



SDBA Legislative Update

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Legislation of Interest to Banking

There is little to report this week in the way of legislative news of direct interest to bankers. This week the Governor did sign into law a few bills of interest:

SB190, a bill to sync South Dakota's credit card statutes with Regulation Z provisions regarding the ability of a cardholder to opt out of certain changes in contractual conditions.

HB1201, the bill designed to remedy legal/practical problems associated with Congress' failure to deal with the status of the federal estate tax and other generation-skipping statutes. Since this bill included an emergency clause, its provisions took effect at the time of the Governor's signature. Most bills do not carry emergency clauses and accordingly do not take effect until July 1.

During the process of reviewing **SB103**, this year's omnibus trust task force legislation, the Governor's staff found a technical error in one section of the legislation, causing Gov. Rounds to veto SB103 for style and form. Under this seldom used procedure, the Governor can suggest that the Legislature accept his suggestion to make a relatively small technical correction. The Governor has suggested a small change in Section 10 of the bill, which contained sample language which could be used in a form involving a certificate of a trustee or of trustees of a trust in support of a real property transaction. Both the Senate and House voted to accept the Governor's technical change to SB103.

Other Legislative News

As I have previously reported, one of the key elements of the discussion surrounding the FY2011 state budget involves refunds of contractor's excise and sales taxes paid into the state treasury by builders of large construction projects. The most contentious portions of the debate related to refund rates, whether or not to impose caps on refunds on projects above a certain size, and whether or not all types of large construction projects should receive equal treatment under the refund program (eg. underground pipelines and wind energy development projects). **SB195** and **HB1060** ultimately set the structure for the refund program from July 1 through Dec. 31, 2012, when the program is set to end. Final action was taken on Thursday on **SB195**, which sets a base refund rate of 45 percent of taxes paid for

projects between \$10 million and \$40 million in size. For projects above \$40 million up to \$500 million, the refund rate increases to 55 [percent of contractor's excise and sales taxes paid. Then on Friday in **HB1060**, both the House and Senate approved a further modification to the refund program by removing the \$500 million cap for wind energy facilities.

As of this writing, the estimated budget savings which might result from the downsizing of this tax refund program had not yet been calculated. But sometime between now and March 29, the 38th and final day of the 2010 session, some estimate will be developed and plugged into the overall general fund revenue estimate which will be key to the debate over the General Appropriations Act for 2011, **SB196**.

In an unusual move, the Legislature adjourned the final day of the regular run of the legislative session without having taken any final action on the budget for next fiscal year, leaving that for March 29. By that time, the Legislature and state budget officials hope to know more of the details surrounding a bill which has passed the U.S. Senate and is currently awaiting final action in the House of Representatives. That legislation contains additional federal assistance to states experiencing budget shortfalls attributable to the economic recession. It is estimated that South Dakota's share of those funds could exceed \$40 million which could be used to offset state general fund spending in programs like Medicaid. So the debate over budget cuts versus spending of state reserve funds will get put on the back burner for a couple more weeks.

I will be among a group of about 20 banking industry officials from South Dakota joining about 900 of our peers in Washington, D.C., next week for the ABA Government Relations Summit. The timing of this event couldn't be better as we anticipate that Senate Banking Committee Chairman Chris Dodd will introduce the Senate version of Financial Services Regulatory Reform on Monday. We will do everything we can to make the policy makers in our nation's capitol understand that traditional banking will provide the cornerstone for economic recovery, unless bankers are needlessly burdened by a host of new laws and regulations.

Have a great weekend!

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