

2021 South Dakota Legislature | **February 16, 2021**

Week Five Legislative News

Many thanks to all the SDBA bankers that participated in the 2021 virtual SDBA State Legislative Day this past week. I was very pleased with the turn out and engagement of each of you. Much of our success during the legislative session is predicated on our ability to engage with our legislators and be sure to let them know the positions we have on future banking related legislation. Thank you for your continued grassroots banking work...*it makes a difference.*

Nearly 60% of the 2021 Legislative Session is in the books and the pace and urgency of the Legislature is picking up.

Last week, Gov. Noem shared South Dakota's continued good fortune with news of additional revenue surplus exceeding original projections of approximately \$125 million. The Governor recommends putting these monies aside into investments to protect future generations from higher taxes or spending cuts. She also indicated she would like to invest some of these monies into state-wide infrastructure, education and broadband services.

On the cannabis front, South Dakota circuit court ruled that Amendment A, the legalization of recreational marijuana, unconstitutional and will be appealed to the South Dakota Supreme Court in coming months. IM 26, which legalized medical cannabis by a 70%/30% margin in November 2020 appears to be moving forward, however, the state is requesting an additional year to safely implement this measure. We will see how this plays out in the Legislature; stay tuned.

Updates on Previous Bills

SB 8: This bill was brought by the South Dakota Division of Banking as an act to revise various provisions related to banks and trusts. The SDBA supported this bill and was signed by the Governor on Feb. 8.

SB 9: This bill brought by the South Dakota Division of Banking will consolidate three chapters of South Dakota law dealing with bank trust departments and trust companies into two chapters and in the process will remove redundancy and reduce confusion. The SDBA supported this bill and was signed by the Governor on Feb. 8.

SB 35: This bill was introduced by the South Dakota Department of Revenue and would authorize an appropriation from the general fund to the Department of Revenue and the Department of Health for the purpose of implementing the constitutional provisions contained in Amendment A and the same with Initiated Measure 26. This bill has sat idle for the first five weeks of session; however, a hearing is scheduled for Feb. 17.

SB 71: This bill was introduced by Sen. Jim Bolin (R-Canton) and would designate June 19 as Juneteenth as a *working holiday* recognizing this day in 1865 that the Civil War was over and that slavery in the United States had been abolished and that slaves were free persons. South Dakota State Chamber Executive David Owens and the SDBA's Karl Adam testified as proponents for this bill before Senate State Affairs on Jan. 27. The bill passed out of the Senate State Affairs Committee with a do pass vote of 7-2. On Feb. 2, it passed 26-8 from the Senate and had its first reading in House State Affairs.

SB 89: Introduced by Sen. Reynold Nesiba (D-Sioux Falls), this bill would designate June 19 as Juneteenth Day as a *state holiday* in South Dakota. It was introduced on Jan. 21, and the hearing took place Feb. 5 in Senate State Affairs. State Affairs deferred this bill to the 41st legislative day with an 8-1 vote.

SB 117: This bill would provide for the refinancing of certain mortgages on properties affected by declared disasters. The bill was introduced on Jan. 27 and has been assigned to the committee on Local Government.

On Feb. 11, it was deferred to another day by the House.

HB 1002 is intended to revise certain provisions regarding fingerprint-based background checks for the Real Estate Commission and the Appraiser Certification Program. This bill was brought by the Department of Labor and goes in concert with HB 1015. This bill passed the House 69-0. Senate Commerce passed it 6-0, and it was placed on consent where the Senate passed it 31-0. This bill was delivered to the Governor on Feb. 10.

HB 1015: This bill was introduced by the Department of Labor and is intended to provide rule-making authority for establishing an appraiser experience training program and the setting of fees. In anticipation of this proposed bill, the SDBA Board of Directors voted to support this legislation during its Dec. 3, 2020, board meeting. Karl Adam testified as a proponent before the House Commerce Committee on Jan. 25, and it received a do pass vote of 13-0 and subsequently passed the House with a do pass vote of 61-9. The bill received a do pass vote by Senate Commerce and subsequently a do pass vote of 34-0 by the Senate on Feb. 11. This bill will head to the Governor's office for signature.

HB 1045: This bill was introduced by Rep. Tina Mulally (R-Rapid City) and would revise certain tenant and landlord rights. The SDBA was opposed to this bill in its original form as it did not contemplate prior perfected security interests. SDBA Legal Counsel Brett Koenecke offered an amendment that requires any property that is subject to a prior perfected security interest shall be turned over to the holder of the interest and may not be retained or disposed of by the landlord. This bill was heard before House Local Government and was deferred to the 41st day.

HB 1046: This bill is brought by Rep. David Anderson (R-Hudson) on behalf of many industry representatives and is to limit liability for certain exposures to COVID-19. The SDBA was involved in the crafting of this legislation and was approved by the SDBA Board of Directors during its Dec. 3, 2020, board meeting to support this legislation. With more than 40 different industry representatives in favor of this measure, to limit proponent testimony SDBA Legal Counsel Brett Koenecke was one of four industry representatives that testified as a proponent of this measure. On Feb. 8, this

bill passed the Senate as amended 29-3 and was delivered to the Governor for signature.

HB 1049: This bill was introduced by Rep. David Anderson (R-Hudson) and is an act to create a used vehicle dealer education program and revise provisions regarding used vehicle licensure requirements. The SDBA is watching this bill to ensure that "banks remained exempt" from this licensure requirements. The committee voted to defer this bill to the 41st day.

HB 1203: A bill to authorize expanded banking services. The context of this bill was approved by the SDBA Board on Jan. 29. Legal counsel Brett Koenecke and President Karl Adam conferred with the SDBA Board to allow the SDBA to initiate a bill to assist banks in expanding services for cannabis banking. It was evident that there was no substantive legal framework legislation introduced. The SDBA Board agreed that we must continue to advocate for our industry in a "stand-alone" bill that allows legal protections under state law for banks. HB 1203 is sponsored by Rep. Hugh Bartels (R-Watertown) with Sen. Michael Diedrich (R-Rapid City) lead sponsor in the Senate. The bill is assigned to House Commerce with hearing scheduled for Feb. 17.

HB 1202: This bill would require commercial pesticide applicators to provide proof of financial responsibility. Rep. Jennifer Keintz (D-Eden) is the sponsor of this bill. This bill would require a bank officer to demonstrate financial responsibility by receiving a notarized letter from a bank officer of a financial institution, attesting that the applicator has net assets equal to at least \$100,000, or performance bond or general liability policy. This bill has been assigned to House Ag and Natural Resources. No hearing date has been scheduled. The SDBA will oppose the bill as drafted.

HB 1091: This bill provides provisions for virtual currency in this state and was introduced by Rep. Tom Pischke (R-Dell Rapids). The SDBA and the South Dakota Division of Banking was not made aware that this bill would be introduced by the sponsor. Similar bills have been introduced this year in North Dakota and Nebraska. The SDBA has discussed this bill with the SDBA Board and at this time plans on opposing this bill. It has been assigned to House Commerce, and a hearing is scheduled for Feb. 17.

HB 1165: This bill would create a trust fund for unclaimed property and to provide for the transfer of certain unobligated cash balances. This bill was introduced by Rep. Taffy Howard (R-Rapid City). The first reading of the bill was Jan. 28 and has been referred to House Appropriations. The SDBA will monitor the bill.

HB 1095, HB 1100 and HB 1101: These bills would establish criteria regarding marijuana. They were all introduced by Speaker of the House Spencer Gosch (R-Glenham) and appear to be placeholders for future language on this subject. Thus far, HB 1100 is the only bill of the three scheduled for a hearing on Feb. 17.

This concludes week five report of bills that are being tracked by SDBA staff at the South Dakota Legislature. Should you have questions, please do not hesitate to contact me—SDBA President Karlton Adam.

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