Legislative Research Council

MINUTES

Joint Committee on Appropriations

Second Meeting
2011 Interim
June 23, 2011

LCR 1 & 2
State Capitol Building
Pierre, South Dakota

Thursday, June 23, 2011

The second meeting of the Special Committee on Appropriations for 2011 was called to order by the Co-Chair, Representative Dean Wink, at 10:08 a.m. (CDT) in Legislative Conference Rooms 1 & 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Corey Brown (Co-Chair), Jeffrey Haverly, Phyllis Heineman, Al Novstrup, Bruce Rampelberg, Deb Peters, Billie Sutton, and Larry Tidemann (Vice Chair); and Representatives Jim Bolin, Lance Carson (Vice Chair), H. Paul Dennert, Dan Dryden, Kent Juhnke, Fred Romkema, Jim White, Dean Wink (Co-Chair), and Susan Wismer. Senator J.E. "Jim" Putnam was excused.

Staff members present included Fred Schoenfeld, Chief Fiscal Analyst; Annie Mehlhaff, Principal Fiscal Analyst; Sue Cichos, Senior Fiscal Analyst; Aaron Olson, Senior Fiscal Analyst; Terry Miller, Senior Fiscal Analyst; and Lisa Shafer, Legislative Secretary.

(NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are 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 – Current Interim – Minutes and Agendas.")

Approval of Minutes

REPRESENTATIVE CARSON MOVED, SECONDED BY SENATOR HAVERLY, TO APPROVE THE MINUTES FROM THE MARCH 28, 2011 MEETING. The motion prevailed on a voice vote.

FY2011 Fiscal Close and FY2012 Budget Implementation

Mr. Jason Dilges, Commissioner for the Bureau of Finance and Management (BFM), distributed a handout listing the staff assignments for the BFM budget analysts. (**Document #1**)

In FY2011, the state has collected over $1 billion into the state general fund. Commissioner Dilges noted that since the 2011 Legislative Session ended, some revenue sources have softened. The BFM now projects that the state revenues will fall short of the revised revenue estimate for FY2011. He does not think the state will have the 8% growth that the legislature adopted due to significant amount of shortfalls from sales tax, bank franchise tax, lottery, and contractors excise tax.

To balance the budget for FY2011 by June 30, the state will pay less for the refund of bank franchise taxes and the state will see some general fund reversions ($1.5 million - $2 million)

South Dakota Flooding Update

Commissioner Dilges distributed a handout entitled "May 2011 Flood – Costs through 6/21/11" (**Document #2**) which summarized costs incurred from the flood to date. He noted that presidential disaster declarations will be made for the flooding along the Missouri River Valley. However, the state has the responsibility to pay for the services and can use funds in the emergency and disaster fund.

As of June 21, 2011, the total cost to the state was $12,759,046. Some of the costs eligible for reimbursement include: National Guard services, sandbags, air support, south east incident management team, salaries that were not previously budgeted in the department, response supplies, and equipment.

Corps levees were built to protect public infrastructure. Those levees were made and paid for by the Corps. The levees that were built at the discretion of the community were built with the local community assuming the financial responsibility. By the end of June 2011, the City of Fort Pierre will be insolvent and therefore asked for a loan from the state. Governor Daugaard gave the City of Dakota Dunes and the City of Fort Pierre loans in the amount of $10 million each from the emergency and disaster fund. Since the emergency and disaster fund does not have a fund balance, the fund will go further negative and will need to be addressed during the next legislative session. The loan terms are 0% interest for 18 months, then 4.5% thereafter. The total loan amount will need to be repaid in 5 years.

In response to committee discussion and questions, Commissioner Dilges stated that the cost of the community levees in Dakota Dunes was $6.2 million. The state is petitioning FEMA to help cover costs. South Dakota determines the entire cost for the flood preparation, then submits the eligible reimbursement expenses to FEMA. It is general practice that FEMA pays 75%, state pays 10%, and the local government pays 15%.

Representative Jim Bolin asked about the cost for deconstruction of the levees. Commissioner Dilges stated that the potential cost to deconstruct will be massive because the state will have some potentially contaminated soils that will need to be treated. He believes there could be some federal participation for the cost.

FY2011 Fiscal Close

Ms. Deb Bowman, Senior Advisor to Governor Daugaard, **Ms. Kim Malsom-Rysdon**, Secretary of the Department of Social Services (DSS), and **Ms. Brenda Tidball-Zeltinger**, Chief Financial Officer with the Department of Social Services, were present to discuss the budget for Medicaid in FY2011 and the future.

Ms. Bowman distributed a handout entitled "FY11 Year End Budget – Department of Social Services" (**Document #3**). She explained the history of the DSS budgeting over the last eight years.

The DSS started FY2011 with a $10.8 million carry-over from FY2010. That carry-over will be used to soften the budget cuts to providers in the FY2012 budget. The department also received $3.3 million from the federal government for the stimulus unemployment bonus. Due to a change in the drug rebasing, there will be a $600,000 carry-over. Inpatient/high cost claims are less than estimated for an estimated $7.7 million. Fewer eligibles than estimated will result in $1.5 million and utilization changes are estimated at $1.2 million. Details of the sources of funding and anticipated expenditures for FY2011 are listed on page 2 of Document #3.

Ms Bowman also explained the history and details of the $3.8 million transfer. The result of the transfer preserves the TANF and Child Care Block Grant by using general funds rather than using federal funds. In response to committee questions, the state does not earn interest on the TANF carry-over balance. Ms. Bowman further explained the remaining uses of the $25.1 million general funds: $10.8 million to reduce the cuts to providers, $2.5 million used for FY2011 claims, $4.7 million for MMIS, and $3.3 million will be available for FY2012.

Commissioner Dilges, in response to committee questions, explained the goal to continue to keep a balance at the federal government in the TANF and Child Care and to stop the over-spending.

FY2012 Budget Implementation – Board of Regents

Dr. Jack Warner, Executive Director and CEO for the Board of Regents (BOR), **Mr. Monte Kramer**, System Vice President of Finance and Administration for the BOR, and **Ms. Claudean Hluchy**, Budget Manager for the BOR explained the FY2012 budget for the BOR.

Distributed to the committee were details on the BOR FY12 Reduction in Personnel Resources (**Document #4**) and a handout entitled "BOR – FY12 Budget Realignment" (**Document #5**) prepared by the Board of Regents. Dr. Warner stated that after the tuition and fee increase of 6.9%, the total BOR budget was reduced by about 6% for FY12. Details of the FY2012 budget cuts at each university and school are outlined in Document #4. With the realignment, the final percentage decrease to each institution is 2.41%

SENATOR BROWN MOVED, SECONDED BY SENATOR PETERS, THAT THE BUDGET REALIGNMENT REQUEST FOR THE BOARD OF REGENTS BE APPROVED. The motion prevailed on a voice vote.

In response to Representative H. Paul Dennert's question, Dr. Warner distributed a handout that lists the FY2012 reductions in filled positions. (**Document #6**) There were 69 filled positions that are being cut. Of those, 66 of the positions were at South Dakota State University.

Senator Jeffrey Haverly requested that the BOR provide the total amount of general fund and federal fund cuts with FTE reductions.

Representative Susan Wismer asked what providers will provide the services when the Agricultural Experiment Station is closed. Dr. Warner stated that the BOR will provide that information to the committee later.

Representative Lance Carson asked about the average debt load for a student graduating from a public university. Dr. Warner stated that it about $23,000 for an undergraduate to complete a degree at a South Dakota public university. He noted the default rate on student loans in South Dakota is about 2% - one of the lowest in the nation.

Senator Billie Sutton requested that the Board of Regents provide the national average debt load per undergraduate student.

The committee recessed 12:05 p.m. and reconvened at 1:07 p.m.

Governor's Task Forces

Ms. Deb Bowman explained the reasoning for the various Governor's Task Forces and provided a listing of all the memberships. The Task Forces include:

- Governor's Task Force on Infant Mortality (**Document #7**);
- Concept for South Dakota Higher Education Study Group (**Document #8**);
- Behavior Health Committee (**Document #9**);
- Health Insurance Exchange (HIE) Task Force (**Document #10**);
- Review of Assisted Living Center Regulations (**Document #11**); and
- Medicaid Solutions Workgroup. (**Document #12**)

Senator Phyllis Heinemann requested the department provide the website address for the HIE process.

The committee discussed the possibility for the Legislative Research Council receiving notifications and agendas for all the Governor's task forces meetings. Ms. Bowman said that LRC staff is welcome to attend the meetings and the Office of the Governor would notify the LRC of scheduling.

In response to committee questions, Ms. Bowman distributed a PowerPoint presentation about the Medicaid Solutions Workgroup (**Document #13**). She said that the three areas of highest expenses are nursing homes, nursing home services, and community support providers. The data shows that many high cost claims are premature births and multiple births. One of the largest concerns is the implementation of the federal health care program in South Dakota because the state is required to pay the administrative costs.

Representative Dean Wink requested the department provide performance indicators showing the average cost for Medicaid enrollees over the last five years. Secretary Malsom-Rysdon stated that the information can be presented at the October meeting.

Continuation of FY2012 Budget and FY2011 Budget Transfers

Commissioner Dilges distributed the "Interim Report" (**Document #14**). He said that the Bureau of Finance and Management has streamlined the transfer notification process by emailing all Joint Appropriation members and LRC staff members of all BFM approved transfers. There were no committee questions on the transfers.

Proration of Interest Earnings – Commissioner Dilges informed the committee that the proration of the investment income has been around for many years, but the JCA must approve the proration of earnings. He said that 90% of the estimated investment are earnings distributed this fiscal year and the remaining 10% will be distributed in the next fiscal year.

Page 2 of Document #14 lists the new and reassigned cash centers. There are nine new participating companies and twenty-one new non-participating companies for FY2011. Commissioner Dilges noted that Company 3144 was created under the Department of Public Safety to address the different disasters that have occurred throughout the state.

Page 3 lists all the funds that are recommended to have a designation change for FY2011. Commissioner Dilges said that Company 2000 was created for the stimulus funding. All funds included in Company 2000 are recommended to be changed from participating to nonparticipating. This change is because most of the funds carry a negative cash balance.

The committee discussed the new cash centers and the recommended designation change. Commissioner Dilges commented that all the transfers for FY2012 are base transfers and there are no one-time transfers.

SENATOR PETERS MOVED, SECONDED BY SENATOR HAVERLY, TO ADOPT THE BUREAU OF FINANCE AND MANAGEMENT'S RECOMMENDED PRORATION OF INVESTMENT INCOME FOR FY2011. The motion prevailed on a roll call vote with 15 AYES and 3 EXCUSED. Those members voting AYE include: Sutton, Haverly, Heineman, Novstrup, Peters, Rampelberg, Dennert, Wismer, Bolin, Romkema, Dryden, White, Tidemann, Brown, and Wink. Those members EXCUSED include: Putnam, Juhnke, and Carson.

Additional Information from the Bureau of Finance and Management

Commissioner Dilges explained to the committee that with Governor Daugaard's executive reorganization order, the state now has a newly reorganized state government and budgeting system. Staff at BFM has changed the accounting systems, budgeting systems, and payroll systems to reflect the reorganization. Regardless of the reorganization in April, the agencies remained in the same budget structure for the remainder of FY2011.

The BFM staff broke out the budget history, with funding source and FTES, for the agencies that were moved or divided.

Revenue Outlook Report

Mr. Aaron Olson, Senior Fiscal Analyst with the LRC, distributed the "May General Fund Revenue Report". (**Document #15**) He said that LRC concurs with BFM in that the state general fund revenues are $3 million to $4 million off the pace year-to-date.

Medicaid Enrollees Report

Ms. Sue Cichos, Senior Fiscal Analyst with the LRC, distributed a handout entitled "Medicaid Eligible Totals – May 2011" (**Document #16**). She informed the committee that the information was mailed to them at the beginning of the month.

Condition Statements

Mr. Fred Schoenfeld, Chief Fiscal Analyst with the LRC, distributed a memorandum about condition statements (**Document #17**). He explained some issues with using Condition Statements to track Other Fund balances for legislative appropriation use.

The committee discussed the use and request of condition statements.

Senator Deb Peters said that the Government Operations and Audit committee reviews condition statements with other funds and provides information to the Appropriations Committee in the Blue Book.

Representative Dean Wink stated that the issue will be addressed at the next meeting.

Letters of Intent

Ms. Annie Mehlhaff, Principal Analyst with the LRC, distributed the letter of intent for the Board of Regents Performance Improvement Fund (**Document #18**). She said that the letter of intent is a rewrite of one from the March 28, 2011 meeting. The primary change was to specifically list the E-Learning Center at Northern State University. The letter of intent reads:

> The Legislature approved one-time funding for the Public Universities' Performance Improvement Fund. The $1.5M appropriated through HB1235 was available through FY11 revenue estimates in excess of those provided by the Governor in January.
>
> There are three specific uses of the Performance Improvement Fund: **Center for Statewide E-Learning, Research Infrastructure,** and **Student Success**. It is the intent of the Joint Committee on Appropriations that these funds be distributed as follows:
> The Northern State University **Center for Statewide E-learning** portion of the Performance Improvement Funds will be used to accommodate the additional demand from students in K-12 at the approximate level established by the 2010-2011 enrollments. The one-time funds will be used to meet current demands with the intent to review enrollments in current course offerings and possible reassignment of Master Teachers to meet future demands.
>
> The "**research infrastructure"** portion will be distributed to the campuses through a competitive process directed by a panel of experts and state leaders. The proposals will be reviewed on their merits, the potential to produce economic benefit to the state, and their long-term viability.
> Examples of how Performance Improvement Funds could be used in research were provided by the Board of Regents:

- Grant Match Funds -- Identifying funds to match federal and private grants for the purchase of equipment will increase the number of grant applications and awards, bringing additional research activity to South Dakota. Matching funds hold the promise of accessing federal, corporate, and private funds for equipment from entities that otherwise may not be interested in partnering with institutions. This demonstrates to potential grantors the state's continuing support for research.
- Advancing High-Tech Research in Wind Energy, the Biofuels Industry, Medical Research, or Financial Services -- Proposals that have the potential to advance industries important to the future economy and competitiveness of South Dakota will be given preference. The ability to advance DUSEL, wind energy, the biofuels industry, medical research, or the financial services sector will benefit South Dakota in the long term. Competitive proposals to advance research, leverage non-state funds, or develop industry partnerships will be solicited and evaluated.

The "**student success**" portion of the Performance Improvement Fund will be used, on a one-time basis, to build an early-alert system that targets at-risk students. Student retention continues to be a serious issue for postsecondary institutions nationwide, and this early-warning system can give campus personnel tailored feedback to reach the at-risk students and determine how best to intervene and shape strategies to improve their success.

Ms. Mehlhaff distributed a letter of intent for the Board of Regents on Monitoring Contract and Grant Levels (**Document #19**). The Board of Regents is to report contract and grant levels for the next three years. The letter of intent reads:

> The Legislature approved a 10% cut for the Board of Regent's FY2012 budget totaling $17,209,994 in general funds. A portion of those general funds would have been used to provide match for contracts and grants from the Federal Government and from private corporations.
>
> A decrease in available matching funds has the potential to dramatically decrease the number and amount of grants and contracts available to the South Dakota University system.
>
> It is the request of the 2011 Joint Committee on Appropriations that the Board of Regents provide biannual reports containing a historical view of the level of grant and contract awards from outside sources for each university. Any significant increase or decrease, along with a reason for the change, should be noted. For example, if a professor's position is cut and he/she leaves, taking a large grant with them to their new university, this should be highlighted.
>
> The reports shall be made available to the committee on July 30 (January-June) and January 30 (July-December) beginning in 2012 and ending in 2015.

SENATOR BROWN MOVED, SECONDED BY SENATOR HAVERLY, TO ADOPT THE LETTER OF INTENT FOR THE BOARD OF REGENTS PERFORMANCE IMPROVEMENT FUND AND THE LETTER OF INTENT FOR THE BOARD OF REGENTS TO MONITOR CONTRACT AND GRANT LEVELS. The motion prevailed on a voice vote.

Deferral of JCA tours

Representative Wink stated that the funding appropriated to the LRC was for interim studies and not for tours. He does not think the full committee should take a tour, but he encourages individuals and small groups to tour state facilities.

Representative Dennert asked if any of the Governor's task forces fall under the LRC budget. Mr. Schoenfeld said that he would check and advise the committee.

OneNote

Ms. Mehlhaff updated the committee on some of the improvements to OneNote that the LRC staff will be working on over the summer. Some of the changes include:

- Removing the "right click here" tabs and automating all the updates;
- Increasing the speed of the updates
- Installing a search feature
- Adding a tag feature; and
- Incorporating the red bill book on the same system.

She asked the committee to let the LRC staff know of any suggestions or changes that will be beneficial to the committee

Additional Information

Senator Brown stated that it would be beneficial to have budget information from the school districts across the state addressing FTEs and opt outs.

Senator Haverly said that the committee should have a follow-up meeting with some of the agencies that had not defined specific cuts during session. He requested that the Office of School and Public Lands be placed on the next meeting agenda.

Senator Peters requested that the Office of the State Treasurer be present at the next meeting to discuss FY2012 budget cuts.

Senator Heineman wants to know about long-term efficiencies pertaining to the cuts.

Representative Kent Juhnke requested to have the Department of Game, Fish, and Parks present at the next meeting. He said that the department increased fees to compensate for a budget cut but with the current flood the department may be losing revenue.

Senator Haverly told the committee that funding for the Midwestern Higher Education Compact dues were cut from the state budget last year. He said that although the funding was removed, the state still is obligated to pay the membership dues for two more years.

SENATOR PETERS MOVED, SECONDED BY SENATOR HAVERLY, THAT THE EXECUTIVE BOARD LOCATE FUNDS TO PAY THE $95,000 IN ANNUAL FEES FOR THE MIDWESTERN HIGHER EDUCATION COMPACT DUES. The motion prevailed on a voice vote.

Adjourn

SENATOR HAVERLY MOVED, SECONDED BY SENATOR BROWN, TO ADJOURN. The motion prevailed unanimously on a voice vote.

The committee adjourned at 3:38 p.m. to tour the Pierre/Ft. Pierre flooded areas.

All Legislative Research Council committee minutes and agendas are available at the South Dakota Legislature's Homepage: http://legis.state.sd.us. Subscribe to receive electronic notification of meeting schedules and the availability of agendas and minutes at **MyLRC** (http://legis.state.sd.us/mylrc/index.aspx).