

JOURNAL OF THE SENATE

NINETY-FOURTH SESSION

THIRTIETH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, February 26, 2019

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

The prayer was offered by the Chaplain, Rev. Mercy Hobbs, followed by the Pledge of Allegiance led by Senate pages Abby Moon and Reese Uecker.

Roll Call: All members present except Sens. Solano and Wiik who were 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 twenty-ninth 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.

Uncertified Copy

20 copies were printed on recycled paper by the South Dakota Legislative Research Council at a cost of \$.052 per page.

1 Also MR. PRESIDENT:

2 The Joint Committee on Appropriations respectfully reports that it has had under
3 consideration SB 158 which was deferred to the 41st Legislative Day.

4 Respectfully submitted,
5 John Wiik, Co-Chair

Respectfully submitted,
Chris G. Karr, Co-Chair

6 MR. PRESIDENT:

7 The Committee on Education respectfully reports that it has had under consideration
8 HB 1001 and returns the same with the recommendation that said bill do pass.

9 Also MR. PRESIDENT:

10 The Committee on Education respectfully reports that it has had under consideration
11 HB 1066 and returns the same with the recommendation that said bill be amended as follows:

12 1066cd

13 On the House engrossed bill, delete all amendments, thus restoring the bill to the printed
14 version.

15 And that as so amended said bill do pass.

16 Also MR. PRESIDENT:

17 The Committee on Education respectfully reports that it has had under consideration
18 HB 1155 and returns the same with the recommendation that said bill be amended as follows:

19 1155ca

20 On page 1, line 8, of the printed bill, overstrike "a" and insert "an accredited".

21 And that as so amended said bill do pass.

22 Respectfully submitted,
23 Troy Heinert, Acting Chair

24 MR. PRESIDENT:

25 The Committee on Commerce and Energy respectfully reports that it has had under
26 consideration HB 1009 and returns the same with the recommendation that said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Commerce and Energy respectfully reports that it has had under
3 consideration HB 1196 and returns the same with the recommendation that said bill do pass and
4 be placed on the consent calendar.

5 Also MR. PRESIDENT:

6 The Committee on Commerce and Energy respectfully reports that it has had under
7 consideration HB 1022 and returns the same with the recommendation that said bill be amended
8 as follows:

9 1022wa

10 On page 1, line 7, of the House Commerce and Energy Committee engrossed bill, after
11 "indemnification" insert ",,".

12 On page 1, line 10, delete "a contract for banking" and insert "contracts with banks
13 regarding the establishment and maintenance of accounts for the provision of payment
14 processing.".

15 On page 1, delete line 11.

16 And that as so amended said bill do pass.

17 Also MR. PRESIDENT:

18 The Committee on Commerce and Energy respectfully reports that it has had under
19 consideration the nomination of James Lust of Brown County, Aberdeen, South Dakota, to the
20 South Dakota Building Authority and returns the same with the recommendation that the Senate
21 advise and consent to the confirmation of said appointment.

22 Also MR. PRESIDENT:

23 The Committee on Commerce and Energy respectfully reports that it has had under
24 consideration HB 1185 which was deferred to the 41st Legislative Day.

25 Respectfully submitted,
26 Jim Stalzer, Chair

1 MR. PRESIDENT:

2 The Committee on Judiciary respectfully reports that it has had under consideration
3 HB 1061, 1063, 1074, and 1103 and returns the same with the recommendation that said bills
4 do pass.

5 Respectfully submitted,
6 Lance Russell, Chair

7 **MESSAGES FROM THE HOUSE**

8 MR. PRESIDENT:

9 I have the honor to transmit herewith HB 1084, 1090, 1093, 1130, 1132, 1177, 1193, 1195,
10 1209, 1219, 1251, 1272, and 1265 and HJR 1001 which have passed the House and your
11 favorable consideration is respectfully requested.

12 Respectfully,
13 Sandra J. Zinter, Chief Clerk

14 **MOTIONS AND RESOLUTIONS**

15 SCR 7: A CONCURRENT RESOLUTION, Directing the Executive Board to create a
16 fifteen-member task force to study and make legislative proposals regarding alternatives to
17 imprisonment for those convicted of the crime of ingestion of controlled substances.

18 Was read the second time.

19 Sen. Kennedy moved that SCR 7 be laid on the table.

20 The question being on Sen. Kennedy's motion that SCR 7 be laid on the table.

21 And the roll being called:

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

23 Yeas:

24 Blare; Bolin; Cammack; Curd; DiSanto; Ewing; Foster; Greenfield (Brock); Heinert; Jensen
25 (Phil); Kennedy; Klumb; Kolbeck; Langer; Maher; Monroe; Nelson; Nesiba; Novstrup; Otten
26 (Ernie); Partridge; Rusch; Russell; Schoenbeck; Smith (VJ); Soholt; Stalzer; Steinhauer; Sutton;
27 White; Wismer; Youngberg

28 Excused:

29 Cronin; Solano; Wiik

1 So the motion having received an affirmative vote of a majority of the members-elect, the
2 President declared the motion carried and SCR 7 was tabled.

3 Sen. Langer moved that HB 1216 be deferred to Thursday, February 28th,
4 the 32nd legislative day.

5 Which motion prevailed.

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

7 HB 1084: FOR AN ACT ENTITLED, An Act to provide for specific classification of
8 affordable housing structures for purposes of taxation.

9 Was read the first time and referred to the Committee on Taxation.

10 HB 1090: FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding the
11 exercise of certain powers over certain property.

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

13 HB 1093: FOR AN ACT ENTITLED, An Act to establish legal standards applicable to
14 petition challenges.

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

16 HB 1130: FOR AN ACT ENTITLED, An Act to revise provisions regarding certain Class
17 2 misdemeanors.

18 Was read the first time and referred to the Committee on Judiciary.

19 HB 1132: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
20 treatment of alcohol and drug abuse.

21 Was read the first time and referred to the Committee on Judiciary.

22 HB 1177: FOR AN ACT ENTITLED, An Act to revise provisions regarding the
23 performance of a sonogram prior to an abortion.

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

1 HB 1193: FOR AN ACT ENTITLED, An Act to provide a criminal penalty for causing an
2 abortion against a pregnant mother's will.

3 Was read the first time and referred to the Committee on Judiciary.

4 HB 1195: FOR AN ACT ENTITLED, An Act to revise provisions regarding juvenile
5 justice.

6 Was read the first time and referred to the Committee on Judiciary.

7 HB 1209: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding vapor
8 products.

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

10 HB 1219: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
11 surplus line insurance.

12 Was read the first time and referred to the Committee on Commerce and Energy.

13 HB 1251: FOR AN ACT ENTITLED, An Act to license out-of-state multi-jurisdictional
14 totalizator hubs and distribute source market fees to the special racing revolving fund and the
15 South Dakota-bred racing fund.

16 Was read the first time and referred to the Senate Committee on Appropriations

17 HB 1265: FOR AN ACT ENTITLED, An Act to revise provisions regarding certain tax
18 rates.

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

20 HB 1272: FOR AN ACT ENTITLED, An Act to provide for remote notarization.

21 Was read the first time and referred to the Committee on Judiciary.

22 HJR 1001: A JOINT RESOLUTION, Proposing and submitting to the voters at the next
23 general election an amendment to the Constitution of the State of South Dakota regarding
24 appointments to fill legislative vacancies.

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

1 SECOND READING OF CONSENT CALENDAR ITEMS

2 HB 1200: FOR AN ACT ENTITLED, An Act to require the posting of contact information
3 for persons serving on a board of township supervisors.

4 Was read the second time.

5 The question being "Shall HB 1200 pass as amended?"

6 And the roll being called:

7 Yeas 31, Nays 1, Excused 3, Absent 0

8 Yeas:

9 Blare; Bolin; Cammack; Cronin; Curd; DiSanto; Ewing; Foster; Greenfield (Brock); Heinert;
10 Jensen (Phil); Kennedy; Klumb; Kolbeck; Langer; Maher; Nelson; Nesiba; Novstrup; Otten
11 (Ernie); Partridge; Rusch; Russell; Schoenbeck; Smith (VJ); Soholt; Stalzer; Steinhauer; Sutton;
12 White; Wismer

13 Nays:

14 Monroe

15 Excused:

16 Solano; Wiik; Youngberg

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

19 SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

20 HB 1215: FOR AN ACT ENTITLED, An Act to revise provisions regarding the posting
21 of county and municipality ordinances.

22 Was read the second time.

23 The question being "Shall HB 1215 pass as amended?"

24 And the roll being called:

25 Yeas 30, Nays 3, Excused 2, Absent 0

1 Yeas:

2 Bolin; Cammack; Cronin; Curd; DiSanto; Ewing; Foster; Greenfield (Brock); Heinert; Jensen
3 (Phil); Kennedy; Klumb; Kolbeck; Langer; Maher; Nelson; Nesiba; Novstrup; Otten (Ernie);
4 Rusch; Russell; Schoenbeck; Smith (VJ); Soholt; Stalzer; Steinhauer; Sutton; White; Wismer;
5 Youngberg

6 Nays:

7 Blare; Monroe; Partridge

8 Excused:

9 Solano; Wiik

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

12 HJR 1004: A JOINT RESOLUTION, Rescinding House Joint Resolutions calling for a
13 constitutional convention, or convention of the states, for the purpose of amending the
14 Constitution of the United States.

15 Was read the second time.

16 The question being “Shall HJR 1004 be adopted as amended?”

17 And the roll being called:

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

19 Yeas:

20 Blare; Bolin; Cammack; Cronin; Curd; DiSanto; Ewing; Foster; Greenfield (Brock); Heinert;
21 Jensen (Phil); Kennedy; Klumb; Kolbeck; Langer; Maher; Monroe; Nelson; Nesiba; Novstrup;
22 Otten (Ernie); Partridge; Rusch; Russell; Schoenbeck; Smith (VJ); Soholt; Stalzer; Steinhauer;
23 Sutton; White; Wismer; Youngberg

24 Excused:

25 Solano; Wiik

26 So the resolution having received an affirmative vote of a majority of the members-elect,
27 the President declared the resolution adopted and the title was agreed to.

28 HB 1242: FOR AN ACT ENTITLED, An Act to include opossums within the definition
29 of predator and to declare an emergency.

30 Was read the second time.

31 The question being “Shall HB 1242 pass as amended?”

1 And the roll being called:

2 Yeas 32, Nays 1, Excused 2, Absent 0

3 Yeas:

4 Blare; Bolin; Cammack; Cronin; Curd; DiSanto; Ewing; Foster; Greenfield (Brock); Heinert;
5 Jensen (Phil); Kennedy; Klumb; Kolbeck; Langer; Maher; Nelson; Nesiba; Novstrup; Otten
6 (Ernie); Partridge; Rusch; Russell; Schoenbeck; Smith (VJ); Soholt; Stalzer; Steinhauer; Sutton;
7 White; Wismer; Youngberg

8 Nays:

9 Monroe

10 Excused:

11 Solano; Wiik

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

14 HB 1076: FOR AN ACT ENTITLED, An Act to revise certain real estate licensee
15 advertising restrictions and grant rule-making authority regarding real estate teams.

16 Was read the second time.

17 The question being "Shall HB 1076 pass?"

18 And the roll being called:

19 Yeas 31, Nays 2, Excused 2, Absent 0

20 Yeas:

21 Blare; Bolin; Cammack; Cronin; Curd; DiSanto; Ewing; Foster; Greenfield (Brock); Heinert;
22 Jensen (Phil); Kennedy; Klumb; Maher; Monroe; Nelson; Nesiba; Novstrup; Otten (Ernie);
23 Partridge; Rusch; Russell; Schoenbeck; Smith (VJ); Soholt; Stalzer; Steinhauer; Sutton; White;
24 Wismer; Youngberg

25 Nays:

26 Kolbeck; Langer

27 Excused:

28 Solano; Wiik

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

1 HB 1157: FOR AN ACT ENTITLED, An Act to revise provisions regarding challenges
2 to candidate nominating petitions.

3 Was read the second time.

4 The question being “Shall HB 1157 pass?”

5 And the roll being called:

6 Yeas 32, Nays 1, Excused 2, Absent 0

7 Yeas:

8 Blare; Bolin; Cammack; Cronin; Curd; DiSanto; Ewing; Foster; Greenfield (Brock); Heinert;
9 Jensen (Phil); Kennedy; Klumb; Kolbeck; Langer; Maher; Monroe; Nelson; Novstrup; Otten
10 (Ernie); Partridge; Rusch; Russell; Schoenbeck; Smith (VJ); Soholt; Stalzer; Steinhauer; Sutton;
11 White; Wismer; Youngberg

12 Nays:

13 Nesiba

14 Excused:

15 Solano; Wiik

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

18 HB 1255: FOR AN ACT ENTITLED, An Act to make an appropriation from the
19 coordinated natural resources conservation fund to the State Conservation Commission, and to
20 declare an emergency.

21 Was read the second time.

22 The question being “Shall HB 1255 pass?”

23 And the roll being called:

24 Yeas 32, Nays 1, Excused 2, Absent 0

25 Yeas:

26 Blare; Bolin; Cammack; Cronin; Curd; DiSanto; Ewing; Foster; Greenfield (Brock); Heinert;
27 Jensen (Phil); Kennedy; Klumb; Kolbeck; Langer; Maher; Monroe; Nesiba; Novstrup; Otten
28 (Ernie); Partridge; Rusch; Russell; Schoenbeck; Smith (VJ); Soholt; Stalzer; Steinhauer; Sutton;
29 White; Wismer; Youngberg

30 Nays:

31 Nelson

1 Excused:
2 Solano; Wiik

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

5 HB 1258: FOR AN ACT ENTITLED, An Act to create the clean air act settlement fund,
6 to make an appropriation from the fund, and to declare an emergency.

7 Was read the second time.

8 The question being "Shall HB 1258 pass?"

9 And the roll being called:

10 Yeas 32, Nays 1, Excused 2, Absent 0

11 Yeas:

12 Blare; Bolin; Cammack; Cronin; Curd; DiSanto; Ewing; Foster; Greenfield (Brock); Heinert;
13 Jensen (Phil); Kennedy; Klumb; Kolbeck; Langer; Maher; Monroe; Nesiba; Novstrup; Otten
14 (Ernie); Partridge; Rusch; Russell; Schoenbeck; Smith (VJ); Soholt; Stalzer; Steinhauer; Sutton;
15 White; Wismer; Youngberg

16 Nays:

17 Nelson

18 Excused:

19 Solano; Wiik

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

22 HB 1262: FOR AN ACT ENTITLED, An Act to make an appropriation to reimburse
23 certain health care professionals who have complied with the requirements for certain health
24 care recruitment assistance programs and to declare an emergency.

25 Was read the second time.

26 The question being "Shall HB 1262 pass?"

27 And the roll being called:

28 Yeas 32, Nays 1, Excused 2, Absent 0

1 Yeas:

2 Blare; Bolin; Cammack; Cronin; Curd; DiSanto; Ewing; Foster; Greenfield (Brock); Heinert;
3 Jensen (Phil); Kennedy; Klumb; Kolbeck; Langer; Maher; Monroe; Nesiba; Novstrup; Otten
4 (Ernie); Partridge; Rusch; Russell; Schoenbeck; Smith (VJ); Soholt; Stalzer; Steinhauer; Sutton;
5 White; Wismer; Youngberg

6 Nays:

7 Nelson

8 Excused:

9 Solano; Wiik

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

12 **SIGNING OF BILLS**

13 The President publicly read the title to

14 HB 1003: FOR AN ACT ENTITLED, An Act to revise eligibility for a deferred imposition
15 of sentence.

16 HB 1021: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding bid
17 bonds for public improvement contracts.

18 HB 1029: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
19 criminal background checks for adults working in child care institutions.

20 HB 1039: FOR AN ACT ENTITLED, An Act to provide for the use of the Obligation
21 Recovery Center by certain postsecondary technical institutes.

22 HB 1047: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
23 recommendations for treatment as a condition for probation.

24 HB 1049: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
25 driving after consuming certain drugs or substances.

26 HB 1054: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
27 possession of firearms on certain vehicles.

28 HB 1056: FOR AN ACT ENTITLED, An Act to prohibit certain local ordinances
29 regarding firearms.

30 HB 1057: FOR AN ACT ENTITLED, An Act to revise the definition of attest for the
31 purposes of public accountancy.

1 HB 1059: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
2 vehicle dealer licensing.

3 HB 1067: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding adult
4 adoption.

5 HB 1068: FOR AN ACT ENTITLED, An Act to authorize the Transportation Commission
6 to promulgate rules to allow certain motor vehicles to follow another motor vehicle on a state
7 highway more closely than otherwise permitted by law.

8 HB 1070: FOR AN ACT ENTITLED, An Act to revise the procedure for judgment by
9 confession.

10 HB 1072: FOR AN ACT ENTITLED, An Act to correct a definition in the Uniform
11 Unsworn Domestic Declarations Act.

12 HB 1073: FOR AN ACT ENTITLED, An Act to revise provisions regarding the locating
13 and spotting of predators or varmints from a drone.

14 HB 1077: FOR AN ACT ENTITLED, An Act to revise provisions regarding designation
15 of a no maintenance highway.

16 HB 1079: FOR AN ACT ENTITLED, An Act to allow a person to perform plumbing work
17 on the person's own property without a license and establish a fee.

18 HB 1082: FOR AN ACT ENTITLED, An Act to to revise certain provisions regarding
19 scrap metal purchases.

20 HB 1092: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
21 campaign finance disclosure reports.

22 HB 1124: FOR AN ACT ENTITLED, An Act to require health care facilities that perform
23 mammography to inform mammography patients on breast density.

24 HB 1128: FOR AN ACT ENTITLED, An Act to revise provisions regarding the maximum
25 term of promissory notes issued to municipalities.

26 HB 1143: FOR AN ACT ENTITLED, An Act to revise provisions regarding contribution
27 limits to political action committees.

28 HB 1159: FOR AN ACT ENTITLED, An Act to repeal a provision that prohibits hunting
29 mourning doves on public roads and highways.

30 HB 1198: FOR AN ACT ENTITLED, An Act to define activities that constitute human
31 trafficking.

1 HB 1257: FOR AN ACT ENTITLED, An Act to authorize the Department of the Military
2 to construct two storage buildings, to make an appropriation therefor, and to declare an
3 emergency.

4 HB 1260: FOR AN ACT ENTITLED, An Act to make an appropriation to continue the
5 veteran's bonus program and to declare an emergency.

6 HB 1263: FOR AN ACT ENTITLED, An Act to revise the appropriation for the
7 construction of a National Guard Readiness Center at the Rapid City Airport and to declare an
8 emergency.

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

10 **COMMEMORATIONS**

11 SC 32 Introduced by: Senators Heinert, Foster, Kennedy, Kolbeck, Monroe, Nesiba,
12 Steinhauer, Wismer, and Youngberg and Representatives Reimer, Bordeaux, Cwach, Duba,
13 Healy, Lesmeister, McCleerey, Pourier, Ring, Saba, Smith (Jamie), and Sullivan

14 A LEGISLATIVE COMMEMORATION, Honoring and congratulating Nash Hutmacher for
15 winning the 285-pound weight class at the 2019 State Class A Wrestling Tournament for
16 the third consecutive year, as well as his success in the sport of football.

17 WHEREAS, Nash Hutmacher has put forth hard work and dedication in remaining
18 undefeated in the 2019 wrestling season, with an astounding record of 33-0; and

19 WHEREAS, Nash Hutmacher was the first freshman ever to receive the Wrestler of the
20 Year award from the Mitchell Daily Republic in 2017, the first South Dakotan since 1990 to win
21 the USA Wrestling Cadet Freestyle National Championship, and ranks 3rd in the country in
22 wrestling according to the latest 2019 Flow Wrestling national rankings; and

23 WHEREAS, Nash Hutmacher won the 2019 State Class A Wrestling Tournament for his
24 third consecutive year in a row. He pinned his opponent in the championship match in under
25 nine seconds and pinned all four of his opponents in a total time of 1:59; and

26 WHEREAS, Nash Hutmacher has never lost a wrestling match in his high school career,
27 further improving to a winning streak of 124 matches, a record that is relatively unheard of. His
28 father, Joe Hutmacher, set state records for deadlift and squat in both the 275 and 319 pound
29 weight classes and passed on his exceptional abilities and work ethic to his son; and

30 WHEREAS, Nash Hutmacher's supportive family and his desire to work hard, as both an
31 athlete and an individual, have brought him enormous success and will continue to do so in his
32 bright future and his success is not only in the sport of wrestling but also in the sport of football.
33 As offensive tackle Hutmacher ranks first in the state of South Dakota and 17th in the whole
34 country; and

1 WHEREAS, Nash Hutmacher is a four-star recruit as offensive tackle, the second highest
2 star ranking possible, one that only a handful of talented athletes achieve, and his success in the
3 sport of football has attracted multiple offers to continue his athletics at multiple Division I
4 schools; and

5 WHEREAS, Nash Hutmacher's dedication and hard work in the sport of football and
6 wrestling is incredible as well as his athleticism in both sports:

7 NOW, THEREFORE, BE IT COMMEMORATED, by the Ninety-Fourth Legislature of the
8 State of South Dakota, that the Legislature honors and congratulates Nash Hutmacher for his
9 relentless efforts and his phenomenal victory at the 2019 State Class A Wrestling Tournament
10 and for his success in the sport of football.

11 Sen. Blare moved that the Senate do now adjourn, which motion prevailed and at 2:51 p.m.
12 the Senate adjourned.

13

Kay Johnson, Secretary