



**Legislative
Research
Council**

MINUTES

Department of Public Safety Agency Review Committee

**Third Meeting
2005 Interim
Monday, October 24, 2005**

**LCR 1&2
State Capitol Building
Pierre, South Dakota**

The third meeting of the interim Department of Public Safety Agency Review Committee was called to order by Representative Gordon Pederson, Chair, at 9:05 a.m. on Monday, October 24, 2005, in Legislative Conference Rooms 1 and 2 of the State Capitol Building in Pierre, South Dakota.

A quorum was established with the following members answering the roll call: Senators Gene Abdallah, J.P. Duniphan, Dick Kelly (Vice Chair), and Frank Kloucek; and Representatives Michael Buckingham, Thomas Hennies, Gordon Pederson (Chair), Donna Schafer, R. Shawn Tornow, and Mark Willadsen. Representatives Jean Hunhoff, Shantel Krebs, Kathy Miles, and Val Rausch were excused. Representative Jim Bradford was present following the roll call.

Staff members present included Sue Cichos, Senior Fiscal Analyst, and Kris Schneider, Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order.

Approval of Minutes

SENATOR DUNIPHAN MOVED, SECONDED BY REPRESENTATIVE BUCKINGHAM, THAT THE AUGUST 29, 2005, MINUTES BE APPROVED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Approval of Agenda and Chair's Remarks

Chair Gordon Pederson asked for approval to include on today's agenda a report from the Department of Public Safety (DPS) on the status of the state's readiness for a large-scale emergency similar to Hurricane Katrina in the Gulf Coast and how the department has addressed the issue of the possible pandemic from the avian flu. It was the consensus of the committee that the items be added following the discussion of the Highway Patrol.

Department of Public Safety Response to Prior Committee Information Requests and Questions

Mr. Tom Dravland, Secretary, Department of Public Safety, and **Mr. Larry Gabriel**, Secretary of Agriculture, reported that the departments had met to discuss the concerns regarding the need for separate fire certification, training, and record keeping for fire fighters regarding wildland fires.

Secretary Dravland stated that while the function of both the departments is similar, the training requirements are different. Local fire fighters are trained primarily for structures whereas there are several federal requirements regarding wildland fire fighting. Secretary Gabriel explained that fire fighters in the Black Hills Fire Protection District must be "red carded" and have to pass physical tests. Both departments plan on communicating to the local fire fighters to complete the training for wildland fires early in the spring so they are ready for the fire season. The departments also determined that there would be no cost savings realized by a move to DPS. It was the recommendation of both departments that no changes be implemented.

Discussion regarding Salaries and Recruitment of the Highway Patrol

Secretary Dravland discussed the 2005 Central States Salary Survey, the State Police/Highway Patrol Recruitment Survey, turnover data regarding South Dakota Highway Patrol, and a comparison of salaries between Highway Patrol Trooper and City Police Officer, which were previously mailed to the committee (**Documents 1, 2, 3, and 4**). The data showed the turnover rate for the past four and half years for troopers was 9.3%, which included nine retirements. Secretary Dravland stated that they have had 500 applications for 10 openings; at present the department does not have recruitment problems.

In response to a question on why there were six new recruit resignations in FY05, Secretary Dravland stated that after three days of training, five individuals decided it was not what they wanted.

Representative Tornow suggested that the department use real life scenarios during the screening. The city of Sioux Falls has gotten good feedback from it and it shows how the individual can think on their feet.

Secretary Dravland stated that during the screening process if the individual has the right skills, knowledge, and ability, the department can train them to become a good trooper. He will contact Chief Bartels to learn more about the screening process that is used by the city of Sioux Falls.

In response to a question on movement within the ranks of the Highway Patrol, Secretary Dravland stated that after eight successful years, the trooper is eligible to test to be promoted to a sergeant. After one successful year, they may move to a captain. Of the 162 members of the Highway Patrol, there are 26 sergeants, 5 lieutenants, and 4 captains.

Based on the drop in the turnover rate and recruitment problems and given the current budget restraints, **SENATOR ABDALLAH MOVED TO TABLE THE TOPIC OF SALARIES AND RECRUITMENT OF THE HIGHWAY PATROL.** Motion died for lack of a second.

Chair Pederson suggested that the department look at a deferred payment or a bonus after a certain amount of time to help with retaining employees. Secretary Dravland stated that there is a performance pay package in the Highway Patrol and if a trooper is rated outstanding, an additional increase in salary is available.

SENATOR ABDALLAH MOVED TO TABLE THE TOPIC OF SALARIES AND RECRUITMENT OF THE HIGHWAY PATROL, SECONDED BY SENATOR DUNIPHAN. MOTION FAILED ON A ROLL CALL VOTE WITH 5 AYES, 5 NAYS, AND 5 EXCUSED. MEMBERS VOTING AYE: ABDALLAH, BUCKINGHAM, DUNIPHAN, KELLY, AND WILLADSEN. MEMBERS VOTING NAY: HENNIES, KLOUCEK, SCHAFFER, TORNOW, AND PEDERSON. MEMBERS EXCUSED: BRADFORD, HUNHOFF, KREBS, MILES, AND RAUSCH.

Following a ten minute break, Chair Pederson stated there being no further questions regarding salaries and recruitment, they would move to the next agenda item.

Update on Emergency Preparedness and Avian Flu

Secretary Dravland and **Ms. Kristi Turman**, Director of Office of Emergency Management, gave an update on the state of readiness of emergency preparedness in South Dakota. All emergency responses start at the local level. In situations such as Hurricane Katrina, the emergency exceeded the capability of the locals and the state and assistance was requested at the federal level. With Katrina the inability to communicate made it difficult to coordinate response. South Dakota has a good state radio system and uses the incident command system to respond to emergencies. He noted that all of the state's emergency first responders will be trained in incident command by September 2006. Secretary Dravland stated that it is important for the Legislature to understand incident command and that a briefing is being planned for early next year.

In response to a question regarding a \$90,000 bill that Pennington County received for food that was prepared in anticipation of Katrina evacuees at Camp Rapid, Secretary Dravland stated that the situation is currently being reviewed by the Governor, Pennington County, the Rapid City Red Cross, the food contractor, and his staff to see who is responsible.

As to the preparedness for the Avian Flu or a pandemic flu outbreak, Secretary Dravland stated that discussions with the Department of Health and the Department of Agriculture have occurred and specific plans dealing with certain instances are in place. There are two groups working on the issue. One group meets bi-weekly and consists of several agencies/groups that could respond to an outbreak. The other group is an administrative oversight group that consists of Secretary Gabriel, Secretary Hollingsworth, General Gorman, and Secretary Dravland. A handout was distributed regarding the briefing (**Document 5**).

Discussion regarding DUI System Improvements

Secretary Dravland stated that South Dakota's motor vehicle crash statistics show that from January thru September 2005, there have been 98 fatalities of which 33 were alcohol related (33.7%). In 2004, of the 197 fatalities, 78 were alcohol related (38.0%) (**Document 6**). Thru education and enforcement, South Dakota is seeing less alcohol related deaths. Information regarding the department's efforts was provided to the committee (**Document 7**). Secretary Dravland stated that three major things lead to fatalities: drinking and driving, speeding, and lack of seat belt compliance.

Representative Buckingham asked Secretary Dravland to comment on how much of the "DWI System Improvements for Dealing with Hard Core Drinking Drivers - Executive Summary" which was mailed to the committee previously (**Document 8**) applies to South Dakota. In response, Secretary Dravland stated that other agencies are also involved in the process. Sentence monitoring is done by the Attorney General's Office through the 24/7 program. Rapid City had designed a Serious Traffic Offender Program (STOP) to target problems of suspended or revoked drivers. The Mountain Plains Evaluation has been contracted to evaluate and assess the implementation of a standardized State DUI Curriculum to reduce the recidivism rate of DUI offenders. As far as evidentiary issues, every South Dakota law enforcement vehicle has an in-car video camera and the state has a Traffic Safety Resource Prosecutor that provides support to state prosecutors to effectively prosecute traffic safety violations. In regards to caseloads, the department supports having DUI court. Tripp County is assisting with a pilot project to evaluate if a specialized court system can enhance the effectiveness of dealing with DUI cases.

Following a brief discussion on the ability of a person to register a car if their drivers license was revoked for an extend time period, Representative Hennies asked if police demand letters were still used. He explained that it is a process where the driver's license or plates are seized and the officer must bring them back. **Ms. Cindy Gerber**, Director of Driver Licensing, responded that in 2004, 101 police demand orders were issued and to date in 2005, 53 have been issued.

In response to Representative Buckingham's comment that the summary stated that "there is a need to streamline and simplify the adjudication," Secretary Dravland stated the implied consent is very complex and is very confusing. The department supports repealing the implied consent. During FY05, 2,628 individuals refused the chemical test (**Document 9**).

Committee Discussion and Wrap-up
Final Evaluation of the Department
Committee Suggestions or Directives to the Department
Directives for Final Report of Committee Findings

Senator Abdallah commented that the department is doing an outstanding job. His only recommendation is that it is a hindrance for a Highway Patrol Trooper to have to wait eight years to be promoted to a sergeant. He suggested that the department look at changing their policy from eight years to four years.

Representative Schafer also thought the department was doing a good job. She recommended that the department increase the education efforts among young people so they better understand the consequences of being reckless and driving and drinking.

Representative Tornow stated he would support the removal of implied consent and encouraged the department to look at other tools to be used in the recruitment assessment process.

Representative Bradford asked if legislation was necessary to have federal training taught at the academy so a tribal officer could qualify as a Bureau of Indian Affairs officer. With the increase in fuel prices now, he stated he would support taxing liquor and tobacco to the maximum. He would

also like to see cross deputized officers on the Pine Ridge Reservation with South Dakota, similar to what is done with the state of Nebraska.

Senator Kloucek stated that he has more concerns with meth than with the booze and that intervention needs to be a part of the system.

Representative Hennies stated the department was doing a good job. He urged the department to get the local officials trained in incident command. He agreed with Representative Bradford that the idea of cross deputized officers on the reservations would be good. He is willing to write a bill that would revoke the license plates of a person who allows an unauthorized driver to use a vehicle a second time. He would also support repealing the implied consent statute.

Representative Willadsen thanked the department for their open testimony. He stated the department does a very good job. He recommended that the department communicate more with the people of South Dakota, particularly with homeland security issues.

Senator Duniphan also thanked the department for an excellent presentation and for working well with the local communities.

Representative Buckingham asked if it would be beneficial for the department along with the Department of Health, and Department of Justice to form a task force to look at a redesign of the DUI system and all traffic related facilities.

Senator Kelly also thought the department has done an excellent job and complimented them on the ride along program. He would support moving the driving age up to 15 at a minimum.

REPRESENTATIVE HENNIES MOVED, SECONDED BY REPRESENTATIVE BUCKINGHAM, THAT THE COMMITTEE SUPPORTS THE REPEAL OF THE IMPLIED CONSENT STATUTE. MOTION PREVAILED ON A ROLL CALL VOTE WITH 9 AYES, 2 NAYS, 4 EXCUSED. MEMBERS VOTING AYE: ABDALLAH, BUCKINGHAM, DUNIPHAN, HENNIES, KELLY, PEDERSON, SCHAFER, TORNOW, AND WILLADSEN. MEMBERS VOTING NAY: BRADFORD AND KLOUCEK. MEMBERS EXCUSED: HUNHOFF, KREBS, MILES, AND RAUSCH.

SENATOR ABDALLAH MOVED, SECONDED BY REPRESENTATIVE SCHAFER, THAT THE DEPARTMENT OF PUBLIC SAFETY CHANGE ITS PROMOTION POLICY FOR HIGHWAY PATROL TROOPERS FROM EIGHT YEARS OF SUCCESSFUL SERVICE TO FOUR YEARS SUCCESSFUL SERVICE BEFORE ALLOWING THE TROOPER TO TEST FOR SERGEANT.

REPRESENTATIVE TORNOW MOVED A SUBSTITUTE MOTION, SECONDED BY SENATOR KELLY, THAT THE DEPARTMENT OF PUBLIC SAFETY CHANGE ITS PROMOTION POLICY FOR HIGHWAY PATROL TROOPERS FROM EIGHT YEARS OF SUCCESSFUL SERVICE TO NO MANDATORY MINIMUM BEFORE ALLOWING THE TROOPER TO TEST FOR SERGEANT. SUBSTITUTE MOTION FAILED ON A ROLL CALL VOTE WITH 1 AYE, 10 NAYS, 4 EXCUSED. MEMBER VOTING AYE: TORNOW. MEMBERS VOTING NAY: ABDALLAH, BRADFORD, BUCKINGHAM, DUNIPHAN, HENNIES, KELLY, KLOUCEK, PEDERSON, SCHAFER, AND WILLADSEN. MEMBERS EXCUSED: HUNHOFF, KREBS, MILES, AND RAUSCH.

SENATOR ABDALLAH'S ORIGINAL MOTION FAILED ON A ROLL CALL VOTE WITH 5 AYES, 6 NAYS, 4 EXCUSED. MEMBERS VOTING AYE: ABDALLAH, BRADFORD, DUNIPHAN, PEDERSON, AND SCHAFFER. MEMBERS VOTING NAY: BUCKINGHAM, HENNIES, KELLY, KLOUCEK, TORNOW, AND WILLADSEN. MEMBERS EXCUSED: HUNHOFF, KREBS, MILES, AND RAUSCH.

Secretary Dravland, on behalf of the 402 employees of the Department of Public Safety, thanked the committee for all of their support for the department.

Adjournment

SENATOR DUNIPHAN MOVED, SECONDED BY SENATOR ABDALLAH, THAT THE MEETING ADJOURN. MOTION CARRIED UNANIMOUSLY ON A VOICE VOTE.

The meeting adjourned at 1:20 p.m.



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