

# MINUTES

## Executive Board



Representative Steven Haugaard, Chair  
Senator Brock L. Greenfield, Vice Chair  
Senator Troy Heinert, Ranking Minority Member

**Fourth Meeting, 2019 Interim  
Monday, June 10, 2019**

**SD Investment Council Offices  
Sioux Falls, South Dakota**

The fourth meeting of the Executive Board for the 2019 Interim was called to order by Representative Steven Haugaard at 1:15 p.m. in the conference room of the SD Investment Council Offices, Sioux Falls, South Dakota. A quorum was determined with the following members answering the roll call: Representatives Spencer Gosch, Randy Gross, Chris Johnson, John Mills, Sue Peterson, Lee Qualm, and Jamie Smith; Senators Jim Bolin, Bob Ewing, Kris Langer, Jim Stalzer, and Jim White; Senator Troy Heinert, Ranking Minority Member; Senator Brock L. Greenfield, Vice Chair; and Representative Steven Haugaard, Chair.

Staff members present included Jason Hancock, Director; Sue Cichos, Deputy Director; David Ortbahn, Chief Analyst for Research and Legal; Tamara Darnall, Chief Fiscal & Program Analyst; Scott Darnall, Information Technology Manager; Mitchell Close, Fiscal & Program Analyst; Amanda Doherty-Karber, Senior Fiscal & Program Analyst; Jennifer Geuther, Fiscal & Program Analyst; Jeff Mehlhaff, Senior Fiscal & Program Analyst; Sakura Rohleder, Fiscal and Program Analyst; and Cindy Tryon, Senior 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 office.*

### **Approval of Minutes**

***A motion was made by Senator Greenfield, seconded by Representative Gosch, to approve the minutes of the Tuesday, May 21, 2019, Executive Board meeting. Motion prevailed on a voice vote.***

### **Executive Session**

***A motion was made by Senator Greenfield, seconded by Representative Gosch, that the Executive Board go into Executive Session to discuss items relating to personnel. Motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.***

The Executive Board went into Executive Session at 1:20 p.m.

***A motion was made by Senator Greenfield, seconded by Senator Langer, that the Executive Board come out of Executive Session and that the record reflect no action was taken. The motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.***

The Executive Board came out of Executive Session at 1:35 p.m.

### Code Counsel Hiring Offer

Representative Haugaard reported on the Code Counsel Ad Hoc Interview Subcommittee meeting. Mr. Doug Decker retired as Code Counsel on June 8, 2019. The subcommittee interviewed several excellent candidates to replace Mr. Decker. The subcommittee recommends hiring Mr. Wenzel Cummings as the new South Dakota Code Counsel.

***A motion was made by Senator Greenfield, seconded by Senator Stalzer, that the Board offer the position of Code Counsel to Mr. Wenzel Cummings at an FY20 starting salary of \$105,100. The motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.***

### Code Commission Appointment

Representative Haugaard said Mr. Michael DeMersseman's term on the Code Commission has expired and he does not wish to be reappointed ([Document #1](#)). The Executive Board is responsible for appointing a replacement. The Executive Committee received three applications for the vacancy on the Code Commission. Mr. Doug Decker was one of the applicants considered and, as the retiring Code Counsel, the Executive Committee felt Mr. Decker's appointment to the Code Commission would help provide a good transition to the new Code Counsel.

***A motion was made by Senator Heinert, seconded by Senator Bolin, that the Board appoint Mr. Doug Decker to the Code Commission, beginning July 1, 2019. The motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.***

### Commission on Uniform Legislation Appointments

Senator White reported on the Commission on Uniform Legislation Appointments Ad Hoc Subcommittee meeting ([Document #2](#)). Mr. Thomas Geu's and Representative Tim Johns' terms on the Commission expire on July 31, 2019. The Subcommittee recommends reappointing Mr. Geu and Representative Johns to the Commission on Uniform Legislation. Senator Bolin requested voting separately on each of these appointments.

Senator Greenfield said when a person is appointed to this Commission, unless there is good reason to not reappoint, the person serving is usually reappointed. Mr. Geu is retired as the Dean of the Law School. He has served South Dakota well on this Commission and would like to continue to do so.

Senator Bolin said he does not doubt Mr. Geu's qualifications but that he has served many years already on the Commission and it may be time to open the appointment to others who may want the opportunity to serve.

Senator Stalzer said Mr. Geu is deeply involved in several current activities with the Commission and would like the opportunity to continue with those projects.

***A motion was made by Senator White, seconded by Representative Gross, that the Board reappoint Mr. Thomas Geu to the Commission on Uniform Legislation. The motion prevailed on a roll call vote with 12 members voting AYE, 3 members voting NAY. Voting AYE: Gross, Mills, Peterson, Qualm, Smith, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard. Voting NAY: Gosch, Johnson, and Bolin.***

***A motion was made by Senator White, seconded by Representative Gross, that the Board reappoint Representative Tim Johns to the Commission on Uniform Legislation. The motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.***

## Remaining Appointments to Mental Health Task Forces

During the 2019 Legislative Session, five interim task forces were established in SCR 2 with the intention of looking at sustainable improvements to the continuum of mental health services in South Dakota. The Executive Board appointed the Legislators to each task force, including the Chair and Vice Chair, at the April Executive Board meeting. Most of the non-legislator members were appointed to the task forces at the May Executive Board meeting, with just a few vacancies remaining to be appointed today ([Document #3](#)).

***A motion was made by Senator Greenfield, seconded by Representative Smith, to appoint Greg Barnier and Terrance Dosch to task force 1: Redefine Acute Mental Health Hospitalization. The motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.***

***A motion was made by Senator Greenfield, seconded by Representative Smith, to appoint Dianna Marshall and Jim Kinyon to task force 2: Reduce the Overall Use of Acute Mental Health Hospitalizations. The motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.***

***A motion was made by Senator Greenfield, seconded by Senator Heinert, to appoint Representative Tamara St. John to task force 3: Leverage Telehealth and Telemedicine. The motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.***

***A motion was made by Senator Greenfield, seconded by Representative Peterson, to appoint Representative Tina Mulally and Brandy Rhead to task force 5: Increase Community Services and Caregiver Supports. The motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.***

## Investment Council Appointment

Senator Kris Langer reported on the Investment Council Subcommittee meeting. Annually, one person is appointed to the State Investment Council by the Executive Board as one member's term expires ([Document #4](#)). The subcommittee interviewed 2 applicants for the seat on the council which will be open July 1, 2019. Senator Langer said both applicants were excellent candidates and the one not selected is encouraged to apply again next year.

***A motion was made by Senator Langer, seconded by Representative Peterson, to appoint Ms. Mary J. Howard, Sioux Falls, to the State Investment Council. The motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.***

## Investment Council Report

**Mr. Matt Clark, State Investment Officer, and Mr. Lorin Brass, Chair, State Investment Council, gave the Investment Council Update ([Document #5](#)).** Mr. Clark reported the SD Retirement System investments are up about 4.7% and trust funds investments are up about 5.5%.

The 529 scholarship fund provides money to South Dakota schools for scholarships (Dakota Corps). The fund has about a billion dollars and South Dakota receives about a million dollars from the fund on an annual basis. The estimated transfer for July 2019 is \$1,200,000. It is uncertain how long South Dakota will continue receiving this money due to several factors.

Mr. Brass explained the role of the Investment Council. One of the Council's duties is to recommend the State Investment Officer's compensation package to the Executive Board for approval.

*A motion was made by Senator Langer, seconded by Senator Bolin, that total compensation for the State Investment Officer payable in FY2020 be comprised of FY2019 base salary increased by state salary policy plus 1.75% and continuation of the investment performance incentive plan, with any earned incentive to be paid following completion of the audit. The motion prevailed on a roll call vote with 15 members voting AYE. Voting AYE: Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Heinert, Greenfield, and Haugaard.*

### South Dakota Retirement System Report

**Mr. Rob Wylie, Executive Director, SD Retirement System (SDRS)**, gave an update on the SDRS [\(Document #6\)](#). The SDRS fund will remain 100% funded, and South Dakota may possibly be the only state in the nation with a retirement fund that is 100% funded. The COLA will be about 2%. Numerous places are starting to follow the retirement plan used in South Dakota. The major factor in the success of the fund is the SD Investment Council.

The SDRS is seeing some changes in the workforce. The average retirement age for members of SDRS in 2007 was less than age 60. Currently, the average retirement age is over 64. The number of people retiring has slowed down mostly due to the high cost of health insurance. This will be the biggest year ever for the number of retirements but not near as many as was expected.

Mr. Wylie said there have been 12 applications submitted for the SDRS Executive Director position as he prepares to retire. The plan is to conduct interviews in September and have the new person begin the first of November. Mr. Wylie will work with that person for about a month and then will be officially retired. Mr. Wylie has been with SDRS since 1982.

### Management Reports

**Ms. Sue Cichos, Deputy Director**, announced that Carol Richardson has accepted the Business Manager position and started last week, allowing time for her to work with Kris Schneider who retired on Friday. The employee performance evaluations have been completed for the Operations Division. The 2019 Legislative Index and Session Laws have been printed and posted to the website. Ms. Cichos said it is not too early to start promoting the Legislative Page Program, encouraging students to apply for the 2020 Legislative Session.

**Mr. David Ortbahn, Chief Research and Legal Analyst**, said the Research and Legal Staff are preparing for the interim meetings and the dramatic increase in the number of interim studies. There has been one vacant position, and with the hiring of Mr. Cummings as Code Counsel, there will now be two vacant positions. About 20 applications have been submitted thus far and the hope is to fill both positions from those applications. The Research and Legal staff are also involved in the rules process and all rules submitted are reviewed by a staff member for style and form and to make sure the agency has the authority to promulgate the proposed rules.

The proposed initiated measures and constitutional amendments continue coming into the office. The groups submitting the proposals would like to have everything done and petitions ready to be circulated by fair time. The petitions must be completed and turned into the Secretary of State's office by November to be placed on the 2020 ballot.

**Ms. Tamara Darnall, Chief Fiscal & Program Analyst**, introduced the three new staff members whose first day with LRC is today: Jennifer Guether, Sakura Rohlender, and Mitchell Close. The staff has been preparing for the program

evaluations selected by the Executive Board and will be giving an update later in the agenda. The fiscal staff will be staffing one interim study and monitoring the others, as well as assisting with work groups that are meeting this interim.

The fiscal staff writes the required fiscal notes for the initiated measures and constitutional amendments. The Joint Committee on Appropriations (JCA) requested 2 Lean studies this year and the Board will be hearing more on that later in the meeting. The July JCA meeting will include hearing revenue estimates and setting the summer tour schedule.

Senator Bolin asked if the state is on track to have a balanced budget. **Mr. Jeff Mehlhaff, Senior Fiscal & Program Analyst**, said at this time it does look like the revenues will be a few million dollars short, but the reversions should make up for that amount. Funds from the general revenue replacement fund would be used to cover any additional dollars needed. The final budget numbers should be available by August.

**Mr. Scott Darnall, Information Technology Manager**, said the main focus for the IT staff is the updates to lawmaker. Testing will be conducted over the next few weeks. The legislator dashboard is also underway and the input from the Executive Board is greatly appreciated.

**Mr. Jason Hancock, Director**, said the staff has completed the mapping of all South Dakota voting precincts in preparation for the census. An electronic lock will be placed on the back door of the LRC office which opens into the Appropriations suite. Work continues on proposed initiated measures and constitutional amendments as they are submitted. One proposal does not seem to be valid for the ballot and another includes language that does not seem appropriate for the constitution.

### **Program Evaluations Scope and Work Plan**

**Ms. Amanda Doherty-Karber, Senior Fiscal and Program Analyst**, presented the document, *Scope of Work: Dual Credit* ([Document #7](#)). Ms. Doherty-Karber thanked the Department of Education, Board of Regents, and Technical Education for assistance in developing the scope of work for this program evaluation. The evaluation will be looking at the financial impact of the program as well as how it impacts the post-secondary institutes. A survey will be sent to all the schools to get a better sense of how each school provides this program. Senator Greenfield suggested the Department of Education assist in making sure there is 100% response to these surveys. Ms. Doherty-Karber said the staff will call any school that does not respond.

***A motion was made by Senator Greenfield, seconded by Senator Bolin, to approve the Dual Credit Program Evaluation Scope of Work as presented. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Voting AYE: Gosch, Gross, Johnson, Mills, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Greenfield, and Haugaard. EXCUSED: Peterson and Heinert.***

**Mr. Jeff Mehlhaff, Senior Fiscal and Program Analyst**, presented the document, *Scope of Work: Community Vitality* ([Document #8](#)). The program was originally called the Community Development Program and is offered through the SDSU Extension office. The program provides research-based knowledge and skills in the processes, tools, and techniques regarding community development. SDSU did provide information in detail regarding this program. The total funding for the program is \$440,000.

***A motion was made by Senator Greenfield, seconded by Representative Gross, to approve the Community Vitality Program Evaluation Scope of Work as presented. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Voting AYE: Gosch, Gross, Johnson, Mills, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Greenfield, and Haugaard. EXCUSED: Peterson and Heinert.***

### **Budget Subcommittee Report/ Travel Funds Allocation**

Representative Gosch gave the Budget Subcommittee report. In the FY19 LRC budget, the interim travel allocation was distributed with 61.8% to the House of Representatives, 35.1% to the Senate, and 3.1% to non-Legislative members. With the increased number of interim committees which include more non-Legislative members, those distribution percentages will need to be changed. The Budget Subcommittee recommends the FY20 LRC interim budget travel allocation be set at 53.6% to the House of Representatives, 36.8% to the Senate, and 9.6% to non-Legislative members.

***A motion was made by Senator White, seconded by Senator Greenfield, that the Board allocate the FY20 non-session Legislative travel budget at 53.6% for the House of Representatives, 36.8% for the Senate, and 9.6% for non-Legislative member travel. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Voting AYE: Gosch, Gross, Johnson, Mills, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Greenfield, and Haugaard. EXCUSED: Peterson and Heinert.***

Senator Bolin asked if the Executive Branch has the authority to require the Legislative Research Council to revert dollars back to the reversion fund. Ms. Darnall explained it is in statute that the money not spent be reverted back to the reversion fund. Senator Bolin suggested consideration be given to changing the statute, so the Legislative Branch and the Judicial Branch not be required to revert dollars to the reversion fund. Ms. Darnall said the LRC reverted about \$180,000 last year.

### **JCA Requests for Funding of Lean Projects**

**Mr. Jason Hancock, Director**, said the Joint Committee on Appropriations (JCA) has requested funding for two Lean projects. The first Lean project request is for the Department of Social Services' Medicaid claims process ([Document #9](#)). The second Lean project request is for the Board of Regents' central office with the intention of creating efficiencies between the universities and the central office ([Document #10](#)).

In response to a question from Representative Haugaard, Ms. Doherty-Karber explained the Department of Social Services' Lean study is intended to examine the Medicaid provider reimbursements and other areas the Department may be wanting to modify.

***A motion was made by Representative Smith, seconded by Representative Gosch, to direct the LRC to develop an RFP, in cooperation with the Department of Social Services and the Board of Regents, to solicit for Lean consulting services for the two agencies, not to exceed \$250,000, and that LRC report back to the Board at a special teleconference meeting to be held during the summer, with a recommended vendor or vendors and a proposed contract or contracts, for Board review and approval, and provide the Joint Committee on Appropriations with a progress report at its first meeting after completion of these tasks. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Voting AYE: Gosch, Gross, Johnson, Mills, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Greenfield, and Haugaard. EXCUSED: Peterson and Heinert.***

### **Executive Session**

***A motion was made by Senator Greenfield, seconded by Representative Smith, that the Executive Board go into Executive Session to discuss items relating to personnel. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Voting AYE: Gosch, Gross, Johnson, Mills, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Greenfield, and Haugaard. EXCUSED: Peterson and Heinert.***

The Executive Board went into Executive Session at 4:40 p.m.

***A motion was made by Senator Greenfield, seconded by Representative Smith, that the Executive Board come out of Executive Session and that the record reflect no action was taken. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Voting AYE: Gosch, Gross, Johnson, Mills, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Greenfield, and Haugaard. EXCUSED: Peterson and Heinert.***

The Executive Board came out of Executive Session at 5:30 p.m.

### **Adoption of Legislative Executive Salaries**

***A motion was made by Senator Greenfield, seconded by Senator Bolin, that the Board increase the base salaries of Mr. Jason Hancock, LRC Director, and Mr. Marty Guindon, Auditor General, by 2.5% each for FY20. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Voting AYE: Gosch, Gross, Johnson, Mills, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Greenfield, and Haugaard. EXCUSED: Peterson and Heinert.***

### **Consideration of LRC Employee Continuing Education Benefit**

Mr. Hancock presented the LRC Academic Assistance Program proposal ([Document #11](#)). Representative Smith said this is a vital tool to help recruit and retain staff. Representative Haugaard said the program is an opportunity for staff to enhance their resumes to the benefit of the LRC.

***A motion was made by Senator Greenfield, seconded by Representative Gosch, that the Board approve an LRC Employee Continuing Education Benefit Program, as outlined in Document #11. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Voting AYE: Gosch, Gross, Johnson, Mills, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Greenfield, and Haugaard. EXCUSED: Peterson and Heinert.***

### **Other Business**

Senator Bolin reported on the Technology Subcommittee meeting. The Subcommittee recommends the single page dashboard for legislators. Senator Bolin explained that there must be sharing of information regarding the bill process changes, including letters by snail mail, phone calls, and any other possible way to make sure all legislators understand the changes to the process. Extensive training needs to be done and may need to include traveling to different locations between Halloween and Thanksgiving to make sure legislators are prepared for drafting legislation using the new process.

Representative Haugaard asked Mr. Darnall to start sending out information on what is happening right now with the new bill drafting process. Mr. Darnall said that type of information will start going out in August. Representative Haugaard suggested information regarding the changes to the process be included in the Legislator Update.

Mr. Hancock said the Board may want to make a motion regarding the discussion on having the staff move forward with an open approach for bill sponsorship. The staff will also be reviewing the Redbook to find any changes that would need to be made to the Joint Rules regarding these changes.

***A motion was made by Senator Greenfield, seconded by Representative Johnson, to direct the LRC staff to proceed with the new open approach to bill sponsorship which will allow sponsors to add and subtract Legislators' names from the bills' sponsor lists up to the time of enrolling. The LRC staff is also directed to continue studying the Redbook to find which rules will need to be updated. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Voting AYE: Gosch, Gross, Johnson, Mills, Qualm, Smith, Bolin, Ewing, Langer, Stalzer, White, Greenfield, and Haugaard. EXCUSED: Peterson and Heinert.***

Representative Haugaard suggested the LRC research the possibility of copywriting the new bill processing program, perhaps by hiring an attorney that specializes in copywrite law.

Representative Qualm said several members of the Industrial Hemp Study Committee will be attending a Hemp Round Table meeting in Kentucky. Those attending are Senator Josh Klumb, Senator Rocky Blare, Representative Oren Lesmeister and Representative Lee Qualm. Also attending will be Jason Simmons from the Governor's Office.

### **Future Meeting Dates**

Future meeting dates are August 26 and November 18 in Pierre.

### **Adjourn**

***A motion was made by Representative Gosch, seconded by Representative Johnson, that the Executive Board be adjourned. The motion prevailed on a voice vote.***

The Board adjourned at 5:50 p.m.