

JOURNAL OF THE SENATE

NINETY-SIXTH SESSION

THIRTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Monday, February 01, 2021

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

The prayer was offered by the Chaplain, Father David Hussey, followed by the Pledge of Allegiance led by Senate page Echo Koskan.

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 12th day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Which motion prevailed.

Respectfully submitted,
Lee A. Schoenbeck, Chair

1

COMMUNICATIONS AND PETITIONS

2

February 1, 2021

3

Mr. President and Members of the Senate:

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I have the honor to inform you that on February 1, 2021, I approved Senate Bills 40 and 46, and the same have been deposited in the office of the Secretary of State.

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6

Respectfully submitted,

7

Kristi Noem

8

Governor

9

REPORTS OF STANDING COMMITTEES

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MR. PRESIDENT:

11

The Committee on Senate Health and Human Services respectfully reports that it has had under consideration **SB 96, and HB 1004, 1005, and 1060** and returns the same with the recommendation that said bills do pass, and having been certified as uncontested, be placed on the consent calendar.

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Also MR. PRESIDENT:

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The Committee on Senate Health and Human Services respectfully reports that it has had under consideration **HB 1006** and returns the same with the recommendation that said bill do pass.

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Respectfully submitted,

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Wayne H. Steinhauer, Chair

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MR. PRESIDENT:

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The Committee on Senate State Affairs respectfully reports that it has had under consideration **SB 112** and returns the same with the recommendation that said bill do pass.

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Respectfully submitted,

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Gary L. Cammack, Chair

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Mr. PRESIDENT:

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The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and Enrolling has carefully compared **SB 1, 2, 23, and 26** and finds the same correctly enrolled.

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Respectfully submitted,

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Lee A. Schoenbeck, Chair

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Mr. PRESIDENT:

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The Committee on Legislative Procedure respectfully reports that **SB 40 and 46** were delivered to her Excellency, the Governor, for her approval at 3:05 p.m., January 28, 2021.

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Respectfully submitted,

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Lee A. Schoenbeck, Chair

1

REPORTS OF SELECT COMMITTEES

2

MR. PRESIDENT:

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Your Select Committee appointed on Legislative Redistricting appointments respectfully reports that it has had under consideration the appointments to the 2021 Legislative Redistricting Committee and recommends that the following members be appointed by the President Pro Tempore:

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Chair: Lee Schoenbeck

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Vice Chair: Jim Bolin

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Member: Troy Heinert

10

Member: Mike Diedrich

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Member: Casey Crabtree

12

Member: Helene Duhamel

13

Member: Kyle Schoenfish

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Respectfully submitted,
Gary L. Cammack
Lee Schoenbeck
Troy Heinert

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MESSAGES FROM THE HOUSE

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Mr. PRESIDENT:

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I have the honor to transmit herewith **HB 1009, 1011, 1037, 1051, 1082, and 1083** which have passed the House and your favorable consideration is respectfully requested.

21

22

Also Mr. PRESIDENT:

23

I have the honor to return herewith **SB 1, 2, 23, and 26** which have passed the House without change.

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26

Respectfully,
Patricia Miller, Chief Clerk

27

MOTIONS AND RESOLUTIONS

28

Sen. Cammack moved that **SB 57 and 87** be deferred to Wednesday, February 3, 2021, the 15th legislative day.

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Which motion prevailed.

1

CONSIDERATION OF REPORTS OF COMMITTEES

2

Sen. Cammack moved that the reports of the Standing Committees on

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Judiciary on **SB 79** as found on page 130 of the Senate Journal; also

4

Judiciary on **SB 95** as found on page 130 of the Senate Journal be adopted.

5

Which motion prevailed and the reports were adopted.

6

CONSIDERATION OF EXECUTIVE APPOINTMENTS

7

The Senate proceeded to the consideration of the executive appointment of Tiffany Sanderson of Hughes County, Pierre, South Dakota, to the position of Secretary of the Department of Education.

8

9

The question being "Does the Senate advise and consent to the executive appointment of Tiffany Sanderson pursuant to the executive message as found on page 73 of the Senate Journal?"

10

11

And the roll being called:

12

Yeas 35, Nays 0, Excused 0, Absent 0

13

Yeas:

14

Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster, Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

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So the question having received an affirmative vote of a majority of the members-elect, the President declared the appointment confirmed.

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20

The Senate proceeded to the consideration of the executive appointment of Brock Brown of Hamlin County, Lake Norden, South Dakota, to the State Board of Regents.

21

22

The question being "Does the Senate advise and consent to the executive appointment of Brock Brown pursuant to the executive message as found on page 71 of the Senate Journal?"

23

24

And the roll being called:

25

Yeas 35, Nays 0, Excused 0, Absent 0

26

Yeas:

27

Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster, Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

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So the question having received an affirmative vote of a majority of the members-elect, the President declared the appointment confirmed.

32

1

FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS

2

SB 163: FOR AN ACT ENTITLED, An Act to revise the eligibility requirements for compassionate parole under certain circumstances.

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Introduced by: **Senator** Foster

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SB 164: FOR AN ACT ENTITLED, An Act to provide for a formal process criminal forfeiture.

6

Introduced by: **Senator** Johns

7

SB 166: FOR AN ACT ENTITLED, An Act to revise provisions regarding hate crimes.

8

Introduced by: **Senator** Foster

9

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

10

SB 161: FOR AN ACT ENTITLED, An Act to revise the qualifications to serve as a trustee of a county road district.

11

12

Introduced by: **Senator** Johns

13

Was read the first time and referred to the Committee on Local Government.

14

SB 162: FOR AN ACT ENTITLED, An Act to appropriate funds for airport route restoration, business development, and air service marketing and to declare an emergency.

15

16

Introduced by: **Senator** Curd

17

SB 165: FOR AN ACT ENTITLED, An Act to authorize the disclosure of certain expenditures for safety and security.

18

19

Introduced by: **Senator** Nesiba

20

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

21

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

22

HB 1009: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the licensing of electricians and electrical contractors.

23

24

HB 1011: FOR AN ACT ENTITLED, An Act to increase certain boiler inspection fees and dedicate more of the fees to the state's boiler inspection program.

25

26

HB 1037: FOR AN ACT ENTITLED, An Act to authorize the increase of certain fees by the State Electrical Commission.

27

28

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

29

HB 1082: FOR AN ACT ENTITLED, An Act to revise certain state aid to education definitions for the 2021-2022 school year.

30

1 **HB 1083:** FOR AN ACT ENTITLED, An Act to grant authority to the secretary of education to
2 waive accountability requirements in certain situations.

3 Were read the first time and referred to the Committee on Education.

4 **HB 1051:** FOR AN ACT ENTITLED, An Act to maintain the life of any child born alive.

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

6 **CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS**

7 Sen. Cammack requested that the nomination of Kirsten K. Aasen be removed from the consent
8 calendar pursuant to JR 13-2.

9 The Senate proceeded to the consideration of the executive reappointments of Krista Heeren-
10 Graber of Minnehaha County, Sioux Falls, South Dakota, to the South Dakota Interstate Compact
11 for Adult Offender Supervision (SJ 77), and

12 Dana Dykhouse of Minnehaha County, Sioux Falls, South Dakota, to the South Dakota Board
13 of Technical Education (SJ 73), and

14 Diana VanderWoude of Minnehaha County, Sioux Falls, South Dakota, to the South Dakota
15 Board of Technical Education (SJ 72), and

16 Terry Sabers of Davison County, Mitchell, South Dakota, to the South Dakota Board of
17 Technical Education (SJ 72).

18 The question being "Does the Senate advise and consent to the executive reappointments?"

19 And the roll being called:

20 Yeas 35, Nays 0, Excused 0, Absent 0

21 Yeas:

22 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
23 Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher,
24 Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer,
25 Steinhauer, Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

26 So the question having received an affirmative vote of a majority of the members-elect, the
27 President declared the reappointments confirmed.

28 **SECOND READING OF CONSENT CALENDAR ITEMS**

29 **SB 82:** FOR AN ACT ENTITLED, An Act to revise certain regulations pertaining to dealers of
30 motor vehicles, boats, snowmobiles, or manufactured homes and mobile homes.

31 **HB 1036:** FOR AN ACT ENTITLED, An Act to correct technical errors in certain code cross-
32 references regarding the Department of Game, Fish and Parks.

33 Were read the second time.

1 The question being "Shall **SB 82** pass as amended, and **HB 1036** pass?"

2 And the roll being called:

3 Yeas 35, Nays 0, Excused 0, Absent 0

4 Yeas:

5 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
6 Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher,
7 Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer,
8 Steinhauer, Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

9 So the bills having received an affirmative vote of a majority of the members-elect, the
10 President declared the bills passed and the titles were agreed to.

11 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

12 **SB 78:** FOR AN ACT ENTITLED, An Act to modify certain provisions related to trusts.

13 Was read the second time.

14 The question being "Shall **SB 78** pass as amended?"

15 And the roll being called:

16 Yeas 35, Nays 0, Excused 0, Absent 0

17 Yeas:

18 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
19 Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher,
20 Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer,
21 Steinhauer, Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

22 So the bill having received an affirmative vote of a majority of the members-elect, the President
23 declared the bill passed and the title was agreed to.

24 **SB 73:** FOR AN ACT ENTITLED, An Act to revise provisions regarding the sale of certain
25 government owned vehicles by an auction agency.

26 Was read the second time.

27 The question being "Shall **SB 73** pass?"

28 And the roll being called:

29 Yeas 35, Nays 0, Excused 0, Absent 0

30 Yeas:

31 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
32 Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher,
33 Nesiba, Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer,
34 Steinhauer, Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

35 So the bill having received an affirmative vote of a majority of the members-elect, the President
36 declared the bill passed and the title was agreed to.

1 **SB 71:** FOR AN ACT ENTITLED, An Act to designate Juneteenth Day as a working holiday.

2 Was read the second time.

3 Sen. Bolin moved that **SB 71** be amended as follows:

4 71A

5 On page 1, line 1, of the Introduced bill, after "Juneteenth " delete "Day "

6 On page 1, line 4, of the Introduced bill, after "Juneteenth" delete " Day"

7 On page 1, line 5, of the Introduced bill, after "Juneteenth" delete " Day"

8 Which motion prevailed.

9 The question being "Shall **SB 71** pass as amended?"

10 And the roll being called:

11 Yeas 26, Nays 8, Excused 1, Absent 0

12 Yeas:

13 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Brock
14 Greenfield, Hunhoff, Johns, Klumb, Kolbeck, Herman Otten, Rohl, Rusch, Schoenfish, V. J. Smith,
15 Steinhauer, Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

16 Nays:

17 Frye-Mueller, Heinert, David Johnson, Maher, Nesiba, Novstrup, Schoenbeck, and Stalzer

18 Excused:

19 Foster

20 So the bill having received an affirmative vote of a majority of the members-elect, the President
21 declared the bill passed and the title was agreed to.

22 **SB 80:** FOR AN ACT ENTITLED, An Act to provide for counties and municipalities in the
23 legislative redistricting process.

24 Was read the second time.

25 Sen. Heinert moved that **SB 80** be amended as follows:

26 80B

27 On page 1, line 11, of the Introduced bill, after "counties" insert ", reservations,"

28 Which motion prevailed.

29 The question being "Shall **SB 80** pass as amended?"

30 And the roll being called:

31 Yeas 24, Nays 11, Excused 0, Absent 0

1 Yeas:
 2 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
 3 Heinert, Hunhoff, Johns, David Johnson, Maher, Nesiba, Herman Otten, Rohl, Rusch, Schoenbeck,
 4 Schoenfish, V. J. Smith, Stalzer, and Zikmund

5 Nays:
 6 Frye-Mueller, Brock Greenfield, Klumb, Kolbeck, Novstrup, Steinhauer, Sutton, Symens, Tobin,
 7 Wheeler, and Wiik

8 So the bill having received an affirmative vote of a majority of the members-elect, the President
 9 declared the bill passed.

10 The question being on the title.

11 Sen. Heinert moved that the title to **SB 80** be amended as follows:

12 80C

13 On page 1, line 1, of the Introduced bill, after "counties" insert ", reservations,"

14 Which motion prevailed and the title was so amended.

15 **SB 62:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding appeals by the
 16 prosecution.

17 Was read the second time.

18 The question being "Shall **SB 62** pass?"

19 And the roll being called:

20 Yeas 32, Nays 3, Excused 0, Absent 0

21 Yeas:
 22 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Frye-
 23 Mueller, Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Novstrup,
 24 Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton,
 25 Symens, Tobin, Wheeler, Wiik, and Zikmund

26 Nays:
 27 Foster, Heinert, and Nesiba

28 So the bill having received an affirmative vote of a majority of the members-elect, the President
 29 declared the bill passed and the title was agreed to.

30 **SB 29:** FOR AN ACT ENTITLED, An Act to revise certain training and testing requirements for
 31 entry level driver applicants for a commercial driver license.

32 Was read the second time.

33 The question being "Shall **SB 29** pass?"

34 And the roll being called:

35 Yeas 32, Nays 2, Excused 1, Absent 0

1 Yeas:
2 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
3 Heinert, Hunhoff, Johns, David Johnson, Klumb, Maher, Nesiba, Novstrup, Herman Otten, Rohl,
4 Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, Sutton, Symens, Tobin, Wheeler,
5 Wiik, and Zikmund

6 Nays:
7 Brock Greenfield and Kolbeck

8 Excused:
9 Frye-Mueller

10 So the bill having received an affirmative vote of a majority of the members-elect, the President
11 declared the bill passed and the title was agreed to.

12 **SB 68:** FOR AN ACT ENTITLED, An Act to provide for the creation and funding of Oceti Sakowin
13 community-based schools.

14 Was read the second time.

15 Senator Cammack moved to call the question.

16 Which motion prevailed.

17 The question being "Shall **SB 68** pass?"

18 And the roll being called:

19 Yeas 14, Nays 20, Excused 1, Absent 0

20 Yeas:
21 Bolin, Cammack, Castleberry, Curd, Foster, Heinert, Maher, Nesiba, Rohl, Rusch, V. J. Smith,
22 Steinhauer, Tobin, and Wheeler

23 Nays:
24 Breitling, Crabtree, Diedrich, Duhamel, Duvall, Brock Greenfield, Hunhoff, Johns, David
25 Johnson, Klumb, Kolbeck, Novstrup, Herman Otten, Schoenbeck, Schoenfish, Stalzer, Sutton,
26 Symens, Wiik, and Zikmund

27 Excused:
28 Frye-Mueller

29 So the bill not having received an affirmative vote of a majority of the members-elect, the
30 President declared the bill lost.

31 Sen. Heinert announced his intention to reconsider the vote by which **SB 68** lost.

32 **SB 74:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding drones.

33 Was read the second time.

1 The question being "Shall **SB 74** pass as amended?"

2 And the roll being called:

3 Yeas 34, Nays 0, Excused 1, Absent 0

4 Yeas:

5 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
6 Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher,
7 Nesiba, Novstrup, Herman Otten, Rohl, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer,
8 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

9 Excused:

10 Rusch

11 So the bill having received an affirmative vote of a majority of the members-elect, the President
12 declared the bill passed and the title was agreed to.

13 **SB 83:** FOR AN ACT ENTITLED, An Act to require the provision of information regarding
14 perinatal hospice.

15 Was read the second time.

16 The question being "Shall **SB 83** pass as amended?"

17 And the roll being called:

18 Yeas 34, Nays 0, Excused 1, Absent 0

19 Yeas:

20 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
21 Frye-Mueller, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher,
22 Nesiba, Novstrup, Herman Otten, Rohl, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer,
23 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

24 Excused:

25 Rusch

26 So the bill having received an affirmative vote of a majority of the members-elect, the President
27 declared the bill passed and the title was agreed to.

28 **SIGNING OF BILLS**

29 The President publicly read the title to

30 **SB 1:** FOR AN ACT ENTITLED, An Act to codify legislation enacted in 2020.

31 **SB 2:** FOR AN ACT ENTITLED, An Act to modify the duties of the Code Commission.

32 **SB 23:** FOR AN ACT ENTITLED, An Act to correct a technical error concerning a cross-reference
33 relating to certain reporting requirements for the building South Dakota programs.

34 **SB 26:** FOR AN ACT ENTITLED, An Act to modify the type of candidates that may use a joint
35 petition.

36 And signed the same in the presence of the Senate.

1

COMMEMORATIONS

2

SC 803: A LEGISLATIVE COMMEMORATION, honoring and commending the educators of South
3 Dakota for their service and dedication in unprecedented times.

4

Introduced by: **Senators** Nesiba, Crabtree, Duvall, Schoenbeck, V. J. Smith, Tobin, and
5 Zikmund and **Representatives** Duba, Bartels, Barthel, Bordeaux, Deutsch, Lana Greenfield, Healy,
6 Hoffman, Keintz, Koth, Perry, Pourier, Jamie Smith, and Stevens

7

Sen. Tobin moved that the Senate do now adjourn, which motion prevailed and at 4:13 p.m.
8 the Senate adjourned.

9

Kay Johnson, Secretary