

Committee: House Taxation

Thursday, February 10, 2022 8:00 AM

Roll Call

Present: Rep. Chaffee, Rep. Derby, Rep. Drury, Rep. Jamison, Rep. Olson,
Rep. Pourier, Rep. Thomason, Rep. Tidemann, Rep. Pischke, and
Rep. Dennert

Present (Remote): Rep. Ernie Otten and Rep. Randolph

Excused: Rep. Koth

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Dennert

MOTION: TO APPROVE THE MINUTES OF TUESDAY, FEBRUARY 08TH

Moved by: Chaffee
Second by: Drury
Action: Prevailed by voice vote

HB 1301 : revise percentages regarding certain municipal proceeds of gaming revenues.

Presented by: Representative Scott Odenbach, District 31

Proponents: Craig Matson, Deadwood Lead Economic Development Corporation, Deadwood
Sharon Martinisko, City of Deadwood, Deadwood (Handout(s) 1)
Jessica McKeown, Finance Officer, Deadwood (Handout(s) 2, 3)
Kevin Kuchenbecker, City of Deadwood, Deadwood (Handout(s) 4)

Opponents: Derek Johnson, Bureau of Finance and Management (Handout(s) 5)
Doug Abraham, South Dakota Retailers Association, Pierre

MOTION: AMEND HB 1301

1301A

On page 1, line 7, of the Introduced bill, delete " six" and insert " seven"

On page 1, line 7, of the Introduced bill, delete " eight" and insert " three"

On page 1, line 12, of the Introduced bill, remove the overstrikes from "Seventy"

On page 1, line 12, of the Introduced bill, after "follows:

(1) Seventy" delete "Forty"

On page 1, line 21, of the Introduced bill, remove the overstrikes from "Ten"

On page 1, line 21, of the Introduced bill, after "and

(4) Ten" delete "Forty"

Moved by: Chaffee

Second by: Drury

Action: Prevailed by roll call vote (10-0-3-0)

Voting Yes: Chaffee, Derby, Drury, Jamison, Ernie Otten, Randolph, Thomason,
Tidemann, Pischke, and Dennert

Excused: Koth, Olson, and Pourier

MOTION: DO PASS HB 1301 AS AMENDED

Moved by: Chaffee
 Second by: Pourier
 Action: Prevailed by Majority Members Elect (9-2-2-0)

Voting Yes: Chaffee, Derby, Drury, Jamison, Pourier, Randolph, Thomason, Pischke, and Dennert

Voting No: Ernie Otten and Tidemann

Excused: Koth and Olson

HB 1206 : establish fees for information provided from the statewide voter registration file.

Presented by: Representative Drew Dennert, District 3
 Others: Kea Warne, Office of the Secretary of State

MOTION: AMEND HB 1206

1206A

On page 1, line 7, of the Introduced bill, after "file, " delete "one thousand two hundred fifty"
 On page 1, line 7, of the Introduced bill, after "fifty " insert "two thousand five hundred "
 On page 1, line 10, of the Introduced bill, delete "Ten" and insert "Fifteen"
 On page 1, line 11, of the Introduced bill, delete "Twenty-five" and insert "Fifty"
 On page 1, line 12, of the Introduced bill, delete "Fifty " and insert "One hundred "
 On page 1, line 14, of the Introduced bill, delete "One hundred twenty-five" and insert "Two hundred fifty"
 On page 1, line 16, of the Introduced bill, after "file," delete " fifty"
 On page 1, line 16, of the Introduced bill, after "fifty " insert "one hundred "
 On page 1, line 18, of the Introduced bill, delete "Ten " and insert "Fifteen "
 On page 1, line 19, of the Introduced bill, delete "Twenty-five " and insert "Fifty "
 On page 1, line 20, of the Introduced bill, delete "Fifty " and insert "One hundred "
 On page 1, line 22, of the Introduced bill, delete "One hundred twenty-five " and insert "Two hundred fifty "
 On page 2, line 1, of the Introduced bill, delete "One hundred twenty-five " and insert "Two hundred fifty "
 On page 2, line 1, of the Introduced bill, delete "Fifteen " and insert "Twenty-five "
 On page 2, line 28, of the Introduced bill, after "file," delete " one thousand five hundred"
 On page 2, line 28, of the Introduced bill, after "hundred " insert "three thousand "
 On page 2, line 29, of the Introduced bill, after "file," delete " seventy-five"
 On page 2, line 29, of the Introduced bill, after "seventy-five " insert "one hundred fifty "
 On page 2, line 31, of the Introduced bill, delete "Thirty-five " and insert "Sixty-five "
 On page 2, line 32, of the Introduced bill, delete "Fifty " and insert "One hundred "
 On page 3, line 1, of the Introduced bill, delete "Seventy-five " and insert "One hundred fifty "
 On page 3, line 3, of the Introduced bill, delete "One hundred fifty " and insert "Three hundred "

Moved by: Drury
 Second by: Chaffee
 Action: Prevailed by roll call vote (10-0-3-0)

Voting Yes: Chaffee, Derby, Drury, Jamison, Ernie Otten, Pourier, Randolph, Tidemann, Pischke, and Dennert

Excused: Koth, Olson, and Thomason

MOTION: DO PASS HB 1206 AS AMENDED

Moved by: Tidemann

Second by: Chaffee

Action: Prevailed by roll call vote (11-0-2-0)

Voting Yes: Chaffee, Derby, Drury, Jamison, Ernie Otten, Pourier, Randolph, Thomason, Tidemann, Pischke, and Dennert

Excused: Koth and Olson

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1206 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

HB 1284 : increase household income thresholds for a paraplegic tax reduction.

Presented by: Representative Kirk Chaffee, District 29

MOTION: AMEND HB 1284

1284A

On page 1, after line 2, of the Introduced bill, insert: "

Section 1. That § 10-4-24.13 be AMENDED:

10-4-24.13. The percentage tax reduction of real property taxes, as provided pursuant to § 10-4-24.11, due or paid on a single family dwelling for a multiple member household is according to the following schedule:

If household income
but not
The tax due reduction
is more than:
more than
on current levy is:
\$ 0
15,730 <u>18,500</u>
100%
15,730 <u>18,500</u>
16,730 <u>19,500</u>
75%
16,730 <u>19,500</u>
17,730 <u>21,000</u>
50%
17,730 <u>21,000</u>
18,730 <u>22,000</u>
25%

~~more than 18,730~~22,000

0%

"

Moved by: Thomason
Second by: Jamison
Action: Prevailed by roll call vote (10-0-3-0)

Voting Yes: Chaffee, Derby, Drury, Jamison, Ernie Otten, Pourier, Randolph, Thomason, Tidemann, and Dennert

Excused: Koth, Olson, and Pischke

MOTION: DO PASS HB 1284 AS AMENDED

Moved by: Thomason
Second by: Drury
Action: Prevailed by roll call vote (11-0-2-0)

Voting Yes: Chaffee, Derby, Drury, Jamison, Ernie Otten, Pourier, Randolph, Thomason, Tidemann, Pischke, and Dennert

Excused: Koth and Olson

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1284 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

HB 1203 : require taxing districts to hold a public hearing when increasing property tax revenues relative to the previous year.

Presented by: Representative Chris Johnson, District 32

MOTION: DO PASS HB 1203 AS AMENDED

Moved by: Chaffee
Second by: Pischke
Action: Failed by Majority Members Elect (6-5-2-0)

Voting Yes: Chaffee, Derby, Pourier, Randolph, Pischke, and Dennert

Voting No: Drury, Jamison, Ernie Otten, Thomason, and Tidemann

Excused: Koth and Olson

MOTION: WITHOUT RECOMMENDATION HB 1203 AS AMENDED

Moved by: Chaffee
Second by: Randolph
Action: Failed by Majority Members Elect (6-5-2-0)

Voting Yes: Chaffee, Derby, Pourier, Randolph, Pischke, and Dennert

Voting No: Drury, Jamison, Ernie Otten, Thomason, and Tidemann

Excused: Koth and Olson

MOTION: DO NOT PASS HB 1203 AS AMENDED

Moved by: Pischke
Second by: Chaffee
Action: Prevailed by Majority Members Elect (9-3-1-0)

Voting Yes: Chaffee, Derby, Drury, Jamison, Ernie Otten, Pourier, Thomason, Pischke, and Dennert

Voting No: Olson, Randolph, and Tidemann

Excused: Koth

HB 1053 : authorize counties to issue bonds for certain expenditures funded by a gross receipts tax.

Presented by: Representative Ernie Otten, District 6
Others: Eric Erickson, South Dakota Association of County Commissioners, Pierre

MOTION: AMEND HB 1053

1053K

On the previously adopted amendment (1053E), On page 4, after line 31, insert: "

Section 13. That a NEW SECTION be added to title 7:

The expiration date for a tax imposed under this chapter is full payment of the bond authorized pursuant to section 2 of this Act. The county shall apply any excess revenue received and remaining after the expiration of the tax to expenses of maintaining or operating, or both, the building, structure, or facility funded pursuant to such bond."

Moved by: Pischke
Second by: Chaffee
Action: Prevailed by roll call vote (8-3-2-0)

Voting Yes: Chaffee, Derby, Jamison, Ernie Otten, Pourier, Randolph, Pischke, and Dennert

Voting No: Drury, Thomason, and Tidemann

Excused: Koth and Olson

MOTION: DO PASS HB 1053 AS AMENDED

Moved by: Chaffee
Second by: Dennert
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DEFER HB 1053 TO THE 41ST LEGISLATIVE DAY

Moved by: Tidemann
Second by: Drury
Action: Failed by Majority Members Elect (5-6-2-0)

Voting Yes: Derby, Drury, Thomason, Tidemann, and Pischke

Voting No: Chaffee, Jamison, Ernie Otten, Pourier, Randolph, and Dennert

Excused: Koth and Olson

Revert to previous motion

MOTION: SUBSTITUTE MOTION: AMEND HB 1053

1053D

On page 2, line 2, of the Introduced bill, delete " a majority" and insert " at least sixty percent"

Moved by: Pischke
Second by: Chaffee
Action: Prevailed by roll call vote (8-3-2-0)

Voting Yes: Chaffee, Drury, Jamison, Ernie Otten, Pourier, Randolph, Pischke, and Dennert

Voting No: Derby, Thomason, and Tidemann

Excused: Koth and Olson

MOTION: DO PASS HB 1053 AS AMENDED

Moved by: Chaffee
Second by: Dennert
Action: Prevailed by roll call vote (7-4-2-0)

Voting Yes: Chaffee, Jamison, Ernie Otten, Pourier, Randolph, Pischke, and Dennert

Voting No: Derby, Drury, Thomason, and Tidemann

Excused: Koth and Olson

HB 1045 : increase a tax on the gross receipts of all sales of marijuana, and to distribute a portion of that revenue to counties.

Presented by: Representative Ernie Otten, District 6
Proponents: Jeremiah M. Murphy, Cannabis Industry Association of SD, Sioux Falls (Handout(s) 6)

MOTION: AMEND HB 1045

1045G

On the previously adopted amendment (1045C), On page 1, line 5, after "Dakota:" delete "Section 1. That chapter 10-45 be amended with a NEW SECTION:

"

On the previously adopted amendment (1045C), On page 1, line 6, after "SECTION:" delete "The department shall appropriate may expend so much of the revenue collected pursuant to section 1 section 4 of this Act to cover the costs incurred by the department in carrying out its duties to collect the revenue pursuant to section 1 section 4 of this Act.

If the remaining revenue does not exceed ten million dollars in a tax year, the remaining revenue must be deposited into the state general fund.

If the remaining revenue exceeds ten million dollars in a tax year, fiftyFifty percent of the remaining revenue must be divided proportionally amongst the counties based on where the revenue was generated. The revenue must be distributed to the county by September first of each year to be used for the construction, repair, and renovation of courthouses, jails, county roads, bridges, with any revenue not used for these purposes to be used to reduce the property tax levy in the county. The remaining fifty percent of revenue must be deposited into the state general fund purposes set forth in section 2 of this Act."

On the previously adopted amendment (1045C), On page 1, line 20, delete " section 2" and insert " section 4"

On the previously adopted amendment (1045C), On page 2, line 1, delete "(1) "Average Market Rate," the average prices as determined by the department, pursuant to section 4 of this Act, based on all marijuana sold or transferred from manufacturers to unaffiliated marijuana facilities.

(2)" and insert "(1)"

On the previously adopted amendment (1045C), On page 2, line 7, delete "(3) "Manufacturer," a licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells marijuana products to a marijuana facility;

(4) "Marijuana facility," an entity licensed to cultivate, test, manufacture, or dispense marijuana or marijuana products;

(5)" and insert "(2)"

On the previously adopted amendment (1045C), On page 2, line 13, delete "(6)" and insert "(3)"

On the previously adopted amendment (1045C), On page 2, line 16, delete "(6)" and insert "(4)"

On the previously adopted amendment (1045C), On page 2, line 19, delete "There is hereby levied an excise tax on the first sale or transfer of unprocessed marijuana by a marijuana cultivation facility, at a rate of fifteen percent of the average market rate of the unprocessed marijuana if the transaction is between affiliated marijuana business licensees. There is levied a tax on the first sale or transfer of unprocessed marijuana by a marijuana cultivation facility, at a rate of fifteen percent of the contract price for unprocessed marijuana if the transaction is between unaffiliated retail marijuana business licensees. Marijuana excise tax shall also be calculated as fifteen percent of the contract price when the first transfer of marijuana that has been harvested for sale at a retail marijuana store or extraction by a marijuana product manufacturing facility is between unaffiliated retail marijuana cultivation facilities. The tax shall be imposed at the time when the marijuana cultivation facility first sells or transfers unprocessed marijuana from the marijuana cultivation facility to a marijuana product manufacturing facility or a marijuana store. This tax is in lieu of the tax imposed pursuant to § 10-45-2. The Department shall establish, by rules adopted under chapter 1-26, the method for calculating the average market rate." and insert " There is imposed an excise tax at the rate of eight and one-half percent on the gross receipts from the sale of marijuana, marijuana concentrate, and marijuana products by a dispensary. The excise tax imposed under this chapter does not apply to gross receipts from the sale of marijuana, marijuana concentrate, and marijuana products to a cardholder as defined in § 34-20G-1(6)."

On the previously adopted amendment (1045C), On page 3, line 2, delete "Each manufacturer liable for the payment of taxes levied under this chapter shall file with the secretary of revenue a return, on a form prescribed by the secretary, showing the kind and quantity of marijuana manufactured, received, and in the manufacturer's possession, together with the names of the persons from whom received, the amount of tax due,

and any other information prescribed by the secretary. The return, covering the period of one calendar month, together with payment of the tax due, must be transmitted to the Department of Revenue on or before the twenty-fifth day of the second month following the close of the reporting period. A violation of this section is a Class 1 misdemeanor." and insert " The excise tax revenue collected pursuant to section 3 of this Act must be divided proportionally amongst the counties based on where the revenue was generated. The revenue must be distributed to the county by September first of each year to be used for the purposes set forth in section 1 of this Act."

On the previously adopted amendment (1045C), On page 3, line 12, delete "Any manufacturer required to file returns or reports under this chapter, who fails to file a return or report or pay the tax when due, is subject to interest and penalty at the rates set forth in § 10-59-6. For reasonable cause shown, the secretary of revenue may reduce or eliminate the penalty. If any manufacturer files a false or fraudulent return, an amount equal to the tax evaded, or attempted to be evaded, shall be added to the tax. Penalty and interest are considered the same as tax for the purposes of collection and enforcement, including liens, distress warrants, and criminal violations. Any payment received for taxes, penalty, or interest is applied first to tax, beginning with the oldest delinquency, then to interest, and then to penalty. No court may enjoin the collection of the tax or civil penalty." and insert " The excise tax imposed under section 3 of this Act shall be collected and remitted pursuant to chapter 10-45 and administered pursuant to chapter 10-59"

On the previously adopted amendment (1045C), On page 3, line 22, after "penalty." delete "Section 7. That a NEW SECTION be added to title 10:

"

On the previously adopted amendment (1045C), On page 3, line 23, after "10:" delete "Any manufacturer liable for the payment of the taxes shall keep, in current and available form on the licensed premises, records of all purchases, sales, quantities on hand, and any other information the secretary of revenue may prescribe by rule promulgated pursuant to chapter 1-26. The secretary of revenue may require from a manufacturer any report necessary to administer the requirements of this chapter. The secretary may require the production of any book, record, document, invoice, and voucher kept, maintained, received, or issued by the manufacturer in connection with the manufacturer's business that, in the judgment of the secretary, may be necessary to administer and discharge the secretary's duties, to secure the maximum of revenue to be paid, and to carry out the requirements of this chapter. A violation of this section is a Class 1 misdemeanor."

On the previously adopted amendment (1045C), On page 35, after line 25, insert: "

Section 62. That chapter 10-52 be amended with a NEW SECTION:

In lieu of any tax imposed under chapter 10-52A, there is imposed an excise tax at the rate of five percent on the gross receipts from the sale of marijuana, marijuana concentrate, and marijuana products by a dispensary."

On the previously adopted amendment (1045C), On page 35, after line 25, insert: "

Section 63. That chapter 10-52 be amended with a NEW SECTION:

The excise tax revenue collected pursuant to section 62 of this Act must be divided proportionally amongst the municipalities based on where the revenue was generated. All moneys received and collected on behalf of a municipality by the department, pursuant to section 62 of this Act, shall be credited to a special municipal tax fund and after deducting the amount of refunds made, the amounts necessary to defray the cost of collecting the tax, and the administrative expenses incident thereto, shall be paid within thirty days after collection to the municipality entitled thereto."

On the previously adopted amendment (1045C), On page 35, after line 25, insert: "

Section 64. That chapter 10-45 be amended with a NEW SECTION:

In lieu of any other tax imposed under this chapter, there is imposed an excise tax at the rate of one and one-half percent on the gross receipts from the sale of marijuana, marijuana concentrate, and marijuana products by a dispensary."

On the previously adopted amendment (1045C), On page 35, after line 25, insert: "

Section 65. That chapter 10-45 be amended with a NEW SECTION:

The excise tax revenue collected pursuant to section 64 of this Act must be distributed to the marijuana fund."

On the previously adopted amendment (1045C), On page 35, after line 25, insert: "

Section 66. That chapter 10-45 be amended with a NEW SECTION:

The excise taxes imposed under sections 3, 62, and 64 of this Act shall be collected and remitted pursuant to chapter 10-45 and administered pursuant to chapter 10-59."

Moved by: Derby

Second by: Chaffee

Action: Prevailed by roll call vote (10-1-2-0)

Voting Yes: Chaffee, Derby, Drury, Jamison, Ernie Otten, Pourier, Randolph, Thomason, Pischke, and Dennert

Voting No: Tidemann

Excused: Koth and Olson

THE CHAIR DEFERRED HB 1045 UNTIL TUESDAY, FEBRUARY 15TH 2022

MOTION: ADJOURN

Moved by: Chaffee

Second by: Drury

Action: Prevailed by voice vote

Gail Tennant, Committee Secretary

/s/ DREW DENNERT
Drew Dennert, Chair