

JOURNAL OF THE SENATE

EIGHTY-SEVENTH SESSION

SECOND DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, January 11, 2012

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

The prayer was offered by the Chaplain, Howard Grinager, followed by the Pledge of Allegiance led by Senate page Jacqueline Juffer.

Roll Call: All members present except Sens. Krebs and Schlekeway who were excused.

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 first 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,
Bob Gray, Chair

Which motion prevailed.

1 The oath of office was administered by the President to the following named persons:

2 Page (1st term) -- Haley Vik

3 Legislative Intern -- Hanna McElroy

4 Which was subscribed to and placed on file in the office of the Secretary of State.

5 **COMMUNICATIONS AND PETITIONS**

6 May 25, 2011

7 The Honorable Matt Michels

8 President of the Senate

9 500 East Capitol Avenue

10 Pierre, SD 57501-5070

11 Dear Mr. President and Members of the Senate:

12 Pursuant to the provisions of Article IV, Section 9, of the Constitution and subject to your
13 consent, I am honored to inform you that I have appointed Pamela Roberts, Hughes County,
14 Pierre, South Dakota, to the position of Secretary of the Department of Labor and Regulation.

15 This appointment was effective April 12, 2011.

16 Sincerely,
17 Dennis Daugaard
18 Governor

19 The President announced the referral of the appointment to the Committee on Commerce
20 and Energy.

21 March 25, 2011

22 The Honorable Matt Michels

23 President of the Senate

24 500 East Capitol Avenue

25 Pierre, SD 57501-5070

26 Dear Mr. President and Members of the Senate:

27 Pursuant to the provisions of Article IV, Section 9, of the Constitution, and subject to your
28 consent, I am honored to inform you that I have appointed Andy Gerlach, Hughes County,
29 Pierre, South Dakota, to the position of Secretary of the Department of Revenue.

1 This appointment is effective May 23, 2011.

2 Sincerely,
3 Dennis Daugaard
4 Governor

5 The President announced the referral of the appointment to the Committee on Taxation.

6 May 25, 2011

7 The Honorable Matt Michels
8 President of the Senate
9 500 East Capitol Avenue
10 Pierre, SD 57501-5070

11 Dear Mr. President and Members of the Senate:

12 Pursuant to the provisions of Article IV, Section 9, of the Constitution, and subject to your
13 consent, I am honored to inform you that I have appointed Laurie Gill, Hughes County, Pierre,
14 South Dakota, to the position of Secretary of the Department of Human Services.

15 This appointment is effective June 13, 2011.

16 Sincerely,
17 Dennis Daugaard
18 Governor

19 The President announced the referral of the appointment to the Committee on Health and
20 Human Services.

21 May 11, 2011

22 The Honorable Matt Michels
23 President of the Senate
24 500 East Capitol Avenue
25 Pierre, SD 57501-5070

26 Dear Mr. President and Members of the Senate:

27 Pursuant to the provisions of Article IV, Section 9, of the Constitution, and subject to your
28 consent, I am honored to inform you that I have appointed Melody Schopp, Perkins County,
29 Meadow, South Dakota, to the position of Secretary of the Department of Education.

1 This appointment was effective April 9, 2011.

2 Sincerely,
3 Dennis Daugaard
4 Governor

5 The President announced the referral of the appointment to the Committee on Education.

6 November 8, 2011

7 The Honorable Matt Michels
8 President of the Senate
9 500 East Capitol Avenue
10 Pierre, SD 57501-5070

11 Dear Mr. President and Members of the Senate:

12 Pursuant to the provisions of Article IV, Section 9, of the Constitution, and subject to your
13 consent, I am honored to inform you that I have appointed Matthew Michels, Yankton County,
14 Yankton, South Dakota, to the position of Interim Secretary of the Department of Veterans
15 Affairs.

16 This appointment was effective September 28, 2011.

17 Sincerely,
18 Dennis Daugaard
19 Governor

20 The President announced the referral of the appointment to the Committee on State
21 Affairs.

22 May 25, 2011

23 The Honorable Matt Michels
24 President of the Senate
25 500 East Capitol Avenue
26 Pierre, SD 57501-5070

27 Dear Mr. President and Members of the Senate:

28 Pursuant to the provisions of Article IV, Section 9, of the Constitution, and subject to your
29 consent, I am honored to inform you that I have appointed James Hagen, Hughes County,
30 Pierre, South Dakota, to the position of Secretary of the Department of Tourism.

1 This appointment was effective May 9, 2011.

2 Sincerely,
3 Dennis Daugaard
4 Governor

5 The President announced the referral of the appointment to the Committee on Judiciary.

6 March 23, 2011

7 The Honorable Matt Michels
8 President of the Senate
9 500 East Capitol Avenue
10 Pierre, SD 57501-5070

11 Dear Mr. President and Members of the Senate:

12 Pursuant to the provisions of South Dakota Codified Law 33-1-10 and 33-1-10.1, and
13 subject to your consent, I have the honor to inform you that I have appointed Jeffrey P.
14 Marlette, Pennington County, Box Elder, South Dakota, as the Assistant Adjutant General,
15 Army.

16 This appointment is effective April 2, 2011.

17 Sincerely,
18 Dennis Daugaard
19 Governor

20 The President announced the referral of the appointment to the Committee on State
21 Affairs.

22 **REPORTS OF JOINT-SELECT COMMITTEES**

23 **MR. PRESIDENT:**

24 Your Joint-Select Committee appointed to make arrangements for a Memorial Service for
25 deceased former members of the South Dakota House of Representatives and Senate
26 respectfully reports that they recommend that the House of Representatives and Senate recess
27 and convene in the House Chamber at 3:00 p.m. on January 19, 2012, and that a Joint Memorial
28 Resolution be introduced in their memory by their colleagues in the House of Representatives
29 and Senate.

30 A short program will follow the introduction of the Memorial Resolution. At the
31 conclusion of the Memorial Service, the Joint Session will be dissolved.

1 The Memorial Resolution shall be printed in the House and Senate Journals.

2 Respectfully submitted,
3 Roger Hunt
4 Nick Moser
5 H. Paul Dennert
6 Steve Hickey
7 House Committee

Respectfully submitted,
Mike Vehle
Elizabeth Kraus
Billie Sutton
Senate Committee

8 Also MR. PRESIDENT:

9 Your Joint-Select Committee appointed relative to securing chaplains for the Eighty-
10 seventh Legislative Session respectfully reports:

11 We have conferred with the Pierre/Ft. Pierre Ministerial Association and have arranged
12 for ministers to participate on a part-time basis under the direction of Pastor Daniel Varns, New
13 Life Assembly of God, as chief chaplain, to serve the Senate and House as chaplains throughout
14 the Eighty-seventh session of the Legislature. The chaplains are as follows:

15 Mike Bishop, Don Block, Paul Bly, Bob Bogart, Susan Carr, Larry Cass, Kris Cowles,
16 John Fette, Sarah Goldammer, Michael Griffin, Howard Grinager, Mercy Hobbs, Rolly
17 Kemink, Karl Kroger, Mark McCormick, Peter Mehlhaff, Auggie Mintzlaff, Dodie
18 Noordermeer, Brad Urbach, and David Zellmer.

19 Respectfully submitted,
20 Roger Hunt
21 Nick Moser
22 H. Paul Dennert
23 House Committee

Respectfully submitted,
Larry Rhoden
Phyllis Heineman
James Hundstad
Senate Committee

24 Also MR. PRESIDENT:

25 Your Joint-Select Committee appointed for the purpose of conferring with the Director of
26 the Legislative Research Council in regard to making arrangements for the distribution of the
27 official directory, House and Senate journals and bills, and other legislative printing for the two
28 houses and the state offices with the full power to act respectfully reports that:

29 The Legislature order 180 copies of the Senate and House bills and resolutions (each); and
30 100 copies of the Senate and House daily journals (each) for the Eighty-seventh Legislative
31 Session.

32 The free distribution of sets of bills, resolutions, and daily journals shall be as follows:

33 Eight copies for the Governor's Office, thirteen copies for the Supreme Court, eleven
34 copies for the Legislative Research Council, thirteen copies for the State Library Depository,
35 three copies for the Attorney General, two copies for the Bureau of Finance and Management,

1 four copies for the Secretary of State, two copies for the Department of Legislative Audit, one
2 copy for the Code Commission, one copy for the State Treasurer, one copy for the State
3 Auditor, one copy for the Commissioner of School and Public Lands, one copy for the Public
4 Utilities Commission, and press copies as needed. Accomplishment of this distribution may be
5 satisfied, in whole or in part, by obtaining electronic copies of these documents from the
6 legislative Web site.

7 State's Attorneys and County Auditors shall receive free copies of bills and journals if they
8 pay mailing charges at a rate of \$50 per set (bills or journals) for first-class mailing.

9 Distribution of bills and journals to state officials, boards, commissions, and institutions
10 will be made upon request in writing to the Legislative Documents Room at a charge of
11 \$122 per set of bills and \$135 per set of journals plus mailing charges, if applicable.

12 One copy of the official directory (red book) shall be distributed to each Senator and
13 Representative, thirteen copies to the State Library, three copies to the Secretary of State and
14 a copy shall also be made available to state departments and the press upon request to the
15 Director of the Legislative Research Council. The public may obtain a copy for a fee of
16 \$6 payable to the Legislative Documents Room.

17 One free copy of the South Dakota Legislative Index shall be distributed to the Governor,
18 the Lieutenant Governor, the Attorney General and the Supreme Court; thirteen free copies to
19 the State Library Depository; and one free copy to Senators and Representatives. Upon written
20 request to the Legislative Documents Room before January 31, 2012, all other state and private
21 entities may purchase the South Dakota Legislative Index at a cost of \$35 per copy.

22 The Chief Mailing Clerk shall upon written request furnish any individual, firm,
23 corporation, association, or other organization with a set of House and Senate bills for \$122 per
24 set and a set of journals for \$135 per set for the Eighty-seventh Legislative Session, plus
25 mailing charges, if applicable.

26 Legislators may have two copies of all bills and resolutions and two copies of the daily
27 journals distributed or mailed to constituents within the legislator's own district if constituents
28 or legislators pay mailing charges of \$50 per set for first-class mailing.

29 Registered lobbyists shall be entitled to one copy of the official directory upon payment
30 of the \$40 registration fee to the Secretary of State; and upon payment of an additional \$122 per
31 set of bills and \$135 per set of journals plus mailing charges, if applicable, to the Legislative
32 Documents Room, shall be entitled to one copy of all bills and resolutions or journals pursuant
33 to SDCL 2-12-3.

34 Bill status reports will be printed and sold to state agencies at cost and to registered
35 lobbyists for \$200 payable to the Legislative Documents Room which receipted funds shall be
36 used to pay the printing costs. If bill status is mailed, the cost is \$125 for first-class postage.

37 A free daily copy of the bill status report shall be distributed as follows:

1 Governor; Speaker of the House; Speaker Pro tempore of the House; House Majority
 2 Leader; House Minority Leader; House Lobby; Chief Clerk of the House; Lieutenant Governor;
 3 President Pro tempore of the Senate; Senate Majority Leader; Senate Minority Leader; Senate
 4 Lobby; Secretary of the Senate; Page Advisor; Attorney General; Bureau of Finance and
 5 Management; Secretary of State; Treasurer's Office; Auditor's Office; Office of School and
 6 Public Lands; and Legislative Research Council. Accomplishment of this distribution may be
 7 satisfied, in whole or in part, by obtaining electronic copies of these documents from the
 8 legislative Web site.

9 The Chief Mailing Clerk shall at the end of the session file a report with the Director of
 10 the Legislative Research Council of all money paid for the purchase of bills and journals and
 11 show proof of having deposited such money with the State Treasurer. Such funds shall be used
 12 to offset the costs of postage and printing of bills and journals.

13	Respectfully submitted,	Respectfully submitted,
14	Jacqueline Sly	Corey Brown
15	Charles Hoffman	Tim Rave
16	Susy Blake	James Hundstad
17	House Committee	Senate Committee

18 Also MR. PRESIDENT:

19 Your Joint-Select Committee appointed for the purpose of fixing the compensation of the
 20 elective and appointive officers and employees of the House and Senate for the Eighty-seventh
 21 Legislative Session, pursuant to SDCL 2-5-8, respectfully reports that a salary schedule for the
 22 elective and appointive officers and employees has been developed and filed with the Director
 23 of the Legislative Research Council and the State Auditor.

24 In regard to the system for payment of travel expenses to legislators we respectfully report
 25 that:

26 (1) A form listing each weekend during session will be delivered to legislators. Legislators
 27 will be asked to list their travel on that single sheet which would be signed and turned in
 28 at the close of session. Also, pursuant to statute, a voucher must also be signed by each
 29 legislator requesting travel reimbursement.

30 (2) Legislators driving their own car home for a weekend will receive mileage paid at state
 31 rates (37 cents per mile). Legislators not driving home will not be entitled to
 32 reimbursement unless they leased a vehicle or somehow incurred an expense, equivalent
 33 to 37 cents per mile, in such travel.

34 (3) Legislators flying commercially will receive the equivalent of flight expenses as long
 35 as it does not exceed 37 cents per mile.

36 (4) Legislators flying charter or in their own plane will be reimbursed for actual expenses
 37 as long as it does not exceed 37 cents per mile.

1 (5) A maximum of nine trips will be considered for the 2012 Legislative Session, including
2 the trip for the final legislative day.

3 (6) Pursuant to constitutional provisions, legislators will be paid for their initial trip to
4 Pierre and their final trip home at the rate of 5 cents per mile.

5	Respectfully submitted,	Respectfully submitted,
6	Val Rausch	Bob Gray
7	David Lust	Corey Brown
8	Bernie Hunhoff	Jason Frerichs
9	House Committee	Senate Committee

10 Also MR. PRESIDENT:

11 Your Joint-Select Committee appointed to make arrangements for legislative days
12 respectfully reports that we recommend the days of the Eighty-seventh Legislative Session be
13 January 10 through January 13, January 17 through January 20, January 23 through January 26,
14 January 30 through February 2, February 6 through February 10, February 13 through
15 February 16, February 21 through February 24, February 27 through March 2, and March 19.

16	Respectfully submitted,	Respectfully submitted,
17	Hal Wick	Bob Gray
18	Nick Moser	Russell Olson
19	Peggy Gibson	Jason Frerichs
20	House Committee	Senate Committee

21 **MESSAGES FROM THE HOUSE**

22 MR. PRESIDENT:

23 I have the honor to inform your honorable body that the House has appointed Reps.
24 Gosch, Cronin, and Fargen as a committee of three on the part of the House to meet with a like
25 committee on the part of the Senate to arrange for a Joint Session of the two houses to receive
26 the message of the Governor.

27 Also MR. PRESIDENT:

28 I have the honor to inform your honorable body that the House has appointed Reps.
29 Gosch, Cronin, and Fargen as a committee of three on the part of the House to meet with a like
30 committee on the part of the Senate to notify the Governor that the Legislature is duly organized
31 and ready to meet in Joint Session to receive any communications he may desire to make.

1 Also MR. PRESIDENT:

2 I have the honor to inform your honorable body that the House has appointed Reps.
3 Rausch, Lust, and Bernie Hunhoff as a committee of three on the part of the House to meet with
4 a like committee on the part of the Senate relative to the Joint Rules for the Eighty-seventh
5 Legislative Session.

6 Also MR. PRESIDENT:

7 I have the honor to inform your honorable body that the House has appointed Reps. Wick,
8 Moser, and Gibson as a committee of three on the part of the House to meet with a like
9 committee on the part of the Senate to arrange for legislative days for the members, officers,
10 and employees of the House and Senate.

11 Also MR. PRESIDENT:

12 I have the honor to inform your honorable body that the House has appointed
13 Reps. Rausch, Lust, and Bernie Hunhoff as a committee of three on the part of the House to
14 meet with a like committee on the part of the Senate for the purpose of setting the compensation
15 schedule of the elective and appointive officers and employees of the House and Senate for the
16 Eighty-seventh Legislative Session, pursuant to SDCL 2-5-8, with the full power to act and that
17 such compensation schedule be filed with the Director of the Legislative Research Council and
18 the State Auditor.

19 Also MR. PRESIDENT:

20 I have the honor to inform your honorable body that the House has appointed Reps. Sly,
21 Hoffman, and Blake as a committee of three on the part of the House to meet with a like
22 committee on the part of the Senate for the purpose of conferring with the Director of the
23 Legislative Research Council in regard to making arrangements for the distribution of the
24 official directory, House and Senate journals, and bills and other legislative printing for the two
25 houses and the state offices, with the full power to act.

26 Also MR. PRESIDENT:

27 I have the honor to inform your honorable body that the House has appointed Reps. Hunt,
28 Moser, and Dennert as a committee of three on the part of the House to meet with a like
29 committee on the part of the Senate relative to securing chaplains for the Eighty-seventh
30 Legislative Session.

1 Also MR. PRESIDENT:

2 I have the honor to inform your honorable body that the House has appointed Reps. Hunt,
3 Moser, Dennert, and Hickey as a committee of four on the part of the House to meet with a
4 committee of three on the part of the Senate for the purpose of arranging for a memorial
5 recognition of deceased former members of the House and Senate.

6 Also MR. PRESIDENT:

7 I have the honor to inform your honorable body that the House has appointed Reps. Lust,
8 Cronin, Bernie Hunhoff, and Fargen as a committee of four on the part of the House to meet
9 with a committee of three on the part of the Senate to arrange for a Joint Session of the Senate
10 and House of Representatives to receive a message from the Chief Justice of the Supreme
11 Court.

12 Also MR. PRESIDENT:

13 I have the honor to inform your honorable body that the House has adopted the report of
14 the Joint-Select Committee for the purpose of notifying the Governor that the Legislature is
15 duly organized and ready to meet in Joint Session to receive any communications he may desire
16 to make.

17 Also MR. PRESIDENT:

18 I have the honor to inform your honorable body that the House has adopted the report of
19 the Joint-Select Committee for the purpose of arranging a Joint Session of the two houses to
20 receive the message of the Governor.

21 Also MR. PRESIDENT:

22 I have the honor to inform your honorable body that the House has adopted the report of
23 the Joint-Select Committee relative to arranging for a joint session to receive the State of
24 Judiciary message from the Chief Justice of the Supreme Court.

25 Respectfully,
26 Karen Gerdes, Chief Clerk

27 Sen. Adelstein moved that the Senate do now adjourn, which motion prevailed and at
28 1:15 p.m. the Senate adjourned.

29 Fee Jacobsen, Secretary

1

JOINT SESSION

2 Pursuant to the report of the Joint-Select Committee, as found on page 12 of the Senate
3 Journal, the Senate convened with the House of Representatives in the House Chamber for the
4 purpose of receiving a message from the Chief Justice of the Supreme Court, David Gilbertson.
5 The President of the Senate, Matt Michels, presided.

6 The following prayer was delivered by Chaplain, Pastor Paul Bly, Pierre/Ft. Pierre
7 Ministerial Association, Pierre, South Dakota:

8 A reading from the prophet Micah, the sixth chapter: "With what shall I come before the
9 Lord, and bow before God on High?" "He has told you, O mortal, what is good; and what does
10 the Lord require of you but to do justice, and to love kindness, and to walk humbly with your
11 God."

12 Let us pray:

13 Almighty God, You have declared what is right: to do justice, to love kindness, and to walk
14 humbly with You. With that in our minds and on our hearts we ask Your blessing upon the
15 judges and courts, juries and law officers throughout our state. Give them a true sense of
16 partnership with You, O God, in keeping all of us safe within an orderly and just society.

17 Bless all of these leaders here today that they may do their important and often difficult
18 work in a spirit of wisdom, kindness, justice and teamwork. And in the midst of it all, Lord,
19 help us to never lose sight of Your bountiful goodness.

20 O Lord God, today we especially lift up to You Bill Janklow. Keep him in Your tender
21 care. Give him comfort and peace. Surround him and his family with Your holy presence.
22 Sustain us all by the gift of Your Holy Spirit, so that we may support one another in all that lies
23 ahead with the strength that You alone can give, for the sake of Your unfailing love.

24 Lord bless all our families, wherever they may be. In Your holy name we pray. Amen.

25 The Secretary of the Senate, Fee Jacobsen, called the roll of the Senate and the following
26 members were present:

27 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen, Tom;
28 Haverly; Heineman; Holien; Hundstad; Hunhoff, Jean; Johnston; Juhnke; Kraus; Lederman;
29 Maher; Nelson, Tom; Novstrup, Al; Nygaard; Olson, Russell; Peters; Putnam; Rampelberg;
30 Rave; Rhoden; Sutton; Tidemann; Tieszen; Vehle.

31 The Chief Clerk of the House of Representatives, Karen Gerdes, called the roll of the
32 House and the following members were present:

33 Abdallah; Blake; Bolin; Boomgarden; Brunner; Carson; Conzet; Cronin; Deelstra; Dennert;
34 Dryden; Elliott; Fargen; Feickert; Feinstein; Gibson; Gosch; Greenfield; Haggar, Hansen, Jon;
35 Hawley; Hickey; Hoffman; Hubbel; Hunhoff, Bernie; Hunt; Jensen; Jones; Killer; Kirkeby;
36 Kirschman; Kloucek; Kopp; Liss; Lucas; Lust; Magstadt; Miller; Moser; Munsterman; Nelson,

1 Stace; Novstrup, David; Olson, Betty; Perry, Romkema; Rozum; Russell; Schaefer; Schrempp,
2 Scott; Sigdestad; Sly; Solum; Street; Stricherz; Tornow; Tulson; Turbiville; Van Gerpen;
3 Vanneman; Venner; Verchio; White; Wick; Willadsen; Wink; Wismer; Speaker Rausch.

4 Sen. Olson moved that a committee of three on the part of the Senate and a committee of
5 four on the part of the House be appointed to escort the Honorable David Gilbertson, Chief
6 Justice of the state of South Dakota, to the rostrum.

7 Which motion prevailed and the President appointed as such committee Sens. Gray, Olson,
8 and Frerichs on the part of the Senate and Reps. Lust, Cronin, Hunhoff and Fargen on the part
9 of the House.

10 The Sergeant at Arms announced the arrival of Chief Justice David Gilbertson, who was
11 escorted to the rostrum.

12 The Lieutenant Governor, Matt Michels, introduced the Honorable David Gilbertson, who
13 delivered the State of the Judiciary Address.

14 Sen. Olson moved that the Joint Session do now dissolve.

15 Which motion prevailed.