

JOURNAL OF THE SENATE

NINETY-SEVENTH SESSION

THIRD DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, January 13, 2022

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

The prayer was offered by the Chaplain, Fr. Ron Garry, followed by the Pledge of Allegiance led by Senate page Kasey Broers.

Roll Call: All members present except Sens. Heinert and Novstrup who were excused and Sen. Nesiba who was present remotely.

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 2nd 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,
Lee A. Schoenbeck, Chair

Which motion prevailed.

1

REPORTS OF STANDING COMMITTEES

2 MR. PRESIDENT:

3 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
4 had under consideration **SB 35 and 39** and returns the same with the recommendation that said
5 bills do pass.

6 Also MR. PRESIDENT:

7 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
8 had under consideration **SB 64** and returns the same with the recommendation that said bill be
9 referred to the Joint Committee on Appropriations with a Do Pass recommendation.

10 Also MR. PRESIDENT:

11 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
12 had under consideration **SB 67** and returns the same with the recommendation that said bill be
13 referred to the Joint Committee on Appropriations with a Do Pass recommendation.

14 Also MR. PRESIDENT:

15 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
16 had under consideration **SB 52** and returns the same with the recommendation that said bill be
17 referred to the Joint Committee on Appropriations with a Do Pass recommendation.

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19

Respectfully submitted,
Joshua Klumb, Chair

20

MOTIONS AND RESOLUTIONS

21 Sen. Cammack moved that when we adjourn today, we adjourn to convene at 12:30 p.m. on
22 Friday, January 14, 2022, the 4th legislative day.

23 Which motion prevailed.

24

CONSIDERATION OF REPORTS OF JOINT-SELECT COMMITTEES

25 Sen. Cammack moved that the report of the Joint-Select Committee relative to the
26 arrangements for a memorial service for the Ninety-seventh Legislative Session as found on page
27 34 of the Senate Journal be adopted.

28 Which motion prevailed.

29

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

30 **SB 77: FOR AN ACT ENTITLED, An Act to enhance the penalty on registered sex offenders who**
31 **commit sexual contact without consent from a person capable of consenting.**

32 Introduced by: **Senator** Duhamel

1 **SB 78:** FOR AN ACT ENTITLED, An Act to revise the enhanced penalty for unauthorized
2 manufacture, distribution, counterfeiting or possession of Schedule I or II substances.

3 Introduced by: **Senator** Duhamel

4 **SB 79:** FOR AN ACT ENTITLED, An Act to clarify cross-references regarding powers of attorney.

5 Introduced by: **Senator** Johns

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

7 **COMMEMORATIONS**

8 **SC 801:** A LEGISLATIVE COMMEMORATION, Celebrating the LGBTQ+ and Two Spirit
9 community in South Dakota.

10 Introduced by: **Senator** Nesiba and **Representatives** Healy, Keintz, and Jamie Smith

11 Sen. Bolin moved that the Senate do now adjourn, which motion prevailed and at 1:12 p.m.
12 the Senate adjourned.

13 Kay Johnson, Secretary

14 **JOINT SESSION**

15 The Senate convened with the House of Representatives in the House Chamber for the purpose
16 of receiving a message on the State of the Tribes from the Honorable Delbert Hopkins, Jr., Chairman,
17 Sisseton Wahpeton Oyate. The President of the Senate, Larry Rhoden, presided.

18 The following prayer was delivered by Dave Flute, Secretary, Department of Tribal Relations:

19 Today I am going to send this prayer in our sacred and ancient Dakota language.

20 A beautiful language and a strong language.

21 And finally, a language that was used to help our country win World War II.

22 My prayer will be asking God to look down upon all of us and hear the prayers in all our hearts.

23 Giving thanks for this day and all the many blessings.

24 To look down upon all our leaders and to see the good intentions in all their hearts for the
25 betterment of all our citizens and both of our governments, and to strengthen their purpose and the
26 work they do to keep us safe and healthy.

27 I will pray to the Creator to give wisdom and guidance to our leaders so that we can work
28 together on creating meaningful partnerships to address the drug issues and other challenges we
29 face together as South Dakota citizens, tribal and non-tribal, so that our future generations live in
30 a safe and healthy world.

31 I will ask the Creator to bless all our troops, serving near and far, to keep them safe, to keep
32 their families strong.

1 I will pray for all those challenged with addiction and other illnesses and that God have pity on
2 them and to touch their spirit and heal their body.

3 I will pray for all our spiritual leaders, Tribal, Christians, Catholics, and Jews.

4 Finally, I will pray that God looks upon this entire world and to have pity on all human beings.

5 The Secretary of the Senate, Kay Johnson, called the roll of the Senate and the following
6 members were present:

7 Bolin; Breitling; Cammack; Castleberry; Crabtree; Curd; Diedrich; Duhamel; Duvall; Foster;
8 Frye-Mueller; Greenfield, Brock; Hunhoff; Johns; Johnson, David; Klumb, Kolbeck; Maher; Nesiba;
9 Otten, Herman; Rohl; Rusch; Schoenbeck; Schoenfish; Smith, VJ; Stalzer; Steinhauer; Sutton;
10 Symens; Tobin; Wheeler; Wiik; Zikmund.

11 The Chief Clerk of the House of Representatives, Patricia Miller, called the roll of the House and
12 the following members were present:

13 Anderson; Aylward; Bartels; Barthel; Beal; Blare; Bordeaux; Chaffee; Chase; Cwach; Davis;
14 Dennert; Derby; Deutsch; Drury; Duba; Finck; Fitzgerald; Goodwin; Greenfield, Lana; Gross;
15 Hansen; Haugaard; Healy; Hoffman; Howard; Jamison; Jensen, Kevin; Jensen, Phil; Johnson, Chris;
16 Karr; Keintz; Koth; Ladner; Marty; May; Mills; Milstead; Miskimins; Mortenson; Mulally; Odenbach;
17 Olson; Otten, Ernie; Overweg; Perry; Peterson, Kent; Peterson, Sue; Pischke; Pourier; Randolph;
18 Reed; Rehfeldt; Reimer; Schneider; Smith, Jamie; Soye; St. John; Stevens; Thomason; Tidemann;
19 Vasgaard; Weis; Weisgram; Wiese; Willadsen; Wink; York; Speaker Gosch.

20 The Lieutenant Governor, Larry Rhoden, introduced the Honorable Delbert Hopkins, Jr., who
21 delivered the State of the Tribes Address.

22 **2022 STATE OF THE TRIBES ADDRESS**

23 *Hau Koda, Hehanni Waste.* Hello Friends, Good Day.

24 At Sisseton-Wahpeton, the COVID-19 virus has hit us hard, and across Indian country, our
25 Native people suffer the virus at a rate almost 2 and 1/2 times the non-Native population, so I would
26 like to ask for a moment of silence to remember those who have passed on from the virus, which
27 includes many elders not only from my nation but across our lands.

28 I am Delbert Hopkins, Jr., and I serve as Chair of the Sisseton-Wahpeton Oyate. At Sisseton-
29 Wahpeton are people originate from two of the Seven Council Fires of the Sioux Nation, the Oceti
30 Sakowin Dakota Oyate. Among our Council Fires we speak three dialects, Dakota, Nakota and
31 Lakota. I am Dakota, so when I say Dakota I refer to all of our Tribes and Nations in South Dakota.
32 Our Lake Traverse Reservation is located in North and South Dakota.

33 Today, the Sisseton-Wahpeton Oyate, meaning nation, have more than 14,000 tribal
34 members, and among the Sioux Nation, we have more than 300,000 people in North and South
35 Dakota, Minnesota, Montana, Nebraska.

36 I want to thank the Senate President Pro Tem and the Speaker of the House, and all of you,
37 for inviting me to address you on a sovereign-to-sovereign basis.

38 From its first days, America entered into treaties on a nation-to-nation basis with our native
39 sovereign nations. The Constitution affirmed those earliest treaties and authorized new treaties
40 with Indian nations in the Treaty and Supremacy Clauses.

1 President Washington made the first treaty under the Constitution in 1790. The Treaty with
2 the Creek Nation. President Reagan explained this history in his 1983 American Indian Policy
3 Statement:

4 European colonial powers entered into treaties with sovereign Indian nations. Our new
5 nation continued to make treaties and to deal with Indian tribes on a government-to-
6 government basis.

7 From the beginning, America recognized our Dakota Seven Council Fires as a sovereign. In
8 the 1803 Sioux Nation treaty, America asked us to recognize Federal sovereignty over two 10 miles
9 square areas for U.S. military posts along our St. Peters and St. Paul Rivers.

10 Our 1867 Treaty, reserves the Lake Traverse Reservation in North and South Dakota as our
11 "permanent" home with the promise that the United States will assist us in making our reservation
12 a livable home.

13 Through treaties, the United States recognized our original, inherent rights as sovereign
14 nations. In *Ex Parte Crow Dog*, (1883), the Supreme Court explained: "among the arts of civilized
15 life" which the treaty protects is "the highest and best of all -- that of self-government, the regulation
16 by themselves of their own domestic affairs, the maintenance of order and peace among their own
17 members by the administration of their own laws and customs."

18 The Territorial Acts were intended to protect our Native Nations as sovereigns and our
19 homelands. The 1787 Northwest Ordinance pledged "the utmost good faith" towards our Native
20 Peoples, and in our liberty and lands we were never to be invaded.

21 The Kansas Nebraska Act of 1854 promises that "all treaties, laws, and other, engagements
22 made by the government of the United States with the Indian tribes inhabiting the territories
23 embraced within this act, shall be faithfully and rigidly observed." Back then, Nebraska included
24 the lands of North and South Dakota.

25 The 1861 Dakota Territory Act protects Indian "rights of persons and property," that means
26 our lands and liberty.

27 In the South Dakota Admissions Act, the People of South Dakota promised that they would
28 never lay claim to Indian lands as a condition of becoming a state. That provision guides the State
29 of South Dakota today and must be read together with our treaties and the territorial acts.

30 There are many wonderful books and literature that tells our Dakota story, for example, Ella
31 Deloria wrote, "Water Lilly," "Dakota Life," and others. Black Elk told his vision to John Neihardt,
32 the Poet Laureate of Nebraska, in "Black Elk Speaks." Many of our elders have been recorded in
33 films and videotapes.

34 We have many modern day heroes, including Woodrow Wilson Keeble, Billy Mills, and Ben
35 Reifel. There is quality curriculum to teach.

36 Having adopted Dakota as the state's name, public schools should teach about the history and
37 culture of our *Dakota Oyate* and our *Oceti Sakowin*, Seven Council Fires. That's not critical race
38 theory. That's history and humanity.

39 In short, Dakota history and culture are the bedrock of South Dakota. Dakota means the
40 "friendly people." Our Dakota Oyate and Dakotans are neighbors, friends and family. When we
41 recognize each other as the Creator's Children, we understand our neighbor.

42 The Federal Reserve reports: "In the late 19th and early 20th Century, Native American
43 language and culture suffered greatly under the Indian boarding school movement. Starting in the
44 1860s, thousands of Native American children were removed from their families and communities
45 to attend schools that discouraged or forbade them from speaking their Native languages and
46 following their cultural practices. The personal stories of the children and their descendants reveal
47 the lasting impact of this disruption and trauma."

1 The Boarding School era was devastating for us because, in Dakota, we refer to our Children
2 as Wakanyajea, meaning the Sacred Gift from the Creator. First and foremost in our hearts and
3 minds is the wellness, education and future of our children.

4 To give our children the best start in life, Native Nations need the best quality child care, so
5 that parents can work and children can be nurtured. We support the Federal child tax credit to get
6 resources to young families with children. Early childhood education goal is to build a solid
7 foundation of social, emotional, cognitive and physical needs for the child's whole life.

8 American Indian nations "bring a deep sense of connection, relationships, and knowledge to
9 their children's education." Yet, research shows that "American Indian students trail their peers in
10 achievement, attendance, and postsecondary readiness."

11 Preserving and promoting Native language is crucial to the advancement of Native education.
12 Native language and culture immersion programs have been shown to provide Native children the
13 chance to build a strong foundation for future success in education and life. Native communities
14 face socioeconomic challenges detrimental to healthy child development. Native language
15 immersion helps counter these challenges with nurturing experiences that young children need to
16 thrive. The Minneapolis Federal Reserve program to reduce poverty, finds many children who learn
17 their Native language and culture also have success with their overall education and well-being.

18 **With respect, we call upon the State Legislature to support Native language**
19 **revitalization programs.**

20 To give our Native children an equal education, we must improve the quality and quantity of
21 our Indian schools. Right now, at SWO we have 400 children that need a new school. Our population
22 has grown by 3 to 4 times in the past 50 years, and our population will double again in the next 20
23 years. The National Indian Education Association says:

24 All students in America deserve a safe, secure, and culturally appropriate environment
25 in which to attend school. Research shows that the physical condition of a school plays an
26 important role in student success, affecting student and teacher attendance, teacher
27 retention and recruitment, child and teacher health, and the quality of curriculum.

28 Our Indian treaties call for education, and with respect, **we call upon the State Legislature**
29 **to support full Federal funding for the Construction of BIE Indian Schools.**

30 Along with education, our Native Nations need jobs and opportunity. For decades, the poorest
31 counties in America have been our Sioux Reservation counties in North and South Dakota: Oglala
32 Lakota, Todd, Ziebach, Buffalo, Roberts, and Sioux County, among others. Unemployment on our
33 Reservation soars above 50% to 75% even 85% seasonally.

34 As you work with us to promote understanding for our Dakota language and culture, tourism
35 will create new jobs and new opportunity for all of our people. From our Annual Fairs and Pow-
36 wows and Indian gaming and hospitality, respect for our Native culture will bring new visitors to
37 enjoy South Dakota.

38 Look at the example of New Mexico's partnership with the Pueblos, Apaches and Navajos. In
39 Arizona, the Grand Canyon brings the Nations, Tribes and the State tremendous tourism
40 opportunities. The same opportunity for cultural tourism is here in South Dakota, including our
41 Reservations, Lakes and Rivers, the Badlands and the Black Hills. Naturally, our Native Nations
42 must take the lead on our cultural tourism, otherwise it's not cultural, and it's not tourism but simply
43 exploitation.

44 For us, value added Agriculture is an important part of our future. Bison, Buffalo or as we say,
45 TaTanka are the future. Buffalo meat is healthy, and when the Buffalo live, the people thrive.

46 Food sovereignty is our future as we work to create jobs, self-sufficiency and sustainable food
47 sources.

1 Our Dakota Oyate must have green energy as well as greenhouses. The power of the Sun and
2 the Four Winds bless our homes, and they shine the light of jobs, cleansing winds, and clean energy
3 towards our future.

4 **We call upon the State Legislature to support Federal Green Energy programs for**
5 **Indian country.**

6 To promote commerce, we need road, culvert and bridge construction, and we need to promote
7 cooperation between our Native Nations, the state and local transportation and the U.S. Dept. of
8 Transportation. Sound transportation benefits us with health, school buses, emergency vehicles,
9 economies and everyday life.

10 **We call upon the State Legislature to enhance transportation planning with our**
11 **Native Nations, especially in this time of Bi-Partisan Infrastructure Funding.**

12 To put us on the Good Red Road—the path of sacred living, we must fight drugs and alcohol
13 abuse. Our Native communities are afflicted by fatal drug overdoses at 5x the national average. As
14 Native people, we suffer violent crime at more than 5x the national average, and our communities
15 have experienced the scourge of Murdered and Missing Indigenous People.

16 At Sisseton Wahpeton, our Tribal Police have worked with Federal and state law enforcement
17 to interdict drugs. We called upon the Federal law enforcement agencies, for example, to assist us
18 with a Mobile Enforcement Unit Team to train our tribal police to work with drug dogs and stop drug
19 trafficking. SWO has invested \$1 Million of our own funds annually for enhanced law enforcement,
20 drug dogs and drug interdiction efforts.

21 In the Spring, SWO will rebuild our Adult Detention Center as part of our overall Community
22 Justice System. In the spirit of cooperation, we would like to work with the State and local
23 jurisdictions to take responsibility for our and jurisdiction over our people throughout the Lake
24 Traverse Reservation, and we will be reaching out to you in the days to come. **We call upon the**
25 **State Legislature to work with our Native Nations to enhance cooperative public safety.**

26 With great concern for our indigenous women and all of our people, with a firm dedication to
27 public safety and justice, I offer my hand in friendship so that we can reach across jurisdictional
28 lines to provide the best law enforcement and public safety for all of our people—Dakota and
29 Dakotans.

30 Together, our Native Sovereign Nations and the State of South Dakota can accomplish great
31 things by honoring our neighbor with mutual respect and understanding.

32 Sen. Cammack moved that the Joint Session do now dissolve.

33 Which motion prevailed.

