JOURNAL OF THE SENATE

TWENTIETH DAY

STATE OF SOUTH DAKOTA Senate Chamber, Pierre Wednesday, February 10, 2021

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

The prayer was offered by the Chaplain, Deacon Kris Wollman, followed by the Pledge of Allegiance led by Senate pages Teigen Hadrick and Warren Russell.

Roll Call: All members present except Sen. Herman Otten who was present remotely.

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 19th 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.

1

COMMUNICATIONS AND PETITIONS

2 February 8, 2021

3 Mr. President and Members of the Senate:

I have the honor to inform you that on February 8, 2021, I approved Senate Bills 1, 2, 7, 8, 9,
11, 12, 13, 14, 15, 16, 19, 21, 23, 25, 26, 37, 38, 67, and 69, and the same have been deposited
in the office of the Secretary of State.

Respectfully submitted, Kristi Noem Governor

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REPORTS OF STANDING COMMITTEES

11 MR. PRESIDENT:

12 The Committee on Senate Transportation respectfully reports that it has had under 13 consideration **SB 162** and returns the same with the recommendation that said bill be referred to 14 the Joint Committee on Appropriations with a Do Pass recommendation.

15 Also MR. PRESIDENT:

16 The Committee on Senate Transportation respectfully reports that it has had under 17 consideration **SB 169** and returns the same with the recommendation that said bill be amended as 18 follows:

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20 On page 1, line 13, of the Introduced bill, delete "two" and insert " three"

On page 1, line 14, of the Introduced bill, after "satisfied" insert ", if the defendant was not driving pursuant to a commercial driver's license at the time of the offense, and only for a defendant's first violation under either chapter 32-25 or a municipal ordinance regulating speed. Thereafter, a further charge for a Class 2 misdemeanor or municipal ordinance regulating speed shall be automatically removed from a defendant's public record after ten years if all court-ordered conditions on the case have been satisfied"

27

169C

169B

28 On the previously adopted amendment (169B), On page 1, line 13, delete "three " and insert " 29 "five "

- 30 And that as so amended, said bill do pass.
- 31Respectfully submitted,32Mary Duvall, Chair

33 MR. PRESIDENT:

The Committee on Senate Health and Human Services respectfully reports that it has had under consideration **SB 186** and returns the same with the recommendation that said bill be referred to the Joint Committee on Appropriations with a Do Pass recommendation. 1 Also MR. PRESIDENT:

2 The Committee on Senate Health and Human Services respectfully reports that it has had 3 under consideration **HB 1051** and returns the same with the recommendation that said bill do pass.

4 Respectfully submitted, 5 Wayne H. Steinhauer, Chair

6 MR. PRESIDENT:

7 The Committee on Senate Local Government respectfully reports that it has had under 8 consideration **SB 117** and returns the same with the recommendation that said bill do pass.

9 Also MR. PRESIDENT:

10 The Committee on Senate Local Government respectfully reports that it has had under 11 consideration **SB 140** which was deferred to the 41st Legislative Day.

12 Also MR. PRESIDENT:

...

The Committee on Senate Local Government respectfully reports that it has had under consideration **SB 152** and returns the same with the recommendation that said bill be amended as follows:

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17 On page 1, line 3, of the Introduced bill, after "Dakota:" delete "Section 1. That § 35-4-6 be 18 AMENDED.

19

20 On page 1, line 4, of the Introduced bill, after "AMENDED." delete "35-4-6."

On page 1, line 4, of the Introduced bill, after "35-4-6. " delete "Off-sale licenses--County, municipality, or improvement district."

23 On page 1, line 4, of the Introduced bill, after "district." delete "

Except as provided in subdivisions 35-4-2(12) and (16), off-sale Off-sale licenses may only be issued under this chapter to operate within a county, municipality or an improvement district created pursuant to chapter 7-25A."

27 On page 1, after line 7, of the Introduced bill, insert "

28 Section 1. That § 35-4-6 be REPEALED.

29 35-4-6. Off-sale licensees to operate within municipality or improvement district.

30

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31 On page 1, line 17, of the Introduced bill, delete "subdivisions 35-4-2(3) and 35-4-2(12)" and 32 insert "subdivision 35-4-2(3)"

33

On the previously adopted amendment (152B), On page 2, line 1, after "thereof." insert "No county off-sale license may be issued for a retailer located within three miles of the exterior boundary of an incorporated municipality. "

152B

152C

1 And that as so amended, said bill do pass. 2 Respectfully submitted, 3 Herman Otten, Chair 4 MR. PRESIDENT: The Committee on Senate State Affairs respectfully reports that it has had under consideration 5 **SB 100** and returns the same with the recommendation that said bill be amended as follows: 6 7 100A 8 On page 2, line 19, of the Introduced bill, after "person." insert " 9 Nothing in this section precludes a political subdivision that owns an indoor gun range, open 10 to the public, from closing the indoor range for the period during which a certified range safety officer is unavailable, if the normal operating procedure of the range requires the presence of such 11 12 a person." 13 100B 14 On page 1, line 8, of the Introduced bill, after "law" insert " exercised pursuant to this chapter" 15 On page 1, line 8, of the Introduced bill, after "any " delete "other " On page 1, line 9, of the Introduced bill, delete "responses " and insert "response " 16 17 And that as so amended, said bill do pass. Also MR. PRESIDENT: 18 19 The Committee on Senate State Affairs respectfully reports that it has had under consideration 20 **SB 123** and returns the same with the recommendation that said bill be amended as follows: 21 123A 22 On page 1, line 9, of the Introduced bill, after "general" insert ", the secretary of state," 23 On page 1, line 22, of the Introduced bill, after "comment" insert " within sixty days of receipt 24 of the proposed initiated measure or initiated amendment to the Constitution" 25 On page 1, line 23, of the Introduced bill, delete "the attorney general's website " and insert 26 "hand delivery or postmarked mail " 27 On page 1, line 24, of the Introduced bill, after "draft" insert " statement" 28 On page 2, line 4, of the Introduced bill, delete " sixty days of receipt of the proposed initiated measure or initiated amendment to the Constitution" and insert " twenty days of the filing of the 29 30 draft statement" 31 And that as so amended, said bill do pass. 32 Also MR. PRESIDENT: 33 The Committee on Senate State Affairs respectfully reports that it has had under consideration 34 **SB 111 and 124** and returns the same with the recommendation that said bills do pass.

1	Also MR. PRESIDENT:
2 3	The Committee on Senate State Affairs respectfully reports that it has had under consideration SB 129 which was deferred to the 41st Legislative Day.
4 5	Respectfully submitted, Gary L. Cammack, Chair
6	Mr. PRESIDENT:
7 8	The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and Enrolling has carefully compared SB 5, 51, 58, 61, and 62 and finds the same correctly enrolled.
9 10	Respectfully submitted, Lee A. Schoenbeck, Chair
11	Mr. PRESIDENT:
12 13 14	The Committee on Legislative Procedure respectfully reports that SB 6, 20, 29, 30, 32, 39, 41, 42, 43, 63, and 73 were delivered to her Excellency, the Governor, for her approval at 9:15 a.m., February 10, 2021.
15 16	Respectfully submitted, Lee A. Schoenbeck, Chair
17	MESSAGES FROM THE HOUSE
18	Mr. PRESIDENT:
19 20	I have the honor to transmit herewith HB 1074, 1113, 1125, 1150, and 1196 which have passed the House and your favorable consideration is respectfully requested.
21	Also Mr. PRESIDENT:
22 23	I have the honor to return herewith SB 51, 58, 61, and 62 which have passed the House without change.
24	Also Mr. PRESIDENT:
25 26	I have the honor to return herewith SB 53 which has been amended by the House and your concurrence in the amendments is respectfully requested.
27 28	Respectfully, Patricia Miller, Chief Clerk
29	MOTIONS AND RESOLUTIONS
30	Sen. Steinhauer moved that the Senate do concur in House amendments to SB 3.
31	

- 1 And the roll being called:
- 2 Yeas 33, Nays 1, Excused 1, Absent 0
- 3 Yeas:

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

- 8 Nays:
- 9 Frye-Mueller
- 10 Excused:
- 11 Herman Otten

12 So the motion having received an affirmative vote of a majority of the members-elect, the 13 President declared the motion carried and the amendments were concurred in.

- 14 **SR 702**: A RESOLUTION, Acknowledging the local disaster impacting the Hideaway Hills 15 neighborhood in the community of Black Hawk, Meade County, South Dakota.
- 16 Introduced by: **Senator** David Johnson
- 17 Was read the first time and referred to the Committee on Local Government.

Sen. Cammack moved that when we adjourn today, we adjourn to convene at 1:00 p.m., on
 Thursday, February 11th, the 21st legislative day.

20 Which motion prevailed.

21 CONSIDERATION OF REPORTS OF COMMITTEES

- 22 Sen. Cammack moved that the reports of the Standing Committees on
- 23 Judiciary on **HB 1069** as found on page 220 of the Senate Journal; and
- 24 Commerce and Energy on **HB 1079** as found on page 222 of the Senate Journal be adopted.
- 25 Which motion prevailed and the reports were adopted.

26 FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

HB 1074: FOR AN ACT ENTITLED, An Act to limit the liability regarding authorized boilerinspections.

- HB 1113: FOR AN ACT ENTITLED, An Act to revise certain references to the InternationalBuilding Code.
- 31 Were read the first time and referred to the Committee on Commerce and Energy.

- HB 1196: FOR AN ACT ENTITLED, An Act to provide free tuition and fees to visually impaired
 residents for courses not subsidized by the state general fund.
- 3 Was read the first time and referred to the Committee on Education.
- 4 **HB 1150**: FOR AN ACT ENTITLED, An Act to provide definitions regarding the crime of rape.
- 5 Was read the first time and referred to the Committee on Judiciary.
- 6 **HB 1125**: FOR AN ACT ENTITLED, An Act to define adjournment for the counting of ballots.
- 7 Was read the first time and referred to the Committee on Local Government.
- 8

CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS

9 Sen. Crabtree requested that the nomination of Tona Rozum be removed from the Consent 10 Calendar pursuant to JR 13-2.

11 The Senate proceeded to the consideration of the executive reappointments of Dana Dykhouse 12 of Minnehaha County, Sioux Falls, South Dakota, to the South Dakota Science and Technology 13 Authority (SJ 68), and

- Ronald Wheeler of Lawrence County, Lead, South Dakota, to the South Dakota Science and
 Technology Authority (SJ 68), and
- Jamie Huizenga of Hughes County, Pierre, South Dakota, to the South Dakota LotteryCommission (SJ 69), and
- Sharon L. Casey of Brule County, Chamberlain, South Dakota, to the Board of EconomicDevelopment (SJ 70), and
- 20 Tom Jones of Turner County, Viborg, South Dakota, to the Board of Economic Development 21 (SJ 70), and
- Reed Kessler of Brown County, Aberdeen, South Dakota, to the Board of EconomicDevelopment (SJ 71).
- 24 The question being "Does the Senate advise and consent to the executive reappointments?"
- 25 And the roll being called:
- 26 Yeas 35, Nays 0, Excused 0, Absent 0
- 27 Yeas:

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

32 So the question having received an affirmative vote of a majority of the members-elect, the 33 President declared the reappointments confirmed. 1

SECOND READING OF CONSENT CALENDAR ITEMS

- HB 1077: FOR AN ACT ENTITLED, An Act to provide for licensure by endorsement for certain
 licensed professionals and occupations.
- 4 Was read the second time.
- 5 The question being "Shall **HB 1077** pass as amended?"
- 6 And the roll being called:
- 7 Yeas 34, Nays 1, Excused 0, Absent 0

8 Yeas:

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

- 13 Nays:
- 14 Herman Otten

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

- 17 SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS
- 18 SB 178: FOR AN ACT ENTITLED, An Act to prohibit certain insurers from using genetic 19 information.
- 20 Was read the second time.
- 21 The question being "Shall **SB 178** pass as amended?"
- And the roll being called:
- 23 Yeas 35, Nays 0, Excused 0, Absent 0
- 24 Yeas:

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

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

31 SB 135: FOR AN ACT ENTITLED, An Act to reform training requirements for law enforcement
 32 officers.

33 Was read the second time.

- 1 The question being "Shall **SB 135** pass?"
- 2 And the roll being called:
- 3 Yeas 35, Nays 0, Excused 0, Absent 0
- 4 Yeas:

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

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 **SB 146**: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding eligibility for 12 parole for certain persons sentenced to life imprisonment.

- 13 Was read the second time.
- 14 Sen. Rusch moved that **SB 146** be amended as follows:
- 15

146B

16 On page 1, line 13, of the Introduced bill, after "for" insert " discretionary"

17 On page 1, line 13, of the Introduced bill, after "age." insert "

18 If a person considered for discretionary parole pursuant to subdivision (2) of this section is 19 denied parole, the board shall establish a discretionary parole date of not more than two years from 20 the date of denial. Subsequent discretionary hearings shall be held at intervals of not more than two 21 years.

A person granted parole pursuant to subdivision (2) of this section is otherwise subject to the provisions of chapters 24-13, 24-15, and 24-15A."

- 24 On page 1, after line 13, of the Introduced bill, insert "
- 25 Section 2.

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26

On page 1, line 14, of the Introduced bill, after "age. " insert "The provisions of this Act apply
 retroactively. "

- 29 Which motion prevailed.
- 30 The question being "Shall **SB 146** pass as amended?"
- 31 And the roll being called:
- 32 Yeas 18, Nays 17, Excused 0, Absent 0
- 33 Yeas:
- 34 Bolin, Breitling, Cammack, Diedrich, Duhamel, Duvall, Foster, Heinert, Hunhoff, Johns, Maher,
- 35 Nesiba, Rohl, Rusch, Schoenfish, V. J. Smith, Steinhauer, and Wheeler

- Nays:
- Castleberry, Crabtree, Curd, Frye-Mueller, Brock Greenfield, David Johnson, Klumb, Kolbeck,
 Novstrup, Herman Otten, Schoenbeck, Stalzer, Sutton, Symens, Tobin, Wiik, and Zikmund
- 4 So the bill having received an affirmative vote of a majority of the members-elect, the President 5 declared the bill passed and the title was agreed to.
- 6

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SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

- HB 1027: FOR AN ACT ENTITLED, An Act to identify Water Management Board officers,
 authorize appointment of a prehearing officer, and define the duties of the prehearing officer.
- 9 Was read the second time.
- 10 The question being "Shall **HB 1027** pass?"
- 11 And the roll being called:
- 12 Yeas 34, Nays 1, Excused 0, Absent 0
- 13 Yeas:

Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
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

- 18 Nays:
- 19 Frye-Mueller

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.

HB 1028: FOR AN ACT ENTITLED, An Act to revise petition requirements and the criteria for
 issuance of a water right permit.

- 24 Was read the second time.
- 25 The question being "Shall **HB 1028** pass?"
- 26 And the roll being called:
- 27 Yeas 24, Nays 11, Excused 0, Absent 0
- 28 Yeas:

Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Duhamel, Duvall, Brock Greenfield,
 Hunhoff, Johns, Klumb, Novstrup, Herman Otten, Rusch, Schoenbeck, Schoenfish, Stalzer,
 Steinhauer, Sutton, Symens, Wheeler, Wiik, and Zikmund

- 32 Nays:
- 33 Diedrich, Foster, Frye-Mueller, Heinert, David Johnson, Kolbeck, Maher, Nesiba, Rohl,
- 34 V. J. Smith, and Tobin

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

- 1 **HB 1011**: FOR AN ACT ENTITLED, An Act to increase certain boiler inspection fees and dedicate 2 more of the fees to the state's boiler inspection program.
- 3 Was read the second time.
- 4 The question being "Shall **HB 1011** pass?"
- 5 And the roll being called:
- 6 Yeas 35, Nays 0, Excused 0, Absent 0
- 7 Yeas:

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

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

HB 1014: FOR AN ACT ENTITLED, An Act to establish uniform complaint and declaratory ruling
 procedures for agencies regulating certain professions and occupations.

- 16 Was read the second time.
- 17 The question being "Shall **HB 1014** pass as amended?"
- 18 And the roll being called:
- 19 Yeas 35, Nays 0, Excused 0, Absent 0
- 20 Yeas:

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

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

HB 1015: FOR AN ACT ENTITLED, An Act to provide rule-making authority for establishing an
 appraiser experience training and setting fees.

- 29 Was read the second time.
- 30 The question being "Shall **HB 1015** pass?"
- 31 And the roll being called:
- 32 Yeas 34, Nays 0, Excused 1, Absent 0
- 33 Yeas:

Bolin, Breitling, Cammack, Castleberry, Crabtree, Curd, Diedrich, Duhamel, Duvall, Foster,
 Brock Greenfield, Heinert, Hunhoff, Johns, David Johnson, Klumb, Kolbeck, Maher, Nesiba,
 Novstrup, Herman Otten, Rohl, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Stalzer, Steinhauer,

37 Sutton, Symens, Tobin, Wheeler, Wiik, and Zikmund

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1 2	Excused: Frye-Mueller
3 4	So the bill having received an affirmative vote of a two-thirds majority of the members-elect, the President declared the bill passed and the title was agreed to.
5	SIGNING OF BILLS
6	The President publicly read the title to
7 8	SB 5 : FOR AN ACT ENTITLED, An Act to include a child's legal parents and guardians in the list of parties who may receive information related to reports of the child's abuse or neglect.
9 10	SB 51 : FOR AN ACT ENTITLED, An Act to transfer licensure of individuals who may alter, repair, construct, or install on-site wastewater systems to the Plumbing Commission.
11	SB 58 : FOR AN ACT ENTITLED, An Act to remove an outdated cross-reference to the risk pool.
12 13	SB 61 : FOR AN ACT ENTITLED, An Act to revise a cross reference regarding the South Dakota Housing Development Authority's investment agreement.
14 15	SB 62 : FOR AN ACT ENTITLED, An Act to revise certain provisions regarding appeals by the prosecution.
16 17	HB 1031 : FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the South Dakota Retirement System.
18 19	HB 1032 : FOR AN ACT ENTITLED, An Act to revise the minimum cost of living adjustment and revise terminology of the South Dakota Retirement System.
20 21 22	HB 1033 : FOR AN ACT ENTITLED, An Act to update certain provisions relating to the South Dakota Retirement System, to revise certain provisions relating to reemployment after retirement with the South Dakota Retirement System, and to declare an emergency.
23 24	HB 1037 : FOR AN ACT ENTITLED, An Act to authorize the increase of certain fees by the State Electrical Commission.
25	HB 1046: FOR AN ACT ENTITLED, An Act to limit liability for certain exposures to COVID-19.
26	And signed the same in the presence of the Senate.
27	COMMEMORATIONS
28 29	SC 809 : A LEGISLATIVE COMMEMORATION, Honoring and commending Blair Brothers as the 2020 Leopold Conservation Award recipient.
30 31	Introduced by: Senators Cammack, Crabtree, Duvall, Foster, Schoenbeck, V. J. Smith, Wiik, and Zikmund and Representatives Bartels, Duba, Finck, and Perry.

Sen. Curd moved that the Senate do now adjourn, which motion prevailed and at 3:48 p.m.the Senate adjourned.

34

Kay Johnson, Secretary