

Committee: Senate Commerce and Energy

Thursday, February 11, 2021 10:00 AM

Roll Call

Present: Sen. Foster, Sen. Novstrup, Sen. Stalzer, Sen. Steinhauer, Sen. Tobin,
Sen. Wheeler, Sen. Zikmund, Sen. Schoenbeck, and Sen. Crabtree

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Crabtree

MOTION: TO APPROVE THE MINUTES OF TUESDAY, FEBRUARY 09TH

Moved by: Steinhauer
Second by: Wheeler
Action: Prevailed by voice vote

NOTE: Chairman Crabtree stated SB107 would be moved to next week at the request of the prime sponsor.

HB 1090 : modify certain requirements for domestic not-for-profit corporations.

Presented by: Senator Erin Tobin
Proponents: Brett Koenecke, South Dakota Bankers Association, Pierre
Brett Koenecke, SD Synod Evangelical Lutheran Church in America, Sioux Falls
Julie Johnson, Attorney, SD Nonprofit Network, Aberdeen ,South Dakota

MOTION: AMEND HB 1090

1090A

On page 1, line 1, of the Introduced bill, after "corporations" insert " and to declare an emergency"
On page 2, after line 6, of the Introduced bill, insert "

Section 4. This Act is necessary for the immediate preservation of the public peace,
health, or safety.

Moved by: Stalzer
Second by: Steinhauer
Action: Prevailed by voice vote

MOTION: DO PASS HB 1090 AS AMENDED

Moved by: Stalzer
Second by: Wheeler
Action: Prevailed by Majority Members Elect (9-0-0-0)

Voting Yes: Foster, Novstrup, Stalzer, Steinhauer, Tobin, Wheeler, Zikmund, Schoenbeck,
and Crabtree

SB 179 : authorize members of the Legislature to submit a request for continuing education to a licensing board or commission in this state.

Presented by: Senator Ryan M. Maher

Opponents: Graham Oey, Department of Labor and Regulation

MOTION: DO PASS SB 179

Moved by: Zikmund
Second by: Novstrup
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DEFER SB 179 TO THE 41ST LEGISLATIVE DAY

Moved by: Schoenbeck
Second by: Wheeler
Action: Failed by roll call vote (4-5-0-0)

Voting Yes: Foster, Wheeler, Schoenbeck, and Crabtree

Voting No: Novstrup, Stalzer, Steinhauer, Tobin, and Zikmund

Revert to previous motion

MOTION: DO PASS SB 179

Moved by: Zikmund
Second by: Novstrup
Action: Prevailed by roll call vote (6-3-0-0)

Voting Yes: Foster, Novstrup, Stalzer, Steinhauer, Tobin, and Zikmund

Voting No: Wheeler, Schoenbeck, and Crabtree

NOTE: Chairman Crabtree passed the gavel to Senator Wheeler.

SB 103 : provide for the confidentiality of personal information of persons affiliated with nonprofit corporations and to provide a penalty therefor.

Presented by: Casey Crabtree, Senator

MOTION: AMEND SB 103

103B

On page 1, line 2, of the Introduced bill, after "corporations" delete " and to provide a penalty therefor"

On page 1, line 6, of the Introduced bill, delete "47-24-22" and insert " 47-24-23"

On page 1, line 8, of the Introduced bill, after "a" insert " natural"

On page 1, line 17, of the Introduced bill, after "agencies--Prohibitions.

Any " insert "natural "

On page 1, line 20, of the Introduced bill, after "any " insert "natural "

On page 1, line 20, of the Introduced bill, after "person" insert " or nonprofit corporation"

On page 1, line 22, of the Introduced bill, after "information;
(2)" delete "Require any nonprofit corporation to provide the public agency with personal affiliation information or otherwise compel the release of personal affiliation information;"

On page 2, line 1, of the Introduced bill, after "information;" delete "(3) "

On page 2, line 3, of the Introduced bill, delete "(4)" and insert "(3)"

On page 2, line 6, of the Introduced bill, after "support." delete "A person who knowingly violates this section is guilty of a Class 1 misdemeanor."

On page 2, line 9, of the Introduced bill, delete "Personal affiliation information is precluded from public disclosure in accordance with § 1-27-3" and insert " A natural person alleging a violation of § 47-24-19 may bring a civil action for appropriate injunctive relief, actual damages, or both.

In an action brought under this section, a court may award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant in the action if the court determines that the award is appropriate"

On page 2, line 13, of the Introduced bill, delete "47-24-22" and insert " 47-24-20"

On page 2, line 28, of the Introduced bill, after "cause;" delete " or"

On page 2, line 30, of the Introduced bill, delete the period and insert "; or
(7) A review of personal affiliation information necessary for purposes of an audit, examination, or investigation of a nonprofit corporation pursuant to chapter 4-11."

On page 2, line 31, of the Introduced bill, after "Revenue." delete "Section 5. That a NEW SECTION be added:"

On page 2, line 32, of the Introduced bill, after "violation--Penalties." delete "A person alleging a violation of § 47-24-19 may bring a civil action for appropriate injunctive relief, actual damages, or both.

In an action brought under this section, a court may award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant in the action if the court determines that the award is appropriate."

On page 3, after line 3, of the Introduced bill, insert "
Section 5. That a NEW SECTION be added:
47-24-22. Personal affiliation information--Public benefit.
Personal affiliation information derived from a donation to a nonprofit corporation that is affiliated with a public agency may be disclosed if the donor has not previously requested anonymity from the nonprofit corporation.
"

On page 3, after line 3, of the Introduced bill, insert "
Section 6. That a NEW SECTION be added:
47-24-23. Personal affiliation information--Fraud investigation.
The provisions of § 47-24-19 do not apply to any information required for, or obtained in the course of, a state fraud investigation or an enforcement action by the state. Any information obtained shall be confidential, and its disclosure is restricted as provided by law.
"

Moved by: Zikmund
Second by: Stalzer
Action: Prevailed by voice vote

SB 103 : provide for the confidentiality of personal information of persons affiliated with nonprofit corporations and to provide a penalty therefor.

Presented by: Casey Crabtree, Senator
Proponents: Elizabeth McGuigan, The Philanthropy Roundtable, Washington
Mark Miller, General Counsel, Office of the Governor
Dale Allen Bartscher, South Dakota Right to Life, Rapid City (Handout(s) 1)
Don Hagggar, Americans For Prosperity, Arlington

Norman Woods, Family Heritage Alliance Action, Rapid City
Matt McCaulley, People United for Privacy

MOTION: DO PASS SB 103 AS AMENDED

Moved by: Stalzer
Second by: Tobin
Action: Prevailed by roll call vote (8-1-0-0)

Voting Yes: Novstrup, Stalzer, Steinhauer, Tobin, Wheeler, Zikmund, Schoenbeck, and Crabtree

Voting No: Foster

NOTE: Senator Wheeler returned the gavel to Chairman Crabtree.

SB 106 : eliminate the exemption from the perpetual care funds provisions for certain cemeteries.

Presented by: Senator Al Novstrup (Handout(s) 1)
Proponents: Jason Glodt, South Dakota Funeral Director
Opponents: Wade Huntington, self, Sturgis

MOTION: DO PASS SB 106

Moved by: Zikmund
Second by: Steinhauer
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DEFER SB 106 TO THE 41ST LEGISLATIVE DAY

Moved by: Wheeler
Second by: Foster
Action: Failed by roll call vote (3-5-1-0)

Voting Yes: Foster, Wheeler, and Crabtree

Voting No: Novstrup, Stalzer, Steinhauer, Tobin, and Zikmund

Excused: Schoenbeck

Revert to previous motion

MOTION: DO PASS SB 106

Moved by: Zikmund
Second by: Steinhauer
Action: Prevailed by roll call vote (5-3-1-0)

Voting Yes: Novstrup, Stalzer, Steinhauer, Tobin, and Zikmund

Voting No: Foster, Wheeler, and Crabtree

Excused: Schoenbeck

MOTION: ADJOURN

Moved by: Zikmund

Second by: Wheeler

Action: Prevailed by voice vote

Lorna Shell, Committee Secretary

/s/ CASEY CRABTREE
Casey Crabtree, Chair