclusive;

13 (2) Any material, product, and equipment of any kind that is used or intended for use in
14 manufacturing, processing, publishing, selling, possessing, or distributing any visual
15 depiction proscribed by §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 23A-
16 27-14.1, and 43-43B-1 to 43-43B-3, inclusive;

17 (3) Any property that is used, or intended for use, as a container for property described in
18 subdivisions (1) and (2) of this section, including any computers and digital media;

19 (4) Any conveyances including aircraft, vehicles, or vessels, that transport, possess, or
20 conceal, or that is used, or intended for use, to transport, or in any manner facilitate any
21 activity proscribed under §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 22-
22 49-1 to 22-49-3, inclusive, 23A-27-14.1, and 43-43B-1 to 43-43B-3, inclusive;

23 (5) Any book, record, and research, including microfilm, tape, and data that is used, or
24 intended for use, in violation of §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-
25 1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, and 43-43B-1 to 43-43B-3, inclusive;

26 (6) Any funds or other things of value used for the purposes of unlawfully carrying out any
27 activity proscribed by §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 22-49-
28 1 to 22-49-3, inclusive, 23A-27-14.1, 43-43B-1 to 43-43B-3, inclusive, and 22-23-2, 22-
29 23-8, and 22-23-9; and

30 (7) Any asset, interest, profit, income, and proceed acquired or derived from the unlawful
31 activity proscribed by §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 22-49-
32 1 to 22-49-3, inclusive, 23A-27-14.1, 43-43B-1 to 43-43B-3, inclusive, and 22-23-2, 22-
33 23-8, and 22-23-9.

34 Any property described in subdivision (1) of this section shall be deemed contraband and shall
35 be summarily forfeited to the state. Property described in subdivisions (2), (3), ~~(4)~~, (5), (6), and
36 (7) is subject to forfeiture under the terms of ~~§ 23A-49-14~~, and property described in subdivision
37 ~~(4)~~ is subject to forfeiture under the terms of ~~§ 23A-49-15~~ chapter 23A-51.

38 **Section 15.** That § 34-20B-70 be AMENDED:

39 34-20B-70. Property subject to forfeiture.

40 The following are subject to forfeiture pursuant to chapter ~~23A-49~~ 23A-51 and no property
41 right exists in them:

42 (1) All controlled drugs and substances and marijuana which have been manufactured,
43 distributed, dispensed, or acquired in violation of the provisions of this chapter or chapter
44 22-42;

- 1 (2) All raw materials, products, and equipment of any kind which are used or intended for
2 use, in manufacturing, compounding, processing, importing, or exporting any controlled
3 drug or substance or marijuana in violation of the provisions of this chapter or chapter
4 22-42;
- 5 (3) All property which is used, or intended for use, as a container for property described in
6 subdivisions (1) and (2);
- 7 (4) All conveyances including aircraft, vehicles, or vessels, which transport, possess, or
8 conceal, or which are used, or intended for use, to transport, or in any manner facilitate
9 the transportation, sale, receipt, possession, or concealment of marijuana in excess of
10 one-half pound or any quantity of any other property described in subdivision (1) or (2),
11 except as provided in §§ 34-20B-71 to 34-20B-73, inclusive. This subdivision includes
12 those instances in which a conveyance transports, possesses or conceals marijuana or a
13 controlled substance as described herein without the necessity of showing that the
14 conveyance is specifically being used to transport, possess, or conceal or facilitate the
15 transportation, possession, or concealment of marijuana or a controlled substance in aid
16 of any other offense;
- 17 (5) All books, records, and research, including formulas, microfilm, tapes, and data which
18 are used, or intended for use, in violation of this chapter;
- 19 (6) Any funds or other things of value used for the purposes of unlawfully purchasing,
20 attempting to purchase, distributing, or attempting to distribute any controlled drug or
21 substance or marijuana;
- 22 (7) Any assets, interest, profits, income, and proceeds acquired or derived from the unlawful
23 purchase, attempted purchase, distribution, or attempted distribution of any controlled
24 drug or substance or marijuana.

25 Property described in subdivision (1) shall be deemed contraband and shall be summarily
26 forfeited to the state, property described in subdivisions (2), (3), ~~(4),~~ (5), (6), and (7) is subject to
27 forfeiture under the terms of ~~§ 23A-49-14, and property described in subdivision (4) is subject to~~
28 ~~forfeiture under the terms of § 23A-49-15 chapter 23A-51.~~

29 "

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

31 Respectfully submitted,
32 Lance Russell, Chair

33 MR. PRESIDENT:

34 The Committee on Senate Transportation respectfully reports that it has had under
35 consideration **HB 1170 and 1208** and returns the same with the recommendation that said bills
36 do pass, and having been certified as uncontested, be placed on the consent calendar.

37 Respectfully submitted,
38 Rocky Blare, Vice-Chair

39 MR. PRESIDENT:

40 The Committee on Senate State Affairs respectfully reports that it has had under consideration
41 **SB 3, 105, 106, 107, and 175** which were tabled.

42 Respectfully submitted,
43 Bob Ewing, Chair

1 MR. PRESIDENT:

2 The Senate Committee on Appropriations respectfully reports that it has had under
3 consideration **SB 130 and 131** which were tabled.

4 Respectfully submitted,
5 John Wiik, Chair

6 MR. PRESIDENT:

7 The Committee on Senate Health and Human Services respectfully reports that it has had
8 under consideration **HB 1096** which was deferred to the 41st Legislative Day.

9 Respectfully submitted,
10 Deb Soholt, Chair

11 MR. PRESIDENT:

12 The Committee on Senate Taxation respectfully reports that it has had under consideration
13 **HB 1178** and returns the same with the recommendation that said bill do pass, and having been
14 certified as uncontested, be placed on the consent calendar.

15 Respectfully submitted,
16 V. J. Smith, Vice-Chair

17 Mr. PRESIDENT:

18 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
19 Enrolling has carefully compared **SB 52** and finds the same correctly enrolled.

20 Respectfully submitted,
21 Brock L. Greenfield, Chair

22 Mr. PRESIDENT:

23 The Committee on Legislative Procedure respectfully reports that **SB 28 and 69** were delivered
24 to her Excellency, the Governor, for her approval at 9:06 a.m., February 26, 2020.

25 Respectfully submitted,
26 Brock L. Greenfield, Chair

27 **MESSAGES FROM THE HOUSE**

28 Mr. PRESIDENT:

29 I have the honor to transmit herewith **HB 1004, 1068, 1100, 1140, 1172, 1179, and 1244**
30 which have passed the House and your favorable consideration is respectfully requested.

31 Also Mr. PRESIDENT:

32 I have the honor to return herewith **SB 52** which has passed the House without change.

1 Also Mr. PRESIDENT:

2 I have the honor to transmit herewith **HCR 6016** which has been adopted by the House and
3 your concurrence is respectfully requested.

4 Respectfully,
5 Mary Lou Goehring, Chief Clerk

6 **MOTIONS AND RESOLUTIONS**

7 Yesterday, Sen. Brock Greenfield announced his intention to reconsider the vote by which
8 **SJR 503** lost.

9 No member moved to reconsider the vote by which **SJR 503** lost.

10 **HCR 6016**: A CONCURRENT RESOLUTION, Supporting the efforts of William "Bill" Casper as
11 the South Dakota state chairman of the State Funeral for World War II Veterans in his efforts to
12 petition President Donald J. Trump to hold a state funeral for World War II veterans.

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

14 Sen. Langer moved that **SCR 603** be deferred to Thursday, February 27, 2020, the 28th
15 legislative day.

16 Which motion prevailed.

17 Sen. Langer moved that **HB 1008** be deferred to Thursday, March 5, 2020, the 32nd legislative
18 day.

19 Which motion prevailed.

20 Sen. Langer moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on
21 Thursday, February 27, 2020, the 28th legislative day.

22 Which motion prevailed.

23 **CONSIDERATION OF REPORTS OF COMMITTEES**

24 Sen. Langer moved that the reports of the Standing Committees on
25 Appropriations on **SB 55** as found on page 330 of the Senate Journal; also
26 Commerce and Energy on **SB 104** as found on page 334 of the Senate Journal; also
27 Appropriations on **SB 123** as found on page 331 of the Senate Journal; also
28 Appropriations on **SB 133** as found on page 332 of the Senate Journal; also
29 Commerce and Energy on **SB 151** as found on page 334 of the Senate Journal be adopted.

30 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 Major General Jeffrey P. Marlette of Pennington County, Rapid City, South Dakota, to the position of Adjutant General.

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The question being "Does the Senate advise and consent to the executive appointment of Major General Jeffrey P. Marlette pursuant to the executive message as found on page 80 of the Senate Journal?"

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And the roll being called:

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Yeas 34, Nays 0, Excused 1, Absent 0

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Yeas:

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Blare, Bolin, Cammack, Castleberry, Curd, 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, White, Wiik, Wismer, and Youngberg

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Excused:
Sutton

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

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The Senate proceeded to the consideration of the executive appointment of Michael Oster of Pennington County, Rapid City, South Dakota, to the position of Assistant Adjutant General, Army.

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The question being "Does the Senate advise and consent to the executive appointment of Michael Oster pursuant to the executive message as found on page 80 of the Senate Journal?"

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And the roll being called:

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Yeas 35, Nays 0, Excused 0, Absent 0

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

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

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FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

The President declared that **SB 184** was withdrawn at the request of the prime sponsor pursuant to Joint Rule 6B-1.1.

The President declared that **SCR 605** 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 1179: FOR AN ACT ENTITLED, An Act to authorize series limited liability companies.

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

HB 1172: FOR AN ACT ENTITLED, An Act to require the annual submission of a zero-based budget from certain departments or budget units.

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

HB 1244: FOR AN ACT ENTITLED, An Act to authorize forensic medical examinations for certain persons.

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

HB 1068: FOR AN ACT ENTITLED, An Act to include out-of-state convictions for the basis of an enhanced penalty for the crime of stalking.

HB 1140: FOR AN ACT ENTITLED, An Act to provide for a regular review of parenting guidelines.

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

HB 1001: FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding the organization of the Legislature.

HB 1002: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding documents of the Legislature.

HB 1003: FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding legislative employees.

HB 1004: FOR AN ACT ENTITLED, An Act to provide for the defense of laws by the Legislature.

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

HB 1100: FOR AN ACT ENTITLED, An Act to make an appropriation to begin the research and development of a new bioprocessing facility and to declare an emergency.

Was read the first time and the President waived the committee referral pursuant to Joint Rule 6D-1.

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CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS

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The Senate proceeded to the consideration of the executive reappointments of Galen Niederwerder of Pennington County, New Underwood, South Dakota, to the South Dakota Ellsworth Development Authority (SJ 248), and

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Quentin L. Riggins of Pennington County, Rapid City, South Dakota, to the South Dakota Ellsworth Development Authority (SJ 248).

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The question being "Does the Senate advise and consent to the executive reappointments of Galen Niederwerder and Quentin L. Riggins?"

9

And the roll being called:

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Yeas 35, Nays 0, Excused 0, Absent 0

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Yeas:

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Blare, Bolin, Cammack, Castleberry, Curd, 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

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

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SECOND READING OF CONSENT CALENDAR ITEMS

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SB 174: FOR AN ACT ENTITLED, An Act to revise the purposes for which a school district's capital outlay fund may be used.

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

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HB 1131: FOR AN ACT ENTITLED, An Act to prohibit the use of misleading identification for telephonic communications.

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Were read the second time.

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The question being "Shall **SB 174, and HB 1109 and 1131** pass?"

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And the roll being called:

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Yeas 35, Nays 0, Excused 0, Absent 0

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Yeas:

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Blare, Bolin, Cammack, Castleberry, Curd, 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

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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.

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

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

4 Was read the second time.

5 Sen. Wiik moved that **SB 117** be amended as follows:

6 117A

7 On page 1, line 2, of the Introduced bill, after "hard-of-hearing" insert " and to provide an
8 appropriation"

9 On page 2, line 29, of the Introduced bill, after "2. " insert "There is hereby appropriated from
10 the general fund the sum of three hundred seventy thousand three hundred thirty-eight dollars
11 (\$370,338), or so much thereof as may be necessary, to the Department of Education, for purposes
12 of promoting the education of children who are deaf and hard-of-hearing."

13 On page 2, line 30, of the Introduced bill, after "3. " insert "The secretary of the Department
14 of Education shall approve vouchers and the state auditor shall draw warrants to pay expenditures
15 authorized by this Act."

16 On page 2, line 31, of the Introduced bill, after "4. " insert "Any amounts appropriated in this
17 Act not lawfully expended or obligated by June 30, 2021 shall revert in accordance with the
18 procedures prescribed in chapter 4-8."

19 Which motion prevailed.

20 The question being "Shall **SB 117** pass as amended?"

21 And the roll being called:

22 Yeas 18, Nays 17, Excused 0, Absent 0

23 Yeas:

24 Curd, Ewing, Foster, Heinert, Kennedy, Klumb, Kolbeck, Monroe, Nesiba, Ernie Otten, Rusch,
25 Russell, V. J. Smith, Soholt, Steinhauer, White, Wismer, and Youngberg

26 Nays:

27 Blare, Bolin, Cammack, Castleberry, Duhamel, Brock Greenfield, Phil Jensen, Lake, Langer,
28 Maher, Novstrup, Partridge, Schoenbeck, Schoenfish, Stalzer, Sutton, and Wiik

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

31 Sen. Nesiba announced his intention to reconsider the vote by which **SB 117** lost.

32 **SB 96:** FOR AN ACT ENTITLED, An Act to prohibit the denial of benefits based solely on a
33 controlled substance felony.

34 Was read the second time.

1 The question being "Shall **SB 96** pass?"

2 And the roll being called:

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

4 Yeas:

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

8 Nays:

9 Phil Jensen, Maher, Monroe, Russell, White, and Wiik

10 Excused:

11 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 66:** FOR AN ACT ENTITLED, An Act to provide for the creation and funding of Oceti Sakowin
15 community-based schools.

16 Was read the second time.

17 Sen. Heinert moved that **SB 66** be amended as follows:

18 66J

19 On page 17, line 2, of the Senate Education bill, after "13-37." insert "

20 Nothing in this section impairs any collateral pledge of state aid for debt incurred by a
21 sponsoring school district prior to July 1, 2020. "

22 Which motion prevailed.

23 The question being "Shall **SB 66** pass as amended?"

24 And the roll being called:

25 Yeas 35, Nays 0, Excused 0, Absent 0

26 Yeas:

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

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.

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

35 Was read the second time.

1 The question being "Shall **SB 142** pass as amended?"

2 And the roll being called:

3 Yeas 31, Nays 3, Excused 1, Absent 0

4 Yeas:

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

9 Nays:

10 Monroe, Nesiba, and Wismer

11 Excused:

12 Heinert

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

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

17 Was read the second time.

18 Sen. Brock Greenfield moved that **SB 144** be amended as follows:

19 144C

20 On page 1, line 16, of the Senate Appropriations bill, after "course" insert ", or if at the
21 student's expense the student retakes and passes the course that the student withdrew from or
22 failed"

23 Which motion prevailed.

24 The question being "Shall **SB 144** pass as amended?"

25 And the roll being called:

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

27 Yeas:

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

31 Nays:

32 Foster, Nesiba, Partridge, Soholt, White, and Wismer

33 Excused:

34 Heinert

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

1 **SB 180:** FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions regarding the
2 petition circulation process.

3 Was read the second time.

4 The question being "Shall **SB 180** pass as amended?"

5 And the roll being called:

6 Yeas 24, Nays 11, Excused 0, Absent 0

7 Yeas:

8 Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Brock Greenfield, Klumb, Kolbeck,
9 Lake, Langer, Maher, Monroe, Novstrup, Ernie Otten, Partridge, Rusch, Schoenbeck, Stalzer,
10 Steinhauer, Sutton, Wiik, and Youngberg

11 Nays:

12 Foster, Heinert, Phil Jensen, Kennedy, Nesiba, Russell, Schoenfish, V. J. Smith, Soholt, White,
13 and Wismer

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

16 President Pro Tempore Brock Greenfield now presiding.

17 **SB 156:** FOR AN ACT ENTITLED, An Act to repeal provisions regarding the South Dakota
18 Veterans Commission.

19 Was read the second time.

20 The question being "Shall **SB 156** pass?"

21 And the roll being called:

22 Yeas 35, Nays 0, Excused 0, Absent 0

23 Yeas:

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

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

30 **SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

31 Sen. Langer moved that **HB 1025** be deferred to Thursday, February 27, 2020, the 28th
32 legislative day.

33 Which motion prevailed.

1

COMMEMORATIONS

2

SC 806: A LEGISLATIVE COMMEMORATION, Honoring and commending Janice Gilbert on being named Tea Area School District Teacher of the Year.

3

4

Introduced by: Senator Ernie Otten **and Representatives** Latterell, Herman Otten, and Kent Peterson

5

6

SC 807: A LEGISLATIVE COMMEMORATION, Honoring and commending Cody Lutes, elementary school teacher, on being named Lennox School District Teacher of the Year.

7

8

Introduced by: Senator Ernie Otten **and Representatives** Latterell and Herman Otten

9

SC 808: A LEGISLATIVE COMMEMORATION, Commending and honoring the 2019 Tea Area High School Titans Boys Basketball Team.

10

11

Introduced by: Senators Ernie Otten **and** Bolin **and Representatives** Latterell and Herman Otten

12

13

Were read the first time.

14

Sen. Wismer moved that the Senate do now adjourn, which motion prevailed and at 4:23 p.m. the Senate adjourned.

15

16

Kay Johnson, Secretary

