

2023 South Dakota Legislature | January 27, 2023

State of the State Address

Governor Kristi Noem kicked off the 98th South Dakota Legislative Session with her fifth State of the State Address on Tuesday, January 10, 2023. The Governor's remarks were largely centered around the state of the economy in South Dakota post pandemic, underscoring sales tax growth, the creation of thousands of new jobs, investment by out-of-state companies in South Dakota's business friendly environment and prudent fiscal spending.

Governor Noem also emphasized her resolve to repeal taxation on food, which will likely be a session-long debate. During her remarks, the Governor also proposed the following: enhancing paid family leave for state employees; access to childcare, recommending \$40 million in grants for childcare workers to gain access for health benefits by partnering with Farm Bureau; block agricultural land purchases from unfriendly foreign adversaries; and two new prisons to come on-line in the foreseeable future.

Week Three: 98th Legislative Session

Prior to the Governor's State of the State address, there were 52 pre-filed bills, largely agency and appropriation bills. After week one of the 98th legislative session there were 132 filed bills, at the conclusion of week two, there were 187, and after week three there are 346 total bills filed. The 2023 legislative session is shaping up to be a very busy time for the SDBA and our member banks.

In the way of background, during the 2022 Legislative Session, the SDBA and the banking industry at large, was challenged with a high-profile gun bill, otherwise known as the "unfair banking regulation bill," that pitted our industry against the gun and ammunition industry. While we have not seen a bill filed on this subject, we will keep watch for similar legislation.

Legislative News

Thursday, January 26, 2023, was the final day for "unlimited" bill introduction. As I mentioned above, we had quite a flurry of new bills from the end of week two to now, nearly doubling with 159 new bills filed just this week.

Below is a snapshot of bills we are currently tracking along with updates:

SDBA Bill Watch

HB 1117 and HB 1118: Make an appropriation to support the small and mid-sized manufacturers, and to declare an emergency; and make an appropriation to support the South Dakota Small Business Development Center and the South Dakota Procurement Technical Assistance Center, and to declare an emergency. These companion bills were created to receive support in favor of the special appropriated funding proposal by the Governor. The passage of these measures would allocate \$2.3 million in general funds to support the Small Business Development Center (SBDC), the Manufacturing and Technology Solutions and the Procurement and Technical Assistance Center. At the request of House Speaker Bartels, and authorization of the SDBA Board, we will "support" these companion bills, and testify in favor during the bill hearing.

HB 1108: An act to Revise Provisions Related to Abandoned Mobile or Manufactured Homes. This revised bill contemplates the possible "disposal and/or sale of abandoned mobile or manufactured homes." We are tracking due to the fact that a bank may have a lien on the home and want to ensure that lienholders remain noticed as part of the process when seeking remedies the bill suggests. After discussing with the bill sponsor, lienholder notices remain in place as part of the notice requirement. The SDBA will continue to follow in the event of amendments to the bill.

SB 41: establish a program for housing infrastructure loans and grants and make an appropriation. This bill is a refinement of the Housing Opportunity Fund, a bill that required tweaking after the 2022 legislative session. In 2021, a housing task force was established to develop an infrastructure program for career housing in South Dakota. A \$200 million SD Housing Infrastructure Fund was created and is to be administered by the SD Housing Development Authority. The SDBA testified in favor of this bill, Thursday, January 12, with a due pass recommendation and it passed out of committee with an 8-1 affirmative vote. This bill passed out of the Senate 29-2, Friday, January 13. House State Affairs held a hearing on SB 41 on Wednesday, January 18 and passed out of the committee with a 12-1 affirmative vote and was sent to the House floor for debate.

Friday, January 20th this bill was debated on the House floor and was deferred to Monday, January 23rd, as a little-known legislative rule was used to “pause” discussion, after another amendment was proposed to remove the emergency clause from the bill. Monday, January 23 the House passed this measure with a vote of 54-16. This legislation has been signed by the Speaker of the House and the President Pro Tempore of the Senate. It is anticipated this bill will go to the Governor for her approval and signature. Thank you to all SDBA members for your engagement with our *Call to Action* on this legislation.

SB 49: This bill is an act to prohibit the improper storage and disposal of records containing personal or protected information and provide a penalty. In its current form, SB 49 aims to penalize individuals, government agencies and small businesses (banks, etc.) for what may be perceived as “improper storage and disposal of records,” and if charged with a violation would have significant money penalties and possible misdemeanor and felony charges. The SDBA “opposes” this legislation in its present form. With a strong coalition of opposition led by the SDBA, a day before the scheduled hearing on January 19, the Attorney General’s office requested this bill to be removed from the committee’s agenda. Since our initial pushback, we have had several discussions with the AG’s office and continue to impress upon them the onerous and punitive nature of this proposed legislation. The AG’s office is reevaluating this proposed bill and may wish to meet with stakeholders to discuss further before proceeding.

SB 109: An Act to Require Employers to Disclose Compensation or Range of Compensation to Applicants and Employees. This bill would require employers with more than 100 or more employees to disclose in each job posting the hourly or salary compensation in addition to a description of all benefits and other compensation to be offered to the hired, promoted or transferred applicant or employee. The bill goes on to require the employer shall keep, maintain records to demonstrate compliance of the Act during the employee’s or applicant’s employment. Additionally, any person can file with the SD Department of Labor and Regulation (SD DOLR) a detailed account of an alleged violation, further requiring the SD DOLR to investigate and subject the employer to civil money penalties of five-hundred dollars for each violation. The SDBA “opposes” this legislation and will testify against the bill at the committee hearing.

We have viewed several different Environmental, Social and Governance (ESG) related bill drafts, however, at this time they have not been filed in bill form. We will remain alert to these possible measures.

While we anticipate more banking-related bills to share in the weeks ahead, this summary concludes week three of the 98th Legislative Session in Pierre.

We hope you can join us on Feb. 15 in Pierre for the 2023 SDBA State Legislative Day. Go to sdba.com and register today!

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