

# The South Dakota Legislature: A Brief Overview

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## Introduction

The Legislature is the policy-making branch of state government. It exercises this function by passing laws. This is accomplished during the Legislature's [annual regular sessions](#) or during a special session. The Legislature also has oversight of the actions of the executive branch in administering state law. The Legislature, through its committees, reviews the activities of executive branch agencies to ensure they comply with the law. When the Legislature is not in session, the Legislature studies policy issues to determine what new laws might be needed or how existing laws may need to be fine-tuned.

## Legislative Powers

[Article II of the South Dakota Constitution](#) divides the powers of state government into three branches: the legislative branch, the executive branch, and the judicial branch. Other articles in the South Dakota Constitution prescribe the powers and duties of each branch.

[Article III of the South Dakota Constitution](#) places the legislative power of the state—that is, the power to make laws—in a Legislature made up of two chambers: the Senate and the House of Representatives.

Importantly, [Article III, section 1](#) stipulates that the people of South Dakota expressly reserve some lawmaking power for themselves: they can initiate new measures to be submitted to a vote of the people, and they can refer any enacted act to a vote of the people. South Dakota was the first state to amend its constitution to allow its citizens those powers, approving the initiative and referendum in the general election of 1898.

[Article IV of the South Dakota Constitution](#) provides some power to the Governor to shape legislation, but it is limited. The Governor can recommend the Legislature enact specific measures, but the Legislature makes the final decisions. The Governor also has the power to convene a special session of the Legislature by issuing a proclamation stating the purpose of the special session. Additionally, the Governor has the power to either sign or veto a bill. If a bill is vetoed, legislators will [reconsider](#) whether the bill should become law despite the veto—they may override the Governor's veto by a vote of two-thirds of the members of each chamber.

Though the Governor and the agencies under the Governor's control are tasked with executing or carrying out the laws enacted by the Legislature, legislators have an important oversight role in the administrative rule-making process. The Legislature's [Interim Rules Review Committee](#) is a legislative committee created by law to review administrative rules proposed by state agencies, and to ensure that those rules are consistent with legislative intent. Although the Interim Rules Review Committee membership changes from one legislative term to the next, the committee's existence has been continuous from the time it was created in 1972, and each committee agenda reflects the continuous nature of the work. For example, the agenda announced for the August 20, 2024 meeting provides that it is the "four hundred twenty-seventh" meeting of the Interim Rules Review Committee.

## Composition

The South Dakota Legislature has a total of one hundred and five members—thirty-five in the Senate and seventy in the House of Representatives—meaning the Legislature has exactly twice as many representatives as senators. [Article III, section 5 of the South Dakota Constitution](#) requires that the number of legislative districts correspond to the number of senators. Thus, one senator and two representatives are elected from each of the state's thirty-five legislative districts.

Though the total number of legislators has varied over time, a constitutional amendment approved in 1936 (see [Article III, section 2 of the South Dakota Constitution](#)) set guidelines that are still in place today: the Senate may not have fewer than twenty-five and not more than thirty-five senators, and the House may not have fewer than fifty and not more than seventy-five representatives.

Legislative reapportionment, or redistricting, is required every ten years. The South Dakota Constitution stipulates that a legislative district "shall consist of compact, contiguous territory and shall have population as nearly equal as is practicable, based on the last preceding federal census." During redistricting, the Legislature evaluates and modifies the boundaries of legislative districts to ensure compliance with federal and state law.

## Terms and Vacancies

Members of the Legislature serve two-year terms. A legislator is limited to no more than four consecutive terms, or eight years, in the House of Representatives or the Senate (see [Article III, section 6 of the South Dakota Constitution](#)). However, these restrictions do not apply to partial terms to which a legislator is appointed. The Governor makes appointments to fill vacancies in either chamber.

[Article XXI, section 2 of the South Dakota Constitution](#) authorizes the Legislature to set the salaries for constitutional officers and legislators by a two-thirds vote of each chamber during any regular session. Currently, the Legislature has set the salary of a lawmaker at one-fifth of the South Dakota median household income.

Legislators currently receive sixty-seven cents per mile for trips related to legislative business (see [SDCL 3-9-1](#)). The South Dakota Constitution originally had legislators earning five dollars per day in salary and ten cents per mile for travel, but a proposal approved in 1892 reduced the mileage to five cents per mile. In a nod to history, legislators receive a mere five cents per mile for one of their regular round-trip journeys between their homes and the Capitol in Pierre while the legislative session is taking place.

## Officers

On the first day of the legislative session that begins a new two-year term, each chamber elects new officers to serve for the legislative sessions of the next two years. The Senate organizes by electing a president pro tempore to serve as the presiding officer of the Senate. The president pro tempore also presides over the floor session when the lieutenant governor, who is the president of the Senate, is absent. The House organizes at the start of the legislative term by electing a speaker of the House of Representatives to serve as the presiding officer of the House who presides over the floor session, and a speaker pro tempore.

Every year, senators also elect a secretary of the Senate and assistants to the secretary, and representatives elect a chief clerk of the House of Representatives and assistants to the chief clerk. Other employees appointed to key roles in the Senate and the House include a chief chaplain, committee secretaries, a sergeant at arms, assistant sergeants at arms, pages, and legislative interns.

## Sessions

Legislators officially convened as the Legislature of South Dakota for the first time on October 15, 1889. During a three-day special session, the Legislature took important steps toward organizing, including choosing two people to serve as U.S. senators to represent the new state (direct election of U.S. senators did not happen until the Seventeenth Amendment to the U.S. Constitution was ratified in 1913). Curiously though, legislators at that first special session were acting on behalf of an entity that did not formally exist at the time—South Dakota did not officially become a state until more than two weeks later, along with North Dakota, on November 2, 1889.

The first regular legislative session started two months later, in January 1890, when legislators convened at the temporary capital in Pierre for a sixty-day session. They met again the following year for their second session. After those first two busy years, the Legislature held its regular session only every other year, meeting for sixty days. The Legislature only met in odd-numbered years until 1961, when a constitutional amendment was approved to make the legislative session an annual occurrence (see [Article III, section 7 of the South Dakota Constitution](#)). With the exception of the organizational session in 1889, the first session in an even-numbered year was 1964, when legislators finished their business in thirty days. The shorter schedule was made possible by the move to annual sessions.

## Oaths, Privileges, and Immunities

[Article III, section 8 of the South Dakota Constitution](#) requires that state legislators and officers of the Legislature take an oath to uphold the U.S. Constitution and the state constitution. [Article III, section 11 of the South Dakota Constitution](#) provides that senators and representatives are privileged from arrest during the session of the Legislature or while traveling to and from the session, "in all cases except treason, felony or breach of the peace." Because of the need for freedom of debate among legislators during the session, the same section stipulates that "for words used in any speech or debate in either house, they shall not be questioned in any other place."

## Limitations on Office and Conflicts of Interest

No member of the Legislature can hold any other civil office in the state during the term for which the member was elected. In addition, during their terms or for one year after, legislators are prohibited from having a contract with the state or a county that was authorized by any law passed while they were serving in the Legislature. In February 2024, in response to a query from the Governor, the South Dakota Supreme Court clarified that legislators may enter into contracts with the state resulting from the annual budget bill which pays for the ordinary operations of state government—also known as the General Appropriations Act—but shall not enter into contracts from any other bill that authorizes specific projects.

## Quorum, Journal, and Open Sessions

A majority of the members of each chamber constitutes a quorum needed to do business. Each chamber keeps and publishes a journal of its proceedings, unless there is an issue that requires confidentiality. Key votes are recorded, and if one-sixth of the legislators request it, the yeas and nays on any question are also entered in the journal. Sessions of each chamber are open to the public "unless when the business is such as ought to be kept secret," according to [Article III, section 15 of the South Dakota Constitution](#).

## Bills

[Article III, section 21 of the South Dakota Constitution](#) requires that a bill may embrace only one subject, and that subject must be expressed in the title of the bill. Every bill carries the enacting clause, "Be it

enacted by the Legislature of the State of South Dakota," and no bill becomes law unless it has the approval of a majority of the members in each chamber, except certain bills that require a two-thirds majority for passage. The South Dakota Constitution states that a bill may originate in either chamber of the Legislature, and a bill passed by one chamber may be amended by the other. If a bill is amended in the second chamber and the house of origin does not concur with the amendments, the differences between the House and Senate versions are worked out in a conference committee. The South Dakota Constitution also requires that every bill passed by the Legislature must be signed by the presiding officer of each chamber during open session before it can be presented to the Governor.

### **Peculiarities of the South Dakota Legislature**

Every bill introduced in the South Dakota Legislature gets a hearing—the exception being if the legislator sponsor of the bill withdraws it. That is unlike many other states, where a bill can be introduced, but might never have a hearing or be given the opportunity for passage. South Dakota's "citizen legislature" gives serious consideration to all ideas brought before it.

According to [Article III, section 17 of the South Dakota Constitution](#), every bill must have two readings in each house of the South Dakota Legislature before it is passed into law. That is more efficient than other states that require three readings. This may be partially due to South Dakota's short legislative sessions, as it is simply faster to enact bills without a third reading.

Bills in the South Dakota Legislature tend to be short. They are typically written in language that is more easily understood than the legislative language used in bills in other states or Congress. Though there are complex topics that occasionally require technical language, ordinary citizens may be better able to read and understand the bills that create or change the laws that impact their lives.

A general rule of parliamentary practice specifies that legislators are not allowed to address each other by name in debates on the floor of the House or Senate. Instead, one lawmaker might refer to another as "the good senator from Hutchinson County," or "the esteemed representative from Harding County." This is not just a nice formality—the intent is to remove personalities as much as possible so that legislators may better analyze policies and make decisions based on the merits of a debate.

For similar reasons, legislators are not allowed to use props on the floor of the House or Senate to make points during a debate. Again, a legislator must win the support of their colleagues by the power of their argument alone.

The South Dakota Legislature uses unique terminology for several legislative actions. When a legislator proposes by amendment to remove the contents of a bill and replace them with something else entirely, that is called a "hoghouse" amendment, or, as a verb, to "hoghouse" a bill. The term took on its meaning more than a century ago, when legislators in the 1921 session took a bill about building facilities for hogs and other livestock at South Dakota State University and replaced it with a measure to give themselves additional money for expenses. The Daily Capital Journal of Pierre wrote a headline that observed on March 5, 1921, "Hog House Bill Vehicle for Law Makers Extra Pay." Since then, the "hoghouse amendment" has found a place in the Joint Rules of the South Dakota Legislature (see [Joint Rule 6E-2](#)). Other unique legislative terms specific to South Dakota are the "smoke-out," a floor action whereby two-thirds of the members of a house may require a committee to deliver a bill that did not pass out of the committee (see [Joint Rules 7-7, 7-7.1, and 7-8](#)), and a motion to "defer to the 41<sup>st</sup> day," a motion to defer a bill to the day after a legislative session is finally adjourned (see [Joint Rules 7-1.8 and 7-16](#)).

### **The Legislative Research Council**

In 1951, the South Dakota Legislature established a new entity, the South Dakota Legislative Research Council, to help the Legislature with its work. It is the only entity within state government that provides staffing services for the Legislature during legislative sessions. The Executive Board of the Legislative Research Council is the governing body of the Legislative Research Council between sessions of the Legislature and is made up of eight representatives and seven senators. The Executive Board hires a director who works closely with the board and manages the office and other Legislative Research Council staff. Another key position within the Legislative Research Council is the code counsel. The code counsel oversees the publication of state law and plays a significant role in analyzing how proposed laws may fit into South Dakota Codified Law publication. The code counsel also staffs the Legislature's Interim Rules Review Committee.

The nonpartisan Legislative Research Council gives professional, confidential assistance to all legislators, regardless of party affiliation. The Legislative Research Council provides research services, drafts legislation, provides legal and fiscal analysis, staffs committee meetings, maintains the Legislature's official journals and the legislative website, and provides technical assistance for the recording and broadcasting of committee meetings and floor sessions during the legislative session.