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

The prayer was offered by the Chaplain, Father Ron Garry, followed by the Pledge of Allegiance led by Senate page Lucy Fods.

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-seventh 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.
COMMUNICATIONS AND PETITIONS

February 26, 2020

Mr. President and Members of the Senate:

I have the honor to inform you that on February 26, 2020, I approved Senate Bills 9, 31, 32, 34, and 50, and the same have been deposited in the office of the Secretary of State.

Respectfully submitted,

Kristi Noem
Governor

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration HB 1014 and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration HB 1009, 1012, and 1013 and returns the same with the recommendation that said bills 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 HB 1065 and returns the same with the recommendation that said bill be amended as follows:

On page 1, line 22, of the House bill, delete "These restrictions " and insert "Subdivisions (3) and (4) "

And that as so amended, said bill do pass.

Respectfully submitted,

Lance Russell, Chair

MR. PRESIDENT:

The Joint Committee on Appropriations respectfully reports that it has had under consideration HB 1232, 1290, 1292, and 1293 which were tabled.

Respectfully submitted,

John Wiik, Co-Chair

Respectfully submitted,

Chris G. Karr, Co-Chair
MR. PRESIDENT:

The Committee on Senate Education respectfully reports that it has had under consideration HB 1174 and 1175 and returns the same with the recommendation that said bills do pass.

Respectfully submitted,
R. Blake Curd, Chair

MR. PRESIDENT:

The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration HB 1070 and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration HB 1073 and 1125 and returns the same with the recommendation that said bills do pass, and having been certified as uncontested, be placed on the consent calendar.

Respectfully submitted,
Jim Stalzer, Chair

MR. PRESIDENT:

The Committee on Senate Agriculture and Natural Resources respectfully reports that it has had under consideration HB 1112 and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Senate Agriculture and Natural Resources respectfully reports that it has had under consideration HB 1095, 1181, and 1257 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,
Gary L. Cammack, Chair

MESSAGES FROM THE HOUSE

Mr. PRESIDENT:

I have the honor to transmit herewith HB 1199, 1213, 1255, 1262, and 1277 which have passed the House and your favorable consideration is respectfully requested.

Also Mr. PRESIDENT:

I have the honor to transmit herewith HCR 6004, 6008, 6015, and 6017 which have been adopted by the House and your concurrence is respectfully requested.

Respectfully,
Mary Lou Goehring, Chief Clerk
Yesterday, Sen. Nesiba announced his intention to reconsider the vote by which SB 117 lost.

Sen. Nesiba moved that the Senate do now reconsider the vote by which SB 117 lost.

The question being on Sen. Nesiba’s motion to reconsider the vote by which SB 117 lost.

And the roll being called:

Yeas 8, Nays 27, Excused 0, Absent 0

Yeas:
Ewing, Foster, Heinert, Kennedy, Kolbeck, Nesiba, Russell, and Wismer

Nays:
Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Brock Greenfield, Phil Jensen, Klumb, Lake, Langer, Maher, Monroe, Novstrup, Ernie Otten, Partridge, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White, Wilk, and Youngberg

So the motion not having received an affirmative vote of a majority of the members-elect, the President declared the motion lost.

HCR 6004: A CONCURRENT RESOLUTION, To create a task force for the purpose of reviewing the manner in which mental health services are delivered in this state and considering changes to existing models or alternative models that could be utilized for the delivery of mental health services on a regional basis in this state.

HCR 6008: A CONCURRENT RESOLUTION, To authorize a legislative study for the continuum of care for the disabled and elderly of South Dakota.

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

HCR 6015: A CONCURRENT RESOLUTION, To provide for a legislative task force to study, report, and develop and consider recommendations and proposed legislation regarding the evaluation and standardization of quality measurements of agricultural products.

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

HCR 6017: A CONCURRENT RESOLUTION, to encourage the creation of an interim legislative study to address infrastructure and funding support related to the expansion of Ellsworth Air Force Base.

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

SR 702: A RESOLUTION, Calling for statewide recognition of South Dakota’s military veteran entrepreneurs and Bunker Labs of Rapid City.

Introduced by: Senator Castleberry

Was read the first time and referred to the Committee on Military and Veterans Affairs.
Sen. Langer moved that SCR 603, and HB 1025 be deferred to Monday, March 2, 2020, the 29th legislative day.

Which motion prevailed.

CONSIDERATION OF REPORTS OF COMMITTEES

Sen. Langer moved that the reports of the Standing Committees on Judiciary on SB 172 as found on page 346 of the Senate Journal; also Judiciary on SB 164 as found on page 346 of the Senate Journal be adopted.

Which motion prevailed and the reports were adopted.

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

The President declared that SR 702 changed prime sponsor from Senator Brock Greenfield to Senator Castleberry at their request.

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

HB 1213: FOR AN ACT ENTITLED, An Act to preclude the assignment of exclusive broadcast rights for certain high school interscholastic activities.

HB 1255: FOR AN ACT ENTITLED, An Act to remove the requirement for a mandatory appraisal in exchanges of land between school districts.

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

HB 1277: FOR AN ACT ENTITLED, An Act to prevent trafficking, coercion, and exploitation that occurs under the guise of obscene content.

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

HB 1199: FOR AN ACT ENTITLED, An Act to require certain annexation information be provided to electric utilities.

HB 1262: FOR AN ACT ENTITLED, An Act to revise provisions regarding electric service in annexed areas.

Were read the first time.

SECOND READING OF CONSENT CALENDAR ITEMS

HB 1170: FOR AN ACT ENTITLED, An Act to revise provisions regarding the use of certain lights by tow truck vehicles and Department of Transportation authorized vehicles.

HB 1178: FOR AN ACT ENTITLED, An Act to revise the seller’s property condition disclosure statement.
HB 1208: FOR AN ACT ENTITLED, An Act to revise provisions regarding the titling of motor vehicles.

Were read the second time.

The question being "Shall HB 1170 pass as amended, and HB 1178 and 1208 pass?"

And the roll being called:

Yea 35, Nays 0, Excused 0, Absent 0

Yea:

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

SB 55: FOR AN ACT ENTITLED, An Act to require the Board of Regents to assemble a task force to study the possibility of shared administration among the institutions of higher education under the board's authority.

Was read the second time.

The question being "Shall SB 55 pass as amended?"

And the roll being called:

Yea 33, Nays 2, Excused 0, Absent 0

Yea:

Nay:
Foster and Wismer

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.

SB 123: FOR AN ACT ENTITLED, An Act to make an appropriation for the Literacy Intervention Program and to declare an emergency.

Was read the second time.
The question being "Shall SB 123 pass as amended?"

And the roll being called:

Yeas 22, Nays 13, Excused 0, Absent 0

Yeas:
Cammack, Curd, Foster, Brock Greenfield, Heinert, Kennedy, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten, Rusch, Russell, Schoenfish, V. J. Smith, Soholt, Stalzer, Wiik, Wismer, and Youngberg

Nays:
Blare, Bolin, Castleberry, Duhamel, Ewing, Phil Jensen, Klumb, Kolbeck, Partridge, Schoenbeck, Steinhauer, Sutton, and White

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

Sen. Brock Greenfield announced his intention to reconsider the vote by which SB 123 lost.

SB 133: FOR AN ACT ENTITLED, An Act to allow public funds not needed for current operating expenses to be invested in certain certificates of deposit or time deposits.

Was read the second time.

The question being "Shall SB 133 pass as amended?"

And the roll being called:

Yeas 34, Nays 1, Excused 0, Absent 0

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, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White, Wiik, Wismer, and Youngberg

Nays:
Russell

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.

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

Was read the second time.

The question being "Shall SB 104 pass as amended?"

And the roll being called:

Yeas 29, Nays 6, Excused 0, Absent 0
Yeas: Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert, Phil Jensen, Kennedy, Klumb, Lake, Maher, Nesiba, Novstrup, Partridge, Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Steinhauer, Sutton, White, Wiik, Wismer, and Youngberg

Nays: Kolbeck, Langer, Monroe, Ernie Otten, Soholt, and Stalzer

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.

**SB 151**: FOR AN ACT ENTITLED, An Act to define critical infrastructure and revise certain crimes for the trespass or damage to critical infrastructure.

Was read the second time.

Sen. Schoenbeck moved that **SB 151** be amended as follows:

151D

On page 9, line 31, of the Senate Commerce and Energy bill, after "felony." delete "Section 4. That a NEW SECTION be added:

"  

On page 10, line 1, of the Senate Commerce and Energy bill, after "added:" delete "Interference with operation--Critical Infrastructure--Violation as misdemeanor or felony."

On page 10, line 2, of the Senate Commerce and Energy bill, after "felony." delete "

Any person who by any means interferes with, inhibits, impedes, or prevents the construction, operation, maintenance, or repair of communications, public transportation, water supply, gas, electric, or other utility service, or a critical infrastructure facility is guilty of a Class 1 misdemeanor.

Any person who by any means, knowingly, interferes with, inhibits, impedes, or prevents the construction, operation, maintenance, or repair of communications, public transportation, water supply, gas, electric, or other utility service, or a critical infrastructure facility is guilty of a Class 6 felony.

Any person, who by any means knowingly damages, tampers, or interferes with the construction, operation, maintenance, or repair of any critical infrastructure facility causing physical injury or death, is guilty of a Class 4 felony."

Which motion prevailed.

The question being "Shall **SB 151** pass as amended?"

And the roll being called:

Yeas 34, Nays 1, Excused 0, Absent 0


Nays: Heinert
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.

SB 172: FOR AN ACT ENTITLED, An Act to revise provisions regarding civil forfeiture.

Was read the second time.

Sen. Rusch moved that SB 172 be amended as follows:

172C

On page 1, line 23, after "chapter." insert " No property rights exist in contraband. Contraband is subject to seizure and shall be disposed of according to state law."

On page 2, line 26, delete " and " and insert ", ".

On page 2, line 26, after "counsel" insert ", , and any person with a perfected security interest in the property"

On page 3, line 27, delete "If property is forfeited under this chapter, the attorney general shall sell any forfeited property that is not required to be destroyed by law and that is not harmful to the public, and distribute the proceeds in the following order:

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

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

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

(4) Any remaining balance shall be treated in the same manner as fines and distributed to the schools in the manner prescribed in S. D. Const., Art. VIII, § 3" and insert "If property is forfeited under this chapter, the attorney general may:

(1) Retain the property for official use;

(2) Sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, provided that the proceeds be disposed of for payment of all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. All money seized or remaining proceeds from the sale of any forfeited property shall be paid into the following funds:

(a) If seized pursuant to a violation of chapters 34-20B or 22-42, proceeds shall go to the drug control fund;

(b) If seized pursuant to a violation of chapters 22-24A, 22-23, 22-19A, 22-24B, 43-43B, or 23A-27, proceeds shall be used to reimburse the actual costs of the criminal investigation and prosecution, and any amount over those costs shall be used to satisfy any civil judgments received by the victims. All remaining proceeds shall be paid to the South Dakota internet crimes against children fund; and

(c) If not otherwise specified by this chapter, proceeds shall go to the general fund; or

(3) If property is seized pursuant to a violation of chapters 34-20B or 22-42, the attorney general may forward it to the Division of Criminal Investigation for disposition. Such disposition may include delivery for medical or scientific use to any federal or state agency under regulations of the United States attorney general"
On page 4, after line 29, insert "

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

23A-51-12. Conveyance used in common carrier business not subject to forfeiture--Exception.

Notwithstanding the provisions of subdivision 34-20B-70(4) or 22-24A-15(4), no conveyance used by any person as a common carrier in the transaction of business as a common carrier may be forfeited under the provisions of this chapter, unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to a violation of any crime in the chapters listed in § 23A-51-9.

""

On page 4, after line 29, insert "

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

23A-51-13. Stolen and leased conveyances not subject to forfeiture--Exception.

Notwithstanding the provisions of subdivision 34-20B-70(4) or 22-24A-15(4), no conveyance may be forfeited under the provisions of this chapter, by reason of any act or omission established by the owner of the conveyance to have been committed or omitted by any person other than the owner while the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state, or while the conveyance was rented or leased from a motor vehicle dealer or a leasing or rental agency and the dealer or agency had no knowledge that the conveyance was being used or intended for use, to transport or in any manner facilitate the commission of any crime in the chapters listed in § 23A-51-9.

""

On page 4, after line 29, insert "

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

23A-51-14. Conveyance not subject to forfeiture for acts or omissions of nonowner--Exception.

Notwithstanding the provisions of subdivision 34-20B-70(4) or 22-24A-15(4), no conveyance may be forfeited under the provisions of this chapter, by reason of any act committed or omitted by a person other than an owner of the conveyance unless the owner knew or in the exercise of ordinary care should have known that the conveyance was being used or was intended for use to facilitate the commission of any crime in the chapters listed in § 23A-51-9.

""

On page 4, line 30, after "website." delete "Section 12. That a NEW SECTION be added:

""

On page 5, line 1, after "added:" delete "Relinquishing property seized to federal agency prohibited."

On page 5, line 1, after "prohibited." delete "

A local or state law enforcement agency may not refer, transfer, or otherwise relinquish possession of property seized under state law to a federal agency by way of adoption of the seized property or other means by the federal agency for the purpose of the property's forfeiture under the federal Controlled Substances Act, Public Law 91-513, or other federal law."
On page 7, after line 16, insert "

Section 4. That § 34-20B-64 be AMENDED:

34-20B-64. Drug control fund created--Administration by attorney general--Expenditures--Excess funds.

There is hereby created in the state treasury a special revolving fund to be known as the "drug control fund," which shall be administered by the attorney general. The attorney general may authorize expenditure of moneys in the fund for purchase of controlled drugs and substances, as defined in this chapter, by authorized agents of the attorney general from unregistered dispensers and distributors. All disbursements from the fund shall be made on warrants drawn by the state auditor on vouchers approved by the attorney general. Any moneys in the fund expenditures by the attorney general in excess of two hundred fifty thousand dollars per year shall be available for distribution by the attorney general. Upon application by any local law enforcement agency, any drug law enforcement task force or the division of highway patrol, the attorney general may authorize release of any such available moneys in the fund for the purpose of assisting local law enforcement agencies in drug control and drug offender apprehension efforts. approved by the Joint Committee of Appropriations or the special interim committee created by § 4-8A-2.

" Which motion prevailed.

The question being "Shall SB 172 pass as amended?"

And the roll being called:

Yeas 15, Nays 20, Excused 0, Absent 0

Yeas:
Cammack, Castleberry, Curd, Foster, Heinert, Phil Jensen, Kennedy, Maher, Nesiba, Novstrup, Partridge, Rusch, Russell, V. J. Smith, and Wismer

Nays:
Blare, Bolin, Duhamel, Ewing, Brock Greenfield, Klumb, Kolbeck, Lake, Langer, Monroe, Ernie Otten, Schoenbeck, Schoenfish, Söholt, Stalzer, Steinhauer, Sutton, White, Wiik, and Youngberg

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

SB 164: FOR AN ACT ENTITLED, An Act to revise the penalties and provisions regarding approaching stopped vehicles.

Was read the second time.

The question being "Shall SB 164 pass as amended?"

And the roll being called:

Yeas 32, Nays 3, Excused 0, Absent 0

Yeas:
Nays: Foster, Monroe, and Soholt

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

**SB 95**: FOR AN ACT ENTITLED, An Act to modify certain provisions regarding the repayment of restitution.

Was read the second time.

The question being "Shall **SB 95** pass?"

And the roll being called:

Yeas 11, Nays 24, Excused 0, Absent 0

Yeas:
Blare, Brock Greenfield, Phil Jensen, Klumb, Maher, Monroe, Novstrup, Ernie Otten, Russell, Stalzer, and Sutton

Nays:
Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Heinert, Kennedy, Kolbeck, Lake, Langer, Nesiba, Partridge, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Steinhauer, White, Wiik, Wismer, and Youngberg

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

Today, Sen. Brock Greenfield announced his intention to reconsider the vote by which **SB 123** lost.

Sen. Brock Greenfield moved that the Senate do now reconsider the vote by which **SB 123** lost.

The question being on Sen. Brock Greenfield’s motion to reconsider the vote by which **SB 123** lost.

And the roll being called:

Yeas 20, Nays 15, Excused 0, Absent 0

Yeas:
Blare, Cammack, Castleberry, Ewing, Foster, Brock Greenfield, Heinert, Phil Jensen, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten, Russell, Schoenfish, V. J. Smith, Wiik, Wismer, and Youngberg

Nays:
Bolin, Curd, Duhamel, Kennedy, Klumb, Kolbeck, Lake, Partridge, Rusch, Schoenbeck, Soholt, Stalzer, Steinhauer, Sutton, and White

So the motion having received an affirmative vote of a majority of the members-elect, the President declared the motion carried and **SB 123** was up for reconsideration and final passage.
The question being “Shall SB 123 pass as amended?”

And the roll being called:

Yeas 23, Nays 12, Excused 0, Absent 0

Yeas:
Blare, Cammack, Castleberry, Duhamel, Ewing, Foster, Brock Greenfield, Heinert, Lake, Langer, Maher, Monroe, Nesiba, Novstrup, Ernie Otten, Rusch, Russell, Schoenfish, V. J. Smith, Soholt, Wiik, Wismer, and Youngberg

Nays:
Bolin, Curd, Phil Jensen, Kennedy, Klumb, Kolbeck, Partridge, Schoenbeck, Stalzer, Steinhauer, Sutton, and White

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

SIGNING OF BILLS

The President publicly read the title to

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

HB 1011: FOR AN ACT ENTITLED, An Act to require certain examinations of persons awaiting involuntary commitment hearings.

HB 1056: FOR AN ACT ENTITLED, An Act to authorize video monitoring of residents in assisted living centers and nursing facilities.

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

HB 1097: FOR AN ACT ENTITLED, An Act to modify requirements for a marriage license.

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 1165: FOR AN ACT ENTITLED, An Act to revise provisions regarding the acceptance of gifts by municipalities.

HB 1260: FOR AN ACT ENTITLED, An Act to revise provisions regarding tax increment districts.

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

SC 809: A LEGISLATIVE COMMEMORATION, To honor and commend the late Senator Gene Abdallah for his dedicated service to his community and state.


Was read the first time.

Sen. V. J. Smith moved that the Senate do now adjourn, which motion prevailed and at 3:28 p.m. the Senate adjourned.

Kay Johnson, Secretary