

Committee: House State Affairs

Wednesday, February 19, 2020 7:45 AM

Roll Call

Present: Rep. Anderson, Rep. Dennert, Rep. Diedrich, Rep. Goodwin, Rep. Gosch, Rep. Hansen, Rep. Haugaard, Rep. Kevin Jensen, Rep. McCleerey, Rep. Kent Peterson, Rep. Jamie Smith, Rep. Beal, and Rep. Qualm

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Qualm

MOTION: TO APPROVE THE MINUTES OF

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

MOTION: AMEND HB 1182

1182A

On page 1, line 22, of the Introduced bill, delete "successfully " and insert ":

(a) Successfully "

On page 1, line 23, of the Introduced bill, after "§ 23-7-58" insert ";

(b) Received instruction regarding the use of force standards; and

(c) Received instruction regarding relevant criminal statutory changes"

Moved by: Kevin Jensen
Second by: Hansen
Action: Prevailed by voice vote

HB 1182 : provide for the renewal of an enhanced permit to carry a concealed pistol.

Presented by: Representative Thomas Brunner
Proponents: Emily Kerr, Secretary of State
Rob Weinmeister, Department of Public Safety

MOTION: DO PASS HB 1182 AS AMENDED

Moved by: Anderson
Second by: McCleerey
Action: Prevailed by roll call vote (13-0-0-0)

Voting Yes: Anderson, Dennert, Diedrich, Goodwin, Gosch, Hansen, Haugaard, Kevin Jensen, McCleerey, Kent Peterson, Jamie Smith, Beal, and Qualm

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1182 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

HB 1242 : provide for the reissuance of certain enhanced permits to carry a concealed pistol and to declare an emergency.

Presented by: Representative Thomas Brunner
Proponents: Emily Kerr, Secretary of State
Rob Weinmeister, Department of Public Safety

MOTION: DO PASS HB 1242

Moved by: Hansen
Second by: Gosch
Action: Prevailed by roll call vote (13-0-0-0)

Voting Yes: Anderson, Dennert, Diedrich, Goodwin, Gosch, Hansen, Haugaard, Kevin Jensen, McCleerey, Kent Peterson, Jamie Smith, Beal, and Qualm

MOTION: AMEND HB 1195

1195C

On page 1, line 1, of the Introduced bill, delete "establish certain fetal harm as an assault" and insert "provide an affirmative defense to pregnant women for certain controlled substance offenses"
On page 1, line 5, of the Introduced bill, delete "woman's child is either born with a physical dependence on a controlled substance or is harmed by a controlled substance and the dependence or harm is a result of the woman's illegal use of a controlled substance, as described in § 22-42-5. 1, " and insert " woman is charged with a crime under §§ 22-42-5 or 22-42-5.1 "
On page 1, line 8, of the Introduced bill, delete " the woman is guilty of assault under § 22-18-1. It " and insert " it "
On page 1, line 8, of the Introduced bill, delete "to a charge under this section that a " and insert "if the "
On page 1, line 9, of the Introduced bill, after "woman " insert "provides proof she received adequate prenatal care, "

Moved by: Hansen
Second by: Dennert
Action: Prevailed by voice vote

HB 1195 : establish certain fetal harm as an assault.

Presented by: Representative Spencer Gosch
Opponents: Jason Rumpca, American College of Obstetricians and Gynecologists
Dean Krogman, SD Medical Association (Handout(s) 1)
Tim Rave, SD Association of Healthcare Organizations

MOTION: DO PASS HB 1195 AS AMENDED

Moved by: Hansen
Second by: Dennert
Action: Prevailed by roll call vote (11-1-1-0)

Voting Yes: Anderson, Dennert, Diedrich, Gosch, Hansen, Kevin Jensen, McCleerey, Kent Peterson, Jamie Smith, Beal, and Qualm

Voting No: Goodwin

Excused: Haugaard

HB 1223 : provide for the creation of an international business and trade office.

Presented by: Representative Michael Saba (Handout(s) 2,3)

Proponents: Drew Combs, self, North Dakota

Others: Steve Westra, Gov's Office of Econ Dev

MOTION: DEFER HB 1223 TO THE 41ST LEGISLATIVE DAY

Moved by: Gosch

Second by: Kent Peterson

Action: Prevailed by roll call vote (9-4-0-0)

Voting Yes: Anderson, Dennert, Diedrich, Gosch, Hansen, Haugaard, Kent Peterson, Beal, and Qualm

Voting No: Goodwin, Kevin Jensen, McCleerey, and Jamie Smith

MOTION: AMEND HB 1226

1226A

On page 5, line 13, of the Introduced bill, after "completed." insert "

Section 13. That § 13-16-6.4 be AMENDED:

13-16-6.4. Referendum petition and election on installment purchase or capital outlay certificates.

Approval to enter into an agreement or issue capital outlay certificates to which § 13-16-6.3 applies is subject to a referendum if five percent of the registered voters, based upon the total number of registered voters at the last preceding general election, petition, within ~~twenty-three~~ twenty-three days thereafter, to have the question of approval or disapproval of the agreement or issue of capital outlay certificates or the lease-purchase agreement placed upon the ballot at the next regular election or at a special election called for that purpose. The business manager shall give notice of the fact that the question will be on the ballot at a regular or special election as provided by law for school elections and prepare official ballots therefor according to the provisions of this title relating to elections and the issue shall be decided by sixty percent of those voting thereon.

"

Moved by: Dennert

Second by: Gosch

Action: Prevailed by voice vote

HB 1226 : revise certain provisions regarding local referendums.

Presented by: Representative Julie Frye-Mueller

Proponents: Frank Kloucek, self, Scotland, South Dakota

Opponents: Larry Nelson, SD Municipal League

Lorin Pankratz, South Dakota County Commissioners Association (Handout(s)
4)

MOTION: DO PASS HB 1226 AS AMENDED

Moved by: Gosch
Second by: Hansen
Action: Prevailed by roll call vote (10-3-0-0)

Voting Yes: Dennert, Goodwin, Gosch, Hansen, Haugaard, Kevin Jensen, McCleerey,
Jamie Smith, Beal, and Qualm

Voting No: Anderson, Diedrich, and Kent Peterson

THE CHAIR DEFERRED HB 1262 UNTIL FRIDAY, FEBRUARY 21ST 2020

MOTION: AMEND HB 1004

1004A

- On page 1, line 5, of the Introduced bill, after "defend" delete " any law "
- On page 1, line 5, of the Introduced bill, delete " any law , in any civil action or proceeding in which the state is an interested party" and insert " , the establishment of any legislative district under S.D. Const. Art. III, § 5 "
- On page 1, line 9, of the Introduced bill, after "general " insert "if the attorney general declines "
- On page 1, line 10, of the Introduced bill, after "action" delete " or proceeding under § 2-18-1"
- On page 1, line 10, of the Introduced bill, after "§ 2-18-1;" insert " or"
- On page 1, line 11, of the Introduced bill, after "(b)" delete "File or intervene in any civil action or proceeding on behalf of the Legislature; or
- (c) "
- On page 1, line 13, of the Introduced bill, after "Legislature" insert " , either house of the Legislature, any member of the Legislature who is sued in that member's official capacity, or any individual who is sued in that individual's capacity as an agent of the Legislature"
- On page 1, line 19, of the Introduced bill, after "Legislature." delete "Section 3. That a NEW SECTION be added:
- "
- On page 2, line 1, of the Introduced bill, after "added:" delete "Employment of legal counsel by each house of the Legislature--Purposes--Process."
- On page 2, line 2, of the Introduced bill, after "Legislature--Purposes--Process." delete "
- (1) In any civil action or proceeding under § 2-18-2, each house of the Legislature may assert an independent legal position and employ legal counsel other than the attorney general to represent the respective house in the action or proceeding.
- (2) The speaker of the House of Representatives, in consultation with the majority leader of the House of Representatives and the minority leader of the House of Representatives, shall determine the legal position of the House of Representatives.
- (3) The president pro tempore of the Senate, in consultation with the majority leader of the Senate and the minority leader of the Senate, shall determine the legal position of the Senate.
- (4) Each house of the Legislature shall approve the employment of legal counsel under this section by resolution adopted by a majority of the members-elect of the respective house."
- On page 2, line 16, of the Introduced bill, after "house." delete "Section 4. That a NEW SECTION be added:
- "
- On page 2, line 17, of the Introduced bill, after "added:" delete "Employment of legal counsel by each house of the Legislature--Defense of member, agent, house."
- On page 2, line 18, of the Introduced bill, after "house." delete "
- (1) The speaker of the House of Representatives may employ legal counsel other than the attorney general to defend:

- (a) A member of the House of Representatives who is sued in that member's capacity as a representative;
 - (b) An individual who is sued in that individual's capacity as an agent of the House of Representatives; or
 - (c) The House of Representatives if the House of Representatives is sued as a body.
 - (2) The president pro tempore of the Senate may employ legal counsel other than the attorney general to defend:
 - (a) A member of the Senate who is sued in that member's capacity as a senator;
 - (b) An individual who is sued in that individual's capacity as an agent of the Senate; or
 - (c) The Senate if the Senate is sued as a body."
- On page 3, line 8, of the Introduced bill, after "§ 2-18-2" delete ", 2-18-3, or 2-18-4"
- Moved by: Goodwin
 Second by: Jamie Smith
 Action: Prevailed by voice vote

HB 1004 : provide for the defense of laws by the Legislature.

Presented by: Representative Steven Haugaard
 Proponents: Jason Ravnsborg, Attorney General of the State of South Dakota
 Opponents: Rob Anderson, Bureau of Administration

MOTION: AMEND HB 1004

1004B

On page 1, line 10, of the Introduced bill, delete "Represent " and insert "Defend "
 On page 1, line 13, of the Introduced bill, delete "represent " and insert "defend "
 Moved by: Hansen
 Second by: Kent Peterson
 Action: Prevailed by voice vote

MOTION: AMEND HB 1004

1004C

On page 1, line 9, of the Introduced bill, delete "(1) "
 On page 1, line 10, of the Introduced bill, delete "(a)" and insert "(1)"
 On page 1, line 11, of the Introduced bill, delete "(b)" and insert "(2)"
 On page 1, line 13, of the Introduced bill, delete "(c)" and insert "(3)"
 On page 1, line 15, of the Introduced bill, delete "(2) "
 On page 1, line 15, of the Introduced bill, delete " :
 (a) A vote of a majority of the members of the Executive Board of the Legislative Research Council; or
 (b) Concurrent " and insert "a concurrent "
 Moved by: Hansen
 Second by: Anderson
 Action: Failed by voice vote

MOTION: DO PASS HB 1004 AS AMENDED

Moved by: Kevin Jensen
 Second by: Dennert
 Action: Prevailed by roll call vote (12-1-0-0)

Voting Yes: Dennert, Diedrich, Goodwin, Gosch, Hansen, Haugaard, Kevin Jensen, McCleerey, Kent Peterson, Jamie Smith, Beal, and Qualm

Voting No: Anderson

HB 1194 : authorize federally recognized Indian tribes to receive PEACE funds.

Presented by: Representative Shawn Bordeaux

Proponents: Ross B Garelick-Bell, Yankton and Croix Creek Tribes
Mark Winegar, Sierra Club

Opponents: Lester Thompson, Fort Thompson, Crow Creek Sioux Tribe
Kristi Turman, Department of Public Safety
Aaron Schiebe, Department of Public Safety

MOTION: DO PASS HB 1194

Moved by: Jamie Smith

Second by: McCleerey

Action: Failed by roll call vote (4-9-0-0)

Voting Yes: Haugaard, Kevin Jensen, McCleerey, and Jamie Smith

Voting No: Anderson, Dennert, Diedrich, Goodwin, Gosch, Hansen, Kent Peterson, Beal, and Qualm

MOTION: DEFER HB 1194 TO THE 41ST LEGISLATIVE DAY

Moved by: Gosch

Second by: Hansen

Action: Prevailed by roll call vote (9-4-0-0)

Voting Yes: Anderson, Dennert, Goodwin, Gosch, Hansen, Kevin Jensen, Kent Peterson, Beal, and Qualm

Voting No: Diedrich, Haugaard, McCleerey, and Jamie Smith

HCR 6002 : Supporting the repeal of the Sioux - Dakota Removal Act.

Presented by: Representative Shawn Bordeaux

Proponents: Ross B Garelick-Bell, Yankton and Croix Creek Tribes (Handout(s) 5,6,7,8)
Jason Cooke, Yankton Sioux Tribe, Wagner
Lester Thompson, Fort Thompson, Crow Creek Sioux Tribe
Ernest Weston, self, Porcupine
Walking Buffalo, self, Yankton Sioux Tribe
Mark Winegar, Sierra Club

Opponents: Representative Tamara St. John
Kevin Jensvold, self, Chairman of Upper Sioux Community

MOTION: DEFER HCR 6002 TO THE 41ST LEGISLATIVE DAY

Moved by: Goodwin

Second by: Gosch

Action: Prevailed by roll call vote (8-5-0-0)

Voting Yes: Dennert, Diedrich, Goodwin, Gosch, Hansen, Kent Peterson, Beal, and Qualm

Voting No: Anderson, Haugaard, Kevin Jensen, McCleerey, and Jamie Smith

MOTION: AMEND HB 1277

1277C

On page 1, line 1, of the Introduced bill, delete "only authorize a person whose face is depicted in certain obscene material to receive revenue generated by the distribution or exhibition of the material" and insert "prevent trafficking, coercion, and exploitation that occurs under the guise of obscene content"

On page 1, line 7, of the Introduced bill, delete " distributed or exhibited" and insert " created, filmed, or produced"

On page 1, line 9, of the Introduced bill, after "material. " delete "The"

On page 1, line 9, of the Introduced bill, after "The " insert "With the exception of a contract authorized under this section, the "

On page 1, line 14, of the Introduced bill, delete "A " and insert "Any person receiving or attempting to receive revenue in "

On page 1, line 14, of the Introduced bill, after "is " insert "guilty of "

On page 1, line 14, of the Introduced bill, after "misdemeanor." insert "

A person who is represented by independent legal counsel and whose income is greater than the median family income, as defined in 11 U. S. C. § 101, may transfer or assign her right to receive up to ninety percent of the revenue she is entitled to receive under this section for a period of up to one year through a contract otherwise permitted by law. A contract authorized by this section may not be automatically renewed and may be unconditionally rescinded at any time within ninety days of the creation of the obscene material that is the subject of the contract."

On page 1, line 19, of the Introduced bill, delete "ten " and insert "fifty "

Moved by: Hansen

Second by: Kevin Jensen

Action: Prevailed by voice vote

HB 1277 : only authorize a person whose face is depicted in certain obscene material to receive revenue generated by the distribution or exhibition of the material.

Presented by: Representative Isaac Latterell

MOTION: DO PASS HB 1277 AS AMENDED

Moved by: Hansen

Second by: Beal

Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DEFER HB 1277 UNTIL FRIDAY, FEBRUARY 21ST, 2020

Moved by: Goodwin

Second by: Diedrich

Action: Prevailed by voice vote

MOTION: ADJOURN

Moved by: Kent Peterson

Second by: Beal

Action: Prevailed by voice vote

Pam Kean, Committee Secretary

/s/ LEE QUALM
Lee Qualm, Chair