

2025 South Dakota Legislature | February 7, 2025

South Dakota's 100th Legislative Session

South Dakota's 100th legislative session kicked off on Tuesday, January 14th, 2025. A few things to note:

- 32 new legislators were elected on November 5th, 2024.
- 10 former legislators were elected.
- 55 legislators were re-elected to their same seat, while 8 incumbents were elected to serve in the other chamber; and
- 39 women lawmakers were elected.

State of the State Address

Tuesday, January 14th, Governor Kristi Noem initiated the start of South Dakota's 100th legislative session with what is likely to be her seventh and final State of the State address as Governor of South Dakota. Governor Noem was nominated by president-elect Trump to serve as Secretary of Homeland Security, with her confirmation hearing taking place Friday, January 17, 2025, before the Senate Homeland Security and Governmental Affairs Committee.

The Governor strayed from customary State of the State remarks, where typical addresses center around legislative priorities, and focused her remarks on her top 10 viewpoints "*why South Dakota will continue to be an example to our nation.*" They are:

- #10 Education.
- #9 Healthcare.
- #8 Agriculture.
- #7 Outdoor Opportunities.
- #6 Babies.
- #5 Safety.
- #4 South Dakota's Economy.
- #3 Our Values.
- #2 Our Freedoms.
- #1 Our People.

Rooted in her address were references to several initiatives we will see during this legislative session such

as: Education Savings Accounts (ESA), a proposed new \$4 million program that would provide funding up to \$3,000 per student for alternative educational opportunities. Also, ongoing recruitment of qualified laborers for apprenticeship programs such as electricians, plumbers, K-12 teachers, linemen and more.

Additionally, we expect to see bills introduced pertaining to property taxes, CO2 pipelines and eminent domain.

Week Four: South Dakota's 100th Legislative Session

After the fourth week and sixteenth legislative day of this session, there are 488 bills filed, an increase of 83 bills from week three. January 30th was the final day for unlimited bill introduction and February 5th was the final day for introduction of individual bills. Knowing this, we don't expect any additional bills, however, we will continue to watch as they trickle in. The next important date is February 25th, known as "crossover day". This is the last day to pass bills or joint resolutions by the house of origin.

Week three was highlighted by welcoming South Dakota's 34th Governor, Larry Rhoden. Governor Rhoden addressed a joint session of the legislature on Wednesday, January 29th and shared his message of civility, openness and collaboration with the legislature. The SDBA welcomed Governor Larry Rhoden.

Legislative News

The following is a snapshot of the bills we are currently tracking. We will continue to stay abreast of other relevant banking bills as they come.

Week Four: Bill Updates

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. Interestingly, Senator Blanc introduced this same bill in the Senate this week, SB 219. The SDBA will monitor.

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.

We don’t believe the proposed bill HB 1058 was patterned after the CFPB’s final rule; it remains problematic for South Dakota banks. I shared this concern with Representative Mulder, as banks need complete and accurate representation of a borrower’s financials when performing credit risk analysis and determining the ability to repay. This bill was assigned to the House Committee on Health and Human Services. However, this week the bill has been amended, deleting section 2 from the original bill. A new bill was filed to include Section 2 from the original bill which is now in HB 1210. The SDBA will continue to monitor this bill and plan to oppose. Please stay tuned as we will be sending out a “CALL TO ACTION” Monday, February 10 to oppose this bill. The initial hearing of HB 1058 will be before the Committee on House Health and Human Services on Tuesday, February 11.

HB1210: 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. This bill would prohibit reporting medical debt to a medical debt collector for the purpose collecting medical debts. Since this bill was a part of HB1058, the SDBA plans to monitor and oppose.

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. The bill also provides an extended filing period from 30 to 90 days from the day on which the harvesting, threshing, shelling or other processing was completed. 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. We anticipate this bill to be heard again in the coming weeks for reconsideration. 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 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 Generals Office, the Bureau of Finance and Management and the State Auditor to refine an amendment that is acceptable. The amendment provides the State Auditor access to digital and onsite accounts, books, records, reports and vouchers pertaining to expenditure of transactions. This clarifying amendment does not give the State Auditor the supreme authority to review confidential information otherwise held in state government agencies.

This bill will now go the House for Committee on State Affairs for its hearing. 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 was placed on the consent calendar. January 27, the Senate passed this measure by a vote of 34-0. SB 69 will now go to House Commerce and Energy for further consideration. This bill has not been scheduled for a hearing, however the SDBA will continue to monitor and support.

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 was 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 a 8-1 vote and passed the full Senate with a 33-2 margin. SB 81 has its hearing before

the House Committee on Commerce and Energy, Monday, February 10. The SDBA will testify in support of this measure in committee.

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. The SDBA will continue monitoring.

Week Three: New Bills SDBA is tracking

HB 1202: An Act to Permit the State to Invest in Bitcoin. This bill was introduced by freshman Representative Manart (D-1 R). This bill will allow the state of SD and the South Dakota Investment Council to invest their assets in Bitcoin. This bill has been referred to the House committee on Commerce and Energy. The SDBA is monitoring.

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. In 2024, we were able to defeat this bill in the House State Affairs Committee by a vote of 11-1. However, the bill sponsor invoked joint rule 7-7 known as a "smoke out" on the House floor. Members of the House supported this bill on the floor regarding the "smoke out" and it was sent back to House State Affairs for reconsideration. The State Affairs Committee in turn, sent it back to the House floor with a "do not support" recommendation by a 12-1 margin, where it failed.

As a result of the November 5, 2024, election, we anticipate many new members of the House Committee on Commerce and Energy in addition to many members of the House and Senate to be supportive of this bill. Without foundational facts and no history of investors

losses, Representative Auch asserts that under Article 8 of the UCC "security intermediaries" (e.g. a bank or brokerage firm) are allowed to assume ownership of its customers investment property in the event of the intermediary's insolvency; which is unequivocally false. 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 four 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

Please plan to join us this week, Wednesday February 12, 2025, in Pierre for the 2025 SDBA State Legislative Day. Go to sdba.com and register today!

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