

JOURNAL OF THE SENATE

NINETY-SEVENTH SESSION

FOURTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Friday, January 14, 2022

The Senate convened at 12:30 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Fr. Joe Holzhauser, followed by the Pledge of Allegiance led by Senate page Joleh McCullough.

Roll Call: All members present except Sens. Bolin, Curd, Foster, Frye-Mueller, Klumb, Herman Otten, Rusch, Stalzer, Symens, Tobin, and Zikmund 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 3rd 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 submits the
4 following corrected report for the committee action of January 13, 2022:

5 MR. PRESIDENT:

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

9 Also MR. PRESIDENT:

10 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
11 had under consideration **SB 64** and returns the same with the recommendation that said bill be
12 amended as follows:

13

64A

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

15 **Section 9.** There is hereby appropriated from federal funds deposited in the state drinking
16 water revolving fund subfund established pursuant to § 46A-1-60.1, the sum of \$1,500,000 to the
17 Board of Water and Natural Resources for the purpose of contracting for a lead service line inventory
18 for all public water systems under the state drinking water revolving fund program established
19 pursuant to § 46A-1-60.1. Funds must be provided according to terms and conditions established
20 by the Board of Water and Natural Resources."

21 And that as so amended said bill be referred to the Joint Committee on Appropriations with a
22 Do Pass recommendation.

23 Also MR. PRESIDENT:

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

27 Also MR. PRESIDENT:

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

31

Respectfully submitted,
Joshua Klumb, Chair

32

33 MR. PRESIDENT

34 The Senate Committee on Legislative Procedure respectfully reports that it has had under
35 consideration the Senate rules and recommends that the Senate rules of the Ninety-sixth Legislative
36 Session be adopted as the Senate rules of the Ninety-seventh Legislative Session with the following
37 changes:

38 Amend Chapter 2 of the Senate rules as follows:

39 **2-6. COVID-19 restrictions in Senate areas.** ~~Each member of the Senate is expected to~~
40 ~~wear a mask while on the Senate floor. Any member of the Senate not wearing a mask shall, as~~

1 much as practical, remain at least six feet distance from any legislative staff. Any person not a
2 member of the Senate shall wear a mask while on the Senate floor, in a Senate lobby, in the Senate
3 gallery, or in any area adjacent to the rotunda and the Senate on the third or fourth floor of the
4 Capitol. Signs shall be posted to notify persons of these restrictions.

5 Amend Chapter 4 of the Senate rules as follows:

6 **4-4. COVID-19 restrictions in committee.** Each member of the Senate is expected to wear
7 a mask while attending a Senate committee. Any member of the Senate not wearing a mask shall,
8 as much as practical, remain at least six feet distance from any legislative staff. Any person not a
9 member of the Senate shall wear a mask while attending a Senate committee meeting. The
10 committee chair may allow a person to remove his or her mask when speaking to the committee.
11 Signs shall be posted to notify persons of these restrictions.

12 Respectfully submitted,
13 Lee Schoenbeck, Chair

14 MR. PRESIDENT

15 The Joint Committee on Legislative Procedure respectfully reports that it has had under
16 consideration the joint rules and recommends that the joint rules of the Ninety-sixth Legislative
17 Session be adopted as the joint rules of the Ninety-seventh Legislative Session with the following
18 changes:

19 Amend Chapter 6A of the joint rules as follows:

20 **6A-1. Legislative Documents.** Only bills and the following may be introduced in the
21 Legislature:

22 (1) A House or Senate resolution pertains to the affairs of one house only and requires action
23 only by the legislative chamber concerned. A House or Senate resolution may be used to express
24 an opinion or principle of one house, to express an opinion to or make a request of the other house,
25 to regulate procedure, or to refer a topic to the Executive Board of the Legislative Research Council
26 for possible study by an interim study committee;

27 (2) A concurrent resolution does not have the force of law. A concurrent resolution shall only
28 be used to express an opinion or principle of the Legislature, to authorize interim studies, sessions
29 or committees, to instruct a department of state government, or to petition federal agencies;

30 (3) A joint resolution contains matters of legislation only. A joint resolution may be used to
31 refer a matter for referendum to the people, to place a constitutional amendment on the ballot at
32 the next general election, to ratify proposed amendments to the United States Constitution, to enact
33 legislative reapportionment, or to grant a water right pursuant to § 46-5-20.1;

34 (4) A House or Senate resolution of disapproval as provided under Article IV, Section 8, of the
35 South Dakota Constitution; and

36 (5) A legislative commemoration expresses recognition of service or achievements of national
37 or statewide importance or expresses sorrow over death or loss.

38 Amend Chapter 7 of the joint rules as follows:

39 **7-12. Joint committees on appropriations.** The Joint Committee on Appropriations,
40 consisting of the Senate and House Committees on Appropriations, is deemed to be a standing
41 committee of the Senate and House of Representatives for the limited purposes of hearing agency
42 or other budget presentations, and introducing, hearing, or acting on: bills that authorize the sale
43 of state property, appropriate money, or adjust school district property tax levies pursuant to an
44 appropriations bill. All Joint Committee on Appropriations action shall be approved by a majority
45 vote of the Joint Committee unless a member calls for a separate vote of the House Committee on
46 Appropriations and the Senate Committee on Appropriations in which case a majority vote of each
47 committee is required to adopt the action.

48 Each agenda for the Joint Committee on Appropriations shall be electronically approved by the
49 chair of the Senate Committee on Appropriations and the chair of the House Committee on
50 Appropriations. The respective vice chair of each committee may electronically approve the agenda
51 in the absence of the chair.

- 52 11 Agency or other budget presentations;
- 53 12 Bills authorizing the sale of state property;
- 54 13 Bills appropriating money; or
- 55 14 Bills adjusting school district property tax levies.

7-12.1 Joint committee on appropriations action. All Joint Committee on Appropriations action shall be approved by a majority vote of the Joint Committee unless a member calls for a separate vote of the House Committee on Appropriations and the Senate Committee on Appropriations in which case a majority vote of each committee is required to adopt the action. This rule only applies to action taken by the Joint Committee on Appropriations as a whole.

7-12.2 Joint committee on appropriations agenda. Each agenda for the Joint Committee on Appropriations shall be electronically approved by the chair of the Senate Committee on Appropriations and the chair of the House Committee on Appropriations. The respective vice chair of each committee may electronically approve the agenda in the absence of the chair.

Respectfully submitted,
Spencer Gosch, Vice-Chair

MR. PRESIDENT:

The Committee on Senate Transportation respectfully reports that it has had under consideration **SB 29** and returns the same with the recommendation that said bill do pass, and having been certified as uncontested, be placed on the consent calendar.

Respectfully submitted,
Mary Duvall, Chair

MR. PRESIDENT:

The Committee on Senate Taxation respectfully reports that it has had under consideration **SB 37** and returns the same with the recommendation that said bill do pass.

Respectfully submitted,
Timothy R. Johns, Chair

MR. PRESIDENT:

The Committee on Senate State Affairs respectfully reports that it has had under consideration **SB 46** and returns the same with the recommendation that said bill be amended as follows:

46A

On page 1, line 8, of the Introduced bill, delete " athletes" and insert " students"

On page 1, line 13, of the Introduced bill, delete " athletes" and insert " students"

On page 1, line 15, of the Introduced bill, delete " as described by the sex listed on the athlete's official birth certificate issued at or near the time of the athlete's birth" and insert " and the sex listed on the student's official birth certificate may be relied upon if the certificate was issued at or near the time of the student's birth"

On page 1, line 17, of the Introduced bill, after "a " insert "limited "

On page 1, line 17, of the Introduced bill, after "immunity" insert " for relief authorized under this Act"

On page 1, line 19, of the Introduced bill, delete " an athlete" and insert " a student"

On page 1, line 20, of the Introduced bill, delete " athlete" and insert " student"

1 On page 1, line 24, of the Introduced bill, delete " an athlete" and insert " a student"

2 On page 2, line 4, of the Introduced bill, delete " athlete" and insert " student"

3 On page 2, line 12, of the Introduced bill, after "education" insert " under the control of either
4 the Board of Regents or the Board of Technical Education"

5 On page 2, line 19, of the Introduced bill, delete " athlete" and insert " student"

6 On page 2, after line 23, of the Introduced bill, insert: "

7 **Section 5. That a NEW SECTION be added to title 13:**

8 For any lawsuit brought or any complaint filed against an accredited school, a school district,
9 or an institution of higher education under the control of either the Board of Regents or the Board
10 of Technical Education, or an employee, board, or a member thereof, as a result of compliance with
11 section 1 of this Act, the attorney general shall provide legal representation at no cost to that entity
12 or individual.

13 In addition to the expenses of representation, the state shall assume financial responsibility
14 for any other expense related to the lawsuit or complaint and incurred by an accredited school, a
15 school district, or an institution of higher education, or an employee, board, or a member, including
16 any award for attorney's fees and costs for which that entity or individual would be otherwise
17 responsible."

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

19 Respectfully submitted,
20 Gary L. Cammack, Chair

21 **MESSAGES FROM THE HOUSE**

22 MR. PRESIDENT:

23 I have the honor to inform your honorable body that the House has adopted the report of the
24 Joint-Select Committee relative to making arrangements for a memorial recognition of deceased
25 former members of the Senate and House.

26 Respectfully,
27 Patricia Miller, Chief Clerk

28 **MOTIONS AND RESOLUTIONS**

29 Sen. Cammack moved that **SB 35 and 39** be deferred to Tuesday, January 18, 2022, the 5th
30 legislative day.

31 Which motion prevailed.

1

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

2

3

4

SB 84: FOR AN ACT ENTITLED, An Act to make an appropriation for the design, renovation, and construction of a multi-purpose facility at the Cottonwood Field Station and to declare an emergency.

5

Introduced by: **Senator** Maher

6

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

7

8

SB 80: FOR AN ACT ENTITLED, An Act to exempt the provision of electricity through electric vehicle charging stations from the definition of electric utility.

9

Introduced by: **Senator** Crabtree

10

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

11

SB 81: FOR AN ACT ENTITLED, An Act to revise the definition of sexual contact.

12

Introduced by: **Senator** Duhamel

13

14

SB 82: FOR AN ACT ENTITLED, An Act to revise the admissibility of certain statements made by persons with developmental disabilities concerning certain crimes.

15

Introduced by: **Senator** Duhamel

16

17

SB 83: FOR AN ACT ENTITLED, An Act to modify when a motion for expungement of an arrest record may be made.

18

Introduced by: **Senator** Rohl

19

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

20

COMMEMORATIONS

21

Sen. Wiik objected to the approval of **SC 801** pursuant to JR 6H-4.

22

23

Sen. V. J. Smith moved that the Senate do now adjourn, which motion prevailed and at 12:49 p.m. the Senate adjourned.

24

Kay Johnson, Secretary