

Committee: House Judiciary

Wednesday, February 05, 2020 10:00 AM

Roll Call

Present: Rep. Barthel, Rep. Borglum, Rep. Diedrich, Rep. Hammock, Rep. Latterell,  
Rep. Pischke, Rep. Rasmussen, Rep. Reimer, Rep. St. John, Rep. Cwach,  
Rep. Johns, and Rep. Hansen  
Excused: Rep. Pourier

OTHERS PRESENT: See Original Minutes

**The meeting was called to order by Representative Hansen**

**MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, JANUARY 29<sup>TH</sup>**

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

**HB 1047 : revise certain provisions regarding human trafficking.**

Proponents: Kelly Patterson, Treasured Life, Rapid City, SD Call-in

**MOTION: DO PASS HB 1047**

Moved by: Diedrich  
Second by: Borglum  
Action: Prevailed by roll call vote (11-0-2-0)

Voting Yes: Barthel, Borglum, Diedrich, Hammock, Latterell, Pischke, Rasmussen, St.  
John, Cwach, Johns, and Hansen

Excused: Reimer and Pourier

**HB 1065 : revise drone surveillance protections.**

Presented by: Representative David Johnson (Handout(s) 6)  
Proponents: Doug Abraham, Desmet Insurance Company, Pierre, SD  
Randy Moses, Independent Insurance Agents  
Craig Matson, SDIA, Sioux Falls, SD  
Justin Smith, SD Newspapers Asso.  
Yvonne Taylor, South Dakota Municipal League  
Angela Ehlers, South Dakota Association of Conservation Districts  
Brenda Foreman, South Dakota Association of Cooperatives

**MOTION: AMEND HB 1065**

1065E

On page 1, line 13, of the Introduced bill, remove the overstrikes from "Intentionally"  
On page 1, line 14, delete " Use" and insert " use"  
On page 1, line 15, after "drone" insert ", unless for a bona fide business or government purpose,"  
Moved by: Borglum

Second by: Rasmussen  
Action: Prevailed by voice vote

**MOTION: DO PASS HB 1065 AS AMENDED**

Moved by: Johns  
Second by: Barthel  
Action: Prevailed by roll call vote (8-4-1-0)

Voting Yes: Barthel, Borglum, Diedrich, Rasmussen, Reimer, St. John, Cwach, and Johns

Voting No: Hammock, Latterell, Pischke, and Hansen

Excused: Pourier

**HB 1092 : establish immunity from liability for injuries to or the death of a person engaged in off-road vehicle activity under certain circumstances.**

Presented by: Representative Tim Goodwin  
Proponents: Scott Wittrock, self, Hartford, SD  
Melvin Fish, self, Yankton, SD  
Steve Johnson, self, Hill City, SD  
Dean Bottorff, self, Keystone, SD  
Doug Abraham, Desmet Insurance Company, Pierre, SD  
Opponents: Steve Siegel, SD Trail Lawyers, Sioux Falls, SD

**MOTION: DO PASS HB 1092**

Moved by: Latterell  
Second by: Rasmussen  
Action: Was not acted on.

**MOTION: DEFER HB 1092 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Johns  
Second by: Borglum  
Action: Failed by roll call vote (6-6-1-0)

Voting Yes: Barthel, Borglum, Reimer, Cwach, Johns, and Hansen

Voting No: Diedrich, Hammock, Latterell, Pischke, Rasmussen, and St. John

Excused: Pourier

**MOTION: AMEND HB 1092**

1092A

On page 3, line 10, of the Introduced bill, after "constitutes " delete "gross "  
Moved by: Cwach  
Second by: Pischke  
Action: Prevailed by roll call vote (8-4-1-0)

Voting Yes: Barthel, Borglum, Diedrich, Pischke, Reimer, Cwach, Johns, and Hansen

Voting No: Hammock, Latterell, Rasmussen, and St. John

Excused: Pourier

**MOTION: DO PASS HB 1092 AS AMENDED**

Moved by: Cwach

Second by: Pischke

Action: Prevailed by roll call vote (12-0-1-0)

Voting Yes: Barthel, Borglum, Diedrich, Hammock, Latterell, Pischke, Rasmussen, Reimer, St. John, Cwach, Johns, and Hansen

Excused: Pourier

**HB 1012 : correct technical errors in statutory cross-references.**

Presented by: Wenzel Cummings, LRC

Proponents: Laura Ringling, Department of Social Services  
Brock Jensen, Department of Labor and Regulation  
Mike Houdyshell, DOR, Pierre, SD  
Frank Marnell, Department of Labor and Regulation  
Lorraine Polak, Housing Development Authority

Opponents: Randy Moses, Independent Insurance Agents

**MOTION: AMEND HB 1012**

1012A

On page 23, line 17, of the Introduced bill, after "state." delete "Section 47. That § 15-39-69 be AMENDED:

15-39-69. Venue.

The venue is limited to the county of the residence of the defendant, if the defendant is a natural person, or the county in which the cause of action arose. If the defendant is a corporation, limited liability company, or a partnership, the proceedings shall be commenced in any county in which the defendant has its place of business. However, if the plaintiff in an action brought by the Bureau of Administration pursuant to § 1-14-14. 3 is the State of South Dakota, an agency, as defined in subdivision 1-26-1(1), or employee of the state or any agency acting within the scope of the employee's employment, the proceedings may only be commenced in Hughes County. No change of venue may be recognized except by stipulations of the parties, or by order of the court on a showing of good cause by the defendant. Nothing in this section waives the common law doctrine of sovereign immunity or acts as a consent to suit by the State of South Dakota, its agencies, or its employees acting within the scope of their employment."

Moved by: Latterell

Second by: Pischke

Action: Prevailed by voice vote

**MOTION: AMEND HB 1012**

1012B

On page 40, line 7, of the Introduced bill, after "23-3-64(2) " insert " as defined in subdivision 3-6C-1(25) "

Moved by: Borglum

Second by: Diedrich

Action: Prevailed by voice vote

**MOTION: AMEND HB 1012**

1012D

On page 68, line 28, of the Introduced bill, remove the overstrikes from "§§ 51A-7-13 "

On page 68, line 28, delete "this chapter " and insert "through 51A-7-26, "

On page 70, line 26, remove the overstrikes from "a "

On page 70, line 26, after "a " delete "any modification "

On page 70, line 26, after "§ 54-11-10" insert " change in terms authorized in § 54-11-12"

Moved by: Johns

Second by: Diedrich

Action: Prevailed by voice vote

**MOTION: AMEND HB 1012**

1012E

On page 5, line 26, of the Introduced bill, after "bonds." delete "Section 16. That § 10-4-33 be AMENDED:

10-4-33. Property used as employee day-care cooperative exempt--Determining value.

The board of county commissioners may exempt from taxation property used as an a licensed employee day-care cooperative which is licensed pursuant to § 26-6-31. Property used by the employees of a business exclusively for a licensed day-care cooperative licensed pursuant to § 26-6-31, may be exempt from taxation. For the purposes of determining the value of the taxable portion of the property, the appraised value of the entire property shall be multiplied by the percentage of the entire property used for other than day-care purposes."

On page 6, line 5, after "purposes." insert "

**Section 16.** That § 10-4-33 be REPEALED.

10-4-33. Property used as employee day-care cooperative exempt--Determining value.

"

On page 6, line 5, after "purposes." delete "Section 17. That § 10-4-34 be AMENDED:

10-4-34. Exemption of property used for storing and dispensing alternative fuels.

The board of county commissioners may exempt from ad valorem taxation equipment, buildings, and structures attached to real property and used exclusively for the storing, dispensing, and retail sale of alternative fuels as defined by § 10-47A-1, for the operation of motor vehicles for a period of five years from the date of construction."

On page 6, line 15, after "Force." delete "(1) "

On page 6, line 18, remove the overstrikes from "(1)"

On page 6, line 18, after "members:

(1)" delete "(a)"

On page 6, line 21, remove the overstrikes from "(2)"

On page 6, line 21, after "party;

(2)" delete "(b)"

On page 6, line 25, remove the overstrikes from "(3)"

On page 6, line 25, after "background;

(3)" delete "(c)"

On page 6, line 27, remove the overstrikes from "(4)"

On page 6, line 27, after "and

(4)" delete "(d)"

On page 6, line 31, after "background." delete "(2) "

On page 7, line 4, after "appointment." delete "(3) "

On page 7, line 11, after "Board." delete "(4) "

On page 7, line 12, remove the overstrikes from "(1) "

On page 7, line 12, after "areas:

(1)" delete "(a)"

On page 7, line 14, remove the overstrikes from "(2) "

On page 7, line 14, after "6-33.28;

(2)" delete "(b)"

On page 7, line 18, remove the overstrikes from "(3) "

On page 7, line 18, after "2010;

(3)" delete "(c)"

On page 7, line 25, remove the overstrikes from "(4) "

On page 7, line 25, after "inclusive;

(4)" delete "(d)"

On page 7, line 32, remove the overstrikes from "(5) "

On page 7, line 32, after "and

(5)" delete "(e)"

On page 8, line 5, after "appropriate." delete "Section 19. That § 10-6-35. 20 be AMENDED: 10-6-35. 20. Property tax assessment credit.

An owner of real property is entitled to a property tax assessment credit for a renewable energy resource system that produces ethyl alcohol for use as fuel. Such fuel may be consumed anywhere subject to the limitation provided for in § 10-6-35. 10."

On page 9, line 6, after "district." delete "Section 23. That § 10-39A-3 be AMENDED:

10-39A-3. Mineral severance tax--Collection and administration.

The tax provided for in this chapter shall be collected and administered as provided in chapter 10-39.

However, §§ 10-39-24 to 10-39-26, inclusive, §§ 10-39-28 to 10-39-31, inclusive and § 10-39-35 do not apply to the tax imposed by this chapter."

On page 9, line 11, after "chapter." insert "

**Section 21.** That § 10-39A-3 be REPEALED.

10-39A-3. Collection and administration according to mineral severance tax procedures.

"

On page 23, line 13, after "Justice;

(4) "Magistrate," " delete "both magistrate judges and nonlaw-trained magistrates "

On page 23, line 14, after "§ 16-12A-1" insert " a magistrate judge as defined by 16-12A-1. 1 "

On page 29, line 12, remove the overstrikes from "credited pursuant to"

On page 29, line 12, after "§ 32-11-1 " insert " § 32-11-4. 1 "

On page 30, line 7, remove the overstrikes from "In the event of a tax sale or the issuance of a tax deed, the provisions of"

On page 30, line 8, after "inclusive," insert " §§ 9-43-112 and 9-43-113 "

On page 30, line 8, remove the overstrikes from "apply to all amounts so certified and then

delinquent, in the same manner as delinquent installments of special assessments. "

On page 36, line 32, after "inclusive." delete "Section 77. That § 32-5-65 be AMENDED:

32-5-65. Special plates for employees of commercial radio or broadcasting companies--Fee--Surrender of plates--Violation as misdemeanor.

Any commercial radio station or broadcasting company that holds an unrevoked and unexpired official license issued by the federal communications commission or employees of the station or company when requested and approved by the station or the company, and who are residents of this state and have complied with all the laws of this state in regards to the registration of a motor vehicle, may apply for a set of special plates bearing an inscription thereon of the call letters authorized for the station or company radio license by making application therefor as provided in § 32-5-66. The special plates are in lieu of the regular number plates issued for the motor vehicle. The special plates shall be displayed as set forth in § 32-5-98. In addition to the noncommercial license plate fees, an additional fee of ten dollars shall be charged for the initial issuance of the special plates. If the federal communication commission's license is revoked, the owner shall surrender the special license plates to the department. If the employee is no longer employed by the station or the broadcasting company, the employee shall surrender the special license plates to the department. The secretary shall make the necessary changes in the registration file. The owner shall obtain regular number

plates. Failure to surrender the special license plates as required by this section is a Class 2 misdemeanor."

On page 37, line 19, after "misdemeanor." delete "Section 78. That § 32-5-65. 1 be AMENDED: 32-5-65. 1. Special plates for amateur radio licensees--Fee--Surrender of plates--Violation as misdemeanor.

Any owner of a motor vehicle who holds an unrevoked and unexpired official amateur radio license, is a resident of this state and has complied with all the laws of this state in regards to the registration of a motor vehicle, may apply for a set of special plates bearing an inscription thereon of the call letters authorized for the owner's amateur radio license by making application therefor as provided in § 32-5-66. The special plates are in lieu of the regular number plates issued for the motor vehicle. The special plates shall be displayed as set forth in § 32-5-98. In addition to the noncommercial license plate fees, an additional fee of ten dollars shall be charged for the initial issuance of the special license plates. If the amateur radio license is revoked, the owner shall surrender the special license plates to the department. The secretary shall make the necessary changes in the registration file. The owner shall obtain regular number plates. Failure to surrender the special license plates as required by this section is a Class 2 misdemeanor."

On page 38, line 1, after "misdemeanor." delete "Section 79. That § 32-10-3. 1 be AMENDED: 32-10-3. 1. Commission abolished--Performance of functions--Collection and forwarding of fees. The motor vehicle reciprocity commission is abolished, and all its functions shall be administered by the Department of Revenue as provided by § 1-35-30. The reciprocity and proration administrator shall be the secretary of revenue and all fees collected under the provisions of this chapter shall be forwarded by the secretary to the state treasurer."

On page 38, line 8, after "treasurer." insert "

**Section 75.** That § 32-10-3.1 be REPEALED.

32-10-3.1. Commission abolished--Performance of functions--Collection and forwarding of fees.

"

On page 41, line 25, remove the overstrikes from " In the event of a tax sale or the issuance of a tax deed, the provisions of"

On page 41, line 27, after "inclusive," insert " §§ 9-43-112 and 9-43-113 "

On page 41, line 27, remove the overstrikes from "shall apply to all amounts so certified and then delinquent, in the same manner as delinquent installments of special assessments."

Moved by: Cwach

Second by: Borglum

Action: Prevailed by voice vote

**MOTION: AMEND HB 1012**

1012F

On page 83, line 25, of the Introduced bill, delete " 47-34" and insert " 47-34A"

On page 93, line 30, delete " 47-34" and insert " 47-34A"

On page 94, line 7, delete " 47-34" and insert " 47-34A"

On page 94, line 15, delete " 47-34" and insert " 47-34A"

Moved by: Reimer

Second by: Latterell

Action: Prevailed by voice vote

**MOTION: AMEND HB 1012**

1012H

On page 11, line 32, of the Introduced bill, after "percentage" insert the comma

On page 12, line 1, after "sponsor" insert " or as specified in the agreement between the authority and the housing sponsor of the original face amount of any investment or equity in any housing sponsor"

Moved by: Barthel  
 Second by: Borglum  
 Action: Prevailed by voice vote

**MOTION: AMEND HB 1012**

1012I

On page 79, line 28, of the Introduced bill, after "58-12-28." delete "Section 158. That § 58-15-30 be AMENDED:

58-15-30. Nonforfeiture benefits in policies issued prior to the adoption of standard nonforfeiture law. This section shall apply only to policies of life insurance issued prior to the operative date specified in § 58-15-42.

The nonforfeiture benefit referred to in § 58-15-21 shall be available to the owner of the policy in event of default in premium payments, after premiums shall have been paid for three years, and shall be a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend additions thereto, computed according to a mortality table, interest rate, and method of valuation permitted by §§ 58-26-17 to 58-26-20, inclusive, less a sum not more than two and one-half percent of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtedness to insurer on the policy. The policy shall stipulate that it may be surrendered to the insurer at its home office within one month from date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid and may stipulate that the insurer may defer payment for not more than six months after the application therefor is made. Provided, however, that if the benefits under the policy are calculated according to the commissioner's 1958 standard ordinary mortality table, the value of any extended term insurance, with accompanying pure endowment, if any, may be calculated according to rates of mortality not exceeding those shown in the commissioner's 1958 extended term insurance table, and that if the benefits under the policy are calculated according to any other more modern table than the American experience table of mortality, the value of any extended term insurance, with accompanying pure endowment, if any, may be calculated according to rates of mortality not exceeding one hundred thirty percent of the rates according to such more modern table. The policy shall contain a table showing in figures the options available each year upon default in premium payments during at least the first twenty years of the policy, or during the term of the policy, whichever is the shorter. This section shall not apply to term insurance of twenty years or less or to industrial life insurance policies."

Moved by: Diedrich  
 Second by: Johns  
 Action: Prevailed by voice vote

**MOTION: DO PASS HB 1012 AS AMENDED**

Moved by: Cwach  
 Second by: Pischke  
 Action: Prevailed by roll call vote (12-0-1-0)

Voting Yes: Barthel, Borglum, Diedrich, Hammock, Latterell, Pischke, Rasmussen, Reimer, St. John, Cwach, Johns, and Hansen

Excused: Pourier

**HB 1013 : correct technical errors in statutory cross-references.**

Presented by: Wenzel Cummings, LRC  
Proponents: Mike Houdyshell, DOR, Pierre, SD

**MOTION: AMEND HB 1013**

1013B

On page 13, line 13, of the Introduced bill, after "mains." delete "Section 35. That § 10-50-91 be REPEALED.

10-50-91. Schedule of reports--Publication--Pre-publication sales, distribution, etc. "

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

**MOTION: AMEND HB 1013**

1013C

On page 14, line 23, of the Introduced bill, after "copies." delete "Section 47. That § 58-17-65 be REPEALED.

58-17-65. Individual health insurance plan used in conjunction with managed care plan or utilization review organization. "

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

**MOTION: DO PASS HB 1013 AS AMENDED**

Moved by: Pischke  
Second by: Borglum  
Action: Prevailed by roll call vote (12-0-1-0)

Voting Yes: Barthel, Borglum, Diedrich, Hammock, Latterell, Pischke, Rasmussen, Reimer, St. John, Cwach, Johns, and Hansen

Excused: Pourier

**MOTION: ADJOURN**

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

Nancy Bugay, Committee Secretary

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/s/ JON HANSEN  
Jon Hansen, Chair