



SouthDakota

Legislative
Research
Council

MINUTES
Executive Board

Representative Dean Wink, Chair

Senator Corey Brown, Vice Chair

Representative Spencer Hawley, Ranking Minority Member

**Sixth Meeting
2015 Interim
November 16, 2015**

**Room 413
State Capitol Building
Pierre, South Dakota**

The sixth meeting of the Executive Board for the 2015 Interim was called to order by **Representative Dean Wink** at 10:00 a.m. (CDT) in room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Representative Dean Wink, Chair; Senator Corey Brown, Vice Chair; Representatives Jim Bolin, Brian Gosch, Don Haggard, Spencer Hawley, Roger Hunt, and Fred Romkema; Senators Gary Cammack, Phyllis Heineman, David Omdahl, Scott Parsley, Billie Sutton, and Jim White. Excused: Representative Tim Johns.

Staff members present included Jason Hancock, Director; Sue Cichos, Deputy Director; Doug Decker, Code Counsel; Annie Mehlhaff, Chief Analyst for Fiscal; David Ortbahn, Chief Analyst for Research; and Cindy Tryon, Senior 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 office. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.sd.gov>.

Approval of Agenda

A MOTION WAS MADE BY SENATOR CAMMACK, SECONDED BY SENATOR SUTTON TO APPROVE THE AGENDA. The motion prevailed on a voice vote.

Approval of Minutes

A MOTION WAS MADE BY SENATOR BROWN, SECONDED BY SENATOR WHITE, TO APPROVE THE MINUTES OF THE AUGUST 24, 2015, EXECUTIVE BOARD MEETING. The motion prevailed unanimously on a voice vote.

LRC Senior Staff Reports

Ms. Sue Cichos, Deputy Director, introduced Mr. Paul Giovanetti, the new Senior Secretary in the LRC office. Mr. Giovanetti replaced Ms. Marge Pirnat who retired after working for the State of South Dakota for 58 years.

Ms. Cichos reported that page applications must be postmarked no later than November 16. Eighty applications have been received thus far and more are expected in the mail that arrives today and tomorrow. The goal is between 100-105 pages accepted. Ms. Cichos gave the criteria for becoming a page and pointed out that copies of all the page information can be found in the Executive Board packets that were distributed at the retreat in October. The information is also available on the LRC website.

Ms. Cichos said that Speaker Wink had asked if a flu shot clinic could be held during the first week of session and she has been making plans for that. The Health Department and Pharmacy Association are cooperating with the planning. If a legislator is unable to receive the vaccine on the day of the clinic, there may be some vaccine available in the Doctor of the Day office. However, the best time to get the flu shot in preparation for session is by the middle of December, so legislators should try to get them by then if possible.

Mr. Doug Decker, Code Counsel, reported that he is working with the School District Boundary Task Force and will be assisting them with bill drafting. The Task Force's final report is due by December 1 and will be submitted via letter.

Mr. Decker is also working with the Worker's Compensation Advisory Council. The Council is considering the latest Supreme Court decision regarding how wages are computed in determining the amount of compensation. Mr. Decker is assisting the council in drafting legislation that addresses that issue.

Mr. David Ortbahn, Chief Analyst for Research and Legal Services, said that the research staff is in the process of wrapping up the interim committees by writing final reports and drafting legislation. The staff is also gearing up for next session, the number of requests for bills is greater than it was at this time last year, but that is common during a non-election year.

Mr. Ortbahn reported that Mr. Fred Baatz, Ms. Amanda Reiss, and Ms. Roxanne Hammond have completed the intern interviews and hopefully those selections will be made quickly to avoid the applicants finding work elsewhere.

Mr. Ortbahn added that while interviews were being conducted for the Senior Secretary position, an applicant who had just graduated from law school was interviewed and she has been hired as a session employee. Her name is Ms. Jessica LaMie and she will do legal editing/proofing of bills and checking cross references. Ms. LaMie will also assist with proofing the journals and will work on other office projects as time allows. Ms. LaMie will begin working in the LRC office on November 30.

Ms. Annie Mehlhaff, Chief Analyst for Fiscal Research and Budget Analysis, said that the fiscal staff has been busy reviewing the FY17 budget requests. This year, the budget information was shared with the LRC fiscal staff about a month earlier than usual which is very much appreciated. At this time, there are \$207 million in agency requests and that will be pared down by the Governor's Office with the results being reported on December 8 during the Governor's Budget Address.

Ms. Mehlhaff also reported that the remodeling of the LRC offices should be completed prior to the budget address. The offices of the fiscal staff will be located toward the back of the office making them much more accessible to the Appropriation Committee chairs and members.

Mr. Jason Hancock, Director, continued the update on the office remodel that is underway. The furniture should be moved in the week of Thanksgiving and the staff members who are moving into different offices should be done relocating the first week of December.

Issue Memorandum

Mr. Fred Baatz, Principal Research Analyst, presented *Issue Memorandum 2015-01, Property Taxation (Document #1)*. Mr. Baatz explained that this issue memorandum was written in response to a request for information on how property taxes are apportioned to local political subdivisions and how other local governmental revenues are distributed. This paper mainly focuses on property taxes levied by counties and municipalities.

Senator Phyllis Heineman said that this memorandum contains a great deal of information and that all legislators should have a copy of it. Mr. Baatz said that the memorandum will be available on the LRC website and it can be e-mailed to all legislators.

A MOTION WAS MADE BY SENATOR HEINEMAN, SECONDED BY REPRESENTATIVE BOLIN, THAT ISSUE MEMORANDUM 2015-01 BE ACCEPTED BY THE EXECUTIVE BOARD. The motion prevailed on a voice vote.

A MOTION WAS MADE BY SENATOR CAMMACK, SECONDED BY SENATOR HEINEMAN, THAT ISSUE MEMORANDUM 2015-01 BE E-MAILED TO ALL MEMBERS OF THE SOUTH DAKOTA LEGISLATURE. The motion prevailed on a voice vote.

LRC/Legislature Logo

Ms. Sue Cichos, Deputy Director, and **Ms. Hilary Carruthers, LRC Computer and Web Specialist**, presented samples of new letterhead options to the Executive Board for their consideration ([Document #2](#)).

A MOTION WAS MADE BY SENATOR BROWN, SECONDED BY REPRESENTATIVE HAGGAR, TO ADOPT DESIGN 1 OF THE SAMPLES FOR THE NEW LRC/LEGISLATURE LOGO. The motion prevailed on a voice vote.

Ms. Cichos then asked the Board if they prefer the LRC letterhead to continue to include names in the address line as has been the tradition, or if they would like the names removed for a cleaner look.

A MOTION WAS MADE BY REPRESENTATIVE ROMKEMA, SECONDED BY REPRESENTATIVE BOLIN, TO KEEP WITH TRADITION AND CONTINUE TO USE NAMES IN THE LRC LETTERHEAD. The motion prevailed on a voice vote.

LRC Performance Goals

Mr. Jason Hancock distributed a document demonstrating how the Executive Board can measure the performance of the LRC staff ([Document #3](#)). The suggested categories to be measured are: customer service, timeliness, nonpartisanship, confidentiality, quality of legislative publications, prison cost estimate statement accuracy, fiscal note accuracy, bill accuracy, IT problem solving, and website. Informational items that will also be tracked are staff turnover, succession (staff eligible for retirement), succession (staff who will become eligible for retirement in next 5 years), survey participation (percent of legislators completing the survey), and website hits.

Representative Roger Hunt asked about the timeliness measure and how that will be tracked. Mr. Hancock said that when the legislator requests a bill to be drafted, the drafter will discuss with the requestor a reasonable expectation for when the draft will be completed. That date will then be entered into the lawmaker program and will be used for tracking. Due to a variety of reasons, the date may be adjusted by later agreement of the drafter and the requestor.

Representative Hunt suggested that a written agreement be prepared and both the drafter and the requestor have a copy of that agreement, which will help avoid any miscommunication issues.

Senator Heineman asked what will happen if a target is not met. Mr. Hancock said that if the LRC does not meet the target goal, there will be an investigation as to why the goal was not met and a program will be determined for making the necessary improvements.

Senator Heineman added that it falls upon the Executive Board to make sure the legislators understand the importance of completing the LRC surveys that are conducted each year gathering comments regarding the LRC staff and their work during session. The 38% participation in the survey process this past year is not acceptable.

A MOTION WAS MADE BY SENATOR CAMMACK, SECONDED BY SENATOR HEINEMAN, TO APPROVE THE PERFORMANCE GOALS AS PRESENTED BY DIRECTOR HANCOCK. The motion prevailed on a voice vote.

Senator Heineman explained that the Executive Board can request the director add performance goals to the list as needed.

Interim Committee Final Reports

Senator Mike Vehle, Chair of the Rules Review Committee, presented that committee's report ([Document #4](#)). The Rules Review Committee does not write rules but goes through the agency and commission rules to make sure there is authority for those rules. If there is a problem with a rule, the committee tells the agency what is wrong and directs them to fix the issue and then return with the corrected rule. Thus far in 2015, the committee has heard 2,417 rules and has one more meeting in December.

Senator Troy Heinert, Chair of the State-Tribal Relations Committee, presented that committee's report ([Document #5](#)). According to Senator Heinert, the committee focused on race relations during this interim, with compelling testimony heard from several different communities as to what they are doing to address race relations. The committee also heard from several state agencies as to how they are increasing tribal access to their services.

Senator Heinert said that after Representative Hickey resigned from the State Legislature, Representative Jim Schaefer was appointed to replace him on the committee. The committee will hold one more meeting during the 2015 interim and that will be in Rapid City the third week of December.

Senator Heinert distributed a draft of the letter that the committee is sending to the Governor requesting the creation of a Truth and Reconciliation Commission whose purpose will be to promote understanding, cooperation, and awareness between the races ([Document #6](#)). The letter states, "The truth and reconciliation process seeks to heal relations between opposing sides by distinguishing truth, and allowing for acknowledgement, forgiveness and healing."

Representative Justin Cronin, Chair of the Interim Joint Committee on Appropriations (JCA), presented that committee's report ([Document #7](#)). During the 2015 interim, the JCA held three meetings and conducted two tours of facilities that receive state funding. The committee also sent out nine letters of intent (LOI) which outline guidelines for state agencies expressing particular views held by the JCA regarding approved appropriations.

Representative Cronin said that the third JCA meeting included the committee receiving a year-end report showing that \$21,535,148 in cash surplus was obligated to the Budget Reserve Fund. That surplus was the result of higher than expected revenues of \$9,999,511 and \$11,535,637 from state agency reversions.

Representative Kristin Conzet, Chair of the County Government Interim Committee, presented that committee's report ([Document #8](#)). The scope of this committee as assigned by the Executive Board was "A review of the functions of county government, laws and regulations regarding counties,

county revenue and expenditures, alternative funding solutions, organization of the counties, and cooperation between the counties and other local governments.”

Representative Conzet said that information gathering meetings were held with various organizations and agencies prior to starting the official committee meetings of which there were three held in Pierre. Each meeting consisted of testimony from a variety of county officials regarding county challenges and successes.

Mr. Fred Baatz and Representative Conzet presented the draft legislation approved by the County Government Interim Committee sponsor during the 2016 legislation session:

1. An Act to eliminate certain reporting requirements for the county general fund.
2. An Act to revise the distribution of the revenue from the alcoholic beverage fund.
3. An Act to authorize counties to impose sales and use taxes.
4. An Act to revise and repeal certain fees that are established to compensate counties for services provided by county officials.
5. An Act to revise certain administrative functions regarding county government.
6. An Act to require municipalities to reimburse the counties for certain judicial and law enforcement expenditures.
7. An Act to make form and style revisions to certain statutes regarding counties.

Mr. Baatz explained that the Executive Board’s role in moving this legislation forward is to vote as to whether or not the proposed legislation falls within the scope of the interim committee. The Executive Board members are not listed as sponsors of these bills, and a vote to allow the legislation to move forward does not signify that the members of the Executive Board support the legislation.

A MOTION WAS MADE BY SENATOR SUTTON, SECONDED BY REPRESENTATIVE HAWLEY, TO ACCEPT THE DRAFT BILLS PROPOSED BY THE COUNTY GOVERNMENT INTERIM COMMITTEE AND AGREE THAT THE BILLS DO FALL WITHIN THE SCOPE OF THAT COMMITTEE. The motion prevailed on a voice vote.

Ms. Roxanne Hammond, Legislative Attorney and LRC Staffer assigned to the South Dakota High School Activities Association (SDHSAA) Interim Committee, presented that committee’s report ([Document #9](#)). Senator Craig Tieszen served as the chair of this committee but was unable to take part in today’s Executive Board meeting. The scope of this committee as assigned by the Executive Board was “Study the history, authority, make-up, and oversight of the South Dakota High School Activities Association, by considering the following questions:

- How is the SDHSAA accountable to the legislative and/or executive branch (DOE)?
- Does the SDHSAA exceed rule making authority and do they provide adequate public notice?
- Are there other associations with similar issues?
- Should schools be required to pay dues to this organization?
- What is their relationship and responsibility to the National Federation of High School Activities?
- What is their status under South Dakota laws?
- Are they subject to open meeting laws?
- Is the one school/one vote policy of the organization valid?”

The committee held three meetings in Pierre, during which Ms. Hammond presented information on existing statutes regarding the SDHSAA and how other states regulate their activities associations, and the SDHSAA gave in-depth information as to the structure and responsibilities of the association. There was also testimony regarding the SDHSAA’s transgender policy given by a variety of interested parties, as well as written correspondence entered into the minutes. SDHSAA board members also presented information regarding the association’s site selection process.

Ms. Hammond said that there were two pieces of legislation drafted for the committee's consideration but both drafts failed to receive committee approval.

Mr. Tim Flannery, State Government Audit Manager, Department of Legislative Audit, and staff assigned to the Government Operations and Audit Committee (GOAC), presented that committee's report ([Document #10](#)). The responsibilities of GOAC are:

- To inquire and review any phase of the operations and the fiscal affairs of any department, institution, board or agency of the state;
- To examine records and vouchers, summon witnesses, examine expenditures and the general management of departments, as deemed necessary;
- To review any finding of abuse or neglect in a juvenile corrections facility;
- To review the annual report of the South Dakota 911 Coordination Board;
- To review the annual reports from each Department administering the funds received from the Building South Dakota Fund;
- To make a continuing study of the operation of the state's correctional system; and,
- To make a detailed report to the Senate and House of Representatives and submit a copy of its report to the Appropriations Committee of each House of the Legislature at the next succeeding session of the Legislature or any special session of the Legislature upon request of the body.

The committee heard performance reports from the Division of Behavioral Health, the Building South Dakota Funds, the Department of Public Safety, and the Brand Board. The committee also heard from the following agencies about specific matters: Department of Social Services, Bureau of Human Resources, Bureau of Administration, Department of Transportation, Legislative Research Council, and the Secretary of State.

The committee is charged with the responsibility to review certain areas of Juvenile Corrections, and did hear those reports.

The GOAC members asked the Department of Legislative Audit to update certain areas within the "Blue Book" (Other Fund Information by Agency).

During the 2015 interim, the committee reviewed financial reporting, internal control and compliance deficiencies written on eleven state organizations, containing twenty-two recommendations for corrective action; six recommendations related to violations of federal laws and regulations; and sixteen recommendations related to inadequate internal control procedures over receipts, revenue collections, expenditures, and financial reporting.

Executive Board Legislation

Mr. Jason Hancock, LRC Director, presented draft legislation #001, *An Act to repeal the Midwestern Regional Higher Education Compact*, for the Board's consideration ([Document #11](#)). The intention of this draft legislation is to repeal South Dakota's membership in MHEC. No action was required regarding this draft legislation as the Board approved such a motion at the May 18, 2015, meeting.

Mr. Hancock also presented draft legislation #128, *An Act to revise certain provisions regarding the Executive Board of the Legislative Research Council* ([Document #12](#)). This draft legislation clarifies succession in the event of a vacancy in the positions of Speaker and President Pro Tempore on the Executive Board, clears up any misalignment of the terms of the chair and vice chair of the Executive Board with the terms of legislators, deletes the language stating that all Executive Board meetings

must be held in the State Capitol, and makes the LRC Director responsible for hiring staff and procuring supplies.

A MOTION WAS MADE BY SENATOR WHITE, SECONDED BY SENATOR HEINEMAN, TO APPROVE AND MOVE FORWARD WITH DRAFT LEGISLATION #128 WITH THE EXECUTIVE BOARD SPONSORING THE BILL. The motion prevailed on a voice vote.

Ethics Seminar Report

Representative Lee Schoenbeck talked to the board via telephone regarding a Legislative Ethics Seminar he attended in Minneapolis. At that conference, a former Speaker of the House from Missouri who was brought up on ethics charges did speak and would be willing to come to Pierre to talk to the South Dakota legislature. Representative Schoenbeck said that the Attorney General is also willing to speak to the legislature explaining the ethics laws and how they apply to campaign accounts.

Representative Wink said that he had also heard the gentleman from Missouri's presentation and that it would be a good idea to give the entire legislature the opportunity to hear that story.

Representative Spencer Hawley said that the Board should move forward with this and be willing to pay expenses and an honorarium if required.

Representative Fred Romkema agreed that this speaker should be invited and that the Attorney General should also be asked to address the legislature regarding this issue.

Representative Schoenbeck said that we would be willing to co-chair this event and that he had talked to Senator Bernie Hunhoff who offered to be the other co-chair. The Board asked Representative Schoenbeck to ask the gentleman from Missouri if he would allow his presentation to be videotaped so that all legislators would have the opportunity to hear it and so that it could also be used in the future.

A MOTION WAS MADE BY REPRESENTATIVE ROMKEMA, SECONDED BY REPRESENTATIVE HAWLEY, THAT THE GENTLEMAN FROM MISSOURI BE INVITED TO SPEAK TO THE SOUTH DAKOTA LEGISLATURE AND THE BOARD PAY HIS TRAVEL EXPENSES AND AN HONORARIUM, WITH THE TOTAL NOT TO EXCEED \$1,500. The motion prevailed on a voice vote.

Representative Schoenbeck said that he will contact the gentleman from Missouri and then refer future planning for the event to Director Hancock.

Technology Subcommittee Report

Senator Phyllis Heineman, Chair of the Technology Subcommittee, gave the subcommittee report. LRC's IT staff is moving forward with the development of the new infrastructure but they are carefully avoiding doing anything that will interfere with the current structure needed for the 2016 Session. The plan is to go live with the new system on April 1, 2016. Senator Heineman said that Ms. Hilary Carruthers explained to the subcommittee that there will be changes that the legislators need to be aware of and Ms. Carruthers is developing a brochure that will explain those changes and will be distributed to all legislators.

Senator Heineman said that the subcommittee did discuss security with Mr. Brian DeBolt and that SDN will be providing the firewall. One of the biggest issues with security is the users and in the future

there will be some type of presentation to the legislators to make them aware of how to use the new system's technology safely.

Budget Subcommittee Report

Senator Jim White, Chair of the Budget Subcommittee, said that improvements are being made to the budget process and the majority of the meetings will be joint committee hearings.

Ms. Annie Mehlhaff, Chief Fiscal Analyst, distributed a document that includes the new timeline process for budget planning, explains how the new process will work, and goes through the advantages and disadvantages of the old system vs. the new system ([Document #13](#)).

The new process would exempt appropriation bills that are in the appropriations committee from the crossover deadline so that the committee can wait until the revenue estimates have been determined before taking any action. The revenue estimates will not include February data so that the estimates can be set earlier than past years. Budget setting would be spread out over a 2 week timeframe and the general appropriations bill will be built during that time.

Mr. Hancock presented the proposed legislative rule changes that will be needed for implementation of the new budget system ([Document #13, pages 5-8](#)). These include changes to which no objections have been raised, and options for the Joint Committee on Appropriations voting process; options for amending appropriation bills on the floor; and options for referring appropriation bills to committees.

Senator White said that there are still adjustments that need to be made to the proposed budget process but the subcommittee agrees that the system has merit and should move forward.

Executive Session

A MOTION WAS MADE BY REPRESENTATIVE GOSCH, SECONDED BY REPRESENTATIVE HUNT, THAT THE EXECUTIVE BOARD GO INTO EXECUTIVE SESSION TO DISCUSS ITEMS RELATING TO SECURITY. The motion prevailed on a roll call vote with 13 members voting AYE and 2 EXCUSED. Those voting AYE: Gosch, Haggar, Hawley, Hunt, Romkema, Cammack, Heineman, Omdahl, Parsley, Sutton, White, Brown, and Wink. Those EXCUSED: Bolin, Johns.

The Executive Board went into Executive Session at 3:25 p.m.

A MOTION WAS MADE BY SENATOR BROWN, SECONDED BY REPRESENTATIVE GOSCH, THAT THE EXECUTIVE BOARD COME OUT OF EXECUTIVE SESSION. The motion prevailed on a voice vote.

The Executive Board came out of Executive Session at 3:55 p.m. No action was taken.

Adjourn

REPRESENTATIVE HAGGAR MOVED, SECONDED BY SENATOR OMDAHL, THAT THE EXECUTIVE BOARD BE ADJOURNED. The motion prevailed unanimously on a voice vote.

The Board adjourned at 3:55 p.m.