

JOURNAL OF THE SENATE

NINETY-FIFTH SESSION

EIGHTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, February 11, 2020

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

The prayer was offered by the Chaplain, Pastor Matt Spoden, followed by the Pledge of Allegiance led by Senate page Rachael Cutshaw.

Roll Call: All members present except Sen. Novstrup 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 seventeenth 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,
Brock L. Greenfield, Chair

Which motion prevailed.

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REPORTS OF STANDING COMMITTEES

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MR. PRESIDENT:

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The Committee on Senate Education respectfully reports that it has had under consideration the nomination of Dr. Benjamin Jones of Lincoln County, Sioux Falls, South Dakota, to the position of Secretary of the Department of Education and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

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Also MR. PRESIDENT:

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The Committee on Senate Education respectfully reports that it has had under consideration **HB 1032** and returns the same with the recommendation that said bill do pass.

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Also MR. PRESIDENT:

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The Committee on Senate Education respectfully reports that it has had under consideration **HB 1083** and returns the same with the recommendation that said bill do pass, and having been certified as uncontested, be placed on the consent calendar.

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Respectfully submitted,
R. Blake Curd, Chair

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President Pro Tem Greenfield appointed Senator Klumb to the Senate Judiciary Committee to replace Senator Novstrup. This appointment is effective for one day, February 11, 2020.

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MR. PRESIDENT:

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The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 46** and returns the same with the recommendation that said bill be amended as follows:

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46A

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On page 1, line 11, of the Introduced bill, delete " treatment" and insert " restoration to competency"

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On page 1, line 14, delete " treatment" and insert " restoration to competency"

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On page 2, line 17, delete " treatment" and insert " restoration to competency"

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On page 2, line 18, delete " treatment" and insert " restoration to competency"

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On page 2, line 22, delete "Treatment" and insert " Restoration to competency"

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On page 2, line 23, delete " treatment" and insert " restoration to competency"

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On page 2, line 26, delete " treatment" and insert " restoration to competency"

30

On page 3, line 7, delete " treatment" and insert " restoration to competency"

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On page 3, line 8, delete " treatment" and insert " restoration to competency"

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On page 3, line 14, delete " treatment" and insert " restoration to competency"

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On page 3, line 16, delete " treatment" and insert " restoration to competency"

1 On page 3, line 22, delete " treatment" and insert " restoration to competency"

2 On page 3, line 23, delete " treatment" and insert " restoration to competency"

3 On page 4, line 3, delete " treatment" and insert " restoration to competency"

4 On page 4, line 5, delete " treatment" and insert " restoration to competency"

5 On page 4, line 6, delete " treatment" and insert " restoration to competency"

6 On page 4, line 11, delete " treatment" and insert " restoration to competency"

7 On page 4, line 12, delete " treatment" and insert " restoration to competency"

8 46B

9 On page 1, line 14, of the Introduced bill, after "if " insert "the court makes a written finding
10 that "

11 On page 1, line 15, of the Introduced bill, after "others" insert " and is otherwise eligible for
12 bond"

13 On page 2, line 19, of the Introduced bill, after "if" insert " the court makes a written finding
14 that"

15 On page 2, line 20, of the Introduced bill, after "others" insert " and is otherwise eligible for
16 bond"

17 On page 4, line 6, of the Introduced bill, delete the comma and insert " or"

18 On page 4, line 6, of the Introduced bill, after "facility" delete ", or on outpatient status for
19 treatment"

20 On page 4, line 11, of the Introduced bill, delete the comma and insert " or"

21 On page 4, line 12, of the Introduced bill, after "detention" delete ", or on outpatient status for
22 treatment"

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

24 Also MR. PRESIDENT:

25 The Committee on Senate Judiciary respectfully reports that it has had under consideration
26 **SB 65** and returns the same with the recommendation that said bill be amended as follows:

27 65A

28 On page 1, line 3, of the Introduced bill, after "Dakota:" delete "Section 1. That a NEW
29 SECTION be added:

30 Attorneys' fees and costs.

31 In a judicial proceeding involving a trust estate, the court, as justice and equity may require,
32 may award costs and expenses, including reasonable attorneys' fees, to any party or to the trust,
33 to be paid by another party or from the trust that is the subject of the controversy. If paid from the
34 trust, the payment may be charged against future distributions to a beneficiary."

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

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 120** and returns the same with the recommendation that said bill be amended as follows:

120A

On the Introduced bill, delete everything after the enacting clause and insert:

"

Section 1. That § 23-7-45 be AMENDED:

23-7-45. Exceptions to prohibition against possession of pistols by minors.

The provisions of § 23-7-44 ~~or to are not applicable to a minor and~~ a criminal prosecution for possession of a pistol brought after transfer pursuant to chapter 26-11, ~~do not apply to any is not applicable to a minor who has if the minor had the prior written consent of the minor's parent or guardian to possess such the pistol, and:~~

(1) ~~That the minor was in the presence of the minor's parent or guardian;~~

~~(2) That the~~The minor was on premises owned or leased by the minor or the minor's parent, guardian, or immediate family member;

~~(3)(2) That the~~The minor was in the presence of a licensed or accredited gun safety instructor; or

~~(4)(3) That the~~The pistol was being used for farming, ranching, hunting, trapping, target shooting, or gun safety instruction.

"

And that as so amended, said bill do pass.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration **SB 126** which was deferred to the 41st Legislative Day.

Also MR. PRESIDENT:

The Committee on Senate Judiciary respectfully reports that it has had under consideration the nomination of David Gienapp of Lake County, Madison, South Dakota, to the Government Accountability Board and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment.

Respectfully submitted,
Lance Russell, Chair

MR. PRESIDENT:

The Committee on Senate Commerce and Energy respectfully reports that it has had under consideration **SB 108** which was tabled.

1 Also MR. PRESIDENT:

2 The Committee on Senate Commerce and Energy respectfully reports that it has had under
3 consideration **SB 119** and returns the same with the recommendation that said bill do pass.

4 Also MR. PRESIDENT:

5 The Committee on Senate Commerce and Energy respectfully reports that it has had under
6 consideration **SB 139** and returns the same with the recommendation that said bill be amended as
7 follows:

8 139A

9 On page 1, line 17, of the Introduced bill, after "deficiencies;" insert " or"

10 On page 1, line 18, of the Introduced bill, after "deficiencies;

11 (6)" delete "Improve operations or increase services; or"

12 On page 1, line 19, of the Introduced bill, after "or" delete "(7) "

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

14 Also MR. PRESIDENT:

15 The Committee on Senate Commerce and Energy respectfully reports that it has had under
16 consideration **SB 146** and returns the same with the recommendation that said bill be amended as
17 follows:

18 146B

19 On page 1, line 15, of the Introduced bill, after "member." insert " Reasonable reliance upon
20 a tribal identification card as proof of age of the purchaser or the recipient of an age restricted
21 product is a complete defense to any action brought against a person for the sale or distribution of
22 a product that is subject to state or federal age-related purchase and possession restrictions."

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

24 Also MR. PRESIDENT:

25 The Committee on Senate Commerce and Energy respectfully reports that it has had under
26 consideration the nomination of Joseph F. Kafka of Minnehaha County, Valley Springs, South Dakota,
27 to the South Dakota Lottery Commission and returns the same with the recommendation that the
28 Senate advise and consent to the confirmation of said reappointment, and that said reappointment
29 be placed on the consent calendar.

30 Respectfully submitted,
31 Jim Stalzer, Chair

32 MR. PRESIDENT:

33 The Senate Committee on Appropriations respectfully reports that it has had under
34 consideration **SB 24** and returns the same with the recommendation that said bill be amended as
35 follows:

1 24D

2 On page 1, line 21, of the Senate Agriculture and Natural Resources bill, delete " sixty" and
3 insert " sixty-five"

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

5 Also MR. PRESIDENT:

6 The Senate Committee on Appropriations respectfully reports that it has had under
7 consideration **SB 48** which was deferred to the 41st Legislative Day.

8 Respectfully submitted,
9 John Wiik, Chair

10 MR. PRESIDENT:

11 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
12 had under consideration the nomination of Scott A. Vance of Meade County, Faith, South Dakota,
13 to the State Brand Board and returns the same with the recommendation that the Senate advise
14 and consent to the confirmation of said reappointment, and that said appointment having been
15 certified as uncontested, be placed on the consent calendar.

16 Also MR. PRESIDENT:

17 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
18 had under consideration the nomination of David Koupal of Fall River County, Edgemont, South
19 Dakota, to the State Brand Board and returns the same with the recommendation that the Senate
20 advise and consent to the confirmation of said appointment, and that said appointment having been
21 certified as uncontested, be placed on the consent calendar.

22 Also MR. PRESIDENT:

23 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
24 had under consideration the nomination of Lyle Spring of Meade County, Union Center, South
25 Dakota, to the State Brand Board and returns the same with the recommendation that the Senate
26 advise and consent to the confirmation of said appointment, and that said appointment having been
27 certified as uncontested, be placed on the consent calendar.

28 Also MR. PRESIDENT:

29 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
30 had under consideration the nomination of Charles Spring of Meade County, Union Center, South
31 Dakota, to the Game, Fish and Parks Commission and returns the same with the recommendation
32 that the Senate advise and consent to the confirmation of said appointment, and that said
33 appointment having been certified as uncontested, be placed on the consent calendar.

34 Also MR. PRESIDENT:

35 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
36 had under consideration the nomination of Hunter Roberts of Hughes County, Pierre, South Dakota,
37 to the Secretary of the Department of Environment and Natural Resources and returns the same
38 with the recommendation that the Senate advise and consent to the confirmation of said
39 appointment, and that said appointment having been certified as uncontested, be placed on the
40 consent calendar.

41 Respectfully submitted,
42 Gary L. Cammack, Chair

1 MR. PRESIDENT:

2 The Committee on Senate Military and Veterans Affairs respectfully reports that it has had
3 under consideration **SB 33, 35, and 124** and returns the same with the recommendation that said
4 bills do pass.

5 Respectfully submitted,
6 Jim Bolin, Chair

7 Mr. PRESIDENT:

8 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
9 Enrolling has carefully compared **SB 11** and finds the same correctly enrolled.

10 Respectfully submitted,
11 Brock L. Greenfield, Chair

12 **MESSAGES FROM THE HOUSE**

13 Mr. PRESIDENT:

14 I have the honor to transmit herewith **HB 1013, 1024, 1027, 1029, 1048, 1082, 1086,**
15 **1092, 1094, 1097, 1206, and 1207** which have passed the House and your favorable
16 consideration is respectfully requested.

17 Also Mr. PRESIDENT:

18 I have the honor to transmit herewith **SB 11** which has passed the House without change.

19 Also Mr. PRESIDENT:

20 I have the honor to transmit herewith **HCR 6006** which has been adopted by the House and
21 your concurrence is respectfully requested.

22 Respectfully,
23 Mary Lou Goehring, Chief Clerk

24 **MOTIONS AND RESOLUTIONS**

25 **SCR 604:** A CONCURRENT RESOLUTION, Recognizing June as Move Over Awareness Month
26 and urging drivers to slow down and move over for stopped vehicles.

27 Was read the second time.

28 Sen. Wiik moved that **SCR 604** as found on page 153 of the Senate Journal be adopted.

29 The question being on Sen. Wiik's motion that **SCR 604** be adopted.

30 And the roll being called:

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

32 Yeas:

33 Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert,
34 Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Ernie Otten, Partridge,

1 Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White,
2 Wiik, Wismer, and Youngberg

3 Excused:
4 Novstrup

5 So the motion having received an affirmative vote of a majority of the members-elect, the
6 President declared the motion carried and **SCR 604** was adopted.

7 Sen. Stalzer moved that the Senate do concur in House amendments to **SB 23**.

8 The question being on Sen. Stalzer's motion that the Senate do concur in House amendments
9 to **SB 23**.

10 And the roll being called:

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

12 Yeas:
13 Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert,
14 Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Ernie Otten, Partridge,
15 Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White,
16 Wiik, Wismer, and Youngberg

17 Excused:
18 Novstrup

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

21 **HCR 6006:** A CONCURRENT RESOLUTION, Requesting the members of South Dakota's
22 congressional delegation to annually appear before a joint session of the Legislature to provide
23 information and answer questions.

24 Was read the first time and referred to the Committee on State Affairs.

25 Sen. Langer moved that the consideration of the re-appointment of Donald L. Kettering to the
26 Board of Economic Development be deferred to Wednesday, February 12, 2020, the 19th legislative
27 day.

28 Which motion prevailed.

29 Sen. Langer moved that **SB 18, 26, 90, 92, 103, and 137** be deferred to Wednesday,
30 February 12, 2020, the 19th legislative day.

31 Which motion prevailed.

32 Sen. Brock Greenfield moved that **HB 1106** be referred from the Committee on State Affairs
33 to the Committee on Retirement Laws.

34 Which motion prevailed.

CONSIDERATION OF REPORTS OF COMMITTEES

Sen. Langer moved that the reports of the Standing Committees on Transportation on **SB 149** as found on page 173 of the Senate Journal; also Transportation on **SB 113** as found on page 172 of the Senate Journal be adopted. Which motion prevailed and the reports were adopted.

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS

HB 1097: FOR AN ACT ENTITLED, An Act to modify requirements for a marriage license. Was read the first time and referred to the Committee on Appropriations.

HB 1013: FOR AN ACT ENTITLED, An Act to correct technical errors in statutory cross-references.

HB 1092: FOR AN ACT ENTITLED, An Act to establish immunity from liability for injuries to or the death of a person engaged in off-road vehicle activity under certain circumstances.

HB 1094: FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding permits for concealed pistols.

HB 1206: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the commitment of a delinquent child to the Department of Corrections.

HB 1207: FOR AN ACT ENTITLED, An Act to extend the termination date for the Juvenile Justice Public Safety Oversight Council.

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

HB 1048: FOR AN ACT ENTITLED, An Act to revise certain requirements for certain advisory committees under the Board of Medical and Osteopathic Examiners, Board of Nursing, and Board of Social Work Examiners.

HB 1086: FOR AN ACT ENTITLED, An Act to repeal certain fees charged by a clerk of courts.

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

HB 1082: FOR AN ACT ENTITLED, An Act to revise the conditions under which a licensed vehicle dealer may display or sell certain vehicles.

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

HB 1024: FOR AN ACT ENTITLED, An Act to make an appropriation for the payment of extraordinary litigation expenses and to declare an emergency.

HB 1027: FOR AN ACT ENTITLED, An Act to make an appropriation from the coordinated natural resources conservation fund to the State Conservation Commission and to declare an emergency.

HB 1029: FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to suppression of wildfires in the state and to declare an emergency.

Were read the first time and the President waived the committee referral pursuant to Joint Rule 6D-1.

CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS

The Senate proceeded to the consideration of the executive appointments of Joy Nelson of Codington County, Watertown, South Dakota, to the Board of Economic Development (SJ 83), and

Patrick Burchill of Pennington County, Rapid City, South Dakota, to the Board of Economic Development (SJ 84), and

Kevin Tetzlaff of Brookings County, Brookings, South Dakota, to the Board of Economic Development (SJ 85).

The question being "Does the Senate advise and consent to the executive appointments of Joy Nelson, Patrick Burchill, and Kevin Tetzlaff?"

And the roll being called:

Yeas 33, Nays 0, Excused 2, Absent 0

Yeas:

Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert, Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Ernie Otten, Partridge, Rusch, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White, Wiik, Wismer, and Youngberg

Excused:

Novstrup and Russell

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

SECOND READING OF CONSENT CALENDAR ITEMS

SB 97: FOR AN ACT ENTITLED, An Act to title vehicles older than thirty years with no existing record.

HB 1040: FOR AN ACT ENTITLED, An Act to increase the frequency of background investigations for certain state employees.

HB 1055: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the termination of a political committee under certain circumstances.

HB 1061: FOR AN ACT ENTITLED, An Act to exempt vehicles owned by improvement districts from certain vehicle registration fees.

1 Were read the second time.

2 The question being "Shall **SB 97, and HB 1040, 1055, and 1061** pass?"

3 And the roll being called:

4 Yeas 33, Nays 0, Excused 2, Absent 0

5 Yeas:

6 Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert,
7 Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Ernie Otten, Partridge,
8 Rusch, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White, Wiik,
9 Wismer, and Youngberg

10 Excused:

11 Novstrup and Russell

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

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

15 **SJR 501:** A JOINT RESOLUTION, Proposing and submitting to the voters an amendment to
16 the Constitution of the State of South Dakota, providing for wagering on sporting events and to
17 revise provisions regarding certain municipal proceeds of gaming revenues.

18 Was read the second time.

19 The question being "Shall **SJR 501** pass?"

20 And the roll being called:

21 Yeas 24, Nays 10, Excused 1, Absent 0

22 Yeas:

23 Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert, Phil Jensen, Klumb,
24 Kolbeck, Lake, Langer, Maher, Nesiba, Partridge, Russell, Schoenbeck, Schoenfish, V. J. Smith,
25 Soholt, White, Wiik, Wismer, and Youngberg

26 Nays:

27 Blare, Bolin, Cammack, Kennedy, Monroe, Ernie Otten, Rusch, Stalzer, Steinhauer, and Sutton

28 Excused:

29 Novstrup

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

32 **SB 60:** FOR AN ACT ENTITLED, An Act to adopt the Physical Therapist Licensure Compact.

33 Was read the second time.

1 The question being "Shall **SB 60** pass as amended?"

2 And the roll being called:

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

4 Yeas:

5 Blare, Bolin, Cammack, Castleberry, Curd, Duhamel, Ewing, Foster, Brock Greenfield, Heinert,
6 Phil Jensen, Kennedy, Klumb, Kolbeck, Lake, Langer, Maher, Monroe, Nesiba, Ernie Otten, Partridge,
7 Rusch, Russell, Schoenbeck, Schoenfish, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White,
8 Wiik, Wismer, and Youngberg

9 Excused:

10 Novstrup

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 111**: FOR AN ACT ENTITLED, An Act to exclude certain wind energy tax revenue from the
14 state aid to education formula.

15 Was read the second time.

16 The question being "Shall **SB 111** pass?"

17 And the roll being called:

18 Yeas 12, Nays 22, Excused 1, Absent 0

19 Yeas:

20 Blare, Cammack, Brock Greenfield, Phil Jensen, Klumb, Lake, Langer, Maher, Monroe, Russell,
21 Schoenfish, and Wiik

22 Nays:

23 Bolin, Castleberry, Curd, Duhamel, Ewing, Foster, Heinert, Kennedy, Kolbeck, Nesiba, Ernie
24 Otten, Partridge, Rusch, Schoenbeck, V. J. Smith, Soholt, Stalzer, Steinhauer, Sutton, White,
25 Wismer, and Youngberg

26 Excused:

27 Novstrup

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

30 There being no objection, the Senate reverted to Order of Business No. 10 - First Reading of
31 Senate Bills.

32 The President declared that **SB 125** was withdrawn at the request of the prime sponsor
33 pursuant to Joint Rule 6B-1.1.

SIGNING OF BILLS

The President publicly read the title to

SB 11: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding third party insurance plan administrators.

HB 1010: FOR AN ACT ENTITLED, An Act to revise provisions regarding testimony of qualified mental health professionals at involuntary commitment hearings.

HB 1019: FOR AN ACT ENTITLED, An Act to revise certain references to the Internal Revenue Code.

HB 1021: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the South Dakota Lottery Commission.

HB 1028: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding pesticide registration and application.

HB 1031: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding school district fiduciary funds.

HB 1037: FOR AN ACT ENTITLED, An Act to update the adoption of certain American Society for Testing and Materials and National Institute of Standards and Technology standards and certain federal regulations.

HB 1053: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the submission process for ballot measures.

And signed the same in the presence of the Senate.

Sen. Rusch moved that the Senate do now adjourn, which motion prevailed and at 3:24 p.m. the Senate adjourned.

Kay Johnson, Secretary

