

# MINUTES

## Executive Board



Representative G. Mark Mickelson, Chair  
Senator Brock L. Greenfield, Vice Chair  
Representative Spencer Hawley, Ranking Minority Member

**Second Meeting, 2017 Interim  
Tuesday, April 18, 2017**

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

The second meeting of the Executive Board for the 2017 Interim was called to order by Representative G. Mark Mickelson at 11:30 a.m. in room 413 of the State Capitol, Pierre, South Dakota. A quorum was determined with the following members answering roll call: Representatives Spencer Gosch, Steven Haugaard, Lee Qualm, Tim Reed, and Mike Stevens; Senators Jim Bolin, R. Blake Curd (via telephone), Kris Langer, Jeffrey Partridge, Jim Stalzer, and Billie H. Sutton (via telephone); Representative Spencer Hawley, Ranking Minority Member; Senator Brock L. Greenfield, Vice Chair; and Representative G. Mark Mickelson, Chair. Excused: Representative Craig Tieszen.

Staff members present include Jason Hancock, Director; Sue Cichos, Deputy Director; Jason Simmons, Senior Fiscal Analyst; David Ortbahn, Chief Analyst for Research; Scott Darnall, Information Technology Manager; Jeff Mehlhaff, Fiscal Analyst; Carol Huber, Business Manager; 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://sdlegislature.gov>.*

### **Approval of Minutes**

**A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY SENATOR PARTRIDGE, TO APPROVE THE MINUTES OF THE MARCH 27, 2017, EXECUTIVE BOARD MEETING. Motion prevailed on a voice vote.**

### **Interim Study Committee Topic Selection**

**Mr. Jason Hancock, Director**, explained the process used in ranking the proposed study topics ([Document #1](#)). The Regulation of Access to and Use of Non-Meandered Waters on Public and Private Property was ranked first by the responding legislators.

**Representative G. Mark Mickelson** said the Executive Committee discussed the study topics and recommend the non-meandered waters issue be the first choice for a study topic.

**A MOTION WAS MADE BY REPRESENTATIVE HAWLEY, SECONDED BY SENATOR GREENFIELD, TO SELECT THE REGULATION OF ACCESS TO AND USE OF NON-MEANDERED WATERS ON PUBLIC AND PRIVATE PROPERTY AS A STUDY TOPIC FOR THE 2017 INTERIM. Motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Bolin, Curd, Langer, Partridge, Stalzer, Hawley, Greenfield, and Mickelson. Those EXCUSED: Tieszen and Sutton.**

**Senator Brock Greenfield** said he would like the Board to appoint the study committee members today so they can begin the process as soon as possible.

**Representative Spencer Hawley** said the Executive Committee agreed that because of the complexities of this issue there should be at least thirteen members on this interim committee.

**A MOTION WAS MADE BY SENATOR CURD, SECONDED BY REPRESENTATIVE QUALM, THAT THE EXECUTIVE BOARD APPOINT THE MEMBERS TO THE NON-MEANDERED WATERS STUDY COMMITTEE DURING TODAY'S MEETING. The motion prevailed on a roll call vote with 14 members voting AYE, 1 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. EXCUSED: Tieszen.**

Representative Mickelson had requested Ms. Cichos, Deputy Director, survey all legislators regarding interest in serving on this study committee, giving the board the information needed to make selections at this meeting.

**Representative Mike Stevens** suggested the committee include members from three different factions, the sportsmen, the landowners, and those who are not in any way involved in this issue.

**A MOTION WAS MADE BY REPRESENTATIVE HAWLEY, SECONDED BY SENATOR GREENFIELD, TO APPOINT FIFTEEN MEMBERS TO SERVE ON THE NON-MEANDERED WATERS STUDY COMMITTEE. THOSE MEMBERS ARE: REPRESENTATIVES BARTELS, DUVAL, GOSCH, HAWLEY, McCLEEREY, HERMAN OTTEN, QUALM, RHODEN, AND TULSON; AND SENATORS CAMMACK, FRERICHS, GREENFIELD, KENNEDY, KLUMB AND WHITE. REPRESENTATIVE QUALM WILL SERVE AS CHAIR AND SENATOR GREENFIELD WILL SERVE AS VICE CHAIR. The motion prevailed on a roll call vote with 14 members voting AYE, 1 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. EXCUSED: Tieszen.**

Representative Hawley said this group of study committee members do provide the mixture of representation suggested by Representative Stevens.

**Representative Lee Qualm** said the Attorney General's office will have representation at the meetings to give legal counsel, especially regarding the Supreme Court decision. Representative Mickelson said Mr. Hunter Roberts is the Governor's staff person assigned to this issue, and he, too, will take part in the study committee meetings.

**A MOTION WAS MADE BY REPRESENTATIVE HAWLEY, SECONDED BY SENATOR PARTRIDGE, TO DEFINE THE SCOPE OF THE NON-MEANDERING WATERS INTERIM COMMITTEE AS THE STUDY OF THE SUPREME COURT DECISION (DUERRE V. HEPLER); PRIVATE PROPERTY PROTECTIONS; PUBLIC ACCESS TO WATERS INCLUDING NON-MEANDERING WATERS; REGULATION AND MANAGEMENT OF NON-MEANDERING WATERS; DEFINING RECREATION ON NON-MEANDERING WATERS; AND REVIEW OF PAST LEGISLATION REGARDING THIS SUBJECT. The motion prevailed on a roll call vote with 14 members voting AYE, 1 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. EXCUSED: Tieszen.**

Representative Hawley said the Board needs to remember that any legislation proposed by this study committee must fit within the scope, and such legislation fitting within the scope should be approved by the Board to move forward to the full Legislative body.

Representative Mickelson asked each of the Board members for their thoughts on selecting additional interim study committees.

**A MOTION WAS MADE BY SENATOR BOLIN, SECONDED BY SENATOR LANGER, TO SELECT ONE ADDITIONAL INTERIM STUDY TOPIC. The motion prevailed on a roll call vote with 10 members voting AYE, 4 members voting NAY, and 1 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Bolin, Curd, Langer, Stalzer, and Mickelson. Those voting NAY: Partridge, Sutton, Hawley, and Greenfield. EXCUSED: Tieszen.**

**A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY SENATOR BOLIN, TO SELECT WORKFORCE HOUSING AS A STUDY TOPIC FOR THE 2017 INTERIM. The motion prevailed on a roll call vote with 10 members voting AYE, 4 members voting NAY, and 1 EXCUSED. Those voting AYE: Gosch, Qualm, Reed, Bolin, Curd, Langer, Sutton, Hawley, Greenfield, and Mickelson. Those voting NAY: Haugaard, Stevens, Partridge, and Stalzer. EXCUSED: Tieszen.**

**Representative Tim Reed** said this study may not lead to legislation this next session but it needs to be studied to provide for informed discussions and possible future legislation.

Representative Mickelson said he would like the scope expanded to include the South Dakota Housing Fund.

The Board agreed the scope of the Workforce Housing committee and the appointment of the members will be finalized at the next Executive Board meeting.

### **Budget Subcommittee Report**

**Senator Jeffrey Partridge, Chair, Budget Subcommittee**, said the LRC prepares state general fund revenue estimates and those estimates continue to be revised down. Senator Partridge asked Mr. Mehlhaff to present the most recent revenue information.

**Mr. Jeff Mehlhaff, Fiscal Analyst**, distributed the State General Fund Receipts FY17 – through March report ([Document #2](#)). This report includes all categories of state receipts and lists the target estimates and the actual revenue. The report is compiled monthly and posted on the LRC website. Mr. Mehlhaff stated the report is through March of 2017 and that three months of revenues remain in the current fiscal year.

Mr. Mehlhaff presented a document demonstrating the change in sales tax collections from 2015 through 2017 ([Document #3](#)). Mr. Mehlhaff stated there has been negative growth in sales tax collections for every month except one thus far in 2017 when excluding the half penny.

Representative Mickelson said he is concerned about the state's inability to collect tax on online sales and that the loss of sales tax revenue due to online sales will continue to grow if not addressed.

**Representative Spencer Gosch** requested a breakdown of sales tax collection by business type to better understand which businesses have the biggest decreases in sales. Mr. Mehlhaff said he will contact the Department of Revenue and request that information.

### **Technology Subcommittee Report**

**Representative Hawley, Chair, Technology Subcommittee**, said the Legislative IT Policy was discussed during the 2016 interim but no action was taken at that time. Representative Hawley said Mr. Darnall will go through the suggested policies again for Board action.

**Mr. Scott Darnall, IT Manager**, presented the South Dakota Legislative IT Policy manual ([Document #4](#)).

**A MOTION WAS MADE BY REPRESENTATIVE HAWLEY, SECONDED BY SENATOR BOLIN, TO ADOPT THE IT POLICY AS PRESENTED. The motion prevailed on a roll call vote with 11 members voting AYE, 4 EXCUSED. Those voting AYE: Gosch, Qualm, Reed, Stevens, Bolin, Langer, Partridge, Stalzer, Hawley, Greenfield, and Mickelson. EXCUSED: Haugaard, Tieszen, Curd, and Sutton.**

Representative Mickelson said he would like to have some type of consequence that will apply when these policies are not followed.

### **Bit Lean Training and Implementation Report**

**Mr. David Johnson and Mr. Alfredo Mycue, ReEngine Consulting, Austin, TX**, gave a PowerPoint presentation regarding the Bureau of Information and Technologies' Lean training and implementation initiative ([Document #5](#)).

Senator Partridge explained that this project started with a 2016 Letter of Intent from the Joint Committee on Appropriations, and then funding was approved by the Executive Board in July of 2016. The purpose of this project is greater efficiencies in state government. Senator Partridge said BIT's annual budget is about \$40 million and they have 392 and one-half FTE.

Mr. Johnson and Mr. Mycue explained because of the Lean study, BIT now has four main tools: visual strategy, takt board; standard operating procedures; and a strong measurement system. The final outcome in the report is that BIT is on path to achieve throughput and velocity objectives, and have already set in place ongoing continuous improvement infrastructure.

Senator Partridge said the Executive Board is to be thanked for funding this study and reported that the cost did come in under budget.

### **Initiated Measures and Constitutional Amendments Update**

Mr. Hancock presented information on the initiated measures and constitutional amendments the LRC has had under review for the next ballot ([Document #6](#)).

Mr. Hancock also explained the deadlines for getting these issues on the 2018 ballot ([Document #7](#)). The effective date of these ballot initiatives and referenda will be changing to July 1 of the year following that election.

### **Executive Board Appointments**

Representative Mickelson said the Executive Board is responsible for several committee and commission appointments. The four appointments that need to be made at this meeting can be found in the distributed handouts ([Document #8](#)).

**A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY REPRESENTATIVE HAWLEY, TO APPOINT SENATOR SOLANO AND REPRESENTATIVE WISMER TO THE DAKOTA CORPS SCHOLARSHIP BOARD EFFECTIVE JULY 1, 2017. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Bolin, Curd, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. EXCUSED: Tieszen and Langer.**

**A MOTION WAS MADE BY REPRESENTATIVE STEVENS, SECONDED BY REPRESENTATIVE REED, TO APPOINT REPRESENTATIVE CRAIG TIESZEN TO THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION STATE COUNCIL. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Bolin, Curd, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. EXCUSED: Tieszen and Langer.**

**A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY SENATOR PARTRIDGE, TO APPOINT SENATOR CAMMACK AND REPRESENTATIVE REED AS REPRESENTATIVES, AND SENATOR KOLBECK AND REPRESENTATIVE RING AS ALTERNATES, TO THE STREAMLINED SALES TAX GOVERNING BOARD. The motion prevailed on a roll call vote with 12 members voting AYE, 3 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Bolin, Curd, Partridge, Stalzer, Hawley, Greenfield, and Mickelson. EXCUSED: Tieszen, Langer, and Sutton.**

Senator Greenfield said Senator Peters had requested not to be reappointed to the governing board at this time, but she will remain involved in this very important issue. Senator Greenfield expressed his sincere appreciation for the amount of work Senator Peters has already done regarding the streamlined sales tax.

**A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY REPRESENTATIVE QUALM, TO APPOINT THE CHAIRS OF THE EDUCATION COMMITTEES, REPRESENTATIVE JOHNS AND SENATOR BOLIN, TO THE EDUCATION COMMISSION OF THE STATES. The motion prevailed on a roll call vote with 12 members voting AYE, 3 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Bolin, Curd, Partridge, Stalzer, Hawley, Greenfield, and Mickelson. EXCUSED: Tieszen, Langer, and Sutton.**

### **LRC Communications to Legislators**

**Ms. Sue Cichos, Deputy Director**, presented a sample of a draft newsletter that can be used to improve communications with the full membership of the Legislature ([Document #9](#)). Ms. Cichos also presented a sample of the North Dakota legislators' out-of-state meeting report that can be adapted for South Dakota legislators to use when reporting on out-of-state meetings and conferences. The Executive Board would like those reports included in the newsletter.

The Executive Board was very supportive of this resource being used to provide information to all members by sending this via e-mail to legislators on a monthly basis. Ms. Cichos said LRC hopes to begin e-mailing these publications the first part of May.

### **Management Reports**

**Ms. Sue Cichos, Deputy Director**, said the staff has been busy wrapping up from the 2017 Session and ramping up for the 2017 Interim. A new travel request form has been developed and presented to the Speaker of the House and the President Pro Tem of the Senate. All legislators have received the travel policy and request form. Ms. Cichos said the House and Senate Journals have been certified by the Chief Clerk of the House and the Secretary of the Senate. Ms. Cichos reported that after over 40 years working for the Legislative Research Council, Ms. Carol Huber, Business Manager, is retiring in June.

**Mr. David Ortbahn, Chief Analyst for Research and Legal Services**, said the research staff continues reviewing proposed initiated measures and constitutional amendments for suggesting changes to form and style and preparing prison impact statements as needed. The staff also reviews all proposed agency rules for style and form and legality. Now that the Executive Board has selected the interim study committees, the staff will be assigned to the committees and interim study preparations will consume a large part of their time.

Mr. Ortbahn said the 2017 Legislature repealed the Legislative Planning Committee, and some of the Planning Committee's functions have been transferred to the Government Operations and Audit Committee (GOAC), and the research staff will be assisting with the transfer process.

**Mr. Scott Darnall, IT Manager**, said the IT staff is working on session wrap up projects. The 2017 Session was the first session on the new LRC computer network infrastructure and the system worked very well. The IT staff is working on upgrading technology in committee meeting rooms 412, 413, and 414. Proposals for those upgrades will be presented at the next Executive Board meeting.

Mr. Darnall announced a new network administrator, Mr. Randy Stockwell, has been hired and will begin work at LRC the first part of May.

**Mr. Jason Simmons, Senior Fiscal Analyst**, said the fiscal staff is busy preparing 2017 Session summary documents, as well as sending out several Letters of Intent and Memorandums approved at the March 27, 2017, Joint Committee on Appropriations (JCA) meeting. The JCA will be conducting an east river tour in the summer of

2017 and a west river tour in the fall of 2017. During these tours, committee members visit various state facilities to better understand just what is involved in many of the budget requests.

Mr. Simmons said the fiscal staff continues working with IT in the development of LRC's budget system and making minor improvements to that system. The staff prepares and publishes monthly fiscal reports and is involved in the interim study committee meetings.

**Mr. Jason Hancock, Director**, said the LRC senior staff held a retreat in 2015 in which they developed a list of 62 projects intended to improve the Legislative Research Council. The senior staff will have a retreat to review that project list and discuss any new projects that should be added to the list.

Mr. Hancock discussed Capital Asset projects to be funded in the FY17 LRC budget. One such project is the technology updates in committee meeting rooms 412, 413, and 414. Another project is the replacement of the members' chairs in the House and Senate Chambers. Placing cameras in the House and Senate for floor coverage is also being considered, with partial payment from the FY17 budget and the remaining cost from the FY18 budget.

Representative Mickelson said it is important to remember when discussing Capital Assets that the third-floor bathrooms are in great need of being updated. Mr. Hancock explained plans for updating the third-floor bathrooms are underway and costs for work on the bathrooms will be covered by the Bureau of Administration's M&R (maintenance and repair) budget.

### **Executive Session**

**A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY REPRESENTATIVE QUALM, THAT THE EXECUTIVE BOARD GO INTO EXECUTIVE SESSION TO DISCUSS ITEMS RELATING TO PERSONNEL. The motion prevailed on a voice vote.**

The Executive Board went into Executive Session at 2:45 pm.

**A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY SENATOR PARTRIDGE, 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 3:05 pm. No action was taken.

### **Other Business**

**Senator Jim Stalzer** said he attends the planning committee meetings for a Constitutional Convention. There are currently 29 states in support of the balanced budget amendment to the Constitution. Senator Stalzer said 44 states have participated in these planning meetings and have worked on establishing rules for the convention, but this group has no official authority to approve the rules.

Senator Stalzer said another meeting will be held soon to continue planning, as more states pass resolutions supporting a balanced budget amendment to the Constitution.

Representative Mickelson asked Senator Stalzer to provide more information prior to the May Executive Board meeting, and the Board can then discuss South Dakota's appointments to the balanced budget amendment planning committee.

Senator Greenfield said the State of Tennessee was going to hold the planning committee meetings when South Dakota Senate Concurrent Resolution 9 passed during the 2017 Session. Tennessee will no longer be the host state, and the State of Arizona has accepted those duties.

### **Adjourn**

**A MOTION WAS MADE BY SENATOR PARTRIDGE, SECONDED BY REPRESENTATIVE HAWLEY, THAT THE EXECUTIVE BOARD BE ADJOURNED. The motion prevailed unanimously on a voice vote.**

The Board adjourned at 3:15 p.m.