

MINUTES

Marijuana Interim Study Committee



Senator Bryan Breitling, Chair
Representative Hugh Bartels, Vice Chair

Second Meeting, 2021 Interim
Wednesday, October 27, 2021

Room 414 – State Capitol
Pierre, South Dakota

The Marijuana Interim Study Committee was called to order by Senator Bryan Breitling at 8:30 a.m. in Room 414 of the State Capitol, Pierre.

A quorum was determined with the following members answering the roll call: Senators Helene Duhamel (remote), Troy Heinert, Michael Rohl (remote), Arthur Rusch (remote), VJ Smith, Jim Stalzer, and David Wheeler; Representatives Shawn Bordeaux (remote), Kirk Chaffee, Mike Derby, Fred Deutsch, Linda Duba, Caleb Finck, Mary Fitzgerald (remote), Tim Goodwin, Rhonda Milstead, Tina Mulally (remote), Ernie Otten, Carl Perry, Taylor Rehfeldt, Marli Wiese, and Mark Willadsen; Representative Hugh Bartels, Vice Chair; and Senator Bryan Breitling, Chair.

Staff members present included Amanda Marsh, Principal Research Analyst; Brigid Hoffman, Legislative Attorney; and Cindy Tryon, Administrative Specialist.

Approval of Minutes

Representative Duba moved, seconded by Representative Finck, to approve the minutes of the May 26-27, 2021, Marijuana Interim Study meeting. Motion prevailed on a voice vote.

Remarks from the Chair

Senator Breitling welcomed the members and audience to the second meeting of the Marijuana Interim Study Committee. Senator Breitling explained the process the committee followed during the interim including appointing two subcommittees with one subcommittee focusing on medical marijuana and one subcommittee focusing on adult-use marijuana. The action taken today by the full committee is the beginning of the legislative process addressing the legalization of marijuana.

Public Testimony

Mr. Daniel Haggar, Minnehaha Co. States Attorney, Sioux Falls, said Minnehaha County has not been seeing a lot of arrests for marijuana lately. The county does have diversion programs for those in need. Mr. Haggar said he has seen the affect marijuana can have on individuals and on families and it is not good. Once marijuana is legalized the state will see more people driving under the influence, and the state will see more cases where children are exposed to the product.

Mr. Ryan Flogstad, Sergeant, Sioux Falls Police Department, said the trend the police department is seeing is more youth, aged 15-20 years old, dealing and using marijuana, as well as other drugs that come along with the illegal use business. Along with that business comes a lot of cash and a lot of weapons. Sioux Falls has had numerous murders and shootings within the illegal drug business. With the laws going into effect, the illegal behavior will not be changing and will not be going away. The sale of marijuana and other drugs is how these people make their money. Other states that have legalized marijuana have seen increases in the black market. The new laws will be followed by law abiding citizens but those dealing marijuana now will not suddenly be rule followers.

Mr. Troy Wellman, Moody County Sheriff, Flandreau, said there has been a tribal owned dispensary in Moody County since July 1, and there are often lines of 100 or more people waiting to get into the dispensary. Sheriff Wellman said he knows many of the people in line have no qualifying health conditions and many waiting in line are non-native customers. Is a tribal-issued medical marijuana card valid at other dispensaries in the state? Law enforcement is not clear on how to deal with those situations. Sheriff Wellman said he realizes medical marijuana can help some people, but law enforcement needs help, so the medical marijuana does not become recreational marijuana.

Ms. Staci Ackerman, Executive Director, SD Sheriffs' Association, Eureka, said the Sheriffs' Association asks the Legislature to not go the way of other states. There are states that are now looking at decriminalizing other drugs like meth and heroin. If marijuana is marketed like medicine, it should be treated like other medicines. Other states legalizing marijuana have seen an increase in car fatalities, calls to poison control centers, and the black market does not go away.

Mr. Jeremiah M. Murphy, Cannabis Industry Association of South Dakota (CIASD), Rapid City, said during this study the committee has heard stories from those who have to deal with the worst of the worst and it is important to figure out how to mitigate these situations. Clearly prohibition has not been working and that is why the voters changed public policy. The IM26 drafters put together one of the best medical marijuana programs in the country. The voters also said they want adult-use recreational marijuana. Mr. Murphy said, currently South Dakotans are the black market that testifiers have talked about. South Dakotans do not want to do this outside the law. CIASD is committed to a robust medical marijuana program for all ages, and to a solid, well-enforced adult-use marijuana program. This is the beginning of the legislative process but is the end of the public process. South Dakota has said yes to marijuana.

Mr. Tim Rave, President and CEO, SD Association of Healthcare Organizations (SDAHO), testified remotely that SDAHO does not oppose or propose medical marijuana, but merely wants to make sure our members are all able to take care of their patients. As far as employees, a person's off duty use of marijuana could have delayed impairment regarding their job. SDAHO does support the amendment restricting the use of medical cannabis in healthcare facilities, as the main concern is patient safety.

Mr. Ned Horstad, Executive Director, Cannabis Industry Association of South Dakota (CIASD), Sioux Falls, testified remotely thanking the committee for their work. Mr. Horstad said CIASD has spent a lot time working with the Department of Health regarding the promulgation of medical cannabis rules. Mr. Horstad asked the committee to protect the medical cannabis law voted on by South Dakotans. Mr. Horstad added that some of the things heard from the meeting today make it seem like the election never happened.

Ms. Melissa Mentele, Executive Director, New Approach South Dakota, testified remotely thanking the committee for their work and asking them to be sure to do some fact checking. Oftentimes, statistics presented by law enforcement regarding the use of marijuana are exaggerated or not true. Ms. Mentele said it is important patients receive the relief from medical cannabis as intended in IM26, which was supported by South Dakotans in the 2020 election.

Mr. Charles Foley, Hermosa, testified remotely that the medical cannabis program should be left as the voters approved. If a community only has one dispensary then the black market will thrive. Neighboring states have already codified their cannabis laws and South Dakota is taking too long.

Draft Legislation

Representative Bartels said the state is still waiting for a decision from the South Dakota Supreme Court regarding the constitutionality of Amendment A. Representative Bartels chaired the Adult-Use Subcommittee that drafted

legislation regarding legalizing recreational marijuana, **Draft 62 - An Act to provide for the use and regulated sale of marijuana (Document #1)**. Representative Bartels said the committee does not want to make licenses valuable as is the case with liquor licenses. The committee believes the business should be valuable, not the license, which is why there is no limit on the number of adult-use marijuana business licenses in this draft.

Representative Milstead asked the committee to reject the recreational marijuana bill. Representative Milstead said other states that have legalized recreational marijuana have seen increased crime rates, increased marijuana related car deaths, the use by youth is much higher in those states, and for every dollar they receive in taxes they spend much more addressing the issues created. In Colorado, 67% of local jurisdictions have banned marijuana businesses. Representative Milstead said if the public knew what we now know they would not vote for this.

Representative Bartels said the draft bill was written by the workgroup and then reviewed section by section by the subcommittee. This is a group effort. Representative Bartels said a lot of people do not like marijuana but it is important the state has a solid regulatory system and that it pays its own way.

Representative Milstead moved, seconded by Representative Deutsch, to reject the recreational marijuana bill, Draft 62. Motion failed on a roll call vote with 11 AYES, 13 NAYS. Voting AYE: Duhamel, Stalzer, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Mulally, Perry, and Wiese. Voting NAY: Heinert, Rohl, Rusch, VJ Smith, Wheeler, Bordeaux, Chaffee, Duba, Ernie Otten, Rehfeldt, Willadsen, Bartels, and Breitling.

The committee addressed draft amendments to Draft 62. The Chair did open to public testimony after each suggested amendment was heard.

Representative Bartels moved, seconded by Representative Willadsen, that a NEW SECTION be added to title 34: A marijuana facility may not engage in advertising that: (1) Is false or misleading; (2) Promotes overconsumption of marijuana or marijuana products; (3) Depicts the actual consumption of marijuana or marijuana products; (4) Depicts a person under the age of twenty-one consuming marijuana or marijuana products; (5) Makes any health, therapeutic, or medicinal claims about marijuana or marijuana products; or (6) Is designed in a way that is likely to appeal to a person under the age of twenty-one or includes cartoons, animals, children, or any other likeness to images, characters, or phrases that are designed in any manner to be appealing or to encourage consumption of marijuana by a person under the age of twenty-one. Motion prevailed on a roll call vote with 17 AYES; 7 NAYS. Voting AYE: Rohl, Rusch, VJ Smith, Wheeler, Chaffee, Derby, Deutsch, Duba, Finck, Goodwin, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Duhamel, Heinert, Stalzer, Bordeaux, Fitzgerald, Milstead, and Mulally.

There was no public testimony on the above amendment.

Representative Bartels moved, seconded by Representative Willadsen, to amend Draft 62 by adding new definitions, adding new sections, removing sections, and amending sections to better clarify marijuana product equivalents (Full Amendment). Motion prevailed on a roll call vote with 24 voting AYE. Voting AYE: Duhamel, Heinert, Rohl, Rusch, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Mulally, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling.

There was no public testimony on the above amendment.

Representative Bartels moved, seconded by Senator Wheeler, that a NEW SECTION be added to title 34: A person over the age of twenty-one may cultivate no more than six marijuana plants at the person's primary residence, with three or fewer being mature, flowering plants. The person may possess the marijuana produced by those plants on the premises where the plants are cultivated, provided that the marijuana is not distributed to any other person. The cultivation must take place in an enclosed, locked space out of view of the public that is not

accessible to any person under the age of twenty-one. A person may transport marijuana plants if the plants are shorter than eight inches and are not flowering. That a NEW SECTION be added to title 34: A local government may enact an ordinance: (1) Governing the time, place, and manner; or (2) Prohibiting cultivation of marijuana pursuant to section __ of this Act. Motion failed on a roll call vote with 8 AYES; 16 NAYS. Voting AYE: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Duba, Ernie Otten, and Rehfeldt. Voting NAY: Duhamel, Rusch, Stalzer, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Mulally, Perry, Wiese, Willadsen, Bartels, and Breitling.

Public testimony was heard on the above amendment.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, spoke in favor of this amendment. Mr. Murphy said although homegrow hurts the industry he represents, this modest approach addressed what 70% of the voters were saying when voting for IM26.

Ms. Staci Ackerman, Executive Director, SD Sheriffs' Association, Eureka, testified in opposition to this amendment, saying the Sheriffs' Association opposes any homegrow for marijuana.

Representative Bartels moved, seconded by Representative Duba, that a NEW SECTION be added to title 34: A cultivator shall cultivate marijuana within a secure, indoor facility out of view of the public. Motion prevailed on a roll call vote with 13 AYES; 11 NAYS. Voting AYE: Duhamel, Bordeaux, Chaffee, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Mulally, Ernie Otten, Perry, Wiese, and Breitling. Voting NAY: Heinert, Rohl, Rusch, VJ Smith, Stalzer, Wheeler, Derby, Duba, Rehfeldt, Willadsen, and Bartels.

Public testimony was heard on the above amendment.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said it was originally envisioned that outdoor cultivation would be allowed. The Department of Health has promulgated rules regarding outdoor cultivation. There are opportunities for cultivators businesswise with outdoor cultivation.

Representative Bartels said to be successfully grown in this state it would need to be indoors, and this amendment also addresses safety concerns.

Representative Bartels moved, seconded by Representative Rehfeldt, that a NEW SECTION be added to title 34: A marijuana facility may not manufacture or dispense marijuana products: (1) That are easily confused with commercially sold candy or foods that do not contain marijuana; or (2) Made in the shape of a person, animal, insect, fruit, or any other likeness designed to be appealing to a person under the age of twenty-one.

There was no public testimony on the above amendment.

Senator Wheeler moved, seconded by Representative Rehfeldt, to amend the amendment by removing subsection (1). Motion prevailed on a roll call vote with 14 AYES; 10 NAYS. Voting AYE: Heinert, Rohl, Rusch, VJ Smith, Wheeler, Bordeaux, Chaffee, Duba, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. Voting NAY: Duhamel, Stalzer, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Mulally, and Wiese.

There was no public testimony on the above amendment.

Representative Bartels moved, seconded by Rehfeldt, that a NEW SECTION be added to title 34: A marijuana facility may not manufacture or dispense marijuana products made in the shape of a person, animal, insect, fruit, or any other likeness designed to be appealing to a person under the age of twenty-one. Motion prevailed on a roll call vote with 22 AYES; 2 NAYS. Voting AYE: Duhamel, Heinert, Rohl, Rusch, VJ Smith, Stalzer, Wheeler,

Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Milstead and Mulally.

There was no public testimony on the above amendment.

Representative Deutsch moved, seconded by Representative Milstead, to remove all references to medical cannabis in Draft 62 ([Full Amendment](#)). Motion prevailed on a roll call vote with 20 AYES; 4 NAYS. Voting AYE: Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Mulally, Ernie Otten, Perry, Rehfeldt, Wiese, and Breitling. Voting NAY: Duhamel, Rusch, Willadsen, and Bartels.

Public testimony was heard on the above amendment.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD does support the amendment and believes medical marijuana and adult-use marijuana should be separate. This amendment respects the will of the voters.

Ms. Melissa Mentele, Executive Director, New Approach South Dakota, said her organization also supports this amendment as it keeps intact what the voters approved in the 2020 election.

Representative Ernie Otten moved, seconded by Representative Rehfeldt, that the new language in Section 27 of Draft 62 be amended as follows: A **No dispensary license may be revoked **or suspended** by the secretary of revenue because of a violation of any statute, ordinance, rule, or regulation prohibiting the sale or service of marijuana to a person under the age of twenty-one years if the violation was committed by an employee or agent of the dispensary licensee **and the licensee has not had more than one violation of any statute, ordinance, rule, or regulation prohibiting the sale or service of marijuana to a person under the age of twenty-one years on the premises where the violation occurred in the previous twenty-four months. If the licensee meets the requirements of the conditions of this section, the secretary shall impose a civil penalty of one thousand dollars for a first violation and two thousand dollars for a second violation. However, if the employee or agent has not been certified by a nationally recognized training program approved by the Department of Revenue that provides instruction on techniques to prevent persons under the age of twenty-one years from purchasing or consuming marijuana, the secretary shall impose a civil penalty of two thousand dollars for a first violation and four thousand dollars for a second violation. A licensee may request an administrative hearing pursuant to chapter 1-26 to contest the imposition of a civil penalty. An agent of a dispensary convicted under this sections 4 or 5 of this Act may not continue to be affiliated with a dispensary and is disqualified from any future affiliation with any marijuana facility under this chapter. This section does not apply if such sale or service of marijuana to a person under the age of twenty-one years was made in accordance with section 52 of this Act. Motion prevailed on a roll call vote with 13 AYES; 11 NAYS. Voting AYE: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Derby, Duba, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. Voting NAY: Duhamel, Rusch, Stalzer, Chaffee, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Mulally, and Wiese.****

Public testimony was heard on the above amendment.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said he supports the above amendment. This amendment is strict but does give some allowance to what is out of the business owner's control.

Representative Bartels moved, seconded by Representative Willadsen, that the Marijuana Interim Study Committee adopt Draft 62 as amended. Motion prevailed on a roll call vote with 14 AYES; 10 NAYS. Voting AYE: Heinert, Rohl, Rusch, VJ Smith, Wheeler, Bordeaux, Chaffee, Derby, Duba, Ernie Otten, Rehfeldt, Willadsen, Bartels, and Breitling. Voting NAY: Duhamel, Stalzer, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Mulally, Perry, and Wiese.

Public testimony was heard on the above motion.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said with the removal of medical marijuana from this draft legislation CIASD does now support the bill and they look forward to working with the Legislature as this moves forward.

Representative Bartels moved, seconded by Representative Rehfeldt, to approve Draft 240 - An Act to provide for the taxation of marijuana. Motion prevailed on a roll call vote with 16 AYES; 8 NAYS. Voting AYE: Duhamel, Rohl, Rusch, Stalzer, Wheeler, Bordeaux, Chaffee, Fitzgerald, Goodwin, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert, VJ Smith, Derby, Deutsch, Duba, Finck, Milstead, and Mulally.

Public testimony was heard on the above amendment.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD does support the tax as proposed in Draft 240. It is efficient for the Department of Revenue as they only have to collect a check from the distributor. CIASD encourages the committee to pass Draft 240 forward.

Senator Breitling opened the meeting to discussion and action on the nearly 40 pieces of draft legislation regarding medical marijuana. The draft legislation is intended to amend SDCL 34-20G.

Representative Rehfeldt introduced Draft 222 – An Act to revise the definition of bona fide practitioner-patient relationship ([Draft 222](#)).

There was no public testimony on Draft 222.

Representative Rehfeldt moved, seconded by Representative Finck, to adopt Draft 222 - An Act to revise the definition of bona fide practitioner-patient relationship. Motion prevailed on a roll call vote with 19 AYES; 5 NAYS. Voting AYE: Duhamel, Rusch, VJ Smith, Stalzer, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Mulally, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, and Bartels. Voting NAY: Heinert, Rohl, Wheeler, Bordeaux, and Breitling.

Representative Rehfeldt introduced Draft 167 – An Act to revise the definition of a designated caregiver ([Draft 167](#)). Representative Bartels said he suggested this amendment as the word "person" in subsection 10 could be a business of some type, and Representative Bartels would prefer the caregiver be an individual.

There was no public testimony on Draft 167.

Representative Rehfeldt moved, seconded by Senator VJ Smith, to adopt Draft 167 – An Act to revise the definition of a designated caregiver. Motion prevailed on a roll call vote with 23 voting AYE; 1 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, Rusch, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Mulally.

Representative Finck introduced Draft 175 – An Act to revise provisions regarding the allowable use of cannabis by a cardholder ([Draft 175](#)).

Public testimony was heard on Draft 175.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, urged resistance to Draft 175 saying this removes protections and this exposes people to confusion with law enforcement.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 175 – An Act to revise provisions regarding the allowable use of cannabis by a cardholder. Motion failed on a roll call vote with 12 voting AYE; 11 voting NAY; 1 EXCUSED. Voting AYE: Duhamel, Rusch, VJ Smith, Stalzer, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, and Breitling. Voting NAY: Heinert, Rohl, Wheeler, Bordeaux, Chaffee, Derby, Duba, Ernie Otten, Rehfeldt, Willadsen, and Bartels. EXCUSED: Mulally.

Representative Finck introduced Draft 176 – An Act to repeal the rebuttable presumption in favor of the qualifying patient or designated caregiver engaged in the medical use of cannabis ([Draft 176](#)). Representative Finck said some members felt this was an unnecessary section of statute.

Public testimony was heard on Draft 176.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, opposed Draft 176 as the section it would repeal may not be necessary in a year or two, but is needed for now. Mr. Murphy asked the committee to not adopt Draft 176.

Representative Finck moved, seconded by Representative Rehfeldt, to adopt Draft 176 – An Act to repeal the rebuttable presumption in favor of the qualifying patient or designated caregiver engaged in the medical use of cannabis. Motion failed on a roll call vote with 11 voting AYE, 12 voting NAY, 1 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Wiese, Bartels, and Breitling. Voting NAY: Heinert, Rohl, Rusch, VJ Smith, Wheeler, Bordeaux, Derby, Duba, Ernie Otten, Perry, Rehfeldt, and Willadsen. EXCUSED: Mulally.

Representative Finck introduced Draft 223 – An Act to revise the conduct related to medical cannabis for which practitioners are not subject to arrest, prosecution, penalty, or discipline ([Draft 223](#)). Representative Finck said Draft 223 changes the language to better explain when practitioners are not subject to arrest.

Public testimony was heard on Draft 223.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said he is neutral on Draft 223.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 223 – An Act to revise the conduct related to medical cannabis for which practitioners are not subject to arrest, prosecution, penalty, or discipline. Motion failed on a roll call vote with 11 voting AYE, 12 voting NAY, 1 EXCUSED. Voting AYE: Duhamel, Stalzer, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, and Breitling. Voting NAY: Heinert, Rohl, Rusch, VJ Smith, Wheeler, Bordeaux, Chaffee, Duba, Ernie Otten, Rehfeldt, Willadsen, and Bartels. EXCUSED: Mulally.

Representative Finck introduced Draft 177 – An Act to repeal provisions providing that attorneys are not subject to discipline for certain conduct relating to medical cannabis ([Draft 177](#)).

Public testimony was heard on Draft 177.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said the amendment to Draft 177 leaves in the professional protections. Attorneys are covered by the Supreme Court but this draft allows other professions to be protected.

Representative Otten moved, seconded by Representative Finck, to amend Draft 177 as follows: Section 1 be deleted and replaced with a new section: 34-20G-6. No ~~attorney~~ person licensed by the state or any other governmental entity to engage in any profession, occupation, or other activity is subject to disciplinary action ~~by the State Bar of South Dakota or other professional licensing association for providing legal assistance to a prospective or registered medical cannabis establishment or other related to,~~ denial of the rights and privileges

of such license, or otherwise penalized by the licensing authority for lawfully engaging in any activity authorized under this chapter or providing any service to a person engaged in activity that is not subject to criminal penalties under law of this state authorized by this chapter merely because that activity is prohibited by federal law.

Motion prevailed on a roll call vote with 18 voting AYE; 5 voting NAY; 1 EXCUSED. Voting AYE: Heinert, Rohl, Rusch, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. Voting NAY: Duhamel, Fitzgerald, Goodwin, Milstead, and Wiese. EXCUSED: Mulally.

*** The title of this act will need to be amended to "An Act to revise provisions providing that certain professions are not subject to discipline for certain conduct relating to medical cannabis."**

Representative Finck moved, seconded by Representative Rehfeldt, to adopt Draft 177 – An Act to repeal provisions providing that attorneys are not subject to discipline for certain conduct relating to medical cannabis as amended. Motion prevailed on a roll call vote with 18 voting AYE; 5 voting NAY; 1 EXCUSED. Voting AYE: Heinert, Rohl, Rusch, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. Voting NAY: Duhamel, Fitzgerald, Goodwin, Milstead, and Wiese. EXCUSED: Mulally.

Representative Finck introduced Draft 178 – An Act to repeal provisions related to the prosecution, search, seizure, penalty, or discipline of medical cannabis establishments for certain conduct ([Draft 178](#)). Representative Finck said this bill repeals sections of SDCL 34-20G-8 and removes the protections from search and seizures.

Representative Finck moved, seconded by Representative Bartels, to adopt Draft 178 – An Act to repeal provisions related to the prosecution, search, seizure, penalty, or discipline of medical cannabis establishments for certain conduct. Motion prevailed on a roll call vote with 19 AYES; 4 NAYS; 1 EXCUSED. Voting AYE: Duhamel, Rohl, Rusch, VJ Smith, Stalzer, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Perry, Rehfeldt, Wiese, Willadsen, Bartels and Breitling. Voting NAY: Heinert, Wheeler, Bordeaux, and Ernie Otten. EXCUSED: Mulally.

Representative Rehfeldt introduced Draft 189 – An Act to prohibit the sale or donation of cannabis seeds by medical cannabis cardholders ([Draft 189](#)).

Representative Deutsch presented an amendment removing the provision that marijuana be shared with others, regardless if sold or not.

Representative Rehfeldt said she views this as an unfriendly amendment as it changes what was decided on by the subcommittee.

Representative Deutsch moved, seconded by Representative Milstead, to amend Draft 189 ([Full amendment](#)). Motion failed on a roll call vote with 9 AYES; 13 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, and Wiese. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Chaffee, Duba, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Public testimony was heard on Draft 189.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, urged the committee to resist Draft 189.

Representative Rehfeldt moved, seconded by Representative Deutsch, to adopt Draft 189 – An Act to prohibit the sale or donation of cannabis seeds by medical cannabis cardholders. Motion failed on a roll call vote with 8 voting AYE; 14 voting NAY; 2 EXCUSED. Voting AYE: Duhamel, Derby, Deutsch, Finck, Fitzgerald, Milstead, Wiese, and

Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Duba, Goodwin, Ernie Otten, Perry, Rehfeldt, Willadsen, and Bartels.

Representative Finck introduced Draft 199 – An Act to revise acceptable conduct related to the medical use of cannabis ([Draft 199](#)).

Representative Deutsch moved, seconded by Representative Milstead, to amend language in Draft 199 in Section 3: 34-20G-24. No employer is required to allow the ingestion, possession, transfer, display, or transportation of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. ~~A registered qualifying patient may not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.~~ No employer is prohibited from establishing and enforcing a drug free workplace policy that may include a drug testing program that complies with state and federal law and acting with respect to an applicant or employee under the policy. Motion prevailed on a roll call vote with 20 voting AYE, 2 voting NAY, 2 EXCUSED. Voting AYE: Duhamel, Rohl, VJ Smith, Stalzer, Wheeler, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert and Bordeaux. EXCUSED: Rusch and Mulally.

Representative Deutsch moved, seconded by Representative Milstead, to amend language in Draft 199, Section 3, subdivision (3), concerning unauthorized conduct: (3) Smoking or vaping cannabis: (a) On any form of public transportation; ~~or~~ (b) In any public place or any place that is open to the public; or (c) If ~~a minor~~ under the age of 21; or. Motion prevailed on a roll call vote with 14 voting AYE; 8 voting NAY; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Duba, Ernie Otten, and Rehfeldt. EXCUSED: Rusch and Mulally.

Public testimony was heard on Draft 199.

Ms. Sara Aker, SDAHO, spoke in favor of Draft 199 saying SDAHO believes this draft addresses safety sensitivity.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, spoke in opposition to Draft 199 saying CIASD agrees with safety zones but opposes firing someone for keeping their medicine in their pocket even though they are not using it.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 199 - An Act to revise acceptable conduct related to the medical use of cannabis, as amended. Motion failed on a roll call vote with 12 AYES; 10 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Duba, Ernie Otten, Rehfeldt, Willadsen, and Bartels. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 154 – An Act to revise provisions to prohibited conduct by schools and landlords related to medical cannabis ([Draft 154](#)).

Representative Deutsch moved, seconded by Representative Milstead, to amend Draft 154 by changing "school" to "public school" on lines 6, 7, and 9 and adding "A reasonable restriction may include a prohibition against smoking at the landlord's property" to line 12 ([Full Amendment](#)). Motion failed on a roll call vote with 12 AYES; 10 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Duba, Ernie Otten, Rehfeldt, Willadsen, and Bartels. EXCUSED: Rusch and Mulally.

Senator VJ Smith moved, seconded by Senator Heinert, to amend Draft 154 by striking the last sentence of the draft. Motion failed on a roll call vote with 9 AYES; 13 NAYS; 2 EXCUSED. Voting AYE: Heinert, Rohl, VJ Smith, Wheeler, Chaffee, Duba, Ernie Otten, Rehfeldt, and Willadsen. Voting NAY: Duhamel, Stalzer, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

There was no public testimony on Draft 154.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 154 – An Act to revise provisions to prohibited conduct by schools and landlords related to medical cannabis. Motion prevailed on a roll call vote with 13 AYES; 9 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, Bartels, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Duba, Ernie Otten, Rehfeldt, and Willadsen. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 155 – An Act to revise provisions related to custody and visitation rights by medical cannabis cardholders. Representative Finck said there is added language in this draft to strengthen the position regarding custody ([Draft 155](#)).

Public testimony was heard on Draft 189.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD opposes this bill because it strikes the phrase “as established by clear and convincing evidence” and in a custody battle there is a risk things will not be based on “clear and convincing evidence.” Mr. Murphy said CIASD can support Draft 155 if the phrase is put back into the bill.

Representative Finck said the purpose of this section in SDCL 34-20G-21 is to say no person can be denied custody just because they are a medical marijuana card holder. The workgroup did not believe “as established by clear and convincing evidence” was necessary.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 155 – An Act to revise provisions related to custody and visitation rights by medical cannabis cardholders. Motion prevailed on a roll call vote with 21 AYES, 1 NAY, 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Ernie Otten. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 179 – An Act to revise provisions regarding cost reimbursement associated with medical cannabis ([Draft 179](#)).

There was no public testimony on Draft 179.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 179 – An Act to revise provisions regarding cost reimbursement associated with medical cannabis. Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Rehfeldt introduced Draft 172 – An Act to revise the provisions regarding the denial or nonrenewal of a patient registry identification card ([Draft 172](#)).

There was no public testimony on Draft 172.

Representative Rehfeldt moved, seconded by Representative Perry, to adopt Draft 172 – An Act to revise the provisions regarding the denial or nonrenewal of a patient registry identification card. Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Rehfeldt introduced Draft 197 – An Act to revise provisions related to the revocation of a medical cannabis registry identification card ([Draft 197](#)). Ms. Brigid Hoffman, Legislative Attorney, said this was drafted to account for the revocation of a registration card and allow for a judicial review. Representative Rehfeldt said the intent is to make sure the qualifying patient knows why the card is being revoked.

There was no public testimony on Draft 197.

Representative Rehfeldt moved, seconded by Representative Perry to adopt Draft 197 – An Act to revise provisions related to the revocation of a medical cannabis registry identification card. Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Rehfeldt introduced Draft 173 – An Act to repeal provisions permitting certain documents to serve as temporary registry identification cards for medical cannabis ([Draft 173](#)). Representative Rehfeldt said the subcommittee believes the patient should go through the proper process to get a medical cannabis card and this draft cleans up that language.

There was no public testimony on Draft 173.

Representative Rehfeldt moved, seconded by Representative Finck, to adopt Draft 173 – An Act to repeal provisions permitting certain documents to serve as temporary registry identification cards for medical cannabis. Motion prevailed on a roll call vote with 16 AYES; 6 NAYS; 2 EXCUSED. Voting AYE: Duhamel, VJ Smith, Stalzer, Chaffee, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert, Rohl, Wheeler, Bordeaux, Derby, and Ernie Otten. EXCUSED: Rusch and Mulally.

Representative Rehfeldt introduced Draft 145 – An Act to revise the information found on a medical cannabis registry identification card ([Draft 145](#)).

Mr. Jeremiah Murphy, CIASD, Rapid City, said this draft is similar to Draft 169 and that draft would be more appropriate regarding the identification requirements.

Representative Rehfeldt agreed to wait to act on this issue until committee discussion on Draft 169.

Representative Rehfeldt introduced Draft 146 – An Act to revise the expiration date of a registry identification card ([Draft 146](#)).

Representative Deutsch moved, seconded by Representative Milstead, to amend Draft 146 by removing “is likely to” from subsection 23 line 18, and replacing with “may”. Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Rehfeldt moved, seconded by Representative Deutsch, to amend the definition of “written certification” as follows: “Written certification,” a document dated and signed by a practitioner, stating that ~~in the practitioner’s professional opinion, the patient is likely to receive therapeutic or palliative benefit from the use of marijuana to treat or alleviate the patient’s~~ has a qualifying debilitating medical condition or symptom associated with the debilitating medical condition. This document shall affirm that it is made in the course of a bona fide practitioner-patient relationship and shall specify the qualifying patient’s debilitating medical condition. Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Public testimony was heard on Draft 146.

Ms. Sara Aker, South Dakota Association of Healthcare Organizations (SDAHO), said SDAHO is supportive of the above amendment’s change in the language of the draft bill.

Representative Rehfeldt moved, seconded by Representative Perry, to adopt Draft 146 – An Act to revise the expiration date of a registry identification card, as amended. Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Rehfeldt introduced Draft 174 – An Act to revise provisions related to the confidential list of medical cannabis cardholders maintained by the Department of Health ([Draft 174](#)). Representative Rehfeldt said this draft adds more specific information to the confidentiality list of medical cannabis cardholders.

There was no public testimony on Draft 174.

Representative Rehfeldt moved, seconded by Representative Perry, to adopt Draft 174 – An Act to revise provisions related to the confidential list of medical cannabis cardholders maintained by the Department of Health. Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Rehfeldt introduced Draft 147 – An Act to revise required notifications by medical cannabis cardholders to the Department of Health ([Draft 147](#)). This draft adds the requirement for a qualifying patient to notify the Department of Health regarding a change in practitioner.

Public testimony was heard on Draft 147.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD opposes Draft 147. This legislation would require patients who change practitioners to notify DOH within 10 days or there is a \$1,000 penalty. This is not required of anyone receiving narcotics or other types of medicines.

Representative Rehfeldt moved, seconded by Representative Fitzgerald, to adopt Draft 147 – An Act to revise required notifications by medical cannabis cardholders to the Department of Health. Motion failed on a roll call vote with 6 AYES; 16 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Deutsch, Fitzgerald, Milstead, and Wiese. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Chaffee, Derby, Duba, Finck, Goodwin, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Rehfeldt introduced Draft 148 – An Act to require a patient to dispose of medical cannabis if the patient no longer qualifies for the medical cannabis program ([Draft 148](#)). This legislation requires the patient to dispose of any remaining cannabis if the identification card becomes void.

Public testimony was heard on Draft 148.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD said originally the patient was given 15 days to destroy or give the remaining cannabis to a qualifying card holder. This draft legislation would require the patient to destroy the cannabis within 24 hours. Mr. Murphy said there are no such requirements for narcotics and asked who will enforce this change. The CIASD strongly opposes this legislation.

Representative Deutsch said no other drug can be given away to other patients.

Senator Wheeler said in order to make the language consistent with the language in Draft 146 an amendment needs to be made changing lines 7 and 8 of Draft 148.

Senator Wheeler moved, seconded by Senator Heinert, to strike, starting on line 7 and ending on line 8, “Or that the practitioner... use of cannabis,”. Motion prevailed on a roll call vote with 14 AYES, 8 NAYS, 2 EXCUSED. Voting AYE: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Chaffee, Derby, Duba, Finck, Ernie Otten, Rehfeldt, Willadsen, Bartels, and Breitling. Voting NAY: Duhamel, Stalzer, Deutsch, Fitzgerald, Goodwin, Milstead, Perry, and Wiese. EXCUSED: Rusch and Mulally.

Representative Rehfeldt moved, seconded by Representative Milstead, to adopt Draft 148 – An Act to require a patient to dispose of medical cannabis if the patient no longer qualifies for the medical cannabis program, as amended. Motion failed on a roll call vote with 12 AYES, 10 NAYS, 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, Bartels, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Derby, Duba, Ernie Otten, Rehfeldt, and Willadsen. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 186 – An Act to revise the medical purpose defense related to the medical use of cannabis ([Draft 186](#)). This bill removes the defense of having a doctor certify someone for medical cannabis after they have been found in possession of cannabis.

Public testimony was heard on Draft 186.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD opposes Draft 186. The sense among law enforcement is that a person will go to a doctor to be certified for medical cannabis just to get away with illegal possession of cannabis. There must be some type of proven patient-provider relationship for this type of defense. Mr. Murphy asked that the Legislature leave the medical defense in statute for at least a year until everyone has come up to speed with the laws and rules regarding medical cannabis.

Representative Finck moved, seconded by Representative Rehfeldt, to adopt Draft 186 – An Act to revise the medical purpose defense related to the medical use of cannabis. Motion prevailed on a roll call vote with 15 AYES, 7 NAYS, 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Duba, and Ernie Otten. EXCUSED: Rusch and Mulally.

Representative Deutsch introduced Draft 168 – An Act to allow a local government to prohibit a medical cannabis establishment from operating in its jurisdiction ([Draft 168](#)). This bill allows local governments to prohibit medical

cannabis dispensaries in their jurisdiction. Representative Deutsch said other states do allow local jurisdictions to prohibit cannabis establishments in their areas.

Public testimony was heard on Draft 168.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD opposes Draft 168. Mr. Murphy asked the committee to notice there are no representatives from local jurisdictions here to testify in favor of this bill. Mr. Murphy said he believes the voters did know what they were voting for when they supported IM26. There are businesses already making investments and getting ready to open their doors once all requirements are met, and with this change the businesses could be shut down and lose their investments.

Representative Deutsch moved, seconded by Representative Milstead, to adopt Draft 168 - An Act to allow a local government to prohibit a medical cannabis establishment from operating in its jurisdiction. Motion failed on a roll call vote with 9 voting AYE; 13 voting NAY; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Deutsch, Finck, Fitzgerald, Milstead, Wiese, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Derby, Duba, Goodwin, Ernie Otten, Perry, Rehfeldt, Willadsen, and Bartels. EXCUSED: Rusch and Mulally.

Representative Ernie Otten introduced Draft 169 – An Act to require a cardholder or nonresident cardholder to present photographic identification to receive medical cannabis [\(Draft 169\)](#). This bill lists the different types of photographic identification that can be used when purchasing medical cannabis.

There was no public testimony on Draft 169.

Senator Rohl moved, seconded by Representative Ernie Otten, to amend Draft 169 by adding “tribe,” after “state,” and before “or the federal government;” on line 12. Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Ernie Otten moved, seconded by Representative Rehfeldt, to adopt Draft 169 – An Act to require a cardholder or nonresident cardholder to present photographic identification to receive medical cannabis, as amended. Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 180 – An Act to revise rulemaking authority to medical cannabis [\(Draft 180\)](#). This draft adds “distribution and tracking” to section (5) subsection (j).

Representative Deutsch moved, seconded by Representative Milstead, to amend Draft 180 by adding under section 5, “(l) Restrictions on the marketing of cannabis and cannabis products using names and images that appeal to children.” Motion failed on a roll call vote with 10 AYES, 12 NAYS, 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Derby, Deutsch, Finck, Fitzgerald, Milstead, Perry, Wiese, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Chaffee, Duba, Goodwin, Ernie Otten, Rehfeldt, Willadsen, and Bartels. EXCUSED: Rusch and Mulally.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 180 – An Act to revise rulemaking authority to medical cannabis. Motion prevailed on a roll call vote with 16 AYES, 6 NAYS, 2 EXCUSED. Voting AYE: Duhamel, VJ Smith, Stalzer, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert, Rohl, Wheeler, Bordeaux, Duba, and Ernie Otten. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 156 – An Act to revise provisions concerning civil penalties imposed for violations related to medical cannabis ([Draft 156](#)). This bill raises the maximum fine for each violation of the medical cannabis statutes from \$150 to \$1,000. Representative Finck said the subcommittee agreed the fine attached to this type of violation should be higher than the \$150.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 156 – An Act to revise provisions concerning civil penalties imposed for violations related to medical cannabis. Motion prevailed on a roll call vote with 14 AYES; 8 NAYS; 2 EXCUSED. Voting AYE: Duhamel, VJ Smith, Stalzer, Chaffee, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert, Rohl, Wheeler, Bordeaux, Derby, Duba, Ernie Otten, and Rehfeldt. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 151 – An Act to revised the crime of intentional cannabis sale or transfer by cardholder to unauthorized person ([Draft 151](#)). Representative Finck said this will make it a felony to transfer medical cannabis to anyone not authorized to receive it.

Representative Deutsch moved, seconded by Representative Milstead, to amend Draft 151 by adding “or entity” on line seven following “to a person” and to add to the end of the draft “This section does not apply to the transfer of cannabis between a designated caregiver and a qualifying patient that complies with this chapter.” Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Public testimony was heard on Draft 151.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD opposes Draft 151 as this section was intended to have a serious penalty for the crime of someone selling cannabis, they received through the medical cannabis program. This draft legislation would make it a felony for someone who just gifts any type of medical cannabis such as an edible and this is overreach.

Representative Deutsch said this is medicine and we do not allow people to share or gift prescription drugs to others.

Senator Wheeler said if someone has a joint and shares it with someone, they have committed a misdemeanor. Changing the misdemeanor to a felony goes too far.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 151 – An Act to revise the crime of intentional cannabis sale or transfer by cardholder to unauthorized person, as amended. Motion failed on a roll call vote with 8 AYES, 14 NAYS, 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Deutsch, Finck, Fitzgerald, Milstead, and Wiese. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Derby, Duba, Goodwin, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 157 – An Act to revise the circumstances under which a medical cannabis establishment’s registration certificate may be suspended or revoked ([Draft 157](#)). Representative Finck said this draft states if there are continued violations the medical cannabis establishment registration certificate can be revoked.

Public testimony was heard on Draft 157.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD objects to the changes to section 1 subdivision 6 which adds violations to rules which is a considerable increase of risk to cardholders.

Senator Heinert said administrative rules have already been approved regarding the revocation of licenses and this draft bill is not needed. If changes need to be made as the program gets underway, it is much faster to make those changes through the rules process than having to wait until the next legislative session.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 157 – An Act to revise the circumstances under which a medical cannabis establishment’s registration certificate may be suspended or revoked. Motion failed on a roll call vote with 11 AYES; 11 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, and Bartels. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Derby, Duba, Ernie Otten, Rehfeldt, Willadsen, and Breitling. EXCUSED: Rusch and Mulally.

Representative Rehfeldt introduced Draft 149 – An Act to revise provisions related to the revocation of a medical cannabis cardholder’s registry identification card ([Draft 149](#)). The draft addresses revoking the identification card permanently for transferring medical cannabis to an unauthorized person.

Representative Rehfeldt moved, seconded by Representative Perry to adopt Draft 149. After much discussion and possible amendments, Representative Rehfeldt, with approval by Representative Perry, withdrew the motion to adopt Draft 149.

Representative Finck introduced Draft 158 – An Act to clarify access to data maintained by the Department of Health in relation to the medical cannabis program ([Draft 158](#)). Representative Finck said the SD Medical Association requested this draft to address medical reactions.

Representative Deutsch moved, seconded by Representative Milstead, to amend Draft 158 by adding subdivision “(7) Any practitioner to determine if a person in the practitioner’s care engages in the medical use of cannabis so the practitioner may assess possible drug interactions or other medically necessary concerns.” Motion failed on a roll call vote with 12 AYES; 10 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Rehfeldt, Wiese, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Duba, Ernie Otten, Parry, Willadsen, and Bartels. EXCUSED: Rusch and Mulally.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 158 – An Act to clarify access to data maintained by the Department of Health in relation to the medical cannabis program. Motion failed on a roll call vote with 7 AYES, 15 NAYS, 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Deutsch, Finck, Fitzgerald, Milstead, and Wiese. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Chaffee, Derby, Duba, Goodwin, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Rehfeldt introduced Draft 220 – An Act to revise a reference to the Division of Criminal Investigation ([Draft 220](#)). This draft corrects “Department” of Criminal Investigation as found in SDCL 34-20G-92 to “Division” of Criminal Investigation.

Representative Rehfeldt moved, seconded by Representative Ernie Otten, to adopt Draft 220 – An Act to revise a reference to the Division of Criminal Investigation. Motion prevailed on a roll call vote with 22 AYES; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Wheeler, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Ernie Otten introduced Draft 170 – An Act to revise provisions regarding the medical marijuana oversight committee ([Draft 170](#)). Representative Ernie Otten said the subcommittee wants to make sure all the facts are available to the oversight committee.

Representative Ernie Otten moved, seconded by Representative Perry, to adopt Draft 170 – An Act to revise provisions regarding the medical marijuana oversight committee. Motion prevailed on a roll call vote with 20 AYES, 2 NAYS, 2 EXCUSED. Voting AYE: Duhamel, Rohl, VJ Smith, Stalzer, Wheeler, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert and Bordeaux. EXCUSED: Rusch and Mulally.

Representative Ernie Otten introduced Draft 171 – An Act to revise the annual report on medical cannabis by the Department of Health to the Legislature ([Draft 171](#)). This draft adds specific information to be included in the Department of Health’s annual report regarding medical cannabis. Representative Ernie Otten said in order to diagnose the need for more funds or less funds to go into a program this type of information is needed.

Representative Ernie Otten moved, seconded by Representative Rehfeldt, to adopt Draft 171 – An Act to revise the annual report on medical cannabis by the Department of Health to the Legislature. Motion prevailed on a roll call vote with 19 AYES, 3 NAYS, 2 EXCUSED. Voting AYE: Duhamel, Rohl, VJ Smith, Stalzer, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert, Wheeler, and Bordeaux. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 185 – An Act to prohibit certain advertisements by medical cannabis establishment ([Draft 185](#)).

Public testimony was heard on Draft 185.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD opposes Draft 185 and suggested an amendment consistent with what the Department of Health addressed through administrative rule. The federal government has prohibitions on some of this advertising now.

Representative Derby asked the committee to oppose this draft legislation as this is about first amendment rights. These businesses need to market themselves to be able to be profitable.

Senator Heinert said this is a redundancy and is not needed.

Senator Wheeler said the committee has said medical cannabis should be treated like medicine and medicine is constantly being advertised.

Representative Finck moved, seconded by Representative Perry, to adopt Draft 185 – An Act to prohibit certain advertisements by medical cannabis establishment. Motion failed on a roll call vote with 6 AYES; 16 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Deutsch, Fitzgerald, Milstead, and Wiese. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Chaffee, Derby, Duba, Finck, Goodwin, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 184 – An Act to provide for standard labeling of cannabis and cannabis products ([Draft 184](#)).

Public testimony was heard on Draft 184.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said Section 2 subdivision 3 refers to a THC levels being illegal and there are no THC caps in South Dakota law. The Department of Health did have some similar language in the proposed rules but was rejected by the rules review committee. CIASD opposes a THC cap. You could strike the last three lines, but all of the remaining language has already been addressed through administrative rules.

Representative Finck moved, seconded by Representative Perry, to adopt Draft 184 – An Act to provide for standard labeling of cannabis and cannabis products. Motion failed on a roll call vote with 6 AYES; 16 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Deutsch, Fitzgerald, Milstead, and Wiese. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Chaffee, Derby, Duba, Finck, Goodwin, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 183 – An Act to provide that health care facilities and accredited prevention and treatment facilities may establish reasonable restrictions related to the medical use of cannabis ([Draft 183](#)). This draft adds a section to SDCL 34-20G outlining what restrictions the facilities can use.

Representative Deutsch said the South Dakota Association of Health Organizations (SDAHO) had requested an amendment to Draft 183.

Public testimony was heard on the amendment to Draft 183.

Ms. Sara Aker, SDAHO, said the organization did work with Representative Deutsch to bring forward alternative language regarding Draft 183. SDAHO feels the draft legislation does not allow the facilities to ban medical cannabis and there is a concern the facilities could lose Medicare and Medicaid funding.

Representative Deutsch moved, seconded by Representative Milstead, to amend Section 2 of Draft 183 as follows: ~~A health care facility Healthcare facilities, as defined in § 34-12-1.1, or an accredited prevention or treatment facility, as defined in § 34-20A-2, may adopt the following reasonable restrictions on the use of medical use of cannabis by a cardholder who resides at, is actively receiving treatment or care from, or is visiting the facility: (1) That the facility will not store or maintain the cardholder's supply of medical cannabis or cannabis products; (2) That the facility is not responsible for providing the cardholder with medical cannabis or cannabis products; and (3) That medical cannabis or cannabis products may only be used in a location specified by the facility. The restrictions may include a provision that the facility will not store or maintain the cardholder's supply of medical cannabis, that the facility is not responsible for providing the medical cannabis for cardholders, and that the medical cannabis be used only in a place specified by the facility. Nothing in this section requires a facility to adopt such restrictions or requires a facility to allow the consumption of medical cannabis on the grounds of the facility. No employee or agent of a facility may be subject to arrest, prosecution, or penalty of any kind, or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for serving as a cardholder's designated caregiver in accordance with any reasonable restrictions adopted pursuant to this section by the facility. for possession of medical cannabis while carrying out employment duties, including providing or supervising care to a cardholder, or distribution of medical cannabis to a cardholder who resides at or is actively receiving treatment or care at the facility with which the employee or agent is affiliated.~~ Motion prevailed on a roll call vote with 21 AYES; 1 NAY; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Bordeaux, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Wheeler. EXCUSED: Rusch and Mulally.

Senator Wheeler said he is concerned there are individuals who have no choice as to where they will live, and this amendment cuts them out of being able to use medical cannabis.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 183 – An Act to provide that health care facilities and accredited prevention and treatment facilities may establish reasonable restrictions related to the medical use of cannabis, as amended. Motion prevailed on a roll call vote with 19 AYES; 3 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Rohl, VJ Smith, Stalzer, Chaffee, Derby, Deutsch, Duba, Finck, Fitzgerald, Goodwin, Milstead, Ernie Otten, Perry, Rehfeldt, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert, Wheeler, and Bordeaux. EXCUSED: Rusch and Mulally.

Representative Finck introduced Draft 153 – An Act to prohibit the possession, ingestion, manufacture, or distribution of diverted medical cannabis or cannabis products and provide a penalty therefor ([Draft 153](#)).

Representative Deutsch moved, seconded by Representative Milstead, to amend Draft 153 by deleting “without authorization” from line 6. Motion prevailed on a roll call vote with 13 AYES; 9 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, Bartels, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Duba, Ernie Otten, Rehfeldt, and Willadsen. EXCUSED: Rusch and Mulally.

Representative Deutsch moved, seconded by Representative Finck, to amend Draft 153 by adding “knowingly” on line 5 after “no person” and before “may”. Motion failed on a roll call vote with 7 AYES; 15 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Deutsch, Finck, Fitzgerald, Milstead, and Wiese. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Chaffee, Derby, Duba, Goodwin, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Public testimony was heard on Draft 153.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said it is already a felony to sell or give someone medical cannabis illegally. Draft 153 makes it illegal to accept medical cannabis illegally.

Representative Deutsch said no one should be authorized to divert medical cannabis and diversion of medical cannabis should be a crime. Representative Deutsch said most states do have anti-diversion statutes and South Dakota does not.

Senator Rohl said it is already illegal to accept unauthorized medical cannabis, this draft would make receiving medical cannabis a worse offense than if a person obtains cannabis from the black market.

Representative Finck moved, seconded by Representative Milstead, to adopt Draft 153 – An Act to prohibit the possession, ingestion, manufacture, or distribution of diverted medical cannabis or cannabis products and provide a penalty therefor, as amended. Motion failed on a roll call vote with 7 AYES; 15 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Deutsch, Finck, Fitzgerald, Milstead, and Wiese. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Chaffee, Derby, Duba, Goodwin, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Ernie Otten introduced Draft 142 – An Act to prohibit cultivation of medical cannabis ([Draft 142](#)). Representative Deutsch said this draft takes the homegrow option out of the medical cannabis program.

Public testimony was heard on Draft 142.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said homegrow was a featured component of IM26 and the voters knew this was included in IM26. CIASD is opposed to Draft 142, strongly supports homegrow and supports Draft 224 which sets a limit on how many plants can be grown.

Mr. Ned Horstad, Executive Director, Cannabis Industry Association of South Dakota (CIASD), Sioux Falls, testified remotely saying the IM26 organizers worked on this issue for several years. People with PTSD who are able to do so should be given the option to grow their own medical cannabis.

Ms. Melissa Mentele, Executive Director, New Approach South Dakota, testified remotely saying there is a need for homegrown medical cannabis especially for veterans and for the children who need medical cannabis to be a part of their treatment. Ms. Mentele asked the committee to not support Draft 142.

Representative Wiese said it is the committee's duty to set up a safe, regulated medical cannabis program.

Representative Perry said saying no to homegrow is not saying no to medical cannabis.

Representative Duba said there are people who need medical cannabis but do not have a lot of money and growing their own will be better for them. Representative Duba reminded the members that when touring Iowa dispensaries one of the comments was that Iowa made a big mistake by not allowing homegrow. The Legislature needs to listen to what the people have told us they want.

Representative Deutsch said half of the states do not allow homegrow and the doctors want nothing to do with homegrow or certifying the number of plants a patient should be allowed to grow.

Representative Ernie Otten moved, seconded by Senator VJ Smith, to adopt Draft 142 – An Act to prohibit cultivation of medical cannabis. Motion failed on a roll call vote with 10 AYES; 12 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Milstead, Perry, and Wiese. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Duba, Goodwin, Ernie Otten, Rehfeldt, Willadsen, Bartels, and Breitling. EXCUSED: Rusch and Mulally.

Representative Ernie Otten introduced Draft 224 – An Act to establish a maximum number of cannabis plants that may be cultivated by a medical cannabis cardholder ([Draft 224](#)). Representative Ernie Otten said this draft legislation limits the maximum number of homegrow cannabis plants to three plants. Representative Bartels said another change to section 2 eliminates the need for a physician to prescribe the homegrow cannabis.

Senator Rohl said the Legislature will most likely increase the maximum number of plants in the future. As to the belief that the voters did not know homegrow was included in the bill, Senator Rohl said the Attorney General's explanation on IM26 did state that homegrow would be allowed under this initiated measure.

Representative Ernie Otten moved, seconded by Senator Heinert, to adopt Draft 224 – An Act to establish a maximum number of cannabis plants that may be cultivated by a medical cannabis cardholder. Motion prevailed on a roll call vote with 16 AYES; 6 NAYS; 2 EXCUSED. Voting AYE: Duhamel, Heinert, Rohl, VJ Smith, Stalzer, Bordeaux, Chaffee, Derby, Duba, Fitzgerald, Goodwin, Ernie Otten, Perry, Wiese, Bartels, and Breitling. Voting NAY: Wheeler, Deutsch, Finck, Milstead, Rehfeldt, and Willadsen. EXCUSED: Rusch and Mulally.

Representative Ernie Otten introduced an amendment to SDCL 34-20G-1(10) regarding the definition of "practitioner". The amendment reads as follows: (10) "Practitioner," a physician, **physician assistant, or nurse practitioner** who is licensed in this state with authority to prescribe drugs to humans;

Representative Ernie Otten said there are areas in the state where there are no physicians, and patients rely on physician assistants and nurse practitioners for their medical care.

Public testimony was heard on Representative Ernie Otten's amendment to SDCL 34-20G-1(10) regarding the definition of practitioner.

Mr. Jeremiah M. Murphy, CIASD, Rapid City, said CIASD supports Representative Ernie Otten's amendment to SDCL 34-20G-1(10) as there are physician assistants and nurse practitioners who have valid patient-physician relationships, and not just in rural areas.

Ms. Melissa Mentele, Executive Director, New Approach South Dakota, testified remotely in support of Representative Ernie Otten's amendment to SDCL 34-20G-1(10).

Representative Deutsch said he believes this amendment is premature and that the SD Medical Association has requested legislation requiring doctors to receive training regarding medical cannabis.

Representative Perry said his personal medical provider is a physician assistant, and physician assistants need to be allowed to provide this type of care.

Representative Ernie Otten moved, seconded by Senator Heinert, to amend SDCL 34-20G-1(10) regarding the definition of “practitioner” as follows: (10) “Practitioner,” a physician, physician assistant, or nurse practitioner who is licensed in this state with authority to prescribe drugs to humans; Motion prevailed on a roll call vote with 17 AYES; 5 NAYS; 2 EXCUSED. Voting AYE: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Chaffee, Derby, Duba, Finck, Fitzgerald, Goodwin, Ernie Otten, Perry, Rehfeldt, Willadsen, Bartels, and Breitling. Voting NAY: Duhamel, Stalzer, Deutsch, Milstead, and Wiese. EXCUSED: Rusch and Mulally.

Representative Finck introduced a revised Draft 150 – An Act to revise acceptable conduct related to the medical use of cannabis ([Revised Draft 150](#)).

Public testimony was heard on revised Draft 150.

Ms. Sara Aker, SDAHO, said SDAHO does support the creation of safety sensitive positions as found in section 1 subdivision 23.

Representative Deutsch moved, seconded by Representative Finck, to amend Draft 150 section 2, subdivision 3, subsection 2, to read “under the age of 21”. Motion prevailed on a roll call vote with 13 AYES, 9 NAYS, 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Chaffee, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Wheeler, Bordeaux, Derby, Duba, Ernie Otten, and Rehfeldt. EXCUSED: Rusch and Mulally.

Representative Finck moved, seconded by Representative Milstead, to amend the amended language in Section 3: 34-20G-24 of revised Draft 150. No employer is required to allow the ingestion, possession, transfer, display, or transportation of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. ~~A registered qualifying patient may not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.~~ No employer is prohibited from establishing and enforcing a drug free workplace policy that may include a drug testing program that complies with state and federal law and acting with respect to an applicant or employee under the policy. Motion prevailed on a roll call vote with 15 AYES, 7 NAYS, 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Wheeler, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Milstead, Perry, Wiese, Willadsen, Bartels, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Bordeaux, Duba, Ernie Otten, and Taylor Rehfeldt. EXCUSED: Rusch and Mulally.

Representative Finck moved, seconded by Representative Milstead, to adopt revised Draft 150 – An Act to revise acceptable conduct related to the medical use of cannabis, as amended. Motion prevailed on a roll call vote with 13 AYES, 9 NAYS, 2 EXCUSED. Voting AYE: Duhamel, Stalzer, Wheeler, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Milstead, Perry, Wiese, Bartels, and Breitling. Voting NAY: Heinert, Rohl, VJ Smith, Bordeaux, Duba, Goodwin, Ernie Otten, Rehfeldt, and Willadsen. EXCUSED: Rusch and Mulally.

Adjourn

Representative Bartels moved, seconded by Representative Willadsen, the Marijuana Interim Study Committee be adjourned. Motion prevailed on a voice vote.

The Marijuana Interim Study Committee adjourned at 6:40 PM.