

Committee: House State Affairs

Monday, February 22, 2021 6:30 AM

Roll Call

Present: Rep. Anderson, Rep. Beal, Rep. Chaffee, Rep. Goodwin, Rep. Gosch, Rep. Hansen, Rep. Kevin Jensen, Rep. Chris Johnson, Rep. Lesmeister, Rep. Kent Peterson, Rep. Reimer, Rep. Jamie Smith, and Rep. Wiese

OTHERS PRESENT: See Original Minutes

**The meeting was called to order by Representative Kent Peterson**

**MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 17<sup>TH</sup>**

Moved by: Hansen  
Second by: Wiese  
Action: Prevailed by voice vote

**HB 1197 : require the attorney general be licensed to practice law in the state.**

Presented by: Representative Bethany Soye

**MOTION: DO PASS HB 1197**

Moved by: Gosch  
Second by: Beal  
Action: Prevailed by roll call vote (12-0-1-0)

Voting Yes: Anderson, Beal, Chaffee, Goodwin, Gosch, Hansen, Kevin Jensen, Chris Johnson, Lesmeister, Kent Peterson, Jamie Smith, and Wiese

Excused: Reimer

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1197 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**HB 1232 : increase the pay of certain constitutional officers.**

Presented by: Ryan Brunner, Commissioner of South Dakota School and Public Lands  
Proponents: Steve Seigel, Lobbyist, South Dakota Trail Lawyers, Pierre, South Dakota

**MOTION: AMEND HB 1232**

1232B

On page 1, line 7, of the Introduced bill, delete "The " and insert "On July 1, 2023, prior to the adjustment required pursuant to § 3-8-2.1, the "

On page 1, line 7, of the Introduced bill, after "the " insert "following constitutional officers shall be set to the following values:

(1) The "

On page 1, line 8, of the Introduced bill, delete " shall be " and insert ", "

On page 1, line 9, of the Introduced bill, delete ". The base annual salary of the " and insert ";

(2) The "

On page 1, line 9, of the Introduced bill, delete " shall be " and insert ", "

On page 1, line 10, of the Introduced bill, delete ". The annual salary of the " and insert ";  
(3) The "

On page 1, line 10, of the Introduced bill, delete " shall be " and insert ", "

On page 1, line 11, of the Introduced bill, delete ". Each annual salary of this section shall be applied  
prior to the adjustment required" and insert "

The salaries, as adjusted pursuant to this section and § 3-8-2.1, shall be the base salaries for the next  
adjustment required"

On page 1, line 12, of the Introduced bill, after "3-8-2.1" insert ". Thereafter, the base salaries of  
these constitutional officers that are to be annually adjusted in all subsequent years,  
pursuant to § 3-8-2. 1, will be the total of the base salary and adjustment amount  
established by the prior annual adjustment"

On page 1, line 13, of the Introduced bill, after "8-2.1." delete "Section 2. The effective date of this  
Act is July 1, 2022."

Moved by: Chris Johnson

Second by: Hansen

Action: Prevailed by voice vote

**MOTION: DO PASS HB 1232 AS AMENDED**

Moved by: Chris Johnson

Second by: Kevin Jensen

Action: Prevailed by roll call vote (11-2-0-0)

Voting Yes: Anderson, Beal, Chaffee, Hansen, Kevin Jensen, Chris Johnson, Lesmeister,  
Kent Peterson, Reimer, Jamie Smith, and Wiese

Voting No: Goodwin and Gosch

**HB 1156 : provide opportunities for the questioning of the Governor and the  
congressional delegation.**

Presented by: Representative Phil Jensen

**MOTION: DEFER HB 1156 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Anderson

Second by: Hansen

Action: Prevailed by roll call vote (13-0-0-0)

Voting Yes: Anderson, Beal, Chaffee, Goodwin, Gosch, Hansen, Kevin Jensen, Chris  
Johnson, Lesmeister, Kent Peterson, Reimer, Jamie Smith, and Wiese

**HB 1211 : authorize, regulate, and tax wagering on sporting events.**

Presented by: Representative Mark Willadsen (Handout(s) 1)

Proponents: Matt Krogman, SD Licensed Beverage Dealer & Gaming Assoc., Rapid City

Opponents: David Wiest, Department of Revenue (Handout(s) 2)

**MOTION: AMEND HB 1211**

1211D

On page 1, line 1, of the Introduced bill, after "events" insert ", within the city limits of Deadwood,  
and provide a penalty for a violation thereof"

On page 3, line 21, of the Introduced bill, remove the overstrikes from " gaming within the city of Deadwood"

On page 3, line 22, of the Introduced bill, after "Deadwood" delete " a sports wagering area"

On page 13, line 22, of the Introduced bill, after "any " delete "sports wagering conducted in the sports wagering area of a licensed affiliate business, or any "

On page 13, line 24, of the Introduced bill, delete "that " and insert "which "

Moved by: Gosch

Second by: Goodwin

Action: Prevailed by voice vote

**MOTION: DEFER HB 1211 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Goodwin

Second by: Lesmeister

Action: Prevailed by roll call vote (9-4-0-0)

Voting Yes: Anderson, Chaffee, Goodwin, Hansen, Chris Johnson, Lesmeister, Reimer, Jamie Smith, and Wiese

Voting No: Beal, Gosch, Kevin Jensen, and Kent Peterson

**HB 1134 : make an appropriation to the Board of Regents for improving the National Music Museum at the University of South Dakota and to declare an emergency.**

Presented by: Representative Kent Peterson

Proponents: Matt Collinworth, Director of National Music Museum, self, Vermillion Scott Lawrence, self, Vermillion

**MOTION: AMEND HB 1134**

1134A

On page 1, line 1, of the Introduced bill, delete "enhance South Dakota" and insert "make an appropriation to the Board of Regents for improving the National Music Museum at the University of South Dakota and to declare an emergency"

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

"

**Section 1.** There is hereby appropriated from the general fund the sum of \$6,500,000 to the Board of Regents, for purpose of equipping the National Music Museum at the University of South Dakota with educational exhibits for the display and security of the museum's collections.

**Section 2.** The executive director of the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

**Section 3.** Any amounts appropriated in this Act not lawfully expended or obligated by June 30, 2022 shall revert in accordance with the procedures prescribed in chapter 4-8.

**Section 4.** Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

"

Moved by: Gosch

Second by: Beal

Action: Prevailed by voice vote

**MOTION: REFER HB 1134 TO HOUSE COMMITTEE ON APPROPRIATIONS**

Moved by: Gosch  
 Second by: Beal  
 Action: Prevailed by roll call vote (13-0-0-0)

Voting Yes: Anderson, Beal, Chaffee, Goodwin, Gosch, Hansen, Kevin Jensen, Chris Johnson, Lesmeister, Kent Peterson, Reimer, Jamie Smith, and Wiese

**HB 1199 : establish the Office of Liaison for Missing and Murdered Indigenous Persons.**

Presented by: Representative Peri Pouier  
 Proponents: Kellen Returns From Scout, Standing Rock Sioux Tribe, self, Rapid City  
 Ross B Garelick Bell, CCST - Crow Creek Sioux Tribe, Fort Thompson  
 Ross B Garelick Bell, Oglala Sioux Tribe, Pine Ridge  
 Ross B Garelick Bell, Yankton Sioux Tribe, Wagner  
 Ross B Garelick Bell, Rosebud Sioux Tribe, Rosebud  
 Kevin Killer, President of the Oglala Sioux Tribe  
 Candi Brings Plenty, American Civil Liberties Union of South Dakota, Rapid City  
 Candi Brings Plenty, Self, Oglala Sioux Tribe

**MOTION: DO PASS HB 1199**

Moved by: Jamie Smith  
 Second by: Lesmeister  
 Action: Prevailed by roll call vote (9-4-0-0)

Voting Yes: Anderson, Chaffee, Goodwin, Hansen, Kevin Jensen, Lesmeister, Reimer, Jamie Smith, and Wiese

Voting No: Beal, Gosch, Chris Johnson, and Kent Peterson

**HB 1247 : provide for the protection of the consciences of medical professionals.**

Presented by: Representative Jon Hansen (Handout(s) 3,4)  
 Proponents: Stephanie Nichols, Alliance Defending Freedom, Jonesboro, Arkansas  
 Lewis Brown, self, Washington D.C.  
 Katie Glenn, self, Washington D.C.  
 Nancy Sass, self, District 33, South Dakota  
 Dale Allen Bartscher, South Dakota Right to Life, Rapid City  
 Chris Motz, South Dakota Catholic Conference, Sioux Falls  
 Norman Woods, Family Heritage Alliance Action, Rapid City  
 Dr. Tamara Grove, self, Sioux Falls  
 Dr. Patti Giebink, self, Chamberlain  
 Lisa Gennaro, Concerned Woman For America, Alexandria  
 Brian Burge, Self, Beresford  
 Opponents: Tim Rave, South Dakota Association of Healthcare Organizations, Sioux Falls  
 Justin Smith, Greater Sioux Falls Chamber of Commerce  
 Mitchell Rave, Sanford Health, Sioux Falls  
 Darla Pollman Rogers, Wellmark Blue Cross and Blue Shield, Des Moines

Others: Terrance Lee Dosch, South Dakota Council of Community Behavioral Health, Pierre

**MOTION: AMEND HB 1247**

1247A

On page 2, line 3, of the Introduced bill, after "the " delete "ethical, philosophical, "  
 On page 2, line 3, of the Introduced bill, after "moral" delete the comma  
 On page 6, line 2, of the Introduced bill, delete " § 34-54-3" and insert " § 34-54-2"  
 Moved by: Wiese  
 Second by: Kevin Jensen  
 Action: Prevailed by voice vote

Representative Peterson announced that the committee would recess to reconvene 15 minutes following House adjournment.

The House State Affairs committee reconvened at 4:35PM with all members present.

**MOTION: DO PASS HB 1247 AS AMENDED**

Moved by: Chris Johnson  
 Second by: Gosch  
 Action: Prevailed by roll call vote (8-5-0-0)

Voting Yes: Beal, Chaffee, Gosch, Hansen, Kevin Jensen, Chris Johnson, Reimer, and Wiese

Voting No: Anderson, Goodwin, Lesmeister, Kent Peterson, and Jamie Smith

**HB 1217 : promote continued fairness in women's sports.**

Presented by: Representative Rhonda Milstead (Handout(s) 5,6)  
 Proponents: Beth Stelzer, Save Women's Sports, self, Benson, Minnesota  
 Dr. Patti Giebink, self, Chamberlain  
 Penny Sattgast, self, Pierre, South Dakota  
 Sara Frankenstein, self, Rapid City, South Dakota  
 Senator Jim Bolin  
 Jim Mehlhaff, self, Pierre  
 Representative Bethany Soye (Handout(s) 7)  
 Senator Maggie Sutton  
 Florence K. Thompson, South Dakota Parents Involved in Education, Caputa  
 Linda Schauer, Concerned Women for America, Alexandria  
 Abigail Weis, self, Aberdeen  
 Representative Steven Haugaard  
 Debbie Pease, Family Heritage Alliance Action, Rapid City  
 Dr. Tamara Grove, self, Sioux Falls  
 Chris Motz, South Dakota Catholic Conference, Sioux Falls  
 Tonchi Weaver, South Dakota Citizens for Liberty, Rapid City  
 Opponents: Dan Swartos, South Dakota High School Activities Association, Pierre  
 Wade Pogany, Associated School Boards of South Dakota  
 Roger Tellinghuisen, Human Rights Campaign, Washington (Handout(s) 6)

David Owen, South Dakota Chamber of Commerce and Industry  
 Debra Owen, Greater Sioux Falls Chamber of Commerce, Sioux Falls  
 Sam Nelson, Sioux Falls School District  
 Nathan Lukkes, Board of Regents (Handout(s) 8)  
 Dr. Amanda Diehl, self, Custer, South Dakota (Handout(s) 9)  
 Jett Jonelis, self, Sioux Falls  
 Chris Wilka, self, Harrisburg  
 Dave Zimbeck. Sioux Falls Sports Authority, Sioux Falls

**MOTION: AMEND HB 1217**

1217A

On page 1, line 3, of the Introduced bill, after "Dakota:" delete "Section 1. That a NEW SECTION be added:

"

On page 1, line 4, of the Introduced bill, after "added:" delete "LEGISLATIVE FINDINGS."

On page 1, line 4, of the Introduced bill, after "FINDINGS." delete "

The Legislature finds that:

(1) "With respect to biological sex, one is either male or female. "

Arnold De Loof, Only Two Sex Forms but Multiple Gender Variants: How to Explain?, 11(1) Communicative & Integrative Biology, (2018), at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5824932>;

(2) A person's "sex is determined at fertilization and revealed at birth or, increasingly, in utero. "

Lucy Griffin, et al. , Sex, gender and gender identity: a re-evaluation of the evidence, BJPsych Bulletin July 21; 1-9. (2020) at

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6677266>;

(3) "[B]iological differences between males and females are determined genetically during embryonic development. "

Stefanie Eggert, et al. , Mammalian sex determination-insights from humans and mice (2012) Chromosome Research 20(1): 215-238 (2012) at

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3279640>;

(4) "Secondary sex characteristics that develop during puberty . . . generate anatomical divergence beyond the reproductive system, leading to adult body types that are measurably different between sexes. "

Emma Hilton, et al. , Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage, Sports Med (2020);

(5) There are "[i]nherent differences" between men and women . . . [and these] "remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual's opportunity. "

United States v. Virginia, 518 U. S. 515, 533 (1996);

(6) In studies of large cohorts of children from 6 years old, "[b]oys typically scored higher than girls on cardiovascular endurance, muscular strength, muscular endurance, and speed/agility, but lower on flexibility. "

Konstantinos Tambalis, et al. , Physical fitness normative values for 6-18-year-old Greek boys and girls, using the empirical distribution and the lambda, mu, and sigma statistical method (2015) Eur J Sport Sci. Sep;16(6):736-46 at <https://pubmed.ncbi.nlm.nih.gov/26402318>; see also, M. J. Catley, et al. , Normative Health-related fitness values for children: analysis of 85347 test results on 9-17 year old Australians since 1985 (2013) Br J Sports Med. Jan; 47(2) at <https://pubmed.ncbi.nlm.nih.gov/22021354>;

(7) Physiological differences between males and females relevant to sports performance "include a larger body size with more skeletal muscle mass, a lower percentage of body fat, as well as greater maximal delivery of anaerobic and aerobic energy. "

O. Sandbakk, et al. , Sex Differences in World-Record Performance: The Influence of Sport Discipline and Competition Duration (2018) Int J Sports Physiol Perform, Jan 1;13(1):2-8 at <https://pubmed.ncbi.nlm.nih.gov/28488921>;

- (8) Physiological differences between males and females include "those most important for success in sport: categorically different strength, speed, and endurance. "  
Doriane Lambelet Coleman, et al. , Comparing Athletic Performances – The Best Elite Women to Boys and Men, Duke Center for Sports Law and Policy, at <https://web.law.duke.edu/sports/sex-sport/comparative-athletic-performance>;
- (9) Physiological differences between men and women provide competitive sports advantage for men, permitting, among other advantages, "males [being] able to generate higher speed and power during physical activity. "  
Doriane Lambelet Coleman, Sex in Sport, 80 Law and Contemporary Problems 63 (2017) at <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4849&context=lcp>;
- (10) There is a sports performance gap between males and females, such that "the physiological advantages conferred by biological sex appear, on assessment of performance data, insurmountable. "  
Emma Hilton, et al. , Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage, Sports Med (2020);
- (11) While classifications based on sex are generally disfavored, the United States Supreme Court has recognized that "[s]ex classifications may be used to compensate women "for particular economic disabilities [they have] suffered" . . . " to promot[e] equal employment opportunities, [and] to advance full development of the talent and capacities of our Nation's people . . . . "  
United States v. Virginia, 518 U. S. 515, 533 (1996);
- (12) One place where sex classifications allow for the full development of the talent and capacities of our Nation's people is in the context of sports and athletics;
- (13) Courts have recognized that the inherent, physiological differences between males and females result in different athletic capabilities and have stated that "because of innate physiological differences, boys and girls are not similarly situated as they enter athletic competition . . . . "  
Kleczek v. Rhode Island Interscholastic League, Inc. , 612 A. 2d 13 734, 738 (R. I. 1992);
- (14) The benefits that natural testosterone provides to male athletes is not diminished through the use of testosterone suppression. A recent study on the impact of such treatments found that policies like those of the International Olympic Committee requiring biological males to undergo at least one year of testosterone suppression before competing in women's sports do not create a level playing field. "[T]he reduction in testosterone levels required by [policies like those of the International Olympic Committee] is insufficient to remove or reduce the male advantage, in terms of muscle mass and strength, by any meaningful degree. " The study concluded that "[t]he data presented here demonstrate that superior anthropometric, muscle mass and strength parameters achieved by males at puberty, and underpinning a consideration portion of the male performance advantage over females, are not removed by the current regimen of testosterone suppression" permitted by the International Olympic Committee and other sports organizations. Rather, the study found that male performance advantage over females "remains substantial. "  
Emma Hilton, et al. , Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage, Sports Med (2020); and
- (15) Having separate sex-specific teams furthers the promotion of sex equality by providing opportunities for female athletes to demonstrate their skills, strengths, and athletic abilities, while also providing them with opportunities to obtain accolades, recognition, college scholarships, and numerous other long-term benefits associated with successful athletic endeavors."
- On page 4, line 6, of the Introduced bill, delete "2" and insert 1  
On page 4, line 7, of the Introduced bill, delete "13-67-2" and insert " 13-67-1"  
On page 4, line 16, of the Introduced bill, delete " 13-67-3" and insert " 13-67-2"  
On page 4, line 17, of the Introduced bill, delete "3" and insert 2  
On page 4, line 18, of the Introduced bill, delete "13-67-3" and insert " 13-67-2"  
On page 5, line 1, of the Introduced bill, delete "4" and insert 3  
On page 5, line 2, of the Introduced bill, delete "13-67-4" and insert " 13-67-3"  
On page 5, line 7, of the Introduced bill, delete " 13-67-2" and insert " 13-67-1"  
On page 5, line 8, of the Introduced bill, delete "5" and insert 4  
On page 5, line 9, of the Introduced bill, delete "13-67-5" and insert " 13-67-4"

Moved by: Hansen  
Second by: Gosch  
Action: Prevailed by voice vote

**MOTION: DO PASS HB 1217 AS AMENDED**

Moved by: Gosch  
Second by: Hansen  
Action: Prevailed by roll call vote (11-2-0-0)

Voting Yes: Anderson, Beal, Chaffee, Goodwin, Gosch, Hansen, Kevin Jensen, Chris Johnson, Kent Peterson, Reimer, and Wiese

Voting No: Lesmeister and Jamie Smith

**MOTION: ADJOURN**

Moved by: Gosch  
Second by: Beal  
Action: Prevailed by voice vote

Pam Kean, Committee Secretary

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/s/ KENT PETERSON  
Kent Peterson, Chair