

Minutes: Senate State Affairs

Wednesday, February 19, 2025 10:00 AM

Roll Call

Present: Sen. Beal, Sen. Deibert, Sen. Karr, Sen. Larson, Sen. Peterson (Sue),
Sen. Pischke, Sen. Perry, and Sen. Mehlhaff

Excused: Sen. Jensen (Kevin)

The meeting was called to order by Senator Mehlhaff

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 12TH

Moved by: Deibert
Second by: Pischke
Action: Prevailed by voice vote

SJR 505 : Proposing and submitting to the voters at the next general election an amendment to the Constitution of the State of South Dakota, establishing the trust for unclaimed property fund.

Presented by: Senator Taffy Howard (Handout(s) HO#1)
Proponents: Lieutenant Governor Tony Venhuizen
Josh Haeder, South Dakota Treasurer
Jim Terwilliger, Commissioner Bureau of Finance and Management
Others: Matt Clark, South Dakota Investment Council

MOTION: DO PASS SJR 505

Moved by: Karr
Second by: Beal
Action: Prevailed by Majority Members Elect (8-0-1-0)

Voting Yes: Beal, Deibert, Karr, Larson, Peterson (Sue), Pischke, Perry, and Mehlhaff

Excused: Jensen (Kevin)

SR 702 : Supporting the repeal of the Sioux-Dakota Removal Act.

THE CHAIR DEFERRED SR 702 UNTIL FRIDAY FEBRUARY 21ST

SB 49 : prohibit the exercise of the right of eminent domain for the construction of certain facilities.

Presented by: Senator John Carley
Proponents: Representative Dylan Jordan
Pat Trask, Self, Wasta
Carol Kapperman, Self, Hartford
Chet Ellsworth, Self, Rapid City
Jeremiah M. Murphy, South Dakota Stockgrowers Association, Rapid City
John Kunnari, Self, Sioux Falls
Susan Luschas, Self, Brandon
Kate Crowley Johnson, Self, St. Onge
R. Shawn Tornow, Protect SESD Property Rights, Lesterville, IA

Jacqueline Crowley, Self, Saint Onge
 Lindsay Mader, Self, Rapid City
 Opponents: Gary Hudiburgh, Self, UBC-Sota South Dakota, Custer
 Brett Koenecke, South Dakota Electric Utility Companies, Pierre
 Brett Koenecke, Summit Carbon Solutions, Ames, IA
 Kent Hartwig, Gevo Inc., Centennial, CO
 Samuel J. Nelson, Economic Development Professionals Association, Mitchell
 Samuel J. Nelson, Corn Growers Association, Sioux Falls
 William M. Van Camp, Ringneck Energy & Feed LLC, Onida
 William M. Van Camp, Glacial Lakes Energy, LLC, Watertown
 Mitch Rave, Greater Sioux Falls Chamber of Commerce, Sioux Falls
 Matthew McCaulley, South Dakota Ethanol Producers Association, Onida

MOTION: AMEND SB 49

49B

On page 1, line 2, of the Introduced bill, after "facilities" insert " and address the
 preemption of zoning requirements"
 On page 2, line 3, of the Introduced bill, delete "August 16, 2022" and insert "January 1,
 2025"
 On page 2, line 6, of the Introduced bill, delete "A" and insert "Except as otherwise provided
 in this section, a"
 On page 2, line 7, of the Introduced bill, after "any " delete "county or municipal"
 On page 2, line 9, of the Introduced bill, after "rule" insert " of a county, municipality, or
 other political subdivision"
 On page 2, line 13, of the Introduced bill, delete " or" and insert a comma
 On page 2, line 13, of the Introduced bill, after "municipality" insert ", or other political
 subdivision"
 On page 2, line 16, of the Introduced bill, after "any" delete " county or municipal"
 On page 2, line 17, of the Introduced bill, after "rule" insert " of a county, municipality, or
 other political subdivision"
 On page 2, line 21, of the Introduced bill, after "45" insert a latin capital letter q
 On page 2, line 21, of the Introduced bill, delete "August 16, 2022" and insert "January 1,
 2025"
 On page 2, line 22, of the Introduced bill, delete " 2023" and insert " 2025"

Moved by: Peterson (Sue)
 Second by: Perry
 Action: Prevailed by voice vote

MOTION: DEFER SB 49 TO THE 41ST LEGISLATIVE DAY

Moved by: Karr
 Second by: Beal
 Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DO PASS SB 49 AS AMENDED

Moved by: Perry
 Action: Died for lack of a second

Revert to previous motion

MOTION: DEFER SB 49 TO THE 41ST LEGISLATIVE DAY

Moved by: Karr
Second by: Beal
Action: Prevailed by Majority Members Elect (7-1-1-0)

Voting Yes: Beal, Deibert, Karr, Larson, Peterson (Sue), Pischke, and Mehlhaff

Voting No: Perry

Excused: Jensen (Kevin)

SB 198 : enhance environmental conservation in South Dakota.

Presented by: Senator Jim Mehlhaff

Proponents: Samuel J. Nelson, Corn Growers Association, Sioux Falls
Matthew M. Bogue, South Dakota Farm Bureau Federation, Huron
Matthew McCaulley, South Dakota Ethanol Producers Association, Onida

Opponents: Ellie J. Bailey, South Dakota Rural Electric Association, Pierre
Chase Jensen, Dakota Rural Action, Brookings
Lindsey Riter-Rapp, South Dakota Association of Rural Water Systems,
Madison
Kate Crowley Johnson, Self, St. Onge

MOTION: AMEND SB 198

198A

On page 1, line 1, of the Introduced bill, delete "enhance environmental conservation in South Dakota" and insert "establish conditions a prospective condemnor must satisfy before commencing condemnation proceedings"

On the Introduced bill, delete everything after the enacting clause and insert:
"

Section 1. That § 21-35-1 be AMENDED:

21-35-1. In all cases where any person, group, or corporation, public or private, including the owners of water rights, ditches, flumes, reservoirs, and mining property under the provisions of the laws of Congress, invested with the privilege of taking or damaging private property for public use, in making, constructing, repairing, or using any work or improvement allowed by law, shall determine to exercise ~~such the~~ privilege, ~~it the~~ prospective condemnor shall file a petition in the circuit court for the county in which the property to be taken or damaged is situated, praying that the just compensation to be made for ~~such the~~ property may be ascertained by a jury.

A petition may not be filed pursuant to this chapter until the condemnor has complied with the requirements of sections 2 to 5, inclusive, of this Act.

Section 2. That a NEW SECTION be added to chapter 21-35:

Before any prospective condemnor, as described in § 21-35-1, may initiate condemnation proceedings pursuant to this chapter, the condemnor shall engage in good faith mediation with any affected property owner in an attempt to reach a mutually agreeable resolution regarding the property proposed to be taken or damaged.

The condemnor shall provide the property owner written notice of the condemnor's intent to acquire an interest in the property at least ninety days before commencement of any condemnation proceeding pursuant to this chapter.

The condemnor shall pay any cost associated with the mediation.

Section 3. That a NEW SECTION be added to chapter 21-35:

The notice required in section 2 of this Act must contain:

- (1) The prospective condemnor's full legal name, phone number, and primary address;
- (2) A detailed description of the property proposed to be taken or damaged;
- (3) A request for mediation in accordance with chapter 19-13A;
- (4) A list of at least three proposed mediators; and
- (5) A statement that the affected property owner has fifteen days to either:

- (a) Select one of the mediators proposed by the condemnor; or
- (b) Propose an alternate mediator agreeable to both parties.

Section 4. That a NEW SECTION be added to chapter 21-35:

Mediation, as required in section 2 of this Act, must be conducted within sixty days of the affected property owner's receipt of the notice pursuant to sections 2 and 3 of this Act, unless the parties agree to extend the time for mediation.

The mediator shall facilitate discussions to explore alternatives to condemnation, including alternative routes within the confines of the applicable permit, as required in section 5 of this Act, and increased compensation.

If mediation results in a voluntary agreement between the parties, the mediator must facilitate preparation of a written settlement agreement, which upon execution by the parties is binding and enforceable.

If mediation does not result in an agreement, the mediator must issue a written confirmation of mediation completion to be filed with the court upon commencement of any condemnation proceeding pursuant to this chapter.

If the property owner refuses to participate in mediation, then upon commencement of a condemnation proceeding pursuant to this chapter, the prospective condemnor, as described in § 21-35-1, must submit an affidavit to the court documenting the condemnor's efforts, and the property owner's refusal, to participate in mediation.

Section 5. That a NEW SECTION be added to chapter 21-35:

If a project for which property is proposed to be taken or damaged requires a permit under chapter 49-41B, a prospective condemnor must obtain the permit from the Public Utilities Commission before commencement of any condemnation proceeding pursuant to this chapter.

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Moved by: Deibert
Second by: Larson
Action: Prevailed by voice vote

MOTION: DO PASS SB 198 AS AMENDED

Moved by: Larson
Second by: Beal
Action: Prevailed by Majority Members Elect (5-3-1-0)

Voting Yes: Beal, Deibert, Karr, Larson, and Mehlhaff

Voting No: Peterson (Sue), Pischke, and Perry

Excused: Jensen (Kevin)

MOTION: ADJOURN

Moved by: Deibert
Second by: Larson
Action: Prevailed by voice vote

Doug Mortenson, Committee Secretary

/s/ JIM MEHLHAFF
Jim Mehlhaff, Chair