

JOURNAL OF THE SENATE

NINETY-EIGHTH SESSION

FIFTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, January 17, 2023

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor Rachel Byrum, followed by the Pledge of Allegiance led by Senate page Kimberly Mousseau.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

Mr. President:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the 4th 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.

COMMUNICATIONS AND PETITIONS

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September 2, 2022

The Honorable Larry Rhoden
President of the Senate
State Capitol
Pierre, SD 57501

Dear President and Members of the Senate:

Pursuant to the provisions of Chapter 13-49 of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have reappointed Brock Brown, of Hamlin County, Lake Norden, South Dakota, to the State Board of Regents.

This reappointment is effective August 2, 2022, and shall continue until June 30, 2024.

Sincerely,
Kristi Noem
Governor

The President announced the referral of the reappointment to the Committee on Education.

REPORTS OF STANDING COMMITTEES

Mr. President:

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

Amend Chapter 2 of the joint rules as follows:

2-5. Remote attendance permitted. ~~Notwithstanding the provisions of Joint Rules 2-2, 2-3, and 12-2 the president pro tempore of the Senate and the speaker of the House of Representatives may excuse a member from personal attendance at a committee meeting or at a daily floor session if the member has the COVID-19 virus or the member is in quarantine because of the COVID-19 virus. The excused member may participate and vote in any committee meeting or any daily session from a remote site and by electronic means. The president pro tempore or speaker shall notify the chair of each committee the excused member serves on that the member has been excused. The committee minutes and the daily journal shall indicate that the excused member participated and voted remotely.~~

Amend Chapter 5 of the joint rules as follows:

5-17. Motion to delay action on amendments. Final action upon any amendment to a bill or resolution may not be had until ~~one~~ the next legislative day ~~has intervened~~, if a request for delay is made and is supported by at least one-fifth of the members. However, no such request is in order after the deadline prescribed by Joint Rule Chapter 17. This rule cannot be invoked more than two times on the same bill in each house.

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

2 **6A-5. Review of bills by the Legislative Research Council.** Before a bill, resolution, or
 3 commemoration may be introduced, it shall be reviewed by the Legislative Research Council for
 4 style and form. No bill, House resolution, Senate resolution, concurrent resolution, or joint resolution
 5 may be submitted to the Legislative Research Council for review ~~less than forty-eight hours before~~
 6 less than one legislative day prior to the final introduction date for bills, House resolutions, Senate
 7 resolutions, concurrent resolutions, or joint resolutions as provided in Joint Rule Chapter 17. The
 8 draft must be submitted by 5 p.m. in order to allow for an intervening legislative day. However, if a
 9 day of legislative recess intervenes between the date of posting submission deadline and the date
 10 of consideration introduction deadline, the requirement of submission is fulfilled if the submission is
 11 made by 5 p.m. on the day before the legislative recess.

12 Amend Chapter 6B of the joint rules as follows:

13 **6B-3. Limit on number of bills that may be introduced.** A legislator may introduce as
 14 prime sponsor only three individual bills or joint resolutions during the last three days for bill and
 15 resolution introduction prescribed by Joint Rule Chapter 17. A legislator may introduce as prime
 16 sponsor only four combined House, Senate, or concurrent resolutions, ~~three of which must be~~
 17 ~~introduced before the ninth legislative day. The final day for introduction of the fourth House,~~
 18 ~~Senate, or concurrent resolution is, only one of which may be introduced during the last three~~
 19 ~~days for bill and resolution introduction~~ prescribed by Joint Rule Chapter 17.

20 Amend Chapter 6C of the joint rules as follows:

21 **6C-1. Bills and resolutions that require fiscal notes.** A bill, amendment, or resolution
 22 that has an effect on the revenues, expenditures, or fiscal liability of the state or any political
 23 subdivision of the state may include a fiscal note incorporating an estimate of the effect. This rule
 24 does not apply to the cost of legislative processing, or any appropriation bill with specific dollar
 25 amounts. A fiscal note is an estimate of the fiscal implications relating to revenues, expenditures or
 26 debt, and the probable cost of the bill, amendment, or resolution. In preparing the fiscal note, the
 27 Director of the Legislative Research Council may use information or data supplied by any person,
 28 agency, organization, or governmental unit that the director deems reliable. The director shall state
 29 the sources of the information or data used and may state the extent to which the director relied on
 30 the information or data in preparing the fiscal note. If the director is unable to acquire or develop
 31 sufficient information or data to prepare a fiscal note, the director may prepare the fiscal note stating
 32 that fact, and the fiscal note shall be deemed to comply with this rule. If the director determines
 33 that the fiscal impact of a bill, amendment, or resolution cannot be determined, the director may
 34 prepare the fiscal note stating that fact, and the fiscal note shall be deemed to comply with this rule.

35 This rule does not apply to prison or jail population cost estimates required by §§ 2-9-33 and
 36 2-9-34. However, if the Legislature enacts legislation that would repeal the provisions of §§ 2-9-33
 37 and 2-9-34 during the Ninety-eighth Session, then starting on the effective date of that legislation,
 38 this rule applies to fiscal notes pertaining to prison or jail cost estimates.

39 **6C-1.3. Prison or jail population cost estimates.** A prison or jail population cost estimate
 40 may be requested pursuant to Joint Rule 6C-1.1 for any bill or amendment with a Class 1
 41 misdemeanor penalty that may impact the state prison or county jail population. The cost estimate
 42 shall be prepared pursuant to §§ 2-9-33 and 2-9-34. However, if the Legislature enacts legislation
 43 that would repeal the provisions of §§ 2-9-33 and 2-9-34 during the Ninety-eighth Session, then
 44 starting on the effective date of that legislation, the cost estimate shall be prepared pursuant Joint
 45 Rule 6C-1.

46 Amend Chapter 6D of the joint rules as follows:

47 **6D-1. Referral of bills and resolutions to standing committees.** Unless otherwise
 48 ordered, each bill or joint resolution shall be referred to a standing committee after its first reading.

49 If any member introduces an appropriation bill, the bill shall be referred directly to a standing
 50 committee. If any Committee on Appropriations introduces an appropriation bill, the ~~presiding officer~~
 51 ~~of the house of origin~~ president pro tempore of the Senate or the speaker of the House may waive

1 referral to a standing committee. If a bill has received final disposition from the Joint Committee on
 2 Appropriations, the president pro tempore of the Senate or the speaker of the House may waive the
 3 referral of the bill to a standing committee.

4 For the purposes of the Joint Rules, an appropriation bill is any bill that appropriates money
 5 from public funds and that appropriation is expressed in the title of the bill.

6 The ~~presiding officer~~ president pro tempore of the Senate or the speaker of the House may
 7 waive the referral of Senate resolutions, House resolutions, or concurrent resolutions to a standing
 8 committee. A copy of any concurrent resolution, Senate resolution, or House resolution shall be
 9 posted to the Legislative Research Council internet site before the resolution is acted upon.

10 Amend Chapter 6F of the joint rules as follows:

11 **6F-6. Placement of bills and resolutions not receiving a "Do Pass" recommendation**
 12 **on the calendar.** Any bill or resolution reported "Do Not Pass" or "without recommendation" shall
 13 fail if no motion is made for its disposition under the order of business of Consideration of Committee
 14 Reports on the next legislative day after delivery to the house. ~~On the final day to use Joint Rule 7-~~
 15 ~~7, a motion must be made before adjournment on that day.~~ A motion to place a bill or resolution on
 16 the calendar where a committee reports a bill or resolution "Do Not Pass" or "without
 17 recommendation" shall require the vote of a majority of the members-elect to carry. A bill or
 18 resolution failing to be placed on the calendar is lost after time for reconsideration has passed.

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

20 **6H-4. Approval of commemorations in the house of origin.** Any member of the body
 21 may object to the approval of any legislative commemoration by so stating on the floor of the body
 22 at any time before adjournment on the legislative day upon which the legislative commemoration is
 23 calendared. If no such objection is made, the legislative commemoration shall be deemed approved
 24 and the presiding officer shall deliver it to the other house. If there is objection, the legislative
 25 commemoration shall be deemed disapproved. The objection is not debatable.

26 **6H-6. Approval of commemorations in the second house.** Any member of the receiving
 27 body may object to the approval of any legislative commemoration by so stating on the floor of the
 28 body at any time before adjournment on the legislative day upon which the legislative
 29 commemoration is calendared. If no such objection is made, the legislative commemoration shall
 30 be deemed approved and the presiding officer shall deliver it to the house of origin. If there is
 31 objection, the legislative commemoration shall be deemed disapproved. The objection is not
 32 debatable.

33 Amend Chapter 7 of the joint rules as follows:

34 **7-1.4. Posting of agendas.** Agendas of the bills, resolutions, and other proposals to be
 35 considered at any meeting of a standing committee or subcommittee, excepting committee bill
 36 introductions, shall be posted on the bulletin board of the respective house. At least one legislative
 37 day shall intervene between the date of posting and the date of consideration. An agenda must be
 38 posted by 5 p.m. in order to allow for an intervening legislative day. However, if a day of legislative
 39 recess intervenes between the date of posting and the date of consideration, the requirement of
 40 posting is fulfilled if posting is made by 5 p.m. on the day before the legislative recess.

41 This rule does not apply to:

42 (1) Consideration of a bill or resolution for which action is required pursuant to Joint Rule 7-7;
 43 or

44 (2) Any bills or resolutions for consideration in an afternoon committee meeting that were on
 45 the committee's agenda for its morning meeting on the same day.

The term, consideration, means any taking of testimony by the committee, questioning by the committee, holding of committee discussion, or committee final action on a bill, resolution, or other proposal.

7-6. Contents of committee minutes. Minutes of standing committees filed pursuant to Joint Rule 7-5 shall contain the number of each proposal considered; the title or a brief summary of each proposal's major provisions; the committee's action, if any, on each proposal, including a brief minority report if requested by any committee member; a record of how each committee member voted when action was taken, including votes on motions to postpone consideration of proposals; and a list of all persons testifying before the committee on each proposal and the interest they represent. ~~Minutes shall reflect if any member is participating and voting remotely as permitted under Joint Rule 2-5.~~ Minutes of budget hearings conducted by an appropriations committee may contain a synopsis of testimony received. Minutes shall be open to the public for inspection.

7-8. Placement of "smoked-out" bill or resolution on calendar. ~~If a Joint Rule 7-7 is invoked for a bill or resolution on the last day for passage out of the applicable house, the bill or resolution is must be delivered to the House of Representatives or Senate pursuant to Joint Rules 7-7 on the last day for passage and it was not reported "Do Pass," and 7-7.1, as applicable, on the same legislative day. If reported out of committee pursuant to Joint Rule 7-7.1 with a "Do Pass" recommendation, the bill or resolution is placed on that day's calendar, Chapter 6F notwithstanding. If reported out under Joint Rule 7-7 or out of committee pursuant to Joint Rule 7-7.1 with a "Do Not Pass" recommendation or "without recommendation," the bill or resolution is to be addressed under motions and resolutions and may, by motion approved by a majority of the members-elect of the House of Representatives or Senate, be placed on that day's calendar, Chapter 6F notwithstanding.~~

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 applied to action taken by the Joint Committee on Appropriations as a whole.~~

7-29. Voting procedures of remote attendance permitted. ~~If any member of a committee is participating remotely pursuant to Joint Rule 2-5, the committee shall, for any motion that does not otherwise require a vote by roll call under this chapter, take a vote by roll call or by unanimous consent.~~

Amend Chapter 8 of the joint rules as follows:

8-2. Conference committee meetings, committee reports, and reports must be germane. Conference committees shall meet in open session, and minutes shall be taken and prepared in a like manner as provided for in Joint Rule 7-6. The presiding officer of the house of origin shall announce to that body the time and location of each conference committee meeting. The co-chairs of each conference committee shall report the results of each meeting to the body in a conference committee report electronically approved by both. The conference committee report must be germane to the title of the bill as submitted to the conference committee. The adoption of any conference committee report ~~constituting final disposition~~ must be approved by the recorded affirmative vote of at least two members from each house.

Amend Chapter 10 of the joint rules as follows:

10-4. Journal to reflect remote participation. ~~Each daily journal shall reflect if any member is participating and voting remotely as permitted under Joint Rule 2-5.~~

Amend Chapter 12 of the joint rules as follows:

12-2. Voting restrictions. No member may vote on any question unless within the chamber and voting before the result of the vote is announced. ~~However, a member may vote from a remote site if excused from personal attendance under Joint Rule 2-5.~~

Amend Chapter 13 of the joint rules as follows:

13-2. Consent calendar placement, objections. If any bill or resolution receives no opposition testimony in its final form and an affirmative "Do Pass" vote of all members present of the committee reporting the bill or resolution to its respective house, the committee chair may certify the bill or resolution as uncontested. Any bill or resolution so certified shall be placed on the consent calendar by the secretary of the Senate or the chief clerk of the House of Representatives. If any member objects to the placement or retention of any bill or resolution on the consent calendar, the bill or resolution shall be removed from the consent calendar and placed on the house calendar for second reading on the following legislative day. The objection is not debatable. No consent calendar bill or resolution may be considered for adoption until the legislative day following the day of its placement on the consent calendar.

Amend Chapter 17 of the joint rules as follows:

LEGISLATIVE DEADLINES

Legislative Deadlines	
Legislative Action	40 Day Session
A. Last day for unlimited introduction of individual bills and joint resolutions, <u>concurrent resolutions, and resolutions of the house of origin</u> ¹	12 th Day
B. Last day for introduction of individual bills, and joint resolutions, <u>concurrent resolutions, and resolutions of the house of origin</u> ¹	15 th Day
C. Last day for introduction of committee bills and joint resolutions ¹	16 th Day
D. Last day upon which Joint Rule 5-17 can be invoked on a bill or resolution in either house	26th Day
D. Last day to move required delivery of bills, or joint resolutions, <u>concurrent resolutions, or resolutions of the house of origin</u> by a committee to the house of origin; <u>and last day upon which Joint Rule 5-17 can be invoked on a bill or resolution in either house</u>	27 th Day
F. Last day to pass bills or joint resolutions by the house of origin and to introduce House, Senate, or concurrent resolutions; <u>and to invoke Joint Rule 7-7 in the house of origin</u>	28 th Day
G. Last day for introduction of commemorations	33 rd Day

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<p>HG. During the seven final legislative days motions to reconsider and reconsideration being made upon the same day (any time before adjournment)</p>	34 th Day
<p>HI. Last day to move required delivery of bills, or joint resolutions, <u>or concurrent resolutions</u> by a committee to the second house</p>	35 th Day
<p>JI. Last day for a bill, or joint resolution, <u>or concurrent resolution</u> to pass both houses; <u>and to invoke Joint Rule 7-7 in the second house</u></p>	36 th Day
<p>KJ. The last day of a legislative session is reserved for the consideration of vetoes</p>	40 th Day
<p>¹ Bills, <u>concurrent resolutions, Senate resolutions, House resolutions,</u> and joint resolutions must be submitted to the Legislative Research Council <u>at least 48 hours prior to this deadline, in advance of the deadline</u> pursuant to Joint Rule 6A-5.</p>	

17-1. Exceptions to deadlines for appropriation bills. Any general appropriation bill, any bill that amends a prior year's general appropriations bill, or any bill that adjusts school district property tax levies pursuant to an appropriations bill is not subject to the legislative deadlines of C, ~~E, F, I, D, E, H,~~ and ~~J~~I, in this chapter, except that the general appropriation bill requested by the Governor shall be subject to legislative deadline C.

Any appropriation bill that is not a general appropriation bill, which is referred to or reported to the floor by the Joint Committee on Appropriations, is subject to the following legislative deadlines, in lieu of the legislative deadlines of ~~E~~D and ~~F~~E, in this chapter:

- (1) Last day to move required delivery of bills by a committee to the house of origin: 30th day;
- (2) Last day to pass bills by the house of origin: 31st Day.

Respectfully submitted,
Hugh M. Bartels, Chair

Mr. President:

The Committee on Senate Agriculture and Natural Resources respectfully reports that it has had under consideration **SB 36** which was tabled.

Respectfully submitted,
Herman Otten, Chair

1 Mr. President:

2 The Committee on Senate Judiciary respectfully reports that it has had under consideration
3 **SB 53** and returns the same with the recommendation that said bill do pass.

4 Also Mr. President:

5 The Committee on Senate Judiciary respectfully reports that it has had under consideration
6 **SB 54** and returns the same with the recommendation that said bill be amended as follows:

7 54A

8 On page 1, line 5, of the Introduced bill, delete " shall" and insert " may"

9 And that as so amended, **SB 54** do pass.

10 Respectfully submitted,
11 Helene Duhamel, Chair

12 Mr. President:

13 The Committee on Senate Commerce and Energy respectfully reports that it has had under
14 consideration **SB 22 and 43** and returns the same with the recommendation that said bills do pass,
15 and having been certified as uncontested, be placed on the consent calendar.

16 Also Mr. President:

17 The Committee on Senate Commerce and Energy respectfully reports that it has had under
18 consideration **SB 35** with the recommendation that said bill be referred to the Joint Committee on
19 Appropriations with a Do Pass recommendation.

20 Respectfully submitted,
21 David Wheeler, Chair

22 **CONSIDERATION OF REPORTS OF COMMITTEES**

23 Sen. Schoenbeck moved that the report of the Standing Committee on Senate Legislative
24 Procedure as shown on page 44 of the Senate Journal be adopted.

25 The question being on Sen. Schoenbeck's motion that the report of the Standing Committee
26 on Senate Legislative Procedure as shown on page 44 of the Senate Journal be adopted.

27 And the roll being called:

28 Yeas 35, Nays 0, Excused 0, Absent 0

29 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,
30 Duhamel, Foster, Frye-Mueller, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck,
31 Steve Kolbeck, Larson, Maher, Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl,
32 Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

33 So the motion having received an affirmative vote of a majority of the members-elect, the
34 President declared the motion carried.

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FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

2

SB 63: FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to contract for the design and construction of a year-round rodeo practice facility on the campus of South Dakota State University, together with equipment and furnishings, to make an appropriation therefor, and to declare an emergency.

6

Introduced by: **Senator** Tobin

7

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

8

SB 62: FOR AN ACT ENTITLED, An Act to amend provisions regarding delivery of electronic insurance documents.

9

10

Introduced by: **Senator** Steve Kolbeck

11

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

12

SB 65: FOR AN ACT ENTITLED, An Act to modify the compulsory age for school attendance.

13

Introduced by: **Senator** Schoenbeck

14

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

15

SB 67: FOR AN ACT ENTITLED, An Act to revise provisions related to emergency and involuntary commitment for alcohol and drug abuse.

16

17

Introduced by: **Senator** Tobin

18

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

19

SB 64: FOR AN ACT ENTITLED, An Act to repeal provisions related to the jail mental health screening pilot program and oversight council.

20

21

Introduced by: **Senator** Duhamel

22

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

23

SB 61: FOR AN ACT ENTITLED, An Act to revise driver's license suspensions for restricted permit holders over the age of sixteen.

24

25

Introduced by: **Senator** Wiik

26

SB 66: FOR AN ACT ENTITLED, An Act to modify provisions related to the suspension of probationary permits issued to minors.

27

28

Introduced by: **Senator** Pischke

29

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

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SECOND READING OF CONSENT CALENDAR ITEMS

2

Sen. Tobin requested that **SB 52** be removed from the Consent Calendar.

3

4

Sen. Maher moved that the Senate do now adjourn, which motion prevailed and at 2:19 p.m. the Senate adjourned.

5

Kay Johnson, Secretary