

# *JOURNAL OF THE SENATE*

## *NINETY-EIGHTH SESSION*

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THIRTY-FIRST DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Tuesday, February 28, 2023

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

The prayer was offered by the Chaplain, Pastor Dow Warner, followed by the Pledge of Allegiance led by Senate pages Jayse Foss and Lauren Murphy.

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 30th 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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**COMMUNICATIONS AND PETITIONS**

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February 27, 2023

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Mr. President and Members of the Senate:

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I have the honor to inform you that on February 27, 2023, I approved Senate Bills 31, 34, 61, 77, 83, 84, 88, 92, 93, 95, and 162, and the same have been deposited in the office of the Secretary of State.

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Respectfully submitted,  
Kristi Noem  
Governor

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February 28, 2023

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Mr. President and Members of the Senate:

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I have the honor to inform you that on February 28, 2023, I approved Senate Bills 44, 56, and 98, and the same have been deposited in the office of the Secretary of State.

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Respectfully submitted,  
Kristi Noem  
Governor

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**REPORTS OF STANDING COMMITTEES**

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Mr. President:

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The Committee on Senate Military and Veterans Affairs respectfully reports that it has had under consideration **HB 1045** 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 Military and Veterans Affairs respectfully reports that it has had under consideration **HB 1039** 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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Also Mr. President:

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The Committee on Senate Military and Veterans Affairs respectfully reports that it has had under consideration **HB 1065** with the recommendation that said bill be referred to the Senate Committee on Appropriations with a Do Pass recommendation.

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Respectfully submitted,  
David Johnson, Chair

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Mr. President:

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The Committee on Senate Education respectfully reports that it has had under consideration **HB 1055** and returns the same with the recommendation that said bill do pass.

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1 Also Mr. President:

2 The Committee on Senate Education respectfully reports that it has had under consideration  
3 **HB 1116** which was deferred to the 41st Legislative Day.

4 Also Mr. President:

5 The Committee on Senate Education respectfully reports that it has had under consideration  
6 **HB 1123** and returns the same with the recommendation that said bill do pass, and having been  
7 certified as uncontested, be placed on the consent calendar.

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Respectfully submitted,  
Kyle Schoenfish, Chair

10 Mr. President:

11 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
12 consideration the nomination of James Hagen of Lincoln County, Sioux Falls, South Dakota, to the  
13 position of Secretary of the Department of Tourism and returns the same with the recommendation  
14 that the Senate advise and consent to the confirmation of said appointment, and that said  
15 appointment having been certified as uncontested, be placed on the consent calendar.

16 Also Mr. President:

17 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
18 consideration the nomination of Marcia Hultman of Hughes County, Pierre, South Dakota, to the  
19 position of Secretary of the Department of Labor and Regulation and returns the same with the  
20 recommendation that the Senate advise and consent to the confirmation of said appointment, and  
21 that said appointment having been certified as uncontested, be placed on the consent calendar.

22 Also Mr. President:

23 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
24 consideration the nomination of Matt Judson of Hughes County, Pierre, South Dakota, to the Board  
25 of Economic Development and returns the same with the recommendation that the Senate advise  
26 and consent to the confirmation of said reappointment, and that said reappointment having been  
27 certified as uncontested, be placed on the consent calendar.

28 Also Mr. President:

29 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
30 consideration the nomination of Joy Nelson of Codington County, Watertown, South Dakota, to the  
31 Board of Economic Development and returns the same with the recommendation that the Senate  
32 advise and consent to the confirmation of said reappointment, and that said reappointment having  
33 been certified as uncontested, be placed on the consent calendar.

34 Also Mr. President:

35 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
36 consideration the nomination of James Yunag of Minnehaha County, Sioux Falls, South Dakota, to  
37 the Board of Economic Development and returns the same with the recommendation that the Senate  
38 advise and consent to the confirmation of said reappointment, and that said reappointment having  
39 been certified as uncontested, be placed on the consent calendar.

1 Also Mr. President:

2 The Committee on Senate Commerce and Energy respectfully reports that it has had under  
3 consideration **HB 1193** and returns the same with the recommendation that said bill do pass.

4 Respectfully submitted,  
5 David Wheeler, Chair

6 Mr. President:

7 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and  
8 Enrolling has carefully compared **SB 5, 6, 50, 72, 78, 81, 86, 132, 182, and 198** and finds the  
9 same correctly enrolled.

10 Respectfully submitted,  
11 Lee A. Schoenbeck, Chair

12 Mr. President:

13 The Committee on Legislative Procedure respectfully reports that **SB 76** was delivered to her  
14 Excellency, the Governor, for her approval at 4:15 p.m., February 27, 2023.

15 Respectfully submitted,  
16 Lee A. Schoenbeck, Chair

17 **MESSAGES FROM THE HOUSE**

18 Mr. President:

19 I have the honor to return herewith **SB 140** which has been amended by the House and your  
20 concurrence in the amendments is respectfully requested.

21 Also Mr. President:

22 I have the honor to return herewith **SCR 602** in which the House has concurred.

23 Also Mr. President:

24 I have the honor to transmit herewith **HB 1016, 1017, 1021, 1022, 1023, 1024, 1035,**  
25 **1078, 1079, 1117, 1118, and 1143** which have passed the House and your favorable  
26 consideration is respectfully requested.

27 Also Mr. President:

28 I have the honor to return herewith **SB 5, 6, 50, 72, 78, 81, 86, 132, 182, and 198** which  
29 have passed the House without change.

30 Respectfully,  
31 Patricia Miller, Chief Clerk

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**MOTIONS AND RESOLUTIONS**

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2 Sen. Tobin moved that the Senate do concur in House amendments to **SB 8**.3 The question being on Sen. Tobin's motion that the Senate do concur in House amendments  
4 to **SB 8**.

5 And the roll being called:

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

7 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,  
8 Duhamel, Foster, Hoffman, Hunhoff, Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher,  
9 Mehlhaff, Nesiba, Novstrup, Herman Otten, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,  
10 Wheeler, Wiik, Wink, and Zikmund

11 Nays: Frye-Mueller and Pischke

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 Yesterday, Sen. Jack Kolbeck announced his intention to reconsider the vote by which  
15 **HB 1030** lost.16 Sen. Reed moved that the Senate do now reconsider the vote by which **HB 1030** lost.17 The question being on Sen. Reed's motion to reconsider the vote by which **HB 1030** lost.

18 And the roll being called:

19 Yeas 30, Nays 5, Excused 0, Absent 0

20 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,  
21 Duhamel, Foster, Hunhoff, Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Nesiba, Novstrup,  
22 Herman Otten, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and  
23 Zikmund

24 Nays: Frye-Mueller, Hoffman, Maher, Mehlhaff, and Pischke

25 So the motion having received an affirmative vote of a majority of the members-elect, the  
26 President declared the motion carried and **HB 1030** was up for reconsideration and final passage.27 **HB 1030**: FOR AN ACT ENTITLED, An Act to make an appropriation for the revised construction  
28 costs of the bioproducts facility in Brookings, and to declare an emergency.

29 Having had its second reading was up for consideration and final passage.

30 The question being "Shall **HB 1030** pass?"

31 And the roll being called:

32 Yeas 28, Nays 7, Excused 0, Absent 0

33 Yeas: Beal, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel,  
34 Foster, Hunhoff, Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Nesiba, Novstrup, Herman  
35 Otten, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, and Zikmund

1 Nays: Bolin, Frye-Mueller, Hoffman, Maher, Mehlhaff, Pischke, and Wink

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

4 Sen. Crabtree moved that **HB 1154** be deferred to Wednesday, March 1, 2023, the 32<sup>nd</sup>  
5 legislative day.

6 Which motion prevailed.

## 7 **CONSIDERATION OF REPORTS OF COMMITTEES**

8 Sen. Crabtree moved that the reports of the Standing Committees on

9 Taxation on **HB 1137** as found on page 345 of the Senate Journal; and

10 Local Government on **HB 1176** as found on page 346 of the Senate Journal be adopted.

11 Which motion prevailed and the reports were adopted.

## 12 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

13 **HB 1016:** FOR AN ACT ENTITLED, An Act to authorize the South Dakota Department of  
14 Corrections to construct a prison facility for offenders committed to the Department of Corrections  
15 in Rapid City, to make an appropriation therefor, and to declare an emergency.

16 **HB 1017:** FOR AN ACT ENTITLED, An Act to authorize the Department of Corrections to  
17 purchase certain real property, to contract for the design of a prison facility for offenders committed  
18 to the Department of Corrections, to make an appropriation therefor, to transfer funds to the  
19 incarceration construction fund, and to declare an emergency.

20 **HB 1021:** FOR AN ACT ENTITLED, An Act to make an appropriation to the State Conservation  
21 Commission and to declare an emergency.

22 **HB 1022:** FOR AN ACT ENTITLED, An Act to make an appropriation for design costs related to  
23 the construction of the new state public health laboratory, and to declare an emergency.

24 **HB 1023:** FOR AN ACT ENTITLED, An Act to make an appropriation for the construction of a  
25 maintenance shop for the Wildland Fire Suppression Division in Rapid City and to declare an  
26 emergency.

27 **HB 1024:** FOR AN ACT ENTITLED, An Act to make an appropriation for the construction of a  
28 maintenance shop for the Wildland Fire Suppression Division in Hot Springs and to declare an  
29 emergency.

30 **HB 1035:** FOR AN ACT ENTITLED, An Act to make an appropriation to the Department of  
31 Revenue for the modernization of the motor vehicle administration system, and to declare an  
32 emergency.

33 **HB 1078:** FOR AN ACT ENTITLED, An Act to make an appropriation to the Department of  
34 Human Services for the development and expansion of adult day services programs and to declare  
35 an emergency.

1 **HB 1079:** FOR AN ACT ENTITLED, An Act to make an appropriation to the Department of  
 2 Health to provide grants to support mental health and suicide prevention programs, and to declare  
 3 an emergency.

4 **HB 1117:** FOR AN ACT ENTITLED, An Act to make an appropriation to support the small and  
 5 mid-sized manufacturers, and to declare an emergency.

6 **HB 1118:** FOR AN ACT ENTITLED, An Act to make an appropriation to support the South  
 7 Dakota Small Business Development Center and the South Dakota Procurement Technical Assistance  
 8 Center, and to declare an emergency.

9 **HB 1143:** FOR AN ACT ENTITLED, An Act to make an appropriation for the restoration,  
 10 maintenance, and repair of the state capitol and to declare an emergency.

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

12 **SECOND READING OF CONSENT CALENDAR ITEMS**

13 Sen. Frye-Mueller requested that **HB 1183** be removed from the Consent Calendar.

14 **HB 1140:** FOR AN ACT ENTITLED, An Act to require the secretary of state to determine if a  
 15 legislatively proposed constitutional amendment complies with the single subject requirement and  
 16 is not a constitutional revision.

17 **HB 1231:** FOR AN ACT ENTITLED, An Act to revise certain provisions related to the sealing of  
 18 adoption records.

19 Were read the second time.

20 The question being "Shall **HB 1140** pass as amended, and **HB 1231** pass?"

21 And the roll being called:

22 Yeas 35, Nays 0, Excused 0, Absent 0

23 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,  
 24 Duhamel, Foster, Frye-Mueller, Hoffman, Hunhoff, Johnson, Klumb, Jack Kolbeck, Steve Kolbeck,  
 25 Larson, Maher, Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl, Schoenbeck,  
 26 Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

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

29 **SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

30 **HB 1127:** FOR AN ACT ENTITLED, An Act to make an appropriation to support volunteer fire  
 31 departments.

32 Was read the second time.

33 Sen. Hunhoff moved that **HB 1127** be amended as follows:

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1 On page 1, line 1, of the House Appropriations Engrossed bill, after "departments" insert " and  
2 to declare an emergency"

3 On page 1, after line 22, of the House Appropriations Engrossed bill, insert: "

4 **Section 8.** Whereas, this Act is necessary for the support of the state government and its  
5 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
6 force and effect from and after its passage and approval."

7 Which motion prevailed.

8 The question being "Shall **HB 1127** pass as amended?"

9 And the roll being called:

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

11 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,  
12 Duhamel, Foster, Frye-Mueller, Hoffman, Hunhoff, Johnson, Klumb, Steve Kolbeck, Larson, Maher,  
13 Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer,  
14 Tobin, Wheeler, Wink, and Zikmund

15 Nays: Jack Kolbeck and Wiik

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

18 **HB 1153:** FOR AN ACT ENTITLED, An Act to to update travel expenses, moving expenses, and  
19 other reimbursements.

20 Was read the second time.

21 The question being "Shall **HB 1153** pass?"

22 And the roll being called:

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

24 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Diedrich, Duhamel, Foster,  
25 Hoffman, Hunhoff, Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher, Nesiba, Novstrup,  
26 Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink,  
27 and Zikmund

28 Nays: Deibert, Frye-Mueller, and Mehlhaff

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

31 **HB 1138:** FOR AN ACT ENTITLED, An Act to require updated cost report information for certain  
32 community-based health and human services providers.

33 Was read the second time.

34 The question being "Shall **HB 1138** pass as amended?"

35 And the roll being called:



1 Yeas 16, Nays 19, Excused 0, Absent 0

2 Yeas: Bordeaux, Castleberry, Crabtree, Davis, Diedrich, Foster, Larson, Maher, Nesiba,  
3 Novstrup, Pischke, Reed, Rohl, Schoenfish, Tobin, and Wheeler

4 Nays: Beal, Bolin, Breitling, Deibert, Duhamel, Frye-Mueller, Hoffman, Hunhoff, Johnson,  
5 Klumb, Jack Kolbeck, Steve Kolbeck, Mehlhaff, Herman Otten, Schoenbeck, Stalzer, Wiik, Wink, and  
6 Zikmund

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

9 **HB 1155:** FOR AN ACT ENTITLED, An Act to add dental practices as eligible facilities to  
10 participate in the rural health care recruitment assistance program.

11 Was read the second time.

12 The question being "Shall **HB 1155** pass?"

13 And the roll being called:

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

15 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,  
16 Duhamel, Foster, Hoffman, Hunhoff, Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher,  
17 Mehlhaff, Nesiba, Novstrup, Herman Otten, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer, Tobin,  
18 Wheeler, Wiik, Wink, and Zikmund

19 Nays: Frye-Mueller and Pischke

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

22 **HB 1008:** FOR AN ACT ENTITLED, An Act to to revise provisions relating to actuarial  
23 terminology used by the South Dakota Retirement System.

24 Was read the second time.

25 The question being "Shall **HB 1008** pass?"

26 And the roll being called:

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

28 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,  
29 Duhamel, Foster, Hoffman, Hunhoff, Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher,  
30 Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer,  
31 Tobin, Wheeler, Wiik, Wink, and Zikmund

32 Nays: Frye-Mueller

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

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**SIGNING OF BILLS**

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The President publicly read the title to

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**SB 5:** FOR AN ACT ENTITLED, An Act to extend the termination date of the Juvenile Justice Oversight Council and modify its membership requirements.

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**SB 6:** FOR AN ACT ENTITLED, An Act to authorize community response teams to recommend alternative community-based resources for children alleged to be delinquent and children alleged to be in need of supervision prior to adjudication.

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**SB 50:** FOR AN ACT ENTITLED, An Act to revise the crime of witness tampering.

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**SB 72:** FOR AN ACT ENTITLED, An Act to revise provisions related to the discharge of a defendant restored to competency.

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**SB 78:** FOR AN ACT ENTITLED, An Act to create the South Dakota Board of Physical Therapy and make an appropriation therefor.

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**SB 81:** FOR AN ACT ENTITLED, An Act to repeal outdated sections regarding enhanced concealed carry permit requirements.

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**SB 86:** FOR AN ACT ENTITLED, An Act to require candidates for party precinct committeeman or committeewoman to include an email address and phone number in the written statement submitted to the county auditor.

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

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**SB 182:** FOR AN ACT ENTITLED, An Act to establish a uniform method for calculating high school credit received from completing postsecondary courses.

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**SB 198:** FOR AN ACT ENTITLED, An Act to allow medical cannabis establishments to maintain certain cardholder data and to declare an emergency.

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**HB 1189:** FOR AN ACT ENTITLED, An Act to require certain entities owning agricultural land to report foreign beneficial ownership interests.

26

**HB 1191:** FOR AN ACT ENTITLED, An Act to clarify the duties of truancy officers.

27

And signed the same in the presence of the Senate.

28

**COMMEMORATIONS**

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**SC 813:** A LEGISLATIVE COMMEMORATION, Honoring the 2022-2023 Canton C-Hawk girls wrestling team for its outstanding accomplishments.

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Introduced by: **Senator** Bolin

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**SC 814:** A LEGISLATIVE COMMEMORATION, Honoring the 2022-2023 Canton C-Hawk boys wrestling team for its outstanding accomplishments.

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Introduced by: **Senators** Bolin and Deibert

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1           Sen. Hoffman moved that the Senate do now adjourn, which motion prevailed and at  
2 3:07 p.m. the Senate adjourned.

3

Kay Johnson, Secretary

