



# MINUTES

## Executive Board

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**First Meeting  
2009 Interim  
April 20, 2009**

**Room 414  
State Capitol  
Pierre, South Dakota**

The first 2009 interim meeting of the Legislative Research Council Executive Board was called to order by Chair Senator Jean Hunhoff at 9:10 a.m. (CT), April 20, 2009, in Room 414 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Gene G. Abdallah, Dan P. Ahlers, Jean M. Hunhoff (Chair), Kathy Miles, and Craig Tieszen; and Representatives Quinten L. Burg (Ranking Minority Member), Justin Cronin, Shantel Krebs (Vice Chair), J.E. "Jim" Putnam, Tim Rave, Larry Tidemann, and Charles M. Turbiville. Senators Bob Gray and Ryan Maher and Representative Larry Lucas were excused.

Staff members present included James Fry, LRC Director; and Lisa Shafer, Legislative Secretary.

**(Note):** For the purpose of continuity, these minutes are not necessarily in chronological order. Also, all material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.state.sd.us> under "Interim Information – Minutes and Agendas."

**(Note):** On Monday, April 20, 2009, the Executive Committee Subcommittee, chaired by Senator Jean Hunhoff, Chair of the Executive Board, met at 8:00 a.m.

### **Approval of Agenda**

**REPRESENTATIVE TURBIVILLE MOVED, SECONDED BY REPRESENTATIVE RAVE, THAT THE AGENDA BE APPROVED. The motion prevailed unanimously on a voice vote.**

### **Director's Report**

**Mr. Jim Fry**, Director of the Legislative Research Council, provided the committee an updated financial report. **(Document #1)** With one quarter of the fiscal year left, the Legislature has sufficient funds for the remainder of the fiscal year. The legislature is in excellent financial shape regarding the fourth floor renovation project. There are a few minor problems that need to be addressed, but the project is complete and on budget.

In response to **Representative Putnam's** question, Mr. Fry said that food has been banned in the three new renovated rooms; however, beverages are allowed. This is noted in the confirmation letter sent to all agencies that reserve the rooms.

**Representative Tidemann** asked about the artwork for the Capitol. Mr. Fry stated that there is one state-owned piece that is representative of South Dakota and size appropriate for the wall across from the elevator on fourth floor. The Art Council is continuing to look at artwork.

### **2010 Legislative Travel Policy**

**Senator Hunhoff** informed the committee that 23 legislators have requested to travel out-of-state this fiscal year.

Mr. Fry noted that until the Executive Board meeting held on March 30, 2009, it was the position of the Board to allow any person appointed to a national committee authorization to attend the committee meetings. Due to the current budget situation, the Board decided at its last meeting to send a maximum of 29 people to the meetings for the remainder of FY 2009.

The committee discussed possible changes for the FY 2010 legislative travel policy. Some of the discussion included not limiting people in leadership positions from attending meetings and excluding legislators that will not be returning for the following session from attending out-of-state meetings.

**REPRESENTATIVE PUTNAM MOVED, SECONDED BY REPRESENTATIVE TURBIVILLE, THAT ANY LEGISLATOR WHO WILL NOT BE RETURNING ANY FOLLOWING LEGISLATIVE SESSION WILL NOT BE ALLOWED TO ATTEND NATIONAL MEETINGS UNLESS IN LEADERSHIP POSITIONS.**

**REPRESENTATIVE BURG MOVED AN AMENDMENT TO THE MOTION, SECONDED BY SENATOR MILES, THAT THE RESTRICTION FOR NON-RETURNING LEGISLATORS WILL ONLY REFLECT THE SECOND YEAR OF THE TWO-YEAR TERM.**

The motion and the amendment prevailed on a roll call vote with 12 AYES and 3 EXCUSED. Those members voting AYE include: Abdallah, Ahlers, Miles, Tieszen, Burg, Cronin, Krebs, Putnam, Rave, Tidemann, Turbiville, and Hunhoff (Jean). Those members EXCUSED include: Gray, Lucas, and Maher.

Limitations as to the number of times each legislator is allowed to travel were discussed. **Senator Ahlers** reminded the committee that some legislators serve on more than one national organization or committee and should not be restricted to one trip per year. Representative Putnam stated that rules should be in place to reflect the budget and for the chair to deny or approve legislative travel as discussed in the last meeting. Committee members also noted that the Speaker of the House and the President Pro Tempore of the Senate make the appointments to the national committees and it is the responsibility of the chairperson of the Executive Board to oversee legislative travel.

**SENATOR ABDALLAH MOVED, SECONDED BY REPRESENTATIVE TURBIVILLE, THAT ANY REQUEST FOR LEGISLATIVE TRAVEL GO THROUGH THE SPEAKER OF THE HOUSE OR PRESIDENT PRO TEMPORE OF THE SENATE FOR APPROVAL PRIOR TO**

**THE CHAIRPERSON OF THE EXECUTIVE BOARD'S DETERMINATION OF APPROVAL FOR ATTENDANCE AT NATIONAL COMMITTEE MEETINGS.**

**REPRESENTATIVE RAVE MOVED A SUBSTITUTE MOTION, SECONDED BY REPRESENTATIVE TIDEMANN, THAT ALL REQUESTS FOR TRAVEL GO THROUGH THE CHAIRPERSON OF THE EXECUTIVE BOARD AND ADVICE CAN BE SOUGHT FROM THE SPEAKER OF THE HOUSE OR PRESIDENT PRO TEMPORE.**

The committee discussed the need for the motion because it is the current practice of the Legislature.

**The substitute motion passed on a roll call vote with 9 AYES, 3 NAYS, and 3 EXCUSED. Those members voting AYE include: Burg, Cronin, Krebs, Miles, Putnam, Rave, Tidemann, Turbiville, and Hunhoff (Jean). Those members voting NAY include: Abdallah, Ahlers, and Tieszen. Those members EXCUSED include: Gray, Lucas, and Maher.**

In response to Representative Tidemann's question, Mr. Fry said that any legislator can attend a national meeting within their assigned area at their own expense.

**SENATOR AHLERS MOVED, SECONDED BY SENATOR MILES, THAT NO LEGISLATOR MAY BE AUTHORIZED TO ATTEND MORE THAN TWO OUT-OF-STATE MEETINGS WITHOUT THE APPROVAL OF THE EXECUTIVE BOARD CHAIRPERSON. The motion failed on a roll call vote due to the lack of affirmative votes of the majority of the members elect present. Those members voting AYE include: Ahlers, Burg, Hunhoff (Jean), Krebs, Putnam, Miles, and Tieszen. Those members voting NAY include: Cronin, Rave, Tidemann, and Turbiville. Those members EXCUSED include: Abdallah, Gray, Lucas, and Maher.**

**Policy on Use and Technology Services in Legislative Rooms**

Mr. Fry informed the committee that the fees for the usage of the renovated rooms were changed two meetings ago. The rooms are made available to state agencies and occasionally non-state agencies. The non-state agencies are required to place a \$500 damage deposit for use of the House and Senate chambers, which is returned upon inspection.

**Mr. Colin Keeler**, Bureau of Finance and Management, told the committee that since the committee rooms in the Capitol are funded entirely with general funds, any state agency that receives federal funds for space allocation cannot be charged a fee for renting the rooms in the Capitol since that is inconsistent with the federal cost allocation plan. The entire cost allocation plan would need to be changed for the rooms to be billed to state agencies. Executive agencies will not be able to use the renovated rooms with a fee attached.

In response to **Representative Burg's** question, Mr. Keeler stated that a fee can be charged to any non-state agency.

Mr. Keeler responded to Representative Tidemann's concern pertaining to damages to the equipment and room furnishings by stating that a contract could be signed when the room is rented. However, any state agency would be responsible for damages they caused.

Representative Putnam asked about the penalty for charging for the renovated rooms. Mr. Keeler said that the federal government would review the state's cost allocation plan and probably make changes. The state has been able to maintain the current cost allocation plan and changes could be detrimental to the cost savings.

**REPRESENTATIVE CRONIN MOVED, SECONDED BY REPRESENTATIVE TURBIVILLE, THAT THE LEGISLATIVE RESEARCH COUNCIL DRAFT A CONTRACT FOR THE MONETARY EXPENSES AND POTENTIAL DAMAGES TO THE LEGISLATIVE CONFERENCE ROOMS.**

**REPRESENTATIVE KREBS MOVED AN AMENDMENT TO THE MOTION, SECONDED BY SENATOR AHLERS, THAT A DAMAGE DEPOSIT OF \$500 BE PROVIDED BY ALL NON-STATE AGENCIES. The amendment passed on a roll call vote with 9 AYES, 3 NAYS, and 3 EXCUSED. Those members voting AYE include: Ahlers, Burg, Hunhoff (Jean), Krebs, Putnam, Miles, Rave, Tidemann, and Tieszen. Those members voting NAY: Abdallah, Cronin, and Turbiville. Those members EXCUSED include: Gray, Lucas, and Maher.**

**The amendment and motion passed on a roll call vote with 12 AYES and 3 EXCUSED. Those members voting AYE include: Abdallah, Ahlers, Burg, Cronin, Hunhoff (Jean), Krebs, Miles, Putnam, Rave, Tidemann, Turbiville, and Tieszen. Those members EXCUSED include: Gray, Lucas, and Maher.**

In response to Mr. Fry's inquiry about the exclusion of some non-profit and non-state agency organizations, Senator Hunhoff stated that the room reservation policy will remain the same with the discretion being with the director of the Legislative Research Council.

The committee recessed at 10:51 a.m. to 11:06 p.m.

**SENATOR AHLERS MOVED, SECONDED BY SENATOR ABDALLAH, THAT NO LEGISLATOR MAY BE AUTHORIZED TO ATTEND MORE THAN 2 OUT-OF-STATE MEETINGS AT THE STATE'S EXPENSE UNLESS TO FULFILL EXTRAORDINARY LEADERSHIP DUTIES WHICH BENEFIT THE STATE AND BE APPROVED BY THE CHAIRPERSON OF THE EXECUTIVE BOARD.**

**REPRESENTATIVE PUTNAM MOVED A SUBSTITUTE MOTION, SECONDED BY REPRESENTATIVE TIDEMANN, THAT NO LEGISLATOR MAY BE AUTHORIZED TO ATTEND MORE THAN 3 OUT-OF-STATE MEETINGS AT THE STATE'S EXPENSE UNLESS TO FULFILL THE EXTRAORDINARY LEADERSHIP DUTIES OF THE STATE WHICH WOULD BE APPROVED BY THE CHAIRPERSON OF THE EXECUTIVE BOARD. The substitute motion failed on a roll call vote with 6 AYES, 6 NAYS, and 3 EXCUSED. Those members voting AYE include: Burg, Cronin, Putnam, Rave, Tidemann, and Turbiville. Those members voting NAY include: Abdallah, Ahlers, Miles, Tieszen,**

**Krebs, and Hunhoff (Jean).** Those members **EXCUSED** include: **Gray, Lucas, and Maher.**

**The original motion passed on a roll call vote with 8 AYES, 4 NAYS, and 3 EXCUSED. Those members voting AYE include: Abdallah, Ahlers, Miles, Tieszen, Burg, Krebs, Putnam, and Hunhoff (Jean). Those members voting NAY include: Cronin, Rave, Tidemann, and Turbiville. Those members EXCUSED include: Gray, Lucas, and Maher.**

### **Public Testimony on Interim Study Requests**

**Mr. Gary Olsen**, South Dakota Association for the Deaf, stated his support for the committee to study the South Dakota School for the Deaf (SDSD) during the 2009 interim. He said that there is information that has not been researched or discussed in regard to deaf children and adults. Some areas include the percentage rate of deaf children that drop out of school, graduation level, number that attend post secondary education, and support for deaf adults.

**Ms. Deb Mortenson**, Associated General Contractors, encouraged the committee to study the South Dakota highway needs and finance issue during the 2009 interim. This study would allow for the review of taxing alternative vehicles and other methods of funding the state highways.

The committee discussed the judicious use of state funds, practicality, and cohesiveness of combining the agency review of the Department of Transportation and the issue of studying South Dakota highway needs and finance.

**Representative Krebs** presiding as chair.

**Ms. Jennifer Toscana**, Deputy Commissioner of the Office of School and Public Lands, informed the committee that the Office of School and Public Lands manages the land for the SDSD. She requested that a person from her office be placed on the committee if SDSD is selected to be studied during the interim.

### **Discussion on Interim Activities**

In response to Senator Abdallah's question, Mr. Fry said that there is no requirement to follow the "2009 Interim Study Rankings." (**Document #2**) With the Legislative Research Council staff available and other obligations, he suggests that the Board limit the selection of additional committees to two or three.

**Senator Hunhoff** presiding as chair.

After discussing possible summer study topics, the committee created a list of four topics which include:

- Reimbursement for Medicaid providers and the costs for home-based services;
- The study of wind energy development;
- The study of the Sex Offender Registry; and
- Consolidation and updating of all South Dakota liquor laws.

**REPRESENTATIVE PUTNAM MOVED, SECONDED BY REPRESENTATIVE RAVE, THAT THE EXECUTIVE BOARD SHOULD CHOOSE 3 TOPICS TO BE REVIEWED AND VOTE BY PAPER BALLOT FOR 2 TOPICS FOR THE 2009 INTERIM.**

**SENATOR ABDALLAH MOVED A SUBSTITUTE MOTION, SECONDED BY SENATOR TIESZEN, THAT THE EXECUTIVE BOARD VOTE VIA PAPER BALLOT FOR 3 TOPICS TO BE STUDIED DURING THE 2009 INTERIM.**

The committee talked about the possibility of combining agency review of the Department of Transportation and the issue of studying South Dakota highway needs and finance. **Representative Rave** commented that combining the two topics could save the state money and by placing the same people on the committee as the last interim, the committee would be able to accomplish more. Representative Tidemann noted that unless the two topics are combined, the department could be responding to the same questions to two different committees. It is the consensus of the committee to combine the two topic areas for review in the 2009 interim.

Representative Krebs and Representative Rave requested that the committee be allowed additional meetings to review both topics areas.

**The substitute motion prevailed on a roll call vote with 10 AYE, 2 NAY, and 3 EXCUSED. Those members voting AYE include: Abdallah, Ahlers, Burg, Hunhoff (Jean), Krebs, Miles, Putnam, Rave, Turbiville, and Tieszen. Those members voting NAY include: Cronin and Tidemann. Those members EXCUSED include: Gray, Lucas, and Maher**

The committee recessed at 11:58 a.m. and reconvened at 1:20 p.m.

### **South Dakota School for the Deaf**

**Dr. Robert “Tad” Perry**, Executive Director of the Board of Regents, distributed two handouts – “Governor’s Task Force on Deaf Education: Report to the Governor, November 2008” (**Document #3**) and the “Action Steps Taken to Implement Recommendations of the Governor’s Task Force on Deaf Education.” (**Document #4**) He said that one year ago, the Governor’s Task Force on Deaf Education was appointed to identify and assess the effectiveness and efficiency of the educational services provided in the state for deaf and hard of hearing students. There were twenty-eight people that testified before the group, including the last five superintendents of SDSD.

One issue Dr. Perry identified is critical mass at SDSD. The school is serving 30 students in three different groups. Currently, there are 400 students with hearing impairments that are being provided services at the local schools. The primary responsibility of providing education for the child lies with the local school, regardless of whether the education takes place at the local school or at SDSD.

Dr. Perry explained to the committee the six action steps taken to implement the task forces’ recommendation, which are outlined in Document #4.

Senator Abdallah asked about the funding for SDSD. Dr. Perry responded that the total budget for the school is about \$3.8 million. The program with Brandon Valley will cost about \$300,000 to perform the services needed for the deaf students.

Representative Rave asked about a plan that would appropriately educate the deaf children. Dr. Perry stated that the Board of Regents has the framework, and needs the individual IEP's of the children to provide proper services.

Dr. Perry said, in response to Senator Abdallah's question, that there is probably not 100% agreement on the plan because some staff positions at SDSD will be eliminated. There are also some people in the deaf community who will be affected that believe there are alternative methods to provide services to the deaf community.

Representative Burg asked if the SDSD will operate through the entire 2009-2010 school year. Dr. Perry said that during the next school year, the Board of Regents will implement the six action steps at SDSD. At the same time, the program at Brandon Valley will be operating in the middle school and high school with an engaged advisory group.

Dr. Perry said that the surrounding states with low populations are not addressing the needs of the deaf and hearing impaired much better than South Dakota. A method to reach critical mass could be to have a conversation about a collective approach to address the needs of the students. He told the committee that there are schools for the deaf in Iowa, North Dakota, and Colorado.

Representative Tidemann asked about the positions that will be eliminated at SDSD. Dr. Perry stated that there is an agreement with Brandon Valley that any person at SDSD who lost his or her job and is qualified for the position at Brandon Valley will be guaranteed an interview. The outreach program will expand and there will be an internal search first.

#### Public Testimony

Mr. Olsen said that the democratic process is not being followed because the people are not included in the decision of SDSD. In order for the program to sustain itself over the years, the plan needs to include schools for the hearing impaired children. He thinks that the current plan includes some outdated concepts.

Mr. Olsen stated his concern about how the plans for SDSD are being made without data. He is not certain how long-term decisions are to be made without data. The future plans for SDSD need to provide educational opportunities that will integrate deaf students into a regular school system.

**Ms. Nikki Soukup**, Coalition of Concerned Citizens for Deaf and Hard of Hearing Children, stated her support for the comments made by Mr. Olsen. She informed the committee that there are people in the state that do not know what resources are available for deaf people. Currently, there are wonderful programs that already exist. Ms. Soukup does not support the concept of spending more money at the University of South Dakota to develop practices that are already operating. She encourages the committee to utilize present resources.

### **Selection of 2009 Interim Study Topics**

Mr. Fry distributed a handout summarizing the list of topics previously discussed. (**Document #5**) He informed the committee that the enabling legislation for sunset reviews states that one or two agencies can be reviewed in an interim. If there are concerns about consolidating the Department of Transportation (DOT) agency review with the issue of studying South Dakota highway needs and finance, the sunset review on DOT can be deferred until a later interim.

**SENATOR AHLERS MOVED, SECONDED BY REPRESENTATIVE BURG, THAT THE BUREAU OF PERSONNEL BE REVIEWED IN THE 2009 INTERIM AND THE REVIEW OF THE DEPARTMENT OF TRANSPORTATION BE DEFERRED. The motion was withdrawn.**

**REPRESENTATIVE PUTNAM MOVED, SECONDED BY SENATOR AHLERS, THAT THE DEPARTMENT OF TRANSPORTATION AGENCY REVIEW AND THE STUDY OF SOUTH DAKOTA HIGHWAY NEEDS AND FINANCE BE COMBINED AND STUDIED IN THE 2009 INTERIM.**

In response to committee questions, **Mr. Reuben Bezpaletz**, Chief Analyst for Research and Legal Services, said that there are a variety of methods for creating membership on interim studies. The task force on abortion was primarily lay people that voted. The task force on divorce and education included six lay people that voted. There are also committees consisting of lay people who do not vote.

**The motion passed on a roll call vote with 12 AYES and 3 EXCUSED. Those members voting AYE include: Abdallah, Ahlers, Miles, Tieszen, Burg, Cronin, Krebs, Putnam, Rave, Tidemann, Turbiville, and Hunhoff (Jean). Those members EXCUSED include: Gray, Lucas, and Maher.**

The committee recessed at 2:29 p.m. and reconvened at 2:44 p.m.

Senator Ahlers stated his interest in the legislature studying the SDSD during the 2009 interim.

Representative Krebs said that one area of concern about the 2008 Governor's Task Force on Deaf Education is that some people feel as though they were not part of the process. She encourages the parent local education advisory committee to be informed and be part of the task force.

The committee discussed the concept of sending the Letter of Intent from the Joint Committee on Appropriations and appointing a subcommittee to review the topic.

**SENATOR ABDALLAH MOVED THAT THE EXECUTIVE BOARD APPOINT TWO LEGISLATORS, ONE FROM EACH PARTY, AND A LAY PERSON, WHO REPRESENTS THE DEAF COMMUNITY, TO THE TASK FORCE ON DEAF EDUCATION AND HAVE A REPORT OF THE FINDINGS PROVIDED TO THE EXECUTIVE BOARD. The motion failed for a lack of a second.**

**REPRESENTATIVE PUTNAM MOVED, SECONDED BY REPRESENTATIVE RAVE, THAT THE LETTER OF INTENT FOR THE SOUTH DAKOTA SCHOOL FOR THE DEAF BE**

**REVISED TO INCLUDE THAT THE JOINT COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON THE SOUTH DAKOTA SCHOOL FOR THE DEAF WORK WITH THE BOARD OF REGENTS, THE DEPARTMENT OF EDUCATION, AND THE PARENT-LEA ADVISORY COMMITTEE AND REPORT TO THE EXECUTIVE COMMITTEE WITH RECOMMENDATIONS ON IMPROVING DEAF EDUCATION IN SOUTH DAKOTA. The motion passed on a roll call vote with 11 AYES, 1 NAY, and 3 EXCUSED. Those members voting AYE include: Ahlers, Miles, Tieszen, Burg, Cronin, Krebs, Putnam, Rave, Tidemann, Turbiville, and Hunhoff (Jean). Those members voting NAY include: Abdallah. Those members EXCUSED include: Gray, Lucas, and Maher.**

Representative Tidemann named the following members of the Joint Committee on Appropriations subcommittee on the South Dakota School for the Deaf. The members include:

- Representative Thomas Deadrick, Chair
- Senator Al Novstrup, Vice Chair
- Senator Dan Ahlers
- Senator Corey Brown
- Representative H. Paul Dennert
- Representative Deb Peters

After committee discussion pertaining to the potential interim topics, the committee voted for three topics via paper ballot. The committee will be reviewing the reimbursement for Medicaid providers and the costs for home-based services, the study of the sex offender registry; and the consolidation and updating of all South Dakota liquor laws.

Mr. Fry distributed the 2009 and 2010 Executive Board subcommittee membership. **(Document #6)**

### **Uniform Laws Commission Appointments**

Mr. Fry informed the committee that there is no formal recruitment process for finding people to appoint to the Uniform Laws Commission. The current terms do not expire until July, 2009. The Legislative Research Council has already received letters of interest. **(Documents #7 and #8)**

In response to committee questions pertaining to a deadline, Mr. Fry stated that there is no formal deadline. However, a deadline could be established by the committee and included in a survey and news release to the state bar.

**SENATOR ABDALLAH MOVED, SECONDED BY REPRESENTATIVE TURBIVILLE, THAT JUNE 7, 2009 BE THE DEADLINE TO FILL THE OPEN POSITION TO THE UNIFORM LAWS COMMISSION.**

After committee discussion pertaining to the executive board schedule, the motion was changed to may 10, 2009.

**SENATOR ABDALLAH MOVED, SECONDED BY REPRESENTATIVE TURBIVILLE, THAT MAY 10, 2009 BE THE DEADLINE TO FILL THE OPEN POSITION TO THE UNIFORM LAWS COMMISSION. The motion prevailed on a voice vote.**

**Adjourn**

**SENATOR ABDALLAH MOVED, SECONDED BY REPRESENTATIVE TURBIVILLE, THAT THE COMMITTEE ADJOURN. The motion prevailed on a voice vote.**

The committee adjourned at 3:32 p.m.



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