

Card Reviews New SD Laws For Rotary Club

New Laws Took Effect in State July 1

By Sarah Wetzel For the Plain Talk; Aug. 18, 2023

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Dr. Michael Card, who recently retired as a professor in the political science department at the University of South Dakota, speaks to the Vermillion Rotary Club about new South Dakota laws that went into effect July 1. Courtesy of Vermillion Rotary Club

Dr. Michael Card, who recently retired as a professor in the political science department of the University of South Dakota, spoke at the Vermillion Rotary Club Aug. 9 luncheon meeting and gave a review of some of the most impactful South Dakota laws that took effect on July 1 of this year.

According to Card, there are between 500-600 bills introduced every year, of which around 255 are signed into law.

One of the measures that wasn't signed into law was the hotly contested Initiated Measure 28 for Medicaid expansion.

“Much like Ohio, there was an attempt by the Legislature to move the date up to a primary election where fewer people show up to vote,” Card said. “Much like Ohio’s vote yesterday, the people, once given the right to share power with the Legislature, did not want a 60% minimum vote for the citizenry to be able to enact laws or constitutional amendments in the case of Ohio.”

According to Card, it was estimated that Medicaid expansion would serve 52,000 people in South Dakota.

“As it turns out, those who have signed up in the first six weeks are much smaller than that,” he said. “The number is only 1,400 or so. What is likely to occur is there will be a significant amount of money available for one-time appropriation next year. The plan was for 52,000. That hasn’t been borne out yet.”

Card said this is significant because it enables any adult earning less than roughly \$18,000 (about the bottom fifth or 138% of the poverty level) to be able to get Medicaid covering their healthcare costs.

The next bill covered was Senate Bill 210, the Appropriations Bill.

According to Card, this bill does not require two-thirds majority unlike all other appropriations bills. It only requires 50% and can be vetoed and has been in the past in the 1920s.

“This is sort of the irony, perhaps,” Card said. “The Democratic governor vetoed the Republican past spending bill because they were spending money too ‘gleefully,’ I believe was the term he used.”

He reported that a special term was called before July 1 back in the 1920s and a budget was in place.

This year’s appropriations bill has several important features, according to Card, such as providing funds for the tuition freeze for South Dakota Board of Regents’ institutions and technical colleges and increasing state aid to education.

“It was a healthy increase, if not one of the largest in our state’s history both percentage-wise and dollar-wise,” he said.

According to Card, paid family leave was also provided though not specifically through the budget bill but rather through authorization of the governor.

He reported lots of coverage late in the session for the reduction in the general sales tax from 4.5% to 4.2%.

“There is a sunset clause meaning that come 2027 it will return to 4.5% for the statewide sales tax,” Card said. “There are probably going to be efforts to either sunset it earlier and some will make efforts to get it later.”

The sales tax cut means someone spending \$100 will receive a 30-cent decrease in taxes paid. It’s still a fairly large overall tax decrease for South Dakota citizens, according to Card.

“Eliminating the sales tax on groceries was estimated to have saved taxpayers about \$104 million,” he said.

“Reducing the tax on all sales and use taxes was about \$124 million was the number I remember.”

According to Card, there is currently underway a petition drive to put a bill on the ballot that would remove the sales tax from food.

“It also, to me, shows that bill drafting and the language you use in writing laws is a very important thing because the words matter,” Card said. “The language has the effect of saying anything consumed and that is a fairly broad term.”

When terms are not defined in other statutes, it makes things complicated.

Card said Attorney General Jackley noted that if taken literally, removing the sales tax may affect \$20 million from the tobacco settlement.

“It will require further legislation should it pass and it may also put at risk our sales tax compact because it wouldn’t match what other states have and it may put the tobacco settlement at risk,” he said. “Those are considerations I’m sure we will hear more about as the election gets closer.”

Card also reviewed the more controversial House Bill 1080 which either bans gender affirming care or passes the Help Not Harm bill, depending on one’s persuasions.

“It basically bans healthcare professionals from providing puberty blockers, hormone therapy and surgery to minors for treatment for gender dysphoria,” Card said. “This is up in the air due to a number of federal court decisions as well as to the study by the American Pediatric Association. I don’t think I got that right, but they’re examining this and a number of other countries that have determined not to provide these as lawfully administered treatments.”

This law is challenging, he said, because it fits with culture, with religious beliefs and individuals with a diagnosed disorder called gender dysphoria.

“I think that it will probably return in some format whether it gets a majority to repeal that law, but I’m sure there will be efforts to do so,” he said. “It is interesting that there are no lawsuits in South Dakota as there have been in other states to repeal this particular law to my understanding.”

The Truth in Sentencing bill is a large and significant change in South Dakota’s laws, according to Card.

“It’s a requirement that for a number of crimes the complete sentence must be served,” he said. “As opposed to the method of what I would say is trying

to reduce recidivism and ... create conditions for people to learn social skills, work habits and the like to return to society in a more productive manner.”

One of the criticisms of the bill, according to Card, is if inmates are required to spend 85% of their sentence as opposed to earning early release time, prisons will be more dangerous because inmates don't earn good time to get out earlier on parole and probation.

“On the other hand, it provides more public safety or at least has the potential of providing more public safety,” Card said. “My view of South Dakota culture is we don't tolerate much deviance as opposed to many other areas of the country, so it seems that we're more willing to incarcerate people after having had presumptive probation which we've ended.”

Senate Bill 55 banned ranked choice voting.

He explained the concept of this voting method.

“There would be a number of boxes for us to fill in for our first choice, second choice, third choice and fourth choice for each candidate,” Card said. “If at the end of the first choice no one has a majority, then the least vote getter would have been eliminated from further consideration and then we'd go to the second choice and then it becomes a cumulative vote so those receiving the most votes for second, third, fourth if there are four candidates, the person who received the most votes would be declared the winner.”

He also reviewed Senate Bill 160 which created pre-election audits to test ballot tabulation algorithms and equipment, that they be locked, sealed and unused between the testing certification and the election.

“It created post-election audits in Section 3,” Card said. “There's a manual count in 5% of the county precincts for statewide races and one randomly selected other election contests which may also be for manual counts to match or to see how closely they approximate the official count through the optical scanners.”

He said South Dakota is already in a good position by using paper ballots which are scanned.

Senate Bill 46 also passed.

According to Card, it will enhance penalties for petition circulation perjury to a Class 6 felony in terms of verifying or reasonably verifying the identity of voter registration status of the person signing the

petition. Falsely attesting verification would be a Class One misdemeanor.

Card also reviewed House Bill 1165.

This bill limited access to where and when absentee ballot drops can be placed and noted that they must be attended by an election supervisor or a law enforcement officer.

“There were some allegations of ballot dumping in other states, none in South Dakota,” Card said.

He also described an issue with RV voters, or people who spent a single night in South Dakota and so were able to register to vote in the state.

After proving they had spent a night in the state, they registered to vote and had their mail sent to a post office box in South Dakota before being forwarded to wherever they were.

“As of July 1, that doesn't exist at that level anymore,” Card said. “It requires a voter in state elections to be a resident for at least 30 days. Every person residing who maintains residence for 30 days and who has the other voter qualifications will actually be able to vote in municipal, primary, general, or school district elections.”

Card was unsure if the 30 days are required to be consecutive.

South Dakota is relatively unique in using a post office box to claim residency, he said.

“There's a strong reason to do something like this for certain populations,” Card said. “We have a constitutional requirement that if you are in the armed forces and you spend a period of time outside the state of South Dakota but intend to come back, you are still a resident if you still want to be a resident and that's been in our constitution since 1889.”

Senate Bill 140 also passed which deals with no party registration or leaving party registration blank.

“A new voter will be labeled as a no party registration,” Card said. “If any of us changes our address and moves on and files a new registration card but leaves that blank, it will then turn to whatever we had previously registered to vote as.”

For a complete list of bills signed into law for the 2023 legislative session, visit 2023 Session Laws | South Dakota Legislature (sdlegislature.gov).