

# *JOURNAL OF THE SENATE*

## *NINETY-EIGHTH SESSION*

---

TWELFTH DAY

---

STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Thursday, January 26, 2023

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

The prayer was offered by the Chaplain, Rev. Tori Troen, followed by the Pledge of Allegiance led by Senate page Miranda Maas.

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 11th 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  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

---

**COMMUNICATIONS AND PETITIONS**

January 5, 2023

The Honorable Larry Rhoden  
President of the Senate  
State Capitol  
Pierre, SD 57501

Dear President and Members of the Senate:

Pursuant to the provisions of Article IV, Section 9, of the Constitution, and subject to your consent, I have the honor to inform you that I have appointed Joseph Graves, of Davison County, Mitchell, South Dakota, to the position of Secretary of the Department of Education.

This appointment is effective January 9, 2023.

Sincerely,  
Kristi Noem  
Governor

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

**REPORTS OF STANDING COMMITTEES**

The President Pro Tempore appointed Sen. Castleberry to the Senate Committee on Local Government and Sen. Novstrup to the Senate Committee on Health and Human Services.

Mr. President:

The Committee on Senate Education respectfully reports that it has had under consideration **SB 37, and HB 1004** 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,  
Kyle Schoenfish, Chair

Mr. President:

The Committee on Senate Agriculture and Natural Resources respectfully reports that it has had under consideration **SB 44 and 84, and HB 1018 and 1019** 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,  
Herman Otten, Chair

1 Mr. President:

2 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
3 **SB 72 and 75** and returns the same with the recommendation that said bills do pass, and having  
4 been certified as uncontested, be placed on the consent calendar.

5 Also Mr. President:

6 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
7 **SB 70** and returns the same with the recommendation that said bill be amended as follows:

8 70A

9 On page 2, line 21, of the Introduced bill, after "child;" insert " or"

10 On page 2, line 23, of the Introduced bill, delete "; or

11 (6) If the defendant has chosen to proceed pro se, to have the court appoint standby counsel  
12 for the defendant for the sole purpose of questioning the child on behalf of the defendant if the court  
13 finds that there is a substantial likelihood that the child will suffer substantial emotional distress that  
14 will impair the ability of the child to communicate if the defendant questions the child directly." and  
15 insert a period

16 And that as so amended, **SB 70** do pass.

17 Also Mr. President:

18 The Committee on Senate Judiciary respectfully reports that it has had under consideration  
19 **SB 74** and returns the same with the recommendation that said bill be amended as follows:

20 74A

21 On page 5, line 12, of the Introduced bill, after "condemnation." insert "

22 The sheriff of the county in which a jail is established or operated by a regional jail authority  
23 shall have charge of the jail.

24 "

25 On page 9, after line 2, of the Introduced bill, insert: "

26 **Section 30. That § 24-11-13 be AMENDED:**

27 **24-11-13.** The sheriff or other officer designated by law or ordinance shall have charge of the  
28 jail-~~of~~ located in his county or municipality and of all persons by law confined therein.

29 The officer in charge of any jail shall conform in all respects to the policies and procedures  
30 required by § 24-11-23."

31 And that as so amended, **SB 74** do pass.

32 Also Mr. President:

33 The Committee on Senate Judiciary respectfully reports that it has had under consideration the  
34 nomination of Kellie Wasko of Hughes County, Pierre, South Dakota, to the position of Secretary of  
35 the Department of Corrections and returns the same with the recommendation that the Senate  
36 advise and consent to the confirmation of said appointment, and that said appointment having been  
37 certified as uncontested, be placed on the consent calendar.

38 Respectfully submitted,  
39 Helene Duhamel, Chair

1 Mr. President:

2 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
3 consideration **SCR 601** and returns the same with the recommendation that said resolution be  
4 adopted.

5 Also Mr. President:

6 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
7 consideration **SB 77** and returns the same with the recommendation that said bill do pass.

8 Also Mr. President:

9 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
10 consideration **SB 81 and 85, and HB 1005** and returns the same with the recommendation that  
11 said bills do pass, and having been certified as uncontested, be placed on the consent calendar.

12 Respectfully submitted,  
13 David Wheeler, Chair

14 Mr. President:

15 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and  
16 Enrolling has carefully compared **SB 22, 26, 29, and 43** and finds the same correctly enrolled.

17 Respectfully submitted,  
18 Lee A. Schoenbeck, Chair

19 **MESSAGES FROM THE HOUSE**

20 Mr. President:

21 I have the honor to return herewith **SB 26 and 29** which have passed the House without  
22 change.

23 Also Mr. President:

24 I have the honor to transmit herewith **HCR 6002** which has been adopted by the House and  
25 your concurrence is respectfully requested.

26 Also Mr. President:

27 I have the honor to transmit herewith **HB 1037, 1038, 1053, 1058, and 1088** which have  
28 passed the House and your favorable consideration is respectfully requested.

29 Respectfully,  
30 Patricia Miller, Chief Clerk

1

---

**MOTIONS AND RESOLUTIONS**

2

3 Sen. Herman Otten and Sen. Rohl moved to suspend the rules to create a Select Committee  
4 on Discipline and Expulsion to investigate the conduct of Senator Julie Frye-Mueller under special  
5 rules to be adopted and to immediately suspend Senator Julie Frye-Mueller from exercising any  
rights or privileges as a senator pending the outcome of the investigation.

6

President Rhoden ruled the motion out of order.

7

Sen. Schoenbeck appealed the ruling of the President.

8

Sen. Schoenbeck was supported.

9

10  
11  
12  
13

The question being on Sen. Herman Otten and Sen. Rohl's motion that the rules be suspended  
to create a Select Committee on Discipline and Expulsion to investigate the conduct of Senator Julie  
Frye-Mueller under special rules to be adopted and to immediately suspend Senator Julie Frye-  
Mueller from exercising any rights or privileges as a senator pending the outcome of the  
investigation.

14

And the roll being called:

15

Yeas 27, Nays 6, Excused 2, Absent 0

16

17  
18

Yeas: Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel,  
Hunhoff, David Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher, Mehlhaff, Nesiba,  
Novstrup, Herman Otten, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, and Wheeler

19

Nays: Beal, Frye-Mueller, Brent "B.R." Hoffman, Pischke, Wink, and Zikmund

20

Excused: Foster and Wiik

21

22

So the motion having received an affirmative vote of a two-thirds majority of the members-  
elect, the President declared the motion carried and the rules were suspended.

23

24

**SCR 602:** A CONCURRENT RESOLUTION, Affirming the Legislature's support of the United  
States Supreme Court decision of Dobbs v. Jackson Women's Health Organization.

25

Was read the second time.

26

Sen. Bolin moved that **SCR 602** as found on page 109 of the Senate Journal be adopted.

27

The question being on Sen. Bolin's motion that **SCR 602** be adopted.

28

And the roll being called:

29

Yeas 30, Nays 3, Excused 2, Absent 0

30

31  
32  
33

Yeas: Beal, Bolin, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel, Brent  
"B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Maher, Mehlhaff,  
Novstrup, Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler,  
Wiik, Wink, and Zikmund

34

Nays: Bordeaux, Larson, and Nesiba

1 Excused: Foster and Frye-Mueller

2 So the motion having received an affirmative vote of a majority of the members-elect, the  
3 President declared the motion carried and **SCR 602** was adopted.

4 **SCR 603:** A CONCURRENT RESOLUTION, Supporting the acknowledgement of the Lake  
5 Traverse Reservation boundaries as provided in federal law.

6 Introduced by: **Senator** Bordeaux

7 Was read the first time.

8 **HCR 6002:** A CONCURRENT RESOLUTION, To encourage the Executive Board of the  
9 Legislature to continue researching childhood mental health and mental health services available to  
10 children in this state.

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

12 Sen. Crabtree moved that **SB 3, 48, and 71, and HB 1003, 1012, and 1014, and**  
13 **HCR 6007** be deferred to Monday, January 30, 2023, the 13<sup>th</sup> legislative day.

14 Which motion prevailed.

#### 15 **CONSIDERATION OF REPORTS OF COMMITTEES**

16 Sen. Crabtree moved that the reports of the Standing Committees on  
17 Health and Human Services on **SB 67** as found on page 108 of the Senate Journal; also  
18 Taxation on **SB 73** as found on page 109 of the Senate Journal; and  
19 State Affairs on **SB 82** as found on page 110 of the Senate Journal be adopted.  
20 Which motion prevailed and the reports were adopted.

#### 21 **CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS**

22 Sen. Crabtree moved that the consideration of the executive appointments of David Flute and  
23 Jeff Marlette be deferred to Monday, January 30, 2023, the 13<sup>th</sup> legislative day.

#### 24 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

25 **SB 149:** FOR AN ACT ENTITLED, An Act to create the Medicaid expansion fund and to transfer  
26 monies received as a result of expanding Medicaid eligibility.

27 Introduced by: **Senator** Hunhoff

28 Was read the first time and referred to the Joint Committee on Appropriations.

1 **SB 121:** FOR AN ACT ENTITLED, An Act to make an appropriation to support firefighter training  
2 efforts in the state.

3 Introduced by: **Senator** David Johnson

4 **SB 126:** FOR AN ACT ENTITLED, An Act to expand the availability of emergency services in  
5 state parks.

6 Introduced by: **Senator** Frye-Mueller

7 **SB 142:** FOR AN ACT ENTITLED, An Act to prohibit certain persons from using the title  
8 veterinary technician.

9 Introduced by: **Senator** Castleberry

10 **SB 143:** FOR AN ACT ENTITLED, An Act to raise the revenue threshold for a required audit of  
11 a water development district.

12 Introduced by: **Senator** Castleberry

13 **SB 150:** FOR AN ACT ENTITLED, An Act to add provisions regarding construction and  
14 maintenance of livestock pipelines on highways.

15 Introduced by: **Senator** Duhamel

16 **SB 152:** FOR AN ACT ENTITLED, An Act to provide increased funding for the water and  
17 environment fund.

18 Introduced by: **Senator** Duhamel

19 Were read the first time and referred to the Committee on Agriculture and Natural Resources.

20 **SB 129:** FOR AN ACT ENTITLED, An Act to include school employees in certain assault  
21 provisions and provide a penalty therefor.

22 Introduced by: **Senator** Stalzer

23 **SB 151:** FOR AN ACT ENTITLED, An Act to establish the nonbeneficiary student scholarship  
24 program and make an appropriation therefor.

25 Introduced by: **Senator** Bordeaux

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

27 **SB 122:** FOR AN ACT ENTITLED, An Act to address the potential abuse of opiate and opioid  
28 drugs.

29 Introduced by: **Senator** Frye-Mueller

30 **SB 125:** FOR AN ACT ENTITLED, An Act to prohibit the imposition of additional immunization  
31 requirements on children.

32 Introduced by: **Senator** Frye-Mueller

1 **SB 130:** FOR AN ACT ENTITLED, An Act to provide for philosophical exceptions to required  
2 vaccinations.

3 Introduced by: **Senator** Pischke

4 **SB 141:** FOR AN ACT ENTITLED, An Act to clarify and modernize cremation requirements and  
5 procedures.

6 Introduced by: **Senator** Davis

7 **SB 154:** FOR AN ACT ENTITLED, An Act to incentivize a paid family leave incentive program,  
8 to make an appropriation therefor, and to declare an emergency.

9 Introduced by: **Senator** Reed

10 Were read the first time and referred to the Committee on Health and Human Services.

11 **SB 134:** FOR AN ACT ENTITLED, An Act to increase law enforcement membership on the  
12 Medical Marijuana Oversight Committee.

13 Introduced by: **Senator** Duhamel

14 **SB 136:** FOR AN ACT ENTITLED, An Act to provide a rebuttable presumption in favor of joint  
15 physical custody of a minor child.

16 Introduced by: **Senator** Pischke

17 **SB 137:** FOR AN ACT ENTITLED, An Act to provide for the consideration of a child's wishes in  
18 awarding custody.

19 Introduced by: **Senator** Pischke

20 **SB 146:** FOR AN ACT ENTITLED, An Act to limit parole for violent offenders.

21 Introduced by: **Senator** Brent "B.R." Hoffman

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

23 **SB 144:** FOR AN ACT ENTITLED, An Act to provide access to abandoned cemeteries to  
24 descendants of the decedents interred therein.

25 Introduced by: **Senator** Schoenfish

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

27 **SB 127:** FOR AN ACT ENTITLED, An Act to revise the eligible disability level for veterans to  
28 receive state park benefits.

29 Introduced by: **Senator** Larson

30 Was read the first time and referred to the Committee on Military and Veterans Affairs.



1 **SB 123:** FOR AN ACT ENTITLED, An Act to require certain reviews and updating of voter  
2 registration records and data sharing.

3 Introduced by: **Senator** Frye-Mueller

4 **SB 124:** FOR AN ACT ENTITLED, An Act to update maintenance and verification requirements  
5 for voter registration files.

6 Introduced by: **Senator** Frye-Mueller

7 **SB 128:** FOR AN ACT ENTITLED, An Act to remove the option to register to vote by a signed  
8 statement.

9 Introduced by: **Senator** Frye-Mueller

10 **SB 132:** FOR AN ACT ENTITLED, An Act to revise the appointment of legislators to the  
11 Agricultural Land Assessment Implementation and Oversight Advisory Task Force.

12 Introduced by: **Senator** Schoenbeck

13 **SB 139:** FOR AN ACT ENTITLED, An Act to revise provisions qualifications for the purposes of  
14 voter registration.

15 Introduced by: **Senator** Deibert

16 **SB 140:** FOR AN ACT ENTITLED, An Act to revise certain provisions relating to voter  
17 registration.

18 Introduced by: **Senator** Steve Kolbeck

19 **SB 147:** FOR AN ACT ENTITLED, An Act to change provisions regarding the appointment of  
20 legislators to represent South Dakota in the Streamlined Sales and Use Tax Agreement.

21 Introduced by: **Senator** Reed

22 **SB 153:** FOR AN ACT ENTITLED, An Act to permit the use of tribal identification cards when  
23 registering to vote.

24 Introduced by: **Senator** Bordeaux

25 **SJR 504:** A JOINT RESOLUTION, Proposing and submitting to the electors at the next general  
26 election an amendment to Article III of the Constitution of the State of South Dakota, to limit terms  
27 of service for legislators to eight years.

28 Introduced by: **Senator** Brent "B.R." Hoffman

29 Were read the first time and referred to the Committee on State Affairs.

30 **SB 131:** FOR AN ACT ENTITLED, An Act to remove certain limitations on property tax levy  
31 increases.

32 Introduced by: **Senator** Novstrup

33 **SB 138:** FOR AN ACT ENTITLED, An Act to provide for the distribution of tax revenue from  
34 certain sales occurring on fairgrounds.

35 Introduced by: **Senator** Novstrup

1 **SJR 503:** A JOINT RESOLUTION, Proposing and submitting to the voters at the next general  
2 election an amendment to the Constitution of the State of South Dakota, limiting the amount of ad  
3 valorem tax on real property, and limiting the increase in the assessed value of real property.

4 Introduced by: **Senator** Frye-Mueller

5 Were read the first time and referred to the Committee on Taxation.

6 **SB 133:** FOR AN ACT ENTITLED, An Act to modify the design of license plates to include the  
7 state motto.

8 Introduced by: **Senator** Brent "B.R." Hoffman

9 **SB 135:** FOR AN ACT ENTITLED, An Act to revise provisions regarding the operation of golf  
10 carts on a state or county highway.

11 Introduced by: **Senator** Herman Otten

12 **SB 145:** FOR AN ACT ENTITLED, An Act to revise provisions pertaining to township eligibility  
13 for the rural access infrastructure fund.

14 Introduced by: **Senator** Schoenfish

15 **SB 148:** FOR AN ACT ENTITLED, An Act to make an appropriation to provide support for an  
16 airline terminal infrastructure expansion project at the Rapid City Regional Airport.

17 Introduced by: **Senator** David Johnson

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

19 **SB 155:** FOR AN ACT ENTITLED, An Act to to create the jail improvement and construction  
20 fund for the improvement and construction of jails, to make an appropriation therefor, and to declare  
21 an emergency.

22 Introduced by: **Senator** Breitling

23 **SB 156:** FOR AN ACT ENTITLED, An Act to make an appropriation of American Rescue Plan  
24 Act monies for preconstruction activities of water resources in western South Dakota and to declare  
25 an emergency.

26 Introduced by: **Senator** Duhamel

27 **SB 157:** FOR AN ACT ENTITLED, An Act to exempt municipalities in certain counties from  
28 requirements related to municipal campgrounds.

29 Introduced by: **Senator** Novstrup

30 **SB 158:** FOR AN ACT ENTITLED, An Act to make an appropriation to provide funding for major  
31 infrastructure projects to support South Dakota airports.

32 Introduced by: **Senator** Jack Kolbeck

33 **SB 159:** FOR AN ACT ENTITLED, An Act to revise provisions regarding vehicle warranty claims.

34 Introduced by: **Senator** Tobin

1 **SB 160:** FOR AN ACT ENTITLED, An Act to establish post-election audits.

2 Introduced by: **Senator** Wheeler

3 **SB 161:** FOR AN ACT ENTITLED, An Act to make an appropriation to the Office of the Secretary  
4 of State for voter roll maintenance, ballot machines, and election security.

5 Introduced by: **Senator** David Johnson

6 **SB 162:** FOR AN ACT ENTITLED, An Act to revise public meeting requirements.

7 Introduced by: **Senator** Diedrich

8 **SB 163:** FOR AN ACT ENTITLED, An Act to permit the playing of an Honor Song at graduation  
9 ceremonies.

10 Introduced by: **Senator** Bordeaux

11 **SB 164:** FOR AN ACT ENTITLED, An Act to create the Commission on Indian Affairs.

12 Introduced by: **Senator** Bordeaux

13 **SB 165:** FOR AN ACT ENTITLED, An Act to expand initial training given to law enforcement  
14 officers to include Indian law, racial bias, and implicit bias.

15 Introduced by: **Senator** Bordeaux

16 **SB 166:** FOR AN ACT ENTITLED, An Act to provide for an annual presentation regarding Indian  
17 Law.

18 Introduced by: **Senator** Bordeaux

19 **SJR 505:** A JOINT RESOLUTION, Proposing and submitting to the electors at the next general  
20 election an amendment to the Constitution of the State of South Dakota, updating references to  
21 certain officeholders and persons.

22 Introduced by: **Senator** Tobin

23 Were read the first time.

24 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

25 **HB 1058:** FOR AN ACT ENTITLED, An Act to revise the water resources projects list.

26 **HB 1088:** FOR AN ACT ENTITLED, An Act to update requirements for an insurance company  
27 seeking to do business in this state.

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

29 **HB 1053:** FOR AN ACT ENTITLED, An Act to prohibit the issuance of a written certification to  
30 a pregnant woman or breastfeeding mother for purposes of medical cannabis use.

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

1 **HB 1037:** FOR AN ACT ENTITLED, An Act to amend the eligibility for admission to the state  
2 veterans' home and repeal the residency requirement.

3 **HB 1038:** FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the  
4 Department of Veterans Affairs and residency in the State Veterans Home.

5 Were read the first time and referred to the Committee on Military and Veterans Affairs.

## 6 **SECOND READING OF CONSENT CALENDAR ITEMS**

7 Sen. Crabtree moved that the consent calendar including **SB 50, 61, 62, and 64, and**  
8 **HB 1010, 1015, 1033, and 1062** be deferred to Monday, January 30, 2023, the 13<sup>th</sup> legislative  
9 day.

10 Which motion prevailed.

## 11 **SIGNING OF BILLS**

12 The President publicly read the title to

13 **SB 22:** FOR AN ACT ENTITLED, An Act to streamline examination reports.

14 **SB 26:** FOR AN ACT ENTITLED, An Act to transfer a property tax relief program, to change  
15 income requirements for certain property tax relief programs, and to index certain income schedules  
16 to inflation.

17 **SB 29:** FOR AN ACT ENTITLED, An Act to revise certain references to the Internal Revenue  
18 Code.

19 **SB 43:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding money  
20 transmission.

21 **HB 1011:** FOR AN ACT ENTITLED, An Act to revise employer contribution rates.

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

## 23 **COMMEMORATIONS**

24 **SC 804:** A LEGISLATIVE COMMEMORATION, Commending the Rapid City Sliders 15U baseball  
25 team for representing South Dakota at the Babe Ruth World Series.

26 Introduced by: **Senators** Zikmund, Bolin, Bordeaux, Castleberry, Crabtree, Deibert, Diedrich,  
27 Duhamel, David Johnson, Jack Kolbeck, Larson, Nesiba, Novstrup, Herman Otten, Pischke, Reed,  
28 Rohl, Schoenbeck, Schoenfish, Stalzer, and Wiik and **Representatives** Derby, Aylward, Bahmuller,  
29 Bartels, Blare, Duba, Duffy, Emery, Fitzgerald, Koth, Krull, Kull, Massie, Moore, Nelson, Olson, Perry,  
30 Pinnow, Pourier, Reisch, Stevens, Tordsen, and Venhuizen

31 Sen. Duhamel moved that the Senate do now adjourn, which motion prevailed and at  
32 2:30 p.m. the Senate adjourned.

33 Kay Johnson, Secretary