

February 7, 2020

Legislative Report #3 – NAIFA

Introduction

**Bill Watch**

- It was great to see NAIFA members in Pierre on February 4. I thought the reception was well attended by legislators.
- Committee action was intense this past week.
- Deadline for filing bills was February 6.
- Bill Count: 290 House Bills and 185 Senate Bills.
- Please be prepared to discuss HB 1249 on our weekly call at noon on Friday.

HB 1005  
HB 1017  
HB 1018  
HB 1041  
HB 1057  
HB 1063  
HB 1064  
~~HB 1076~~  
HB 1090  
HB 1096  
HB 1101  
HB 1121  
HB 1136  
HB 1137  
HB 1141  
HB 1142  
HB 1169  
HB 1187  
HB 1193  
HB 1204  
HB 1211  
~~HB 1214~~  
HB 1235  
HB 1247  
HB 1275

SB 8  
SB 11  
SB 106  
SB 108  
SB 109  
SB 119  
~~SB 129~~  
SB 130  
SB 132  
SB 148  
SB 155  
SB 181

**HOUSE BILLS**

**HB 1005 An Act to revise certain provisions regarding the use of telehealth technologies.**

**Sponsor:** Representative Otten (Herman) and Senator Soholt at the request of the Leverage Telehealth and Telemedicine Task Force

**Summary:** The purpose of this bill is to allow telehealth services to be used in emergency commitment proceedings, even if there is no prior patient-provider relationship.

**NAIFA Position:** Support

**Status:** Passed both chambers; delivered to the Governor on February 4.

**HB 1017 An Act to provide for certain insurer corporate governance disclosure requirements.**

**Sponsor:** The Committee on Commerce and Energy at the request of the Department of Labor and Regulation

**Summary:** This bill is one of two accreditation bills introduced by the Division of Insurance. The bill, which is an NAIC model, sets out corporate governance disclosure requirements for insurers that have complex corporate structure.

**NAIFA Position:** Support

**Status:** Passed House Commerce and Energy Committee (13-0 consent) on January 22; passed House of Representatives (67-0) on January 23; passed Senate Commerce and Energy Committee (7-0 consent) on February 4; passed Senate (33-0) on February 5.

**HB 1018 An Act to revise certain provisions regarding life and health insurance insolvencies.**

**Sponsor:** The Committee on Commerce and Energy at the request of the Department of Labor and Regulation

*Bills that are Struck Through*

**Summary:** This DOI bill updates the Life and Health Guaranty Association. Consistent with NAIC model language, the bill assesses both life and health insurance companies for long term care company insolvencies. It deviates from the NAIC model by excluding HMOs from the Association.

**NAIFA Position:** Support

**Status:** Passed House Commerce and Energy Committee (13-0) on January 22; passed House of Representatives (66-0) on January 23; passed Senate Commerce and Energy Committee (6-1) on February 4; passed Senate (32-0) on February 5.

**HB 1041 An Act to revise provisions authorizing state employees to opt-out of the state employee health plan.**

**Sponsor:** The Committee on Commerce and Energy at the request of the Bureau of Human Resources

**Summary:** Currently, the law allows state employees to opt out of the state health plan if the employee is covered by another group health plan. This bill allows opt out if the employee is covered by Medicare. It was amended in committee to add an emergency clause.

**NAIFA Position:** Monitor

**Status:** Passed House Commerce and Energy Committee as amended (13-0) on January 29; passed House of Representatives (65-1) on February 4; referred to Senate Commerce and Energy Committee.

**HB 1057 An Act to prohibit certain acts against children and provide a penalty therefor**

**Introduced by:** Representative Deutch

**Summary:** This bill makes it a misdemeanor for a medical professional to administer drugs or perform surgery to alter a minor's sex. It was amended in Committee to reduce the age to 16. This bill is called the Vulnerable Child Protection Act.

**NAIFA Position:** Monitor

**Status:** Passed House State Affairs Committee as amended (8-5) on January 22; passed House of Representatives (46-23) on January 29; scheduled for hearing in Senate Health and Human Services Committee on February 10.

**HB 1063 An Act to revise certain provisions regarding the purchase, distribution, and sale of tobacco products to persons under the age of twenty-one**

**Sponsor:** Representative Perry

**Summary:** This bill amends the law to require persons to be 21 years of age to purchase tobacco. The bill follows federal guidelines. It was amended in committee to ease restrictions on retailers.

**NAIFA Position:** Monitor

**Status:** Passed House Health and Human Services Committee as amended (9-3) on January 28; passed House of Representatives (43-24) on January 30; referred to Senate Commerce and Energy Committee.

**HB 1064 An Act to restrict certain vapor products**

**Sponsor:** Representative Perry and Senator Novstrup

**Summary:** This bill prohibits the selling, offering for sale, giving, transporting, otherwise distributing, or possessing a flavored vapor product and makes doing so a Class 2 misdemeanor.

The bill further allows flavored vapor products found at any place to be declared contraband and to be seized by the secretary of revenue or law enforcement of the secretary of the state without a warrant.

**NAIFA Position:** Monitor

**Status:** Referred to House Health and Human Services Committee.

**HB 1076 An Act to require a designation on a driver license for autism spectrum disorder**

**Sponsor:** Representative Pischke and Senator Phil Jensen

**Summary:** This bill adds a new law stating that upon the written request of the licensee, the department shall issue a drivers license bearing a graphic or written designation for autism spectrum disorder that may impede communication with a law enforcement officer.

**NAIFA Position:** Monitor

**Status:** Deferred to 41<sup>st</sup> Legislative Day (11-1) in House Health and Human Services on January 30.

**HB 1090 An Act to make an appropriation to evaluate the feasibility of the use of telehealth services within the criminal justice system and to declare an emergency**

**Sponsor:** The Committee on Judiciary at the request of the Chief Justice

**Summary:** This bill appropriates \$418,000 of fund expenditure authority from donations and other external sources to the Unified Judicial System for the purposes of evaluating the feasibility of the use of telehealth services within the criminal justice system, including the use of telehealth for mental health assessments and services.

**NAIFA Position:** Monitor

**Status:** Referred to House Agricultural and Natural Resources Committee.

**HB 1096 An Act to prohibit commercial surrogacy contracts and provide a penalty for facilitating a commercial surrogacy**

**Sponsor:** Representative Hansen and Senator Novstrup

**Summary:** This bill prohibits any broker to knowingly engage in, advertise services for, or offer payments of money or other consideration for, profit from, or solicit a woman to assist or participate in commercial surrogacy. Said broker is guilty of a Class 1 misdemeanor.

**NAIFA Position:** Monitor

**Status:** Passed House Judiciary Committee as amended (11-1) on January 29; deferred with pending amendments (Rule 5-17) on House floor on February 4.

**HB 1101 An Act to provide for the reinstatement of a driver license under certain conditions**

**Sponsor:** Representative Kevin Jensen and Senator Wismer

**Summary:** This bill allows the reinstatement of a driver license that has been suspended due to the individual not having proof of financial responsibility if they 1) Provide proof of having established one of the forms of financial responsibility and 2) Pay any costs, penalties, assessments, surcharges, and fines imposed by reason of the violation.

**NAIFA Position:** Monitor

**Status:** Referred to House Judiciary Committee.

**HB 1121 An Act to establish immunity from liability for the inherent risk of camping**

**Sponsor:** Representative Goodwin and Senator Phil Jensen

**Summary:** This bill adds a new law to provide immunity to a private campground, an owner or operator of a private campground, and any employee or officer of a private campground or private campground owner for acts or omissions related to camping at a private campground if a person is injured or killed, or property is damaged as a result of an inherent risk of camping. The bill does provide a few exceptions.

**NAIFA Position:** Monitor

**Status:** Referred to House Judiciary Committee.

**HB 1136 An Act to provide for the licensure and regulation of practitioners of acupuncture and Oriental medicine and to establish the acupuncture regulation fund**

**Sponsor:** Representative St. John and Senator Foster

**Summary:** This bill creates new law to regulate the practice of acupuncture and Oriental medicine by creating a board and a fund.

**NAIFA Position:** Monitor

**Status:** Referred to House Health and Human Services Committee.

**HB 1137 An Act to require the provision of medical billing information and a settlement offer for unpaid medical bills**

**Sponsor:** Representative Pischke

**Summary:** This bill provides that before a health care provider initiates legal action against a patient for unpaid medical bills, the health care provider shall submit to the patient a written offer of settlement in an amount not exceeding one hundred and twenty percent of the Medicare fee schedule for the services rendered. This offer must be open for sixty days.

**NAIFA Position:** Monitor

**Status:** Referred to House Health and Human Services Committee.

**HB 1141 An Act to require a feasibility study and actuarial analysis on long-term care services and supports**

**Sponsor:** Representative Cwach and Senator Wismer

**Summary:** This bill creates new sections of law to state that the Dept. of Labor and Regulation shall contract for an independent feasibility study and actuarial model of public, private, and public-private hybrid options to help persons prepare for, access, and afford the long-term care services and supports they need.

**NAIFA Position:** Monitor

**Status:** Referred to House Health and Human Services Committee.

**HB 1142 An Act to include post-traumatic stress disorder as a compensable injury for purposes of workers' compensation**

**Sponsor:** Representative Cwach and Senator Nesiba

**Summary:** This bill does exactly what the title indicates.

**NAIFA Position:** Monitor

**Status:** Referred to House Health and Human Services Committee.

**HB 1169 An Act to prohibit the use of certain electronic devices while driving**

**Sponsor:** Representative Barthel and Senator Sohlt

**Summary:** This bill would prohibit the use of cell phones while driving.

**Wellmark Position:** Monitor

**Status:** Referred to House Transportation Committee.

**HB 1187 An Act to revise certain health care programs and make an appropriation therefor**

**Sponsor:** Representative Karr

**Summary:** This bill appropriates one dollar or so much thereof as may be necessary to the state for the purpose of revisiting certain health care programs and to promote efficiency in state government.

**NAIFA Position:** Monitor

**Status:** Not yet assigned to committee.

**HB 1193 An Act to accommodate legislation enhancing health and human services**

**Sponsor:** Representative Haugaard

**Summary:** This is a vehicle bill.

**NAIFA Position:** Monitor

**Status:** Not yet assigned to committee.

**HB 1204 An Act to lower the total amount of tax credits that may be claimed on annual premium tax returns**

**Introduced by:** Representative Willadsen

**Summary:** This bill decreases the amount of tax credits a company can claim on its annual premium tax return from two million dollars to five hundred thousand dollars, starting in fiscal year 2021.

**NAIFA Position:** Monitor

**Status:** Not yet assigned to committee.

**HB 1211 An Act to change the payment process for forensic medical examinations**

**Sponsor:** Representative Reed and Senator Smith

**Summary:** This bill amends law to allow a physician, hospital, or clinic who performs a forensic medical examination to request authorization from the victim of the alleged rape or sex offense for payment of the examination from the victim's insurer, unless the examination is for an unreported sexual assault.

**NAIFA Position:** Monitor

**Status:** Scheduled for hearing in Health and Human Services Committee on February 6; hearing deferred.

**HB 1214 An Act to revise provisions regarding autism spectrum disorder**

**Sponsors:** Representative Pischke

**Summary:** This bill adds to South Dakota law the definition of autism spectrum disorder contained in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, 2013.

**NAIFA Position:** Oppose

**Status:** Tabled in House Health and Human Services Committee (4-3) on February 6.

**HB 1235 An Act to revise provisions regarding immunizations**

**Sponsors:** Representative Qualm

**Summary:** This bill provides that a child entering public or nonpublic school cannot be required to receive any immunizations for enrollment or entry. The Department of Health may recommend but not require immunizations for school entry.

**NAIFA Position:** Monitor

**Status:** Not yet assigned to committee.

**HB 1247 An Act to create the medical reinsurance program and to make an appropriation therefor.**

**Sponsor:** Representative Cwach

**Summary:** This bill establishes a medical reinsurance program within the Division of Insurance. An insurer may receive a payment from the fund if the insurer's cost of claims for a reinsurance eligible individual's covered benefits in a calendar year exceed the "attachment point." The program is funded by assessments on insurers.

**NAIFA Position:** Oppose

**Status:** Not yet assigned to committee.

**HB 1275 An Act to revise provisions regarding a judgment not collected from an underinsured motorist.**

**Sponsors:** Representative Ring

**Summary:** This bill provides that the total amount paid to an insured by underinsured motorist coverage may not exceed the total judgment awarded or settlement recovered.

**NAIFA Position:** Monitor

**Status:** Not yet assigned to committee.

**SENATE BILLS**

**SB 8 An Act to revise certain provisions regarding insurance holding companies.**

**Sponsor:** The Committee on Commerce and Energy at the request of the Department of Labor and Regulation

**Summary:** This is the second of the DOI's accreditation bills. This NAIC model allows South Dakota's DOI to participate in the supervisory college that regulates companies that are internationally active.

**NAIFA Position:** Support

**Status:** Passed Senate Commerce and Energy Committee (6-0 consent) on January 21; passed Senate (34-0) on January 23; referred to House Commerce and Energy Committee.

**SB 11 An Act to revise certain provisions regarding third party insurance plan administrators.**

**Sponsor:** The Committee on Commerce and Energy at the request of the Department of Labor and Regulation

**Summary:** This DOI bill eliminates the requirement that TPAs must have 2 years of performance experience before they can be licensed in South Dakota. The TPA must submit audited financial statements to the DOI, and if the company is solvent, it can obtain a license.

**NAIFA Position:** Support

**Status:** Passed Senate Commerce and Energy Committee (6-0 consent) on January 21; passed Senate (34-0) on January 22; scheduled for hearing in House Commerce and Energy Committee on February 7.

**SB 106 An Act to accommodate legislation enhancing health care**

**Sponsor:** Senator Bolin and Representative Chase

**Summary:** This is a vehicle bill.

**NAIFA Position:** Monitor

**Status:** Scheduled for hearing in Senate State Affairs Committee on February 7.

**SB 108 An Act to revise the time period allowable for certain covenants not to compete.**

**Introduced by:** Brock Greenfield

**Summary:** This bill reduces the time-frame for a covenant not to compete from two years to one year from the date of termination. It applies to employment contracts and contracts of captive insurance agents.

**NAIFA Position:** Monitor

**Status:** Scheduled for hearing in Senate Commerce and Energy Committee on February 6; hearing deferred to February 11.

**SB 109 An Act to provide protections for health care decisions governed by conscience.**

**Introduced by:** Senator Stalzer

**Summary:** This bill creates new law to state that a health care provider has the right not to participate in any health care service that violates the provider's conscience and that the health care provider may not be discriminated against if the provider exercises this right. The bill also provides that a health care payer has the right not to pay for health care service that violate the payer's conscience and that the health care payer may not be discriminated against if the payer exercises this right.

**NAIFA Position:** Monitor

**Status:** Referred to Senate Health and Human Services Committee.

**SB 119 An Act to revise certain provisions regarding private placement insurance**

**Sponsor:** Senator Schoenbeck and Representative Diedrich

**Summary:** This bill amends law to allow the policyholder's designee to provide consent to distribute the assets of the separate account to the claimant.

**NAIFA Position:** Monitor

**Status:** Referred to Senate Commerce and Energy Committee.

**SB 129 An Act to prohibit the cancellation or nonrenewal of a health insurance policy for a preexisting condition**

**Sponsor:** Senator Heinert

**Summary:** This bill provides that a health insurance policy may not be cancelled, nor may renewal be refused, solely based on a preexisting condition of the injured person.

**NAIFA Position:** Monitor

**Status:** Tabled in Senate Commerce and Energy Committee (4-3) on February 6.

**SB 130 An Act to revise certain health programs and make an appropriation therefor**

**Sponsor:** Senator Wiik and Maher

**Summary:** This bill appropriates from the general fund one dollar or so much thereof as may be necessary, to the Appropriations, for purposes of enhancing health care programs in South Dakota and to promote efficiency in this state government.

**NAIFA Position:** Monitor

**Status:** Referred to Senate Appropriations Committee.

**SB 132 An Act to accommodate legislation enhancing health care**

**Sponsor:** Senator Maher and Wiik

**Summary:** This is a vehicle bill.

**NAIFA Position:** Monitor

**Status:** Referred to Senate Appropriations Committee.

**SB 148 An Act to adopt the Uniform Power of Attorney Act**

**Sponsor:** Senator Partridge and Curd and Representative Johns and Diedrich

**Summary:** This bill does what the title indicates.

**NAIFA Position:** Monitor

**Status:** Referred to Senate Judiciary Committee.

**SB 155 An Act to provide for step therapy protocol regarding certain prescription drugs chiropractic**

**Sponsor:** Senator Langer

**Summary:** This bill restricts the ability of health plans and utilization review organizations to use a step therapy protocol. It is the model that has been introduced in other states, and is not the Iowa statute.

**NAIFA Position:** Oppose

**Status:** Referred to Senate State Affairs Committee.

**SB 181 An Act to revise provisions regarding health benefit plans**

**Sponsor:** Senator Blare

**Summary:** This bill changes the definition of a "health benefit plan" to include plans that have a duration of 12 months or more. Current law is 6 months.

**NAIFA Position:** Monitor

**Status:** Referred to Senate Commerce and Energy Committee.

Respectfully submitted,

'Darla Pollman Rogers, Lobbyist