JOURNAL OF THE SENATE

NINETY-SIXTH SESSION

STATE OF SOUTH DAKOTA Senate Chamber, Pierre Wednesday, February 03, 2021

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

The prayer was offered by the Chaplain, Pastor Sam Handschke, followed by the Pledge of Allegiance led by Senate page Everett Paul.

Roll Call: All members present except Sen. Frye-Mueller who was 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 14th 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.

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Veterans Affairs.

1 **COMMUNICATIONS AND PETITIONS** 2 February 1, 2021 3 The Honorable Larry Rhoden 4 President of the Senate State Capitol 6 Pierre, SD 57501 7 Dear President and Members of the Senate: 8 Pursuant to the provisions of South Dakota Codified Law 33-1-10 and 33-1-10.1 and subject 9 to your consent, I have the honor to inform you that I have appointed Brigadier General Gregory 10 W. Lair, Minnehaha County, Sioux Falls, South Dakota, as the Assistant Adjutant General, Air. 11 This appointment is effective January 9, 2021. 12 Sincerely, 13 Kristi Noem 14 Governor 15 The President announced the referral of the appointment to the Committee on State Affairs. 16 January 11, 2021 17 The Honorable Larry Rhoden 18 President of the Senate 19 State Capitol 20 Pierre, SD 57501 21 Dear President and Members of the Senate: 22 Pursuant to the provisions of Chapter 1-16J of the South Dakota Codified Laws and subject to 23 your consent, I have the honor to inform you that I have appointed Thomas Johnson, Pennington 24 County, Rapid City, South Dakota, to the South Dakota Ellsworth Development Authority. 25 This appointment is effective January 18, 2021, and shall continue until January 17, 2025. 26 Sincerely, 27 Kristi Noem 28 Governor

The President announced the referral of the appointment to the Committee on Military and

1 January 26, 2021 2 The Honorable Larry Rhoden President of the Senate 3 4 State Capitol 5 Pierre, SD 57501 6 Dear President and Members of the Senate: Pursuant to the provisions of Chapter 1-45 of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have appointed Terry Nebelsick, Beadle County, 8 9 Huron, South Dakota, to the South Dakota Board of Education Standards. 10 This appointment is effective January 25, 2021, and shall continue until December 31, 2024. 11 Sincerely, 12 Kristi Noem 13 Governor 14 The President announced the referral of the appointment to the Committee on Education. 15 REPORTS OF STANDING COMMITTEES 16 MR. PRESIDENT: 17 The Committee on Senate Transportation respectfully reports that it has had under 18 consideration SB 157 and returns the same with the recommendation that said bill be amended as 19 follows: 20 157A On page 1, line 5, of the Introduced bill, delete "the installation of a hangar area " and insert 21 "base infrastructure " 22 23 On page 1, line 5, of the Introduced bill, after "at " insert "the " 24 On page 1, line 6, of the Introduced bill, delete "funds" and insert "monies" 25 On page 1, line 7, of the Introduced bill, after "hydrants" delete ", taxiways and runways" And that as so amended said bill be referred to the Committee on Appropriations with a Do 26 27 Pass recommendation. 28 Also MR. PRESIDENT: 29 The Committee on Senate Transportation respectfully reports that it has had under 30 consideration HB 1048 and returns the same with the recommendation that said bill do pass, and 31 having been certified as uncontested, be placed on the consent calendar. 32 Respectfully submitted, 33 Mary Duvall, Chair

MR. PRESIDENT:

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The Committee on Senate Taxation respectfully reports that it has had under consideration **SB 104** which was deferred to the 41st Legislative Day.

4 Also MR. PRESIDENT:

The Committee on Senate Taxation respectfully reports that it has had under consideration **HB 1022, 1023, and 1024** and returns the same with the recommendation that said bills do pass, and having been certified as uncontested, be placed on the consent calendar.

Respectfully submitted,
Timothy R. Johns, Chair

10 MR. PRESIDENT:

The Committee on Senate Local Government respectfully reports that it has had under consideration **SB 142** and returns the same with the recommendation that said bill be amended as follows:

14 142A

On page 1, line 6, of the Introduced bill, after "sessions" insert ", as open meetings in accordance with chapter 1-25,"

On page 1, line 20, of the Introduced bill, after "25-1.1." delete "Section 2. That § 7-8-16 be AMENDED.

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20 On page 1, line 21, of the Introduced bill, after "AMENDED." delete "7-8-16."

On page 1, line 21, of the Introduced bill, after "7-8-16." delete "Open meetings--County commission--Location."

On page 1, line 21, of the Introduced bill, after "commission--Location." delete "

The board of county commissioners shall hold its sessions as an open meeting and transact all business in a public manner in accordance with chapter 1-25. Meetings shall normally be held at the court house or at the usual place of holding court; however the board may occasionally hold its sessions at any other suitable place at the county seat or at other locations within the geographic county area if the meetings are held in a public place and if notice of the meeting is published once a week for at least two successive weeks before the meeting in the legal newspaper or newspapers of the county in which the meeting is to be held location in the county. Joint county-municipal planning sessions may be held at any suitable location within the county. All matters pertaining to the interests of the county shall be heard by the board in session only, but it may continue any business from any regular session to an intermediate day."

On page 2, after line 8, of the Introduced bill, insert "

35 **Section 2.** That § 7-8-16 be REPEALED.

7-8-16. Open meetings--Location and notice requirements--Joint county-municipal planning
 sessions--Continuances.

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39 And that as so amended, said bill do pass.

1	Also MR. PRESIDENT:
2	The Committee on Senate Local Government respectfully reports that it has had under consideration SB 138 and returns the same with the recommendation that said bill do pass.
4	Also MR. PRESIDENT:
5 6 7	The Committee on Senate Local Government respectfully reports that it has had under consideration SB 150 and returns the same with the recommendation that said bill do pass, and having been certified as uncontested, be placed on the consent calendar.
8 9	Respectfully submitted, Herman Otten, Chair
10	MR. PRESIDENT:
11 12 13	The Committee on Senate Health and Human Services respectfully reports that it has had under consideration SB 125 and returns the same with the recommendation that said bill be amended as follows:
14	125A
15 16	On page 1, line 11, of the Introduced bill, delete "and city-owned" and insert "or a government-owned" $\!\!\!$
17	On page 2, line 9, of the Introduced bill, delete "September " and insert "April "
18	And that as so amended, returns said bill without recommendation.
19	Also MR. PRESIDENT:
20 21 22	The Committee on Senate Health and Human Services respectfully reports that it has had under consideration SB 144 and returns the same with the recommendation that said bill be referred to the Joint Committee on Appropriations with a Do Pass recommendation.
23 24	Respectfully submitted, Wayne H. Steinhauer, Chair
25	Mr. PRESIDENT:
26 27 28	The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and Enrolling has carefully compared SB 7, 8, 9, 12, 13, 14, 15, 16, 37, and 38 and finds the same correctly enrolled.
29 30	Respectfully submitted, Lee A. Schoenbeck, Chair
31	Mr. PRESIDENT:
32 33	The Committee on Legislative Procedure respectfully reports that SB 1, 2, 23, and 26 were delivered to her Excellency, the Governor, for her approval at 9:40 a.m., February 3, 2021.
34 35	Respectfully submitted, Lee A. Schoenbeck, Chair

1 **MESSAGES FROM THE HOUSE** 2 Mr. PRESIDENT: 3 I have the honor to return herewith SB 7, 8, 9, 12, 13, 14, 15, 16, 37, and 38 which have passed the House without change. 5 Also Mr. PRESIDENT: I have the honor to transmit herewith **HB 1053** which has passed the House and your favorable 6 7 consideration is respectfully requested. 8 Respectfully, Patricia Miller, Chief Clerk 9 10 MOTIONS AND RESOLUTIONS 11 **SCR 604**: A CONCURRENT RESOLUTION, Supporting trade negotiations to remove barriers to 12 country of origin labelling. 13 Was read the second time. 14 Sen. Cammack moved that **SCR 604** as found on page 113 of the Senate Journal be adopted. 15 The question being on Sen. Cammack's motion that **SCR 604** be adopted. 16 And the roll being called: 17 Yeas 34, Nays 0, Excused 1, Absent 0 18 19 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster, 20 Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Nesiba, 21 Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, 22 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund 23 Excused: 24 Frye-Mueller 25 So the motion having received an affirmative vote of a majority of the members-elect, the 26 President declared the motion carried and SCR 604 was adopted. 27 SCR 603: A CONCURRENT RESOLUTION, Supporting the establishment of the Economic Development Professionals Association of South Dakota. 28 29 Was read the second time. 30 Sen. Crabtree moved that **SCR 603** as found on page 101 of the Senate Journal be adopted. 31 The question being on Sen. Crabtree's motion that **SCR 603** be adopted. 32 And the roll being called: 33 Yeas 34, Nays 0, Excused 1, Absent 0

1 Yeas: Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster, Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Nesiba, 3 4 Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, 5 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund 6 Excused: Frye-Mueller So the motion having received an affirmative vote of a majority of the members-elect, the President declared the motion carried and SCR 603 was adopted. 10 Sen. Schoenbeck moved that **SB 54** be referred from the Senate Committee on Appropriations 11 to the Joint Committee on Appropriations. 12 Which motion prevailed. 13 **CONSIDERATION OF REPORTS OF COMMITTEES** 14 Sen. Cammack moved that the reports of the Standing Committees on 15 Commerce and Energy on SB 55 as found on page 152 of the Senate Journal; also 16 Commerce and Energy on SB 101 as found on page 153 of the Senate Journal; also 17 Commerce and Energy on **SB 109** as found on page 154 of the Senate Journal be adopted. 18 Which motion prevailed and the reports were adopted. 19 FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS 20 The President declared that SB 93 changed prime sponsor from Senator Duvall to 21 Senator Castleberry at their request. 22 The President declared that SB 191 changed prime sponsor from Senator Klumb to 23 Senator Cammack at their request. 24 SB 191: FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to contract for the redesign and renovation of an addition to the South Dakota State University Meat Lab on the campus 25 26 of South Dakota State University, to make an appropriation therefor, and to declare an emergency. 27 Introduced by: **Senator** Cammack 28 SB 192: FOR AN ACT ENTITLED, An Act to provide an appropriation for the renovation and 29 upgrading of the South Dakota State University Cottonwood Field Station and to declare an 30 emergency. 31 Introduced by: **Senator** Cammack 32 Were read the first time and referred to the Committee on Agriculture and Natural Resources.

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Introduced by: Senator Rohl

1 SB 179: FOR AN ACT ENTITLED, An Act to authorize members of the Legislature to submit a 2 request for continuing education to a licensing board or commission in this state. 3 Introduced by: **Senator** Maher 4 SB 185: FOR AN ACT ENTITLED, An Act to make an appropriation to provide for an economic 5 development in Sioux Falls and to declare an emergency. Introduced by: Senator Kolbeck 6 7 Were read the first time and referred to the Committee on Commerce and Energy. 8 SB 175: FOR AN ACT ENTITLED, An Act to remove certain eligibility requirements for the partners in education tax credit program. 10 Introduced by: **Senator** Stalzer 11 SB 177: FOR AN ACT ENTITLED, An Act to revise the provisions of parental choice regarding 12 compulsory school attendance and matters ancillary thereto. 13 Introduced by: **Senator** Steinhauer 14 Were read the first time and referred to the Committee on Education. 15 SB 178: FOR AN ACT ENTITLED, An Act to prohibit certain insurers from using genetic 16 information. 17 Introduced by: **Senator** Steinhauer 18 SB 186: FOR AN ACT ENTITLED, An Act to make an appropriation for behavioral and mental 19 health service support in crisis stabilization and to declare an emergency. 20 Introduced by: Senator Curd 21 SB 187: FOR AN ACT ENTITLED, An Act to establish criteria regarding marijuana. 22 Introduced by: Senator Brock Greenfield 23 Were read the first time and referred to the Committee on Health and Human Services. 24 SB 176: FOR AN ACT ENTITLED, An Act to adopt the Uniform Faithful Presidential Electors Act. 25 Introduced by: **Senator** Johns 26 SB 183: FOR AN ACT ENTITLED, An Act to declare certain contract provisions regarding 27 abortion as deceptive acts or practices. 28 Introduced by: **Senator** Schoenbeck 29 SB 189: FOR AN ACT ENTITLED, An Act to revise and establish certain provisions related to drug crimes and enforcement and create a penalty therefor. 30

1 **SB 190**: FOR AN ACT ENTITLED, An Act to revise provisions regarding unfair or discriminatory 2 practices. 3 Introduced by: **Senator** Foster 4 SB 193: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding remote 5 notarization. 6 Introduced by: Senator Wheeler 7 Were read the first time and referred to the Committee on Judiciary. 8 **SB 184**: FOR AN ACT ENTITLED, An Act to require the sorting of absentee ballots. 9 Introduced by: Senator Kolbeck 10 Was read the first time and referred to the Committee on Local Government. 11 SB 180: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding revenues 12 generated by and donations to the South Dakota State Veterans Cemetery. 13 Introduced by: Senator Zikmund SB 181: FOR AN ACT ENTITLED, An Act to make an appropriation for road improvements 14 15 leading to the State Veterans Cemetery and to declare an emergency. 16 Introduced by: **Senator** Stalzer 17 SB 188: FOR AN ACT ENTITLED, An Act to make an appropriation to the Department of 18 Veterans Affairs for the South Dakota State Veterans Cemetery and to declare an emergency. 19 Introduced by: Senator Zikmund 20 Were read the first time and referred to the Committee on Military and Veterans Affairs. 21 **SB 182**: FOR AN ACT ENTITLED, An Act to revise provisions regarding owner occupied dwelling 22 requirements. 23 Introduced by: Senator Herman Otten 24 Was read the first time and referred to the Committee on Taxation. 25 SJR 502: A JOINT RESOLUTION, To apply for a convention of states under Article V of the 26 Constitution of the United States to impose fiscal restraints on the federal government, to limit the power and jurisdiction of the federal government, and to limit the terms of office for federal officials 27 28 and members of Congress. 29 Introduced by: Senator Curd 30 Was read the first time and referred to the Committee on State Affairs.

the plan is not subject to the jurisdiction of the division. "

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FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

1 2 HB 1053: FOR AN ACT ENTITLED, An Act to establish an annual fee for certain electric motor 3 vehicles. 4 Was read the first time and referred to the Committee on Transportation. 5 CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS 6 The Senate proceeded to the consideration of the executive reappointment of Douglas Sharp of Codington County, Watertown, South Dakota, to the Game, Fish and Parks Commission. 7 8 The question being "Does the Senate advise and consent to the executive reappointment of 9 Douglas Sharp pursuant to the executive message as found on page 74 of the Senate Journal?" 10 And the roll being called: 11 Yeas 34, Nays 0, Excused 1, Absent 0 12 Yeas: 13 Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster, 14 Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Nesiba, 15 Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer, 16 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund 17 Excused: 18 Frye-Mueller 19 So the question having received an affirmative vote of a majority of the members-elect, the 20 President declared the reappointment confirmed. 21 SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS 22 SB 87: FOR AN ACT ENTITLED, An Act to exempt health benefit plans sponsored by nonprofit 23 agricultural organizations from insurance regulation. 24 Was read the second time. 25 Sen. Cammack moved that **SB 87** be amended as follows: 26 87A 27 On page 2, line 6, of the Introduced bill, after "section." insert " 28 The risk assumed by a health benefit plan under such healthcare benefit coverage must be 29 reinsured by a company authorized to do business in this state. The company providing reinsurance 30 coverage to the plan shall annually file, at the time and in the manner directed by the division, any 31 risk distribution arrangements entered into between the plan and the reinsurance carrier and a 32 signed, certified actuarial statement of plan reserves and the existence of reinsurance coverage. 33 Any health benefit plan application for coverage and any contract provided to a member must 34 prominently state that the health benefit plan is not insurance, that the plan is not provided by an 35 insurance company, that the plan is not subject to the laws and rules governing insurance, and that

1 Which motion prevailed. 2 The question being "Shall SB 87 pass as amended?" 3 And the roll being called: 4 Yeas 19, Nays 15, Excused 1, Absent 0 Bolin, Breitling, Cammack, Castleberry, Crabtree, Duvall, Brock Greenfield, Klumb, Maher, 6 7 Novstrup, Rohl, Schoenbeck, Stalzer, Steinhauer, Sutton, Symens, Tobin, Wheeler, and Wiik 8 9 Curd, Diedrich, Duhamel, Foster, Heinert, Hunhoff, Johns, David Johnson, Kolbeck, Nesiba, 10 Herman Otten, Rusch, Schoenfish, V. J. Smith, and Zikmund 11 Excused: Frye-Mueller 12 13 So the bill having received an affirmative vote of a majority of the members-elect, the President 14 declared the bill passed and the title was agreed to. 15 SB 57: FOR AN ACT ENTITLED, An Act to revise the provisions regarding the South Dakota 16 state employee health plan. 17 Was read the second time. 18 Sen. Nesiba moved that **SB 57** be referred to the Joint Committee on Appropriations. 19 Sen. Schoenbeck rose to a point of order that Sen. Nesiba's motion was not under the proper 20 order of business. 21 The President ruled the motion was out of order because the motion should have been made 22 under Order of Business No. 8 – Motions and Resolutions (JR 4-1). 23 Sen. Hunhoff rose to a point of order as to why Sen. Nesiba's motion was out of order. 24 The President said he was speaking to the bill, so the motion was out of order. 25 Sen. Heinert moved to refer SB 57 to the Joint Committee on Appropriations under JR 5-3, 26 Subsection 8. 27 The President ruled that the motion was out of order because of JR 4-1. 28 Senator Heinert moved that the Senate revert to Order of Business No. 8 - Motions and 29 Resolutions under JR 4-1. 30 Which motion lost. 31 The question being "Shall SB 57 pass?" 32 And the roll being called: 33 Yeas 27, Nays 7, Excused 1, Absent 0

Wednesday, February 03, 2021 – 15th Legislative Day 174 1 Yeas: 2 Bolin, Breitling, Cammack, Castleberry, Curd, Diedrich, Duhamel, Duvall, Brock Greenfield, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Novstrup, Herman Otten, Rohl, Rusch, 3 4 Schoenbeck, Stalzer, Steinhauer, Sutton, Symens, Tobin, Wilk, and Zikmund 5 6 Crabtree, Foster, Heinert, Nesiba, Schoenfish, V. J. Smith, and Wheeler 7 8 Frye-Mueller 9 So the bill having received an affirmative vote of a majority of the members-elect, the President 10 declared the bill passed and the title was agreed to. 11 SIGNING OF BILLS 12 The President publicly read the title to 13 SB 7: FOR AN ACT ENTITLED, An Act to permit a government agency to qualify as a victim for 14 purposes of restitution in criminal cases. 15 **SB 8**: FOR AN ACT ENTITLED, An Act to revise various provisions related to banks and trusts. 16 SB 9: FOR AN ACT ENTITLED, An Act to revise various provisions related to bank trust 17 departments and trust companies. 18 SB 12: FOR AN ACT ENTITLED, An Act to update a reference to the U.S. Board on Geographic 19 Names standards manual. 20 SB 13: FOR AN ACT ENTITLED, An Act to revise a statutory cross reference in the written 21 waiver of right to a parole hearing or appearance. SB 14: FOR AN ACT ENTITLED, An Act to limit the time children in need of supervision are 22 23 held in detention under certain circumstances. 24 SB 15: FOR AN ACT ENTITLED, An Act to revise the voting requirements necessary for the 25 board to grant or deny parole or recommend clemency. 26 SB 16: FOR AN ACT ENTITLED, An Act to revise the requirements of setting discretionary 27 parole dates by the board. 28 SB 37: FOR AN ACT ENTITLED, An Act to update certain citations to federal regulations 29 regarding pipeline safety inspections. 30 SB 38: FOR AN ACT ENTITLED, An Act to correct technical errors in and make stylistic revisions 31 to certain provisions regarding public utilities. 32 HB 1036: FOR AN ACT ENTITLED, An Act to correct technical errors in certain code cross-

references regarding the Department of Game, Fish and Parks.

And signed the same in the presence of the Senate.

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3:12 p.m. the Senate adjourned.

Kay Johnson, Secretary

1 **COMMEMORATIONS** SC 804: A LEGISLATIVE COMMEMORATION, Honoring and commending Sutton Rodeo and 2 Rodeo Rapid City for their dedication to showcasing South Dakota's culture on a national stage and 3 4 for being named the 2020 PRCA Large Indoor Rodeo of the Year. 5 Introduced by: Senators Heinert, Cammack, Foster, Herman Otten, Schoenbeck, V. J. Smith, 6 and Wiik and Representatives Finck, Gosch, Hoffman, May, Perry, Jamie Smith, Stevens, and 7 Weisgram 8 SC 805: A LEGISLATIVE COMMEMORATION, Honoring and commending the Black Hills 9 Roundup for winning the 2020 PRCA Medium Outdoor Rodeo of the Year and demonstrating a strong 10 commitment to South Dakota's sense of community, culture, and history. Introduced by: Senators Heinert, Cammack, Foster, Herman Otten, Schoenbeck, V. J. Smith, 11 12 and Wiik and Representatives Finck, Gosch, Hoffman, May, Perry, Jamie Smith, and Stevens 13 SC 806: A LEGISLATIVE COMMEMORATION, Honoring and commending the Days of '76 Rodeo 14 for its continued excellence and recognition for winning 2020 PRCA Large Outdoor Rodeo of the 15 Year. 16 Introduced by: Senators Heinert, Cammack, Foster, Herman Otten, Schoenbeck, and Wiik and Representatives Finck, Gosch, Hoffman, May, Perry, Jamie Smith, and Stevens 17 18 SC 807: A LEGISLATIVE COMMEMORATION, Honoring and commending Brent Sutton for his 19 outstanding career achievements and continued dedication to preserving South Dakotan values. 20 Introduced by: **Senators** Heinert, Cammack, Foster, and Herman Otten and 21 Representatives Finck, Gosch, Hoffman, May, and Jamie Smith.

Sen. Breitling moved that the Senate do now adjourn, which motion prevailed and at