

# *JOURNAL OF THE HOUSE*

## *NINETY-SIXTH SESSION*

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FIFTH DAY

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STATE OF SOUTH DAKOTA  
House of Representatives, Pierre  
Tuesday, January 19, 2021

The House convened at 2:00 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Rev. Mercy Hobbs, followed by the Pledge of Allegiance led by House page Grace Goebel.

Roll Call: All members present except Rep. Milstead who was excused.

### **APPROVAL OF THE JOURNAL**

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the fourth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Which motion prevailed.

Respectfully submitted,  
Spencer R. Gosch, Chair

1 The oath of office was administered to Representative Oren Lesmeister at 7:35 a.m. on  
2 January 19, 2021, by Speaker Gosch.

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

4 **COMMUNICATIONS AND PETITIONS**

5 **STATE OF SOUTH DAKOTA**  
6 **OFFICE OF THE GOVERNOR**  
7 **EXECUTIVE ORDER 2021-03**

8 **Whereas**, Article IV, Section 8, of the Constitution of the State of South Dakota provides that,  
9 "Except as to elected constitutional officers, the Governor may make such changes in the  
10 organization of offices, boards, commissions, agencies and instrumentalities, and in allocation of  
11 their functions, powers and duties, as he considers necessary for efficient administration. If such  
12 changes affect existing law, they shall be set forth in executive orders, which shall be submitted to  
13 the Legislature within five legislative days after it convenes, and shall become effective, and shall  
14 have the force of law, within ninety days after submission, unless disapproved by a resolution  
15 concurred in by a majority of all the members of either house"; and,

16 **Whereas**, This Executive Order has been submitted to the 96th Legislative Assembly on the  
17 5th legislative day, the 19th day of January, 2021:

18 **IT IS, THEREFORE, BY EXECUTIVE ORDER**, directed that the executive branch of state  
19 government be reorganized to comply with the following sections of this Order.

20 **GENERAL PROVISIONS**

21 Section 1. This Executive Order shall be known and may be cited as the "Executive  
22 Reorganization Order 2021-03".

23 Section 2. Any agency not enumerated in this Order, but established by law within another  
24 agency which is transferred to a principal department under this Order, shall also be transferred in  
25 its current form to the same principal department and its functions shall be allocated between itself  
26 and the principal department as they are now allocated between itself and the agency within which  
27 it is established.

28 Section 3. "Agency" as used in this Order shall mean any board, authority, commission,  
29 department, bureau, division, or any other unit or organization of state government.

30 Section 4. "Function" as used in this Order shall mean any authority, power, responsibility,  
31 duty, or activity of an agency, whether or not provided for by law.

32 Section 5. Unless otherwise provided by this Order, division directors shall be appointed by  
33 the head of the department or bureau of which the division is a part, and shall be removable at the  
34 pleasure of the department or bureau head, provided that the appointment and removal of division  
35 directors shall be subject to approval by the Governor.

36 Section 6. It is the intent of this Order not to repeal or amend any laws relating to functions  
37 performed by an agency, unless the intent is specifically expressed in this Order or unless there is  
38 an irreconcilable conflict between this Order and those laws.

39 Section 7. If a part of this Order is invalid, all valid parts that are severable from the invalid  
40 part remain in effect. If a part of this Order is invalid in one or more of its applications, the part  
41 remains in effect in all valid applications.

1 Section 8. Except when inconsistent with the other provisions of this Order all rules,  
2 regulations, and standards of the agencies involved in executive reorganization in effect on the  
3 effective date of this Order, shall continue with full force and effect until they are specifically altered,  
4 amended, or revoked in the manner provided by law, unless the statutory authority for such rules  
5 is superseded by this Order.

6 Section 9. It is hereby declared that the sections, clauses, sentences, and parts of this Order  
7 are severable, are not matters of mutual essential inducement, and any of them may be excised by  
8 any court of competent jurisdiction if any section, clause, sentence, or part of this Order would  
9 otherwise be unconstitutional or ineffective.

10 Section 10. In the event that it has been determined that a function of a transferred agency,  
11 which has not been eliminated by this Order, and its associated records, personnel, equipment,  
12 facilities, unexpended balances of appropriations, allocations, or other funds have not been clearly  
13 allocated to an agency, the Governor shall specify by interim procedures the allocation of the  
14 function and its associated resources. At the next legislative session following the issuance of such  
15 interim procedures, the Governor shall make recommendations concerning the proper allocation of  
16 the functions of transferred agencies which are not clearly allocated by this Order. Any interim  
17 procedures issued in conjunction with this section shall be filed with the Secretary of State.

18 Section 11. The rights, privileges, and duties of, including but not limited to, the holders of  
19 bonds and other obligations issued, and of the parties to contracts, leases, indentures, loan  
20 agreements, and other transactions, entered into before the effective date of this Order by the state  
21 or by any agency, officer, or employee thereof, and covenants and agreements as set forth therein,  
22 remain in effect, and none of those rights, privileges, duties, covenants, or agreements are impaired  
23 or diminished by abolition of an agency in this Order. The agency to which functions of another  
24 agency are transferred is substituted for that agency and succeeds to its rights and leases,  
25 indentures, privileges, duties, covenants, agreements, and other transactions.

26 Section 12. No judicial or administrative suit, action, or other proceeding lawfully commenced  
27 before the effective date of this Order by or against any agency or any officer of the state, in their  
28 official capacity or in relation to the discharge of their official duties, shall abate or be affected by  
29 reason of the taking effect of any reorganization under the provisions of this Order. The court may  
30 allow the suit, action, or other proceeding to be maintained by or against the successor of any  
31 agency or any officer affected by this Order.

32 Section 13. If any part of this Order is ruled to be in conflict with federal requirements which  
33 are a prescribed condition to the receipt of federal aid by the state, an agency, or a political  
34 subdivision, that part of this Order has no effect and the Governor may by executive order make  
35 necessary changes to this Order to receive federal aid, and the changes will remain in effect until  
36 the last legislative day of the next legislative session or until the Legislature completes legislation  
37 addressed to the same question, whichever comes first.

38 Section 14. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative  
39 Research Council are requested to make the name and title changes necessary to correlate and  
40 integrate the organizational changes made by this Executive Reorganization Order into the South  
41 Dakota Codified Laws.

42 Section 15. Any provisions of law in conflict with this Order are superseded.

43 Section 16. Whenever a function is transferred by this Order, all personnel, records, property,  
44 unexpended balances of appropriations, allocations, or other funds utilized in performing the  
45 function are also transferred by this Order.

46 Section 17. The effective date of this Executive Reorganization Order 2021-03 shall be ninety  
47 days after its submission to the Legislature.

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**Department of Agriculture and Natural Resources Created.**

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Section 18. There is hereby created a Department of Agriculture and Natural Resources. The head of the Department of Agriculture and Natural Resources is the Secretary of Agriculture and Natural Resources who shall be appointed and serve pursuant to the provisions of the Constitution of the State of South Dakota, Article IV, § 9. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources and the former Secretary of the Department of Agriculture.

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Section 19. Except as otherwise provided in this Order, the functions and programs of the former the Department of Environment and Natural Resources and the Department of Agriculture and the duties of the former Secretary of the Department of Environment and Natural Resources and the former Secretary of the Department of Agriculture are transferred to the Department of Agriculture and Natural Resources and the Secretary of the Department of Agriculture and Natural Resources.

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**Department of Environment and Natural Resources Abolished. Functions of former Department Environment and Natural Resources transferred to Department of Agriculture and Natural Resources.**

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Section 20. The Department of Environment and Natural Resources is hereby abolished. The position of Secretary of the Department of Environment and Natural Resources is hereby abolished.

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Section 21. The Board of Water and Natural Resources created by § 1-40-5 and its functions in the former Department of Environment and Natural Resources is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the Board of Water and Natural Resources.

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Section 22. The Water Management Board created by § 1-40-15 and its functions in the former Department of Environment and Natural Resources is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the Water Management Board.

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Section 23. The Board of Minerals and Environment created by § 1-40-25 and its functions in the former Department of Environment and Natural Resources is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the Board of Minerals and Environment.

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Section 24. The South Dakota State Emergency Response Commission created by § 1-50-1 and its functions in the former Department of Environment and Natural Resources is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the South Dakota State Emergency Response Commission.

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Section 25. The Board of Certification for water supply and wastewater system operators created by § 34A-3-5 and its functions in the former Department of Environment and Natural Resources is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the Board of Certification.

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Section 26. The Petroleum Release Compensation Board created by § 34A-13-14 and all its functions under chapter 34A-13, including budgeting and administrative support for the petroleum

1 release fund, in the former Department of Environment and Natural Resources are transferred to  
2 the Department of Agriculture and Natural Resources created by this Order. The Secretary of the  
3 Department of Agriculture and Natural Resources shall perform the functions of the former  
4 Secretary of the Department of Environment and Natural Resources, relating to the Petroleum  
5 Release Compensation Board. The petroleum release compensation fund board shall continue as an  
6 advisory board to the Secretary of the Department of Agriculture and Natural Resources on issues  
7 concerning petroleum inspection and release compensation.

8 **Department of Agriculture is Abolished. Functions of former Department of Agriculture**  
9 **transferred to Department of Agriculture and Natural Resources.**

10 Section 27. The Department of Agriculture is hereby abolished. The position of Secretary of  
11 the Department of Agriculture is hereby abolished.

12 Section 28. The State Fair Commission created by § 1-21-1 and its functions in the former  
13 Department of Agriculture is transferred to the Department of Agriculture and Natural Resources  
14 created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall  
15 perform the functions of the former Secretary of the Department of Agriculture, relating to the state  
16 fair.

17 Section 29. The Board of Veterinary Medical Examiners created by chapter 36-12 and its  
18 functions in the former Department of Agriculture is transferred to the Department of Agriculture  
19 and Natural Resources created by this Order. The Secretary of the Department of Agriculture and  
20 Natural Resources shall perform the functions of the former Secretary of the Department of  
21 Agriculture, relating to Board of Veterinary Medical Examiners.

22 Section 30. The State Conservation Commission created by § 38-7-3 and its functions in the  
23 former Department of Agriculture is transferred to the Department of Agriculture and Natural  
24 Resources created by this Order. The Secretary of the Department of Agriculture and Natural  
25 Resources shall perform the functions of the former Secretary of the Department of Agriculture,  
26 relating to the Conservation Commission.

27 Section 31. The Wheat Utilization, Research and Market Development Commission created by  
28 § 38-10-3 and its functions in the former Department of Agriculture is transferred to the Department  
29 of Agriculture and Natural Resources created by this Order. The Secretary of the Department of  
30 Agriculture and Natural Resources shall perform the functions of the former Secretary of the  
31 Department of Agriculture, relating to the wheat commission.

32 Section 32. The Seed Certification Board created by § 38-11-1 and its functions in the former  
33 Department of Agriculture is transferred to the Department of Agriculture and Natural Resources  
34 created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall  
35 perform the functions of the former Secretary of the Department of Agriculture, relating to seed  
36 certification.

37 Section 33. The South Dakota Weed and Pest Control Commission created by § 38-22-1.1 and  
38 its functions in the former Department of Agriculture is transferred to the Department of Agriculture  
39 and Natural Resources created by this Order. The Secretary of the Department of Agriculture and  
40 Natural Resources shall perform the functions of the former Secretary of the Department of  
41 Agriculture, relating to weed and pest control.

42 Section 34. The South Dakota Oilseeds Council created by § 38-27-2 and its functions in the  
43 former Department of Agriculture is transferred to the Department of Agriculture and Natural  
44 Resources created by this Order. The Secretary of the Department of Agriculture and Natural  
45 Resources shall perform the functions of the former Secretary of the Department of Agriculture,  
46 relating to the Oilseeds Council.

47 Section 35. The South Dakota Soybean Research and Promotion Council created by § 38-29-2  
48 and its functions in the former Department of Agriculture is transferred to the Department of  
49 Agriculture and Natural Resources created by this Order. The Secretary of the Department of

1 Agriculture and Natural Resources shall perform the functions of the former Secretary of the  
2 Department of Agriculture, relating to the Soybean Research and Promotion Council.

3 Section 36. The South Dakota Corn Utilization Council created by § 38-32-2 and its functions  
4 in the former Department of Agriculture is transferred to the Department of Agriculture and Natural  
5 Resources created by this Order. The Secretary of the Department of Agriculture and Natural  
6 Resources shall perform the functions of the former Secretary of the Department of Agriculture,  
7 relating to the Corn Utilization Council.

8 Section 37. The South Dakota Pulse Crop Council created by § 38-34-2 and its functions in the  
9 former Department of Agriculture is transferred to the Department of Agriculture and Natural  
10 Resources created by this Order. The Secretary of the Department of Agriculture and Natural  
11 Resources shall perform the functions of the former Secretary of the Department of Agriculture,  
12 relating to the Pulse Crop Council.

13 Section 38. The State Animal Industry Board created by § 40-3-1 and its functions in the  
14 former Department of Agriculture is transferred to the Department of Agriculture and Natural  
15 Resources created by this Order. The Secretary of the Department of Agriculture and Natural  
16 Resources shall perform the functions of the former Secretary of the Department of Agriculture,  
17 relating to the Animal Industry Board. The Board is attached to the Department of Agriculture and  
18 Natural Resources for reporting purposes.

19 Section 39. The State Brand Board created by § 40-18-1 and its functions in the former  
20 Department of Agriculture is transferred to the Department of Agriculture and Natural Resources  
21 created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall  
22 perform the functions of the former Secretary of the Department of Agriculture, relating to the  
23 Brand Board. The Board is attached to the Department of Agriculture and Natural Resources for  
24 reporting purposes.

25 Section 40. The American Dairy Association of South Dakota created by § 40-31-2 and its  
26 functions, including budgeting and administrative support for the American Dairy Association of  
27 South Dakota fund created by § 40-31-18, in the former Department of Agriculture is transferred  
28 to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the  
29 Department of Agriculture and Natural Resources shall perform the functions of the former  
30 Secretary of the Department of Agriculture, relating to the American Dairy Association.

### 31 **Other Reorganization Provisions**

32 Section 41. **That § 1-32-2 be amended to read as follows:**

33 **1-32-2. Principal departments established.** For the purposes of achieving reorganization  
34 under the terms of S. D. Const., Art. IV, § 8, the following principal departments are established:

- 35 (1) Department of Executive Management;
- 36 (2) Department of Public Safety;
- 37 (3) Department of Social Services;
- 38 (4) Department of Labor and Regulation;
- 39 (5) Department of Education;
- 40 ~~(6) Department of Environment and Natural Resources;~~
- 41 ~~(7)~~ Department of Game, Fish and Parks;
- 42 ~~(8)~~ Department of Health;
- 43 ~~(9)~~ Department of Agriculture and Natural Resources;

- 1                    (~~109~~) Department of Transportation;
- 2                    (~~110~~) Department of the Military;
- 3                    (~~121~~) Department of Revenue;
- 4                    (~~131~~) Department of Human Services;
- 5                    (~~141~~) Department of Tourism;
- 6                    (~~151~~) Department of Veterans Affairs;
- 7                    (~~161~~) Department of Tribal Relations;
- 8                    (~~171~~) Department of Corrections.

9                    Section 42. **That § 1-41-1 be amended to read as follows:**

10                    **1-41-1. Department continued.** The Department of Agriculture is hereby continued as the  
 11 Department of Agriculture and Natural Resources. The former Department of Environment and  
 12 Natural Resources, also formerly known as the Department of Natural Resource Development and  
 13 as the Department of Water and Natural Resources, is hereby continued as the Department of  
 14 Agriculture and Natural Resources. The Department of Agriculture and Natural Resources shall  
 15 protect and promote agriculture as South Dakota’s most vital industry, and it will preserve our  
 16 natural resources and the environment through sound management.

17                    Section 43. **That § 1-41-2 be amended to read as follows:**

18                    **1-41-2. Secretary as head of department.** The head of the Department of Agriculture and  
 19 Natural Resources is the secretary of agriculture and natural resources.

20                    Section 44. **That § 1-41-3.2 be amended to read as follows:**

21                    **1-41-3.2. Office of agricultural and natural resources policy created--**  
 22 **Responsibilities.**

23                    There is hereby created within the Department of Agriculture and Natural Resources the office  
 24 of agricultural and natural resources policy. The office is responsible for researching and developing  
 25 factual information on issues affecting the State of South Dakota and its agricultural industry and  
 26 the state’s natural resources. The office may develop briefing documents, policy statements, and  
 27 other informational documents for the secretary of agriculture and natural resources and the  
 28 Governor on a variety of subjects, including:

- 29                    (1) Federal legislative or regulatory issues;
- 30                    (2) United States Department of Agriculture programs and policies;
- 31                    (3) International trade and trade relations;
- 32                    (4) Wetlands issues;
- 33                    (5) Forestry and timber cutting issues;
- 34                    (6) Endangered species issues;
- 35                    (7) Railroad issues;
- 36                    (8) Landowner rights issues;

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- 1 (9) Animal depredation issues;
- 2 (10) Weed and pest control issues;
- 3 (11) Wilderness designation and development areas;
- 4 (12) Food quality, quantity, and protection issues;
- 5 (13) Environmental management issues;
- 6 ~~(14) Wildland fire policy issues; and~~
- 7 ~~(1514)~~ Any other issue or problem designated by the secretary or the Governor.

8 Section 45. **That § 1-41-4 be amended to read as follows:**

9 **1-41-4. Performance of functions of former department.** The Department of Agriculture  
10 and Natural Resources shall, under the direction and control of the secretary of agriculture and  
11 natural resources, perform all the functions of the Department of Agriculture created by chapters  
12 38-1, 34-35, 39-1, 40-37, 41-20, 54-13 and all the functions of the former Department of  
13 Environment and Natural Resources created by Title 34, 34A, 45, 46, and 46A, except the inspection  
14 functions vested in the Department of Public Safety by §§ 34-39-3.1 and 39-1-1.1 and South Dakota  
15 Wildland Fire functions vested in the Department of Public Safety by this Order.

16 Section 46. **That § 1-41-4.1 be amended to read as follows:**

17 **1-41-4.1. Performance of functions of abolished agencies.** The Department of  
18 Agriculture and Natural Resources shall, under the direction and control of the secretary of  
19 agriculture and natural resources, administer all the functions of the following former agencies:

- 20 (1) The Division of Markets created by chapter 38-1;
- 21 (2) The Division of Inspections created by chapter 38-1;
- 22 (3) The Division of Plant Industry created by chapter 38-1;
- 23 (4) The Division of Production and Marketing Cooperatives created by chapter 38-1;
- 24 (5) The Division of Weed Control created by chapter 38-1; and
- 25 (6) The Department of Horticulture created by chapter 38-23.

26 Section 47. **That § 1-41-5 be amended to read as follows:**

27 **1-41-5. Administrative functions performed for boards and commissions—**  
28 **Nomination of officers.** The Department of Agriculture and Natural Resources shall, under the  
29 direction and control of the secretary of agriculture and natural resources, perform all administrative  
30 functions except special budgetary functions (as defined in § 1-32-1) of the following boards and  
31 commissions:

- 32 (1) The American Dairy Association of South Dakota, created by chapter 40-31;
- 33 (2) The Seed Certification Board, created by chapter 38-11;
- 34 (3) The South Dakota Weed and Pest Control Commission, created by chapter 38-22;
- 35 (4) The State Fair Commission, created by chapter 1-21-;
- 36 (5) The Water Management Board, created by chapter 1-40;



- 1        (6) The Board of Certification of Water Systems Operators, created by chapter 34A-3;
- 2        (7) The South Dakota Conservancy District, created by chapter 1-40;
- 3        (8) The Petroleum Release Compensation Board, created by chapter 34A-13;
- 4        (9) The Board of Minerals and Environment, created by chapter 1-40; and
- 5        (10) The State Emergency Response Commission, created by chapter 1-50.

6        Notwithstanding this section, the staff director of the American Dairy Association of South  
 7        Dakota shall be nominated pursuant to § 40-31-2.1.

8        Section 48. **That § 1-41-6.1 be amended to read as follows:**

9        **1-41-6.1. Conservation Commission within Division of Resource Conservation and**  
 10       **Forestry—Functions performed by division.** The State Conservation Commission created by  
 11       § 38-7-3 shall continue within the Division of Resource Conservation and Forestry of the Department  
 12       of Agriculture and Natural Resources and the Division of Resource Conservation and Forestry shall  
 13       under the direction and control of the director of resource conservation and forestry, perform all  
 14       the administrative functions, except special budgetary functions (as defined in § 1-32-1) of the  
 15       State Conservation Commission.

16       Section 49. **That § 1-41-9 be repealed.** ~~Brand Board transferred. The Brand Board created~~  
 17       ~~in chapter 40-18 is transferred to the Department of Agriculture from the Department of Commerce~~  
 18       ~~and Regulation. The board is attached to the Department of Agriculture for reporting purposes only.~~

19       Section 50. **That § 1-41-10 be repealed.** ~~Board of Veterinary Medical Examiners transferred.~~  
 20       ~~The Board of Veterinary Medical Examiners, created by chapter 36-12, and its functions in the~~  
 21       ~~former Department of Commerce and Regulation are transferred to the Department of Agriculture.~~  
 22       ~~The secretary of the Department of Agriculture shall perform the functions of the former secretary~~  
 23       ~~of the Department of Commerce and Regulation, relating to the Board of Veterinary Medical~~  
 24       ~~Examiners.~~

25       Section 51. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative  
 26       Research Council are requested to amend the following sections by striking "Department of  
 27       Agriculture" and inserting "Department of Agriculture and Natural Resources" and by striking  
 28       "secretary of agriculture" and inserting "secretary of agriculture and natural resources":

29       Title 1:

- 30        1-21-1; 1-21-2; 1-21-4; 1-21-6; 1-21-6.1; 1-21-9; 1-21-10; 1-21-14; 1-21-17; 1-41-3.1;
- 31        1-41-9.

32       Title 34:

- 33        34-35-17; 34-35-18.

34       Title 34A:

- 35        34A-8-6; 34A-8-7; 34A-8-8; 34A-8A-1; 34A-8A-2; 34A-8A-3; 34A-8A-8; 34A-8A-9.

36       Title 36:

- 37        36-12-9.1.

38       Title 38:

- 39        38-1-1; 38-1-3; 38-1-4; 38-1-11; 38-1-12; 38-1-13; 38-1-14; 38-1-15; 38-1-16; 38-1-18;
- 40        38-1-18.1; 38-1-19; 38-1-21; 38-1-24; 38-1-26; 38-1-29; 38-1-30; 38-1-32; 38-1-36; 38-1-37;

1 38-1-38; 38-1-40; 38-1-46; 38-1-49; 38-1-51; 38-5-1; 38-5-3; 38-7-2.1; 38-7-2.2; 38-7-3.1;  
 2 38-7-28; 38-10-9; 38-10-39; 38-11-1; 38-11-2; 38-11-6; 38-12A-1; 38-12A-11; 38-12A-25; 38-  
 3 18-1; 38-18-32; 38-18-36; 38-19-1; 38-19-2.1; 38-19-5; 38-19-10; 38-19-10.1; 38-19-12; 38-  
 4 19-16.1; 38-19-17; 38-19-28; 38-19-30; 38-19-30.1; 38-19-31; 38-19-32; 38-19-33; 38-19-34;  
 5 38-19-35; 38-19-36; 38-19-37; 38-19-38; 38-19-39; 38-19-40; 38-19-43; 38-19-46; 38-19-47;  
 6 38-19A-1; 38-19A-3; 38-19A-4; 38-19A-6; 38-19A-7; 38-19A-9; 38-19A-10; 38-19A-11; 38-19A-  
 7 12; 38-19A-13; 38-19A-14; 38-19A-15; 38-19A-17; 38-19A-19; 38-20-1; 38-20-2; 38-20-32; 38-  
 8 20-33; 38-20-34; 38-20-35; 38-20A-1; 38-20A-56; 38-21-14; 38-22-1.1; 38-22-1.2; 38-22-1.5;  
 9 38-22-6; 38-22-8; 38-22-9; 38-22-16; 38-22-17; 38-22-17.1; 38-22-19; 38-22-20; 38-22-21;  
 10 38-22-23.10; 38-22-32; 38-24A-1; 38-24A-2; 38-24A-3; 38-24A-4; 38-24A-5; 38-24A-6; 38-24A-  
 11 7; 38-24A-10; 38-24A-12; 38-24A-14; 38-24A-15; 38-24A-17; 38-24A-19; 38-24A-20; 38-24A-  
 12 21; 38-24B-1; 38-24B-2; 38-24B-9; 38-24B-10; 38-24B-16; 38-24B-17; 38-24B-18; 38-24B-19;  
 13 38-24B-20; 38-24B-22; 38-24B-23; 38-24B-25; 38-24B-26; 38-27-1; 38-27-2; 38-27-4; 38-27-  
 14 6; 38-27-9; 38-29-1; 38-29-2; 38-29-3; 38-29-4; 38-29-8; 38-32-1; 38-33-1; 38-34-1; 38-34-3;  
 15 38-34-9; 38-35-1.

16 Title 39:

17 39-1-1; 39-1-2; 39-1-3; 39-1-4; 39-1-5; 39-1-6; 39-1-10; 39-1-11; 39-1-12; 39-1-13; 39-  
 18 1-15; 39-6-1; 39-6-6; 39-6-7; 39-6-9; 39-6-10; 39-6-11; 39-6-13; 39-6-15; 39-6-16; 39-6-20;  
 19 39-7-6; 39-8-2; 39-8-3; 39-8-4; 39-8-10; 39-8-12; 39-8-14; 39-11-1; 39-11-4; 39-11-5; 39-11-  
 20 7; 39-11-10; 39-11-13; 39-11-16; 39-11-17; 39-14-39(13); 39-14-42; 39-14-43; 39-14-44; 39-  
 21 14-52; 39-14-53; 39-14-55; 39-14-56; 39-14-58; 39-14-59; 39-14-60; 39-14-61; 39-14-62; 39-  
 22 14-63; 39-14-65; 39-14-68; 39-14-69; 39-14-70; 39-14-71; 39-14-72; 39-14-74; 39-14-75; 39-  
 23 14-76; 39-14-77; 39-14-78; 39-14-81; 39-18-2; 39-18-5; 39-18-6; 39-18-7; 39-18-8; 39-18-9;  
 24 39-18-10; 39-18-12; 39-18-14; 39-18-29; 39-18-32; 39-18-33; 39-18-35; 39-18-36; 39-18-38;  
 25 39-18-39; 39-18-40; 39-18-42; 39-18-43; 39-18-44; 39-18-45; 39-18-46; 39-18-47; 39-18-48;  
 26 39-18-49; 39-18-50; 39-18-51.

27 Title 40:

28 40-3-1.1; 40-18-1.1; 40-31-2; 40-31-2.1; 40-31-2.2; 40-31-7; 40-31-8; 40-31-12; 40-31-  
 29 16; 40-31-18; 40-31-22; 40-31-23; 40-31-24; 40-31-25; 40-37-1.

30 Title 41:

31 41-20-15; 41-20-16; 41-20-17; 41-20-18; 41-20-22; 41-20-23; 41-20-24.

32 Title 45:

33 45-6B-11.

34 Title 46A:

35 46A-11A-1; 46A-11A-2; 46A-11A-3; 46A-11A-4; 46A-11A-5; 46A-11A-7.

36 Title 54:

37 54-13-1; 54-13-2; 54-13-3; 54-13-4; 54-13-5; 54-13-6.

38 Section 52. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative  
 39 Research Council are requested to transfer the following sections to chapter 1-41, update the cross-  
 40 references, and amend the following sections by striking "Department of Environment and Natural  
 41 Resources", and inserting "Department of Agriculture and Natural Resources" and by striking  
 42 "secretary of environment and natural resources", and inserting "secretary of agriculture and  
 43 natural resources":

1 Title 1:

2 1-19C-2.11; 1-40-3; 1-40-4; 1-40-7; 1-40-7.1; 1-40-9; 1-40-11; 1-40-15; 1-40-18; 1-40-  
3 20; 1-40-22; 1-40-23; 1-40-24; 1-40-31; 1-40-38; 1-40-40; 1-40-41; 1-50-1; 1-50-4; 1-50-9; 1-  
4 50-11.

5 Section 53. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative  
6 Research Council are requested to amend the following sections by striking “Department of  
7 Environment and Natural Resources”, and inserting “Department of Agriculture and Natural  
8 Resources” and by striking “secretary of environment and natural resources”, and inserting  
9 “secretary of agriculture and natural resources”:

10 Title 34:

11 34-21-1.1; 34-21-17; 34-21-50; 34-44-1; 34-44-30.

12 Title 34A:

13 34A-1-2; 34A-1-58.1; 34A-1-60; 34A-1-63; 34A-2-2; 34A-2-97; 34A-2-98; 34A-2-121; 34A-  
14 2-122; 34A-2-125; 34A-2A-1; 34A-2B-1; 34A-3-1; 34A-3-5; 34A-3A-2; 34A-3A-22; 34A-3A-23;  
15 34A-3A-25; 34A-5-13; 34A-6-1.3; 34A-6-41; 34A-6-61; 34A-6-68; 34A-6-85; 34A-6-114; 34A-7-  
16 1; 34A-9-1; 34A-10-2.5; 34A-10-17; 34A-11-2; 34A-11-3; 34A-11-4; 34A-11-5; 34A-11-6; 34A-  
17 11-7; 34A-11-10; 34A-11-11; 34A-11-12.1; 34A-11-13; 34A-11-16; 34A-11-17; 34A-11-18; 34A-  
18 11-22; 34A-11-24; 34A-12-1; 34A-13-1; 34A-13-14; 34A-13-17; 34A-13-18; 34A-13-23; 34A-13-  
19 27; 34A-13-49; 34A-13-52; 34A-13-53; 34A-13-54; 34A-15-6.1; 34A-16-37; 34A-17-2; 34A-18-  
20 1; 34A-18-10.

21 Title 45:

22 45-2-3; 45-5A-5; 45-6-64; 45-6-65; 45-6-69; 45-6-70; 45-6-74; 45-6-75; 45-6B-3; 45-6B-  
23 7; 45-6B-11; 45-6B-15; 45-6B-16; 45-6B-31; 45-6B-48; 45-6B-49; 45-6B-69; 45-6B-73; 45-6B-  
24 74; 45-6B-75; 45-6C-3; 45-6C-6; 45-6C-10; 45-6C-11; 45-6C-12; 45-6C-15; 45-6C-16; 45-6C-  
25 18; 45-6C-19; 45-6C-23; 45-6C-35; 45-6C-36; 45-6C-37; 45-6C-43; 45-6C-44; 45-6C-47; 45-6C-  
26 48; 45-6C-55; 45-6D-3; 45-6D-12; 45-6D-26; 45-6D-40; 45-6D-46; 45-6D-51; 45-6D-52; 45-6D-  
27 58; 45-6D-63; 45-6D-64; 45-6D-67; 45-9-5; 45-9-6; 45-9-8; 45-9-9; 45-9-10; 45-9-11; 45-9-  
28 12; 45-9-13; 45-9-14; 45-9-15; 45-9-15.3; 45-9-16; 45-9-17; 45-9-18; 45-9-19; 45-9-27; 45-9-  
29 70.

30 Title 46:

31 46-1-6; 46-6-9; 46-6-9.3.

32 Title 46A:

33 46A-1-26; 46A-1-62; 46A-1-95; 46A-1-96; 46A-1-98; 46A-2-4; 46A-2-6; 46A-2-14; 46A-3B-  
34 4; 46A-6-38; 46A-7-6; 46A-9-4; 46A-9-11; 46A-9-20; 46A-9-21; 46A-9-74; 46A-9-75; 46A-10A-  
35 32; 46A-10A-43.3; 46A-10A-60; 46A-10A-61; 46A-10A-64; 46A-10B-1; 46A-10B-34; 46A-15-13;  
36 46A-16-1.

37 Section 54. That § 1-40-1 be repealed. ~~Department renamed. The former Department of~~  
38 ~~Natural Resource Development, also formerly known as the Department of Water and Natural~~  
39 ~~Resources, is hereby continued as the Department of Environment and Natural Resources.~~

40 Section 55. That § 1-40-2 be repealed. ~~Secretary as head of department. The head of the~~  
41 ~~Department of Environment and Natural Resources is the secretary of environment and natural~~  
42 ~~resources.~~

43 Section 56. That § 1-40-4.1, 1-40-5, 1-40-6, 1-40-10, 1-40-12, 1-40-16, 1-40-17, 1-40-19,  
44 1-40-20.1, 1-40-25, 1-40-25.1, 1-40-26, 1-40-27, 1-40-28, 1-40-29, 1-40-33, 1-40-34, 1-40-35,  
45 1-40-36, 1-40-37, and 1-40-39 be transferred to chapter 1-41.

1        ~~Section 57. That § 1-40-13 be repealed. Performance of administrative functions of Water~~  
 2 ~~Management Board. The Department of Environment and Natural Resources shall, under the~~  
 3 ~~direction and control of the secretary of environment and natural resources, perform all~~  
 4 ~~administrative functions except special budgetary functions (as defined in § 1-32-1) of the Water~~  
 5 ~~Management Board.~~

6        ~~Section 58. That § 1-40-21 be repealed. Administrative functions performed for Board of~~  
 7 ~~Certification of Water Systems Operators Advisory functions. The Department of Environment and~~  
 8 ~~Natural Resources shall, under the direction and control of the secretary of environment and natural~~  
 9 ~~resources, perform all administrative functions except special budgetary functions (as defined in §~~  
 10 ~~1-32-1) of the board of certification of water supply and waste water system operators, created by~~  
 11 ~~chapter 34A-3. The board shall continue its advisory function pursuant to chapter 34A-3.~~

12        ~~Section 59. That § 1-40-43 be repealed. Petroleum Release Compensation Board transferred.~~  
 13 ~~All functions of the Petroleum Release Compensation Board under chapter 34A-13 including~~  
 14 ~~budgeting and administrative support for the petroleum release fund in the former Department of~~  
 15 ~~Revenue and Regulation are transferred to the Department of Environment and Natural Resources~~  
 16 ~~created by chapter 1-40. The secretary of environment and natural resources shall perform the~~  
 17 ~~functions of the former secretary of revenue and regulation, relating to the Petroleum Compensation~~  
 18 ~~Board. The petroleum release compensation fund board shall continue as an advisory board to the~~  
 19 ~~Secretary of Department of Environment and Natural Resources on issues concerning petroleum~~  
 20 ~~inspection and release compensation.~~

21        ~~Section 60. That § 1-40-44 be repealed. Petroleum inspection and release compensation~~  
 22 ~~functions transferred. All functions of the Department of Transportation under chapter 34A-13 are~~  
 23 ~~transferred to the Department of Environment and Natural Resources created by chapter 1-40. The~~  
 24 ~~secretary of environment and natural resources shall perform the functions of the former secretary~~  
 25 ~~of transportation, relating to chapter 34A-13.~~

26        Section 61. That § 3-6F-5 be amended to read as follows:

27        **3-6F-5. Promulgation of rules.** The human resources commissioner may promulgate rules,  
 28 pursuant to chapter 1-26, necessary to carry out the provisions of this chapter with regard to:

- 29            (1) Listing of positions whose primary duty includes patient or resident care or  
 30 supervision; safety-sensitive positions; and positions at the Department of ~~Agriculture~~  
 31 Public Safety, Division of Wildland Fire, whose duties include firefighting;
- 32            (2) Substances to be screened;
- 33            (3) Drug screening procedures;
- 34            (4) Procedures for collecting, analyzing, and evaluating test samples;
- 35            (5) Confidentiality of testing procedures;
- 36            (6) Referral for education or treatment; and
- 37            (7) Consequences that may result from valid positive test results or from failure to  
 38 submit to a test.

39        Section 62. That § 34A-3-12 be amended to read as follows:

40        **34A-3-12. Functions performed by Department of Environment and Natural**  
 41 **Resources and Board of Water Management.** The Department of ~~Environment~~ Agriculture and  
 42 Natural Resources shall perform all the functions of the former Department of Environment and  
 43 Natural Resources, and the Public Health Advisory Committee, the former state health officer, and  
 44 the Department of Health with respect to water hygiene programs authorized under, but not limited  
 45 to, this chapter, except that the Board of Water Management shall perform any advisory functions  
 46 as defined in § 1-32-1.

1 Section 63. That § 34A-11-19 be amended to read as follows:

2 **34A-11-19. Circuit court action against violator--Injunction.** In lieu of, or in addition  
3 to, issuance of a notice of violation and order, the secretary of ~~water~~ agriculture and natural  
4 resources may bring an action in the circuit court of the county where the violation occurred, or is  
5 threatening to occur, for injunctive or other appropriate relief.

6 Section 64. That § 38-1-1.1 be amended to read as follows:

7 **38-1-1.1. Department continued--Performance of functions.** The Department of  
8 Agriculture and Natural Resources shall continue as such and shall continue to perform its functions  
9 as provided in § 1-41-4, except for the inspection functions vested in the Department of Public  
10 Safety by §§ 34-39-3.1 and 39-1-1.1 and South Dakota Wildland Fire functions vested in the  
11 Department of Public Safety by this Order.

12 Section 65. That § 38-1-2 be amended to read as follows:

13 **38-1-2. Secretary of agriculture as head of department--Appointment.** The head of  
14 the Department of Agriculture and Natural Resources shall be known as the secretary of agriculture  
15 and natural resources of the State of South Dakota, and wherever the word "secretary" appears in  
16 this title, it shall mean the "secretary of agriculture and natural resources of the State of South  
17 Dakota" unless the context indicates otherwise. ~~He~~ The secretary shall be appointed by the  
18 Governor pursuant to S.D. Const., Art. IV, § 9 and to § 1-32-3.

19 Section 66. That § 38-7-6 be amended to read as follows:

20 **38-7-6. Nonvoting members of commission--Tenure of office.** The following persons  
21 shall serve as nonvoting members of the State Conservation Commission: ~~the secretary of~~  
22 ~~environment and natural resources~~; the director of the state extension service; the director of the  
23 state agricultural experiment station located at Brookings; the commissioner of school and public  
24 lands; the secretary of the Department of Game, Fish and Parks; and if approved by the United  
25 States secretary of agriculture, the state conservationist for the United States Natural Resources  
26 Conservation Service. A member of the commission shall hold office so long as the person retains  
27 the office by virtue of which the person is serving on the commission.

28 Section 67. That § 38-19-50 be amended to read as follows:

29 **38-19-50. Nutrient Research and Education Council created--Membership.** The  
30 Nutrient Research and Education Council is hereby established. The council shall consist of nine  
31 voting members, including three representing the fertilizer industry, two representing grower  
32 organizations, one representing the state's largest commodity organization, one representing the  
33 specialty fertilizer industry, one representing the certified agronomy association, and one farmer  
34 member of the State Conservation Commission. The council shall also include five nonvoting  
35 members: ~~two~~ three representing environmental organizations, one representing the director of the  
36 South Dakota Agricultural Experiment Station, ~~two~~ one representing the secretary of the  
37 Department of Agriculture and Natural Resources, ~~and one representing the secretary of the~~  
38 ~~Department of Environment and Natural Resources~~. The certified agronomy association and any  
39 association or organization representing the fertilizer industry, growers, and the environment may  
40 submit nominations to the secretary of agriculture for their respective members. The secretary shall  
41 select from these nominations the members of the council. Members of the council may receive no  
42 compensation, but members may be reimbursed for travel and subsistence expense in accordance  
43 with rules promulgated by the State Board of Finance. The council shall meet at least twice each  
44 year. The council shall be provided with staff assistance from the South Dakota Agricultural  
45 Experiment Station. The council retains the respective quasi-judicial, quasi-legislative, advisory,  
46 other non-administrative and special budgetary functions as defined in § 1-32-1 otherwise vested  
47 in the council. The council shall exercise those functions independently of the South Dakota  
48 Agricultural Experiment Station.

49 Section 68. The Division of Wildland Fire created by § 41-20A-1 and its functions in the former  
50 Department of Agriculture is transferred to the Department of Public Safety. The Secretary of the

1 Department of Public Safety shall perform the functions of the former Secretary of the Department  
2 of Agriculture, relating to the wildland fire division.

3 Section 69. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative  
4 Research Council are requested to amend the following sections by striking "Department of  
5 Agriculture" and inserting "Department of Public Safety" and by striking "secretary of agriculture"  
6 and inserting "secretary of public safety":

7 Title 41:

8 41-20A-1; 41-20A-2; 41-20A-3; 41-20A-4; 41-20A-5; 41-20A-6; 41-20A-8; 41-20A-9;  
9 41-20A-10; 41-20A-12.

10 Dated in Pierre, South Dakota, this 19th day of January, 2021.

11  
12 Kristi Noem  
13 Governor of South Dakota  
14 ATTEST:  
15 Steve Barnett  
Secretary of State

16 **REPORTS OF STANDING COMMITTEES**

17 MR. SPEAKER:

18 The Committee on House Transportation respectfully reports that it has had under  
19 consideration **HB 1012** and returns the same with the recommendation that said bill do pass, and  
20 having been certified as uncontested, be placed on the consent calendar.

21 Respectfully submitted,  
22 Caleb Finck, Chair

23 **CONSIDERATION OF JOINT-SELECT COMMITTEES**

24 Speaker appointed Rep. Chase to replace Rep. Jamie Smith on the Joint-Select Committee  
25 appointed to arrange for memorial recognition of deceased former members of the House and  
26 Senate.

27 **MOTIONS AND RESOLUTIONS**

28 The following bills were read on January 12, 2021, and today the Speaker assigned these bills  
29 to committee:

30 **HB 1026 and 1039** were referred to the House Committee on Appropriations.

1

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

2

**HB 1063:** FOR AN ACT ENTITLED, An Act to make an appropriation to contract for mental health insurance for certain first responder organizations and to declare an emergency.

3

4

Introduced by: **Representative** Milstead

5

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

6

**HB 1064:** FOR AN ACT ENTITLED, An Act to make an appropriation for and the establishment of peer support and critical incident stress management training for first responder organizations.

7

8

Introduced by: **Representative** Milstead

9

**HB 1065:** FOR AN ACT ENTITLED, An Act to adopt the emergency medical personnel licensure interstate compact.

10

11

Introduced by: **Representative** Milstead

12

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

13

**HB 1062:** FOR AN ACT ENTITLED, An Act to authorize the recovery of costs for defending certain initiated amendments in court.

14

15

Introduced by: **Representative** Deutsch

16

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

17

**HJR 5001:** A JOINT RESOLUTION, To apply for a convention of states under Article V of the Constitution of the United States to impose fiscal restraints on the federal government, to limit the power and jurisdiction of the federal government, and to limit the terms of office for federal officials and members of Congress.

18

19

20

21

Introduced by: **Representative** Deutsch

22

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

23

Rep. Reimer moved that the House do now adjourn, which motion prevailed and at 2:12 p.m. the House adjourned.

24

25

Patricia Miller, Chief Clerk

