

2025 South Dakota Legislature | February 28, 2025

Week Seven: South Dakota's 100th Legislative Session

After the seventh week and twenty-ninth legislative day of this session, there are 488 bills filed. Crossover Day was Tuesday, February 25th. This was the last day to pass bills or joint resolutions by the house of origin. There are two weeks or 8 legislative days remaining in the 100th legislative session, and the final day, March 31, 2025, reserved for consideration of gubernatorial vetoes.

Significant legislative work remains this session regarding pipelines, property tax relief, new men's prison (or not) and overall funding and budgeting for healthcare, state employees and education.

Week Seven: Bill Updates

HB 1083: An Act to modify the requirements for obtaining an agricultural processor's lien. This bill is sponsored by Representative Greenfield (D-22 R). This bill addresses "threshers and processors liens". The bill changes language from "account" to "statement" and changes the office where the lien would be filed from the register of deeds in the county in which the land producing the crop is located and in the county of the residence of the person who produced the crop to an "electronic statement" and would be filed with the Secretary of State.

This bill was assigned to the House Committee on Agriculture and Natural Resources and was heard on Tuesday, January 28. While the SDBA agrees with the concept of this bill, the SDBA opposed this bill in committee, as we believe it needs additional work regarding the type of statement required to file the lien with the Secretary of State's office. The bill sponsor tabled the bill. SDBA legal counsel, Brett Koenecke and the bill sponsor have worked on clarifying language. HB

1083 was removed from table on February 20th and supported by a 13-0 vote before the House Ag and Natural Resources Committee and the House of Representatives supported this bill by a 70-0 margin. This bill will now head to the Senate Committee on Ag and Natural Resources for a hearing. The SDBA will continue to monitor.

SB 60: An Act to expand the access and investigatory authority of the state auditor. This bill was brought by the Chair of the Committee on Judiciary at the request of Attorney General Marty Jackley. We believe the background for this bill submission was to provide greater transparency of state government considering recent criminal issues involving South Dakota state employees. However, we view this bill as too broad and inclusive to sensitive and confidential South Dakota Bank Franchise Tax (BFT) information. A similar bill was brought a few years ago to allow the Director of the Legislative Research Council similar privileges. This bill was assigned to the Senate Committee on State Affairs and had its initial hearing on Monday, January 27. Prior to the hearing, I had a conversation with Attorney General Jackley expressing our concern over this bill. Jackley shared that he is not looking to be unreasonable, and stated he would be open to modifying the language that his office may be comfortable with.

AG Jackley testified as the only proponent in favor of the measure, while the Governor's Office, the SD Retailers, Wellmark and the SDBA opposed the bill in committee. The bill passed out of committee with a 9-0 vote.

The SDBA and other opponents of the bill worked with the Attorney General's Office, the Bureau of Finance and Management and the State Auditor to refine an amendment that is acceptable. The amendment provides the State Auditor with access to digital and onsite accounts, books, records, reports and vouchers

pertaining to expenditure of transactions. **This clarifying amendment supports the SDBA concerns and does not give the State Auditor the supreme authority to review confidential information otherwise held in state government agencies. SB 60 as amended passed the Senate 35-0.**

SB 60 was heard before the House State Affairs Committee and passed by a 13-0 margin and the House of Representatives by a 70-0 vote. The SDBA will continue to monitor.

SB 69: An Act to Revise Provisions of Trusts. This bill was introduced by Senator Crabtree (D-8 R) at the request of the South Dakota Trust Association. This bill is to modernize the South Dakota Trust law to include new and updated term of “tax trust advisor” to the statute. The SDBA testified in support of this bill before the Senate Commerce and Energy Committee on Thursday, January 23. The bill passed out of Committee on a 9-0 affirmative vote and passed out of the Senate by a vote of 34-0. SB 69 had its hearing before the House Judiciary Committee on February 27 and passed by a 12-0 vote. SB 69 was passed on the House floor “as Amended” to reference Section 5 of the bill. This measure passed the full House by a 65-4 vote. Having passed both the Senate and House, the bill is staged to be signed by the Senate President and House Speaker before being delivered to the Governor for consideration.

SB 81: An Act to prohibit the use of a firearms code for transactions involving firearms, accessories, components and ammunition and to provide a civil penalty therefor. This bill was introduced by Senator Mehlhaff (D-24 R) at the request of the SDBA.

I have highlighted this “merchant category code” legislation to the SDBA Board of Directors and the SDBA Legislative Committees for the last two years. This type and style of legislation has been introduced in states across the country by the National Rifle Association (NRA) and the National Sports Shooters Federation (NSSF) and has been adopted in nearly 20 states. NRA/NSSF language in many of these bills have egregious conditions for non-compliance that calls for a) private rights of action; b) mandatory Attorney General Investigations; and c) revocation of banking license and civil money penalties.

Mid legislative session 2024, the NRA & NSSF contacted the SDBA indicating they would be introducing a merchant category code bill in the SD legislature. With that knowledge, SDBA Board of Directors authorized me and legal counsel Brett Koenecke to move forward with a draft bill that eliminates the flagrantly bad language including punitive noncompliance provisions mentioned above. The NRA generally accepting of our draft bill with few changes and is expected to be supportive of this bill. This bill was assigned to the Senate Commerce and Energy Committee and had its initial hearing on January 28. The SDBA testified in favor of this bill along with Attorney General Jackley and the NRA. This bill passed out of the Senate Committee on Commerce and Energy by an 8-1 vote and passed the full Senate with a 33-2 margin. SB 81 had its hearing before the House Commerce and Energy Committee on February 10th and passed out of committee by a 12-0 vote and passed by a vote of 68-0 by the House of Representatives. The bill was signed by the President of the Senate and the Speaker of the House and delivered to the Governor on February 18th. The SDBA participated in a “bill signing” at the invitation of the Governor on February 25.

SB 88: An Act to increase the amount of exempt proceeds when a homestead is sold or divided by the court. This bill was introduced by Senator Pischke (D-25 R). This bill would increase the homestead exemption from \$60,000 to \$100,000. This bill had its first reading on January 23rd and had a hearing before the Senate Committee on Judiciary. The SDBA monitored this bill in committee and had no opposition. It was noted that neighboring states have a homestead exemption of \$100,000 or greater and South Dakota’s homestead exemption has not been changed since 2009. This bill passed out of the committee on Judiciary 7-0 and the senate 35-0. SB 88 has been referred to the Senate Committee on Judiciary. No hearing date has been scheduled. The SDBA will continue monitoring.

SB 219: An Act to require the acceptance of a cash payment for admission to a school-affiliated event. This bill was brought by Senator Blanc (D-35 R) after the failure of an identical bill brought in the House, HB 1017 on the House floor and again after reconsideration. SB 219 passed out of Senate Committee on Education by a 4-3 vote, the Senate by a 19-16 margin, House Education Committee 10-5 and ultimately passed in the House by a 36-34 vote. It is the opinion of many opponents of this measure that this concern should be

addressed at the local level by individual school boards and not to be codified into state law. In this case, “third time is a charm.”

DEFEATED BILLS: No Additional Action in Week 7

HB 1017: *An Act to require the acceptance of a cash payment for admission to a school-affiliated event.*

This bill was introduced by Representative Sjaarda, (D-2 R). In a brief discussion with Rep. Sjaarda, he indicated he is bringing on behalf of a constituent. This bill was referred to the House Committee on Education and had its first hearing on Monday, January 27. This bill passed out of House Education by a vote of 8-7 but failed 34-32 as amended on the House floor. It was noted that there is an intent to reconsider. **On February 3rd, the vote to reconsider failed on the House floor 25-33, defeating this measure.**

HB 1048: *An Act to require that cash be accepted for certain transactions.* This bill was introduced by Representative Sjaarda (D-2 R). Banks are “exempted” from this proposed policy as outlined in section 2 of the bill. I find it ironic that many of the new policymakers campaigned on local control and freedoms, not mandating government overreach by requiring cash to be accepted. This bill was assigned to the House Committee for Commerce and Energy and had its initial hearing Monday, January 27th. **The House Commerce and Energy Committee sent this bill to the 41st day, ultimately killing the bill with a vote of 13-0.**

HB 1058: *An Act to prohibit the collecting and reporting of medical debt in certain situations and to provide a penalty therefor.* This bill was introduced by

Representative Mulder (D-11 R). This bill would prohibit medical creditors, i.e. clinics, hospitals and all health care service providers from reporting medical debt to a consumer reporting agency. Ironically, on January 7, 2025, the Consumer Financial Protection Bureau (CFPB) finalized a rule removing medical debt and medical bills from credit reports. The CFPB’s final rule also prohibits lenders from considering medical information when making lending decisions. The CFPB’s final rule is in direct violation of the Administrative Procedure Act, as the CFPB does not have this rulemaking authority from

Congress and is not supported by reasonable evidence. Just last week on February 6th, 2025, under Trump Treasury Secretary, Scott Bessent the Consumer Financial Protection Bureau (CFPB) requested a 90 day stay in the litigation involving plaintiffs challenging the medical debt rule. The U.S. District Court granted the CFPB’s unopposed motion. The 90-day stay is in effect until June 15, 2025.

HB 1058 passed out of House Health and Human Services by a 9-4 vote on Tuesday, February 11th, but was defeated on the House floor on Thursday, February 13 by a 44-24 margin.

I want to extend a “Great Big Thank You” to our SDBA member bankers who engaged their legislators and expressed our valid concerns on this measure. Our engaged bankers “moved the needle” to defeat this measure. Without your advocacy, this bill would have passed. Thank you!

HB 1210: *An Act to Prohibit a hospital from reporting medical debt for collection in certain situations.* This bill was introduced by Representative Mulder (D-11 R). As mentioned above, the bill sponsor removed the language in this bill from the original language of HB 1058. We believe they didn’t want to have the SDBA and medical providers opposing the original bill HB1058 giving them a better opportunity to advance both bills. HB 1210 had its hearing before the House Committee on Health and Human Services on February 11th and we opposed this measure. **We were able to defeat this bill by a 10-3 margin.** Again, thank you to SDBA engaged bankers who contacted their legislators. Another example of engagement moving the needle!

HB 1122: *An Act to Amend Provisions of the Uniform Commercial Code (UCC).* This bill was introduced by Representative Auch (D-18 R). For the second consecutive legislative session, Representative Auch is looking to amend Article 8 of the UCC that deals with investment securities.

The SDBA and other business lobby groups opposed this measure in the House Committee on Commerce and Energy and had its hearing on Wednesday, February 5. The bill passed out of committee by a 7-6 vote. **The SDBA engaged our member bankers and we were able**

**to defeat this bill on the House floor Friday, February 7
by a vote of 41-26.**

We will continue to update you on banking-related bills in the weeks ahead. This summary concludes week six of the 100th legislative session in Pierre.

To learn more and remain “engaged” about the 2025 legislative session, visit the LRC webpage at sdlegislature.gov. The legislature provides live and archived audio of committee hearings, plus Senate and House floor debates. To access both the live audio feed and archived audio files, visit sd.net

For those of you who were able to join us February 12th for the 2025 SDBA Legislative Day, thank you! If you have questions regarding current legislation we are tracking, please contact the SDBA office. Have a great week!

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