

Committee: Joint Legislative Procedure

Thursday, January 11, 2024 11:30 AM

Roll Call

Present: Rep. Cammack, Rep. Healy, Rep. Mortenson, Rep. Rehfeldt, Rep. Stevens, Rep. Venhuizen, Sen. Crabtree, Sen. Duhamel, Sen. Kolbeck (Jack), Sen. Maher, Sen. Nesiba, Sen. Wheeler, Sen. Schoenbeck, and Rep. Bartels

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Schoenbeck

MOTION: Adopt Amendment A to the Joint Rules

JOINT RULES: AMENDMENT (A)

Section 1. That JR 1-1 be AMENDED:

1-1. Presiding officers. The presiding officer of the Senate is the president pro tempore and the presiding officer of the House of Representatives is the speaker. For purposes of the Senate floor sessions, the president of the Senate is the presiding officer of the floor session and shall preside. For purposes of the House floor sessions, the speaker is the presiding officer of the floor session and shall preside. The presiding officer of each house For each chamber's floor session, the presiding officer of the floor session shall take the chair on every legislative day at the hour to which that ~~house chamber~~ adjourned at the last sitting.

Section 2. That JR 1-3 be AMENDED:

1-3. Questions of order. The presiding officer of each ~~house chamber's floor session~~ shall decide all questions of order, subject to a motion of appeal, by a majority of the members present. No member may speak more than once on an appeal without the consent of a majority of the members present.

Section 3. That JR 1-4 be AMENDED:

1-4. Recognition of members for remarks. When a member desires to speak, that member shall respectfully address the presiding officer of the floor session. When the presiding officer recognizes the member, that member is entitled to the floor. The member first to address the presiding officer shall speak first. If two or more members address the presiding officer at the same time, the presiding officer shall name the member who is to speak first.

Section 4. That JR 1-6 be AMENDED:

1-6. Questions on the floor. If a member wishes to ask a question of another member, that member shall courteously do so through the presiding officer of the floor session and with the consent of the member to whom the question is addressed. Any question addressed to a member shall relate to a question before the body and shall be concisely asked for the sole purpose of obtaining information. No question may reflect upon the character or conduct of any official, contain argument or debate, or inquire about the course a member proposes to follow.

Section 5. That JR 1-7 be AMENDED:

1-7. Call to order. If a member is called to order, that member shall remain silent until the presiding officer of the floor session determines whether the member is in order. The decision of the presiding officer is subject to a motion of appeal.

Section 6. That JR 1-8 be AMENDED:

1-8. Signing of legislative documents ~~by presiding officer~~. The ~~presiding officer of each house president pro tempore and the speaker~~ shall sign all concurrent resolutions and commemorations that are approved by the Legislature. The president pro tempore and the speaker shall sign all writs, warrants, and subpoenas issued by the house over which the officer presides.

Section 7. That JR 1-9 be AMENDED:

1-9. Those permitted to speak to the body. No person other than a member of a house may speak upon any subject before the house unless a member makes a motion to allow another person to speak and the members present unanimously consent. However, the speaker of the House and the president pro tempore of the Senate may allow any person other than a member of the body to speak subject to advance notice to the majority and minority leaders. A motion objecting to the decision of the ~~presiding officer shall require~~ speaker or the president pro tempore requires a majority vote of the members-elect.

Section 8. That JR 1A-1 be AMENDED:

1A-1. Preservation of decorum. The presiding officer of each ~~house chamber's floor session~~ shall preserve order and decorum and, in the case of disturbance or disorderly conduct, may order the galleries or lobbies to be cleared.

Section 9. That JR 1A-10 be AMENDED:

1A-10. ~~Presiding Officer's power~~Power to maintain order. The presiding officer of a floor session may have any member temporarily removed in order to preserve order and decorum.

Section 10. That JR 2-1 be AMENDED:

2-1. Those permitted on the floor during session. In addition to current legislators, only the following persons are entitled to the floor of the House of Representatives or Senate during sessions: justices of the Supreme Court or persons who are or have been Governor, Lieutenant Governor, or members of the Congress of the United States from South Dakota; current legislative employees; news reporters; and former members of the South Dakota Legislature, except those who are registered lobbyists or those currently serving in any elective state or local office other than Governor or Lieutenant Governor. However, these persons may not be on the floor if acting in a manner to influence legislation. No other person may be admitted to the Senate floor without consent of the ~~presiding officer~~ president pro tempore. No other person may be admitted to the House floor without the consent of the speaker.

Section 11. That JR 2-3 be AMENDED:

2-3. Procedure after a call of the house. When a call of the house is ordered, the doors ~~shall~~ must be closed and the absentees noted. No member may leave the room until permission is given by the presiding officer of the floor session, the sergeant at arms' report is received and acted upon, or the house is adjourned. Until the sergeant at arms' report is received, proceedings under the call may not be suspended except by two-thirds of the members present.

Section 12. That JR 3-2 be AMENDED:

3-2. Duties of the secretary of the Senate and chief clerk of the House. The secretary of the Senate and chief clerk of the House of Representatives are responsible to the president pro tempore of the Senate or the speaker of the House, respectively. Their duties are:

- (1) To supervise the keeping of a daily journal, the engrossing and enrolling, and the handling of bills and resolutions;
- (2) To assist the calendar committee in the preparation of a daily calendar listing motions and resolutions, committee reports to be introduced, and bills and joint resolutions ready for second reading, and to assist the calendar committee in preparation of a daily consent calendar;
- (3) To sign the certificate of origin of all bills passed by the Legislature;
- (4) To attest ~~to the signature signing of the presiding officer to~~ all bills, memorials, resolutions, commemorations, writs, warrants, and subpoenas issued by the house;
- (5) To deliver to the secretary of state at the close of each session the journals and all books, bills, documents, resolutions, and papers in possession of the Legislature; to preserve one true copy of each printed bill, joint resolution, and concurrent resolution of each legislative session; to attach the copy together with a signed certificate that it is a true and complete copy of each printed bill, joint resolution, and concurrent resolution of the legislative session; and to file such certified copies with the secretary of state within ten days after adjournment of the Legislature; and
- (6) To perform all other acts appertaining to the office as may be required by the house or its presiding officer.

Section 13. That JR 5-1 be AMENDED:

5-1. Entertainment of motions. No motion may be entertained and debated until it is seconded. Following the second of a debatable motion, the presiding officer of a floor session shall first recognize the member making the motion.

Section 14. That JR 5-2 be AMENDED:

5-2. Restatement and reading of motions. When a motion is made and seconded, ~~it shall be restated by~~ the presiding officer of the floor session shall restate the motion, and, if requested by the presiding officer or a member, ~~shall be~~ the motion must be displayed electronically or reduced to writing and read aloud.

Section 15. That JR 5-2.2 be AMENDED:

5-2.2. Withdrawal of motions. After a motion is stated by the presiding officer of the floor session, it may not be withdrawn without unanimous consent of the members present.

Section 16. That JR 5-9 be AMENDED:

5-9. Division of the question. Any member may call for a division of the question. The presiding officer of the floor session shall divide the question if it contains questions so distinct that, one being taken away, the rest may stand as a separate proposition. A member may not call for the division of a bill.

Section 17. That JR 5-12 be AMENDED:

5-12. Failure to make timely motion for reconsideration. If any member has given notice of intent to move for reconsideration and does not move for reconsideration before the stated deadline, the presiding officer of the floor session shall immediately state that any member may move for reconsideration.

Section 18. That JR 6B-1.1 be AMENDED:

6B-1.1. Withdrawal of bills and resolutions. The provisions of 6B-1 and 6D-1 notwithstanding, prior to the first committee hearing in the house of origin, the prime sponsor of any bill or resolution may withdraw any bill or resolution in the house of origin with the approval of the ~~presiding officer~~ president pro tempore for a Senate bill or Senate resolution and the speaker for a House bill or House resolution. The presiding officer of the floor session shall then declare the bill or resolution formally withdrawn and ~~shall~~ order that an entry be made in the bill status ~~so~~ system stating the bill or resolution has been withdrawn.

Section 19. That JR 6C1.1 be AMENDED:

6C-1.1. Request for fiscal note ~~or prison or jail population cost estimate~~ by any member. A fiscal note ~~or prison or jail population cost estimate~~ may be requested by:

- (1) The ~~presiding officer~~ president pro tempore or the speaker when a bill, amendment, or resolution is introduced;
- (2) The chair of the standing committee possessing the bill, amendment, or resolution;
- (3) A majority vote of the standing committee possessing the bill, amendment, or resolution; or
- (4) A legislator, if the legislator is supported by a vote of one-fifth of the body before the second reading of the bill or resolution.

Section 20. That JR 6C-2 be AMENDED:

6C-2. Deferral of bills without fiscal note. The bill or resolution for which a fiscal note has been requested ~~shall must~~ include a notation of the requirement on the Legislative Research Council ~~internet site website~~ for the bill or resolution. The completed fiscal note ~~shall be displayed~~ must be published on the Legislative Research Council ~~internet site website~~ before the bill or resolution may be placed on the second reading calendar. However, the presiding officer of a floor session may place the bill or resolution on the second reading calendar if the presiding officer determines a fiscal note is no longer required.

Section 21. That JR 6C-4 be AMENDED:

6C-4. Retirement system actuarial statement. Each bill introduced affecting the benefits payable by the state or a local government retirement system ~~shall must~~ have an actuarial statement displayed on the Legislative Research Council ~~internet site website~~ for the bill. The actuarial statement ~~shall must~~ be requested from the governing board of the retirement system affected and the statement ~~shall must~~ identify the costs of the proposed change in the law as stated by the actuary for the affected retirement plan. If there is a doubt as to the need for an actuarial statement, the ~~presiding officer~~ president pro tempore shall make the final decision for a Senate bill and the speaker shall make the final decision for a House bill. After the bill is introduced, the actuarial statement ~~shall be displayed~~ must be published on the Legislative Research Council ~~internet site website~~ for the bill.

Section 22. That JR 6G-8 be AMENDED:

6G-8. Review and signing of bills and joint resolutions. The committee on legislative procedure and the chief of engrossing and enrolling shall compare enrolled with engrossed bills and joint resolutions as passed by both houses and make a report thereon to the house of origin. If a bill or joint resolution is reported by the committee as correctly enrolled, ~~it shall~~ the bill or joint resolution must be presented to the presiding officers of the floor sessions for both houses for their signatures.

Section 23. That JR 6H-3 be AMENDED:

6H-3. Calendaring of commemorations. Upon introduction, the presiding officer of a floor session shall place each pending legislative commemoration on the calendar of the next legislative day.

Section 24. That JR 6H-4 be AMENDED:

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

Section 25. That JR 6H-5 be AMENDED:

6H-5. Calendaring of commemorations in the second house. Upon receipt of a legislative commemoration from the other house, the presiding officer of the floor session shall place it on the next day's legislative calendar.

Section 26. That JR 6H-6 be AMENDED:

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

Section 27. That JR 6I-2 be AMENDED:

6I-2. Waiving electronic requirement. The ~~presiding officer~~ president pro tempore for a Senate bill and the speaker for a House bill may waive the requirement that any filing, submission, or approval be done electronically, if the electronic system is not available and functional.

Section 28. That JR 7-4 be AMENDED:

7-4. Dissenting reports. If the members of a committee cannot agree on its report, the majority and minority may each make a report. Any member dissenting in whole or in part from the reasoning and conclusions of both majority and minority may also present a statement of the member's reasoning and conclusions. All reports ~~shall~~ must be entered in the journal if found by the presiding officer of the floor session to be decorous in language and respectful to the house.

Section 29. That JR 8-2 be AMENDED:

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 floor session 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 must be approved by the recorded affirmative vote of at least two members from each house.

Section 30. That JR 9-1 be AMENDED:

9-1. Designation of committee of the whole chair. If either house sits as a committee of the whole, ~~the presiding officer~~ the president pro tempore in the Senate and the speaker in the House of Representatives shall name ~~one of the members a member~~ as chair of the house concerned, who shall be vested with all the authority of ~~the that house's~~ presiding officer ~~of the house concerned~~ while the committee of the whole is in session.

Section 31. That JR 12-3 be AMENDED:

12-3. Voting procedures. Questions shall be put in this form: "As many as favor the question, as stated, say 'Yea'; as many as are opposed to the question, as stated, 'Nay'." If the presiding officer of a floor session doubts the result of a vote or if a division is called for, the members shall divide. Those in the affirmative shall rise from their seats and remain standing until counted. A vote of "aye" or "yes" shall be recorded as "yea" and a vote of "no" shall be recorded as "nay."

Section 32. That JR 13-4 be AMENDED:

13-4. Consent calendar items--Questions, voting. Bills and resolutions on the consent calendar are not debatable. The ~~president of the Senate or the speaker of the House of Representatives~~ presiding officer of the floor session shall allow a reasonable time for questions from the floor and shall permit the proponents of the bills or resolutions to answer the questions. Immediately before voting on the first bill or resolution on the consent calendar, the ~~president of the Senate or the speaker of the House of Representatives~~ presiding officer of the floor session shall call to the attention of the members the fact that the next roll call will be the roll call on the bill or resolution on the consent calendar.

Section 33. That JR 16-5 be AMENDED:

16-5. Suspension of floor privileges. During a joint session, former Governors, Lieutenant Governors, members of the Congress of the United States from South Dakota and former members of the South Dakota Legislature ~~will may~~ not be admitted to the chamber. The presiding officer ~~will of the~~ joint session shall instruct the sergeant at arms to provide a reserve seating section in the chamber gallery for these former officials who wish to witness the joint session.

Other: Representative Tina Mullaly

Moved by: Wheeler
Second by: Duhamel
Action: Prevailed by Majority Members Elect (14-0-0-0)

Voting Yes: Cammack, Healy, Mortenson, Rehfeldt, Stevens, Venhuizen, Crabtree, Duhamel, Kolbeck (Jack), Maher, Nesiba, Wheeler, Schoenbeck, and Bartels

MOTION: Adopt Amendment B to the Joint Rules

JOINT RULES: AMENDMENT (B)

Section 1. That JR 13-1 be AMENDED:

13-1. Consent calendar recommendations by standing committees. Each standing committee may report an uncontested bill or resolution out of committee with the recommendation that it be placed on the consent calendar. As used in this rule, an "uncontested bill or resolution" is any bill or resolution, except a revenue measure, which receives a do-pass or do-pass-as-amended recommendation from the committee to which it is referred, by unanimous vote of the members present ~~and has no opposition expressed by any person present at the committee meeting with respect to the final version of the bill or resolution as approved by the committee.~~

Section 2. That JR 13-2 be AMENDED:

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 for placement on the consent calendar. If any committee member objects to the committee chair's certification, the bill or resolution may not be certified for placement on the consent calendar. Any bill or resolution ~~so~~ certified shall by a committee chair must 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 during a floor session, the bill or resolution shall must 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.

Moved by: Venhuizen
Second by: Bartels
Action: Prevailed by Majority Members Elect (14-0-0-0)

Voting Yes: Cammack, Healy, Mortenson, Rehfeldt, Stevens, Venhuizen, Crabtree, Duhamel, Kolbeck (Jack), Maher, Nesiba, Wheeler, Schoenbeck, and Bartels

MOTION: Adopt Amendment C to the Joint Rules

JOINT RULES: AMENDMENT (C)

Section 1. That a NEW SECTION be added to Joint Rule chapter 12:

12-8. Vote required for certain fees. If a bill proposes to increase a fee, impose a new fee, or authorize a state agency to impose or increase a fee and the new fee or increased fee amount is deposited in the general fund or in a continuously appropriated fund, the bill requires an affirmative vote of two-thirds of the members-elect for passage. For purposes of this joint rule, the term, fee, means a financial payment or charge imposed by the state and does not include a financial payment or charge imposed by a political subdivision.

Moved by: Stevens
Second by: Rehfeldt

Action: Prevailed by Majority Members Elect (14-0-0-0)

Voting Yes: Cammack, Healy, Mortenson, Rehfeldt, Stevens, Venhuizen, Crabtree, Duhamel, Kolbeck (Jack), Maher, Nesiba, Wheeler, Schoenbeck, and Bartels

MOTION: Adopt Amendment D to the Joint Rules

JOINT RULES: AMENDMENT (D)

Section 1. That a NEW SECTION be added to chapter 6A of the Joint Rules:

JR 6A-9. Amendment of administrative rule through legislation. A bill may include:

- (1) A repeal of an existing administrative rule section; or**
- (2) A requirement that an executive branch entity promulgate, pursuant to chapter 1-26, specific changes to the existing text of an administrative rule section. The bill language may include the rule section language and the legislatively required text changes.**

Moved by: Venhuizen

Second by: Rehfeldt

Action: Prevailed by Majority Members Elect (14-0-0-0)

Voting Yes: Cammack, Healy, Mortenson, Rehfeldt, Stevens, Venhuizen, Crabtree, Duhamel, Kolbeck (Jack), Maher, Nesiba, Wheeler, Schoenbeck, and Bartels

MOTION: Amend Amendment E to the Joint Rules

JOINT RULES: AMENDMENT (E)

Section 1. That JR 8-3 be AMENDED:

8-3. Final disposition of report and distribution of reports. Adoption of a conference committee report recommending passage of a bill or adoption of a resolution constitutes final disposition. The vote required to concur in the amendments of the other House or to adopt a conference committee report ~~shall be is~~ the same as that required for final passage of the bill or resolution taking such bill or resolution as a whole. Before the final vote on the adoption of a conference committee report may be taken, any member of the body may require that the report be ~~made available in electronic form, or be~~ distributed in written form to the members of the body, ~~if not available in electronic form.~~

Moved by: Mortenson

Second by: Rehfeldt

Action: Prevailed by voice vote

MOTION: Adopt Amendment E as amended to Joint Rules

JOINT RULES: AMENDMENT (E)

Section 1. That JR 8-3 be AMENDED:

8-3. Final disposition of report and distribution of reports. Adoption of a conference committee report recommending passage of a bill or adoption of a resolution constitutes final disposition. The vote required to concur in the amendments of the other House or to adopt a conference committee report ~~shall be is~~ the same as that required for final passage of the bill or resolution taking such bill or

resolution as a whole. Before the final vote on the adoption of a conference committee report may be taken, any member of the body may require that the report be made available in electronic form, or be distributed in written form to the members of the body, if not available in electronic form.

Moved by: Rehfeldt
Second by: Healy
Action: Prevailed by Majority Members Elect (14-0-0-0)

Voting Yes: Cammack, Healy, Mortenson, Rehfeldt, Stevens, Venhuizen, Crabtree, Duhamel, Kolbeck (Jack), Maher, Nesiba, Wheeler, Schoenbeck, and Bartels

MOTION: Adopt Amendment F to the Joint Rules

JOINT RULES: AMENDMENT (F)

Section 1. That JR 5-1.1 be REPEALED:

~~5-1.1. Amendments proposing penalties. Any attempt to offer an amendment, whether in committee or on the floor, that requires a prison or jail population cost estimate shall be ruled out of order unless offered with a preexisting prison or jail population cost estimate.~~

Section 2. That JR 6C-1 be AMENDED:

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

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

Section 3. That JR 6C-1.1 be AMENDED:

6C-1.1. Request for fiscal note ~~or prison or jail population cost estimate by any member.~~ A fiscal note ~~or prison or jail population cost estimate~~ may be requested by:

- (1) The presiding officer when a bill, amendment, or resolution is introduced;
- (2) The chair of the standing committee possessing the bill, amendment, or resolution;
- (3) A majority vote of the standing committee possessing the bill, amendment, or resolution; or
- (4) A legislator, if the legislator is supported by a vote of one-fifth of the body before the second reading of the bill or resolution.

Section 4. That JR 6C-1.3 be REPEALED:

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

Moved by: Bartels
Second by: Healy
Action: Prevailed by Majority Members Elect (14-0-0-0)

Voting Yes: Cammack, Healy, Mortenson, Rehfeldt, Stevens, Venhuizen, Crabtree, Duhamel, Kolbeck (Jack), Maher, Nesiba, Wheeler, Schoenbeck, and Bartels

MOTION: ADJOURN

Moved by: Mortenson
Second by: Kolbeck (Jack)
Action: Prevailed by voice vote

Rachael Person, Committee Secretary

/s/ LEE SCHOENBECK
Lee Schoenbeck, Chair