



Third Meeting  
2011 Interim  
October 14, 2011

LCR 1 & 2  
State Capitol Building  
Pierre, South Dakota

### Thursday, October 14, 2011

The third meeting of the Special Committee on Appropriations for 2011 was called to order by the Co-Chair, Representative Dean Wink, at 10:03 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, J.E. "Jim" Putnam, Billie Sutton, and Larry Tidemann (Vice Chair); and Representatives Lance Carson (Vice Chair), H. Paul Dennert, Dan Dryden, Kent Juhnke, Fred Romkema, Jim White, Dean Wink (Co-Chair), and Susan Wismer. Representative Jim Bolin was excused.

Staff members present included Fred Schoenfeld, Chief Fiscal Analyst; Annie Mehlhaff, Principal 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 JUNE 23, 2011 MEETING. The motion prevailed on a voice vote.**

### Staff Reports

#### Revenue

**Mr. Aaron Olson**, Senior Fiscal Analyst with the Legislative Research Council (LRC), distributed the LRC General Fund Revenue Report for FY12 through September. (**Document #1**) Some of the revenue sources include:

- The Sales and Use Tax – is showing a slight variance of about \$745,000 or 0.4% year-to-date over budget;
- Contractor's Excise Tax – shows a positive variance of \$3.7 million or 19% year-to-date over budget. It is believed that most of the variance is due to amounts transferred out of the Contractor's Excise Tax fund in FY2011 to the Construction Tax Refund account;

- Bank Franchise Tax – shows a positive variance of \$23.9 million year-to-date. The variance is due to approximately \$10 million from improved business activity and \$14 million from a one-time windfall due to an accounting restatement by one bank. About \$4 million will be refunded back to the bank this fall;
- Charges for Goods and Services – shows a negative variance of \$1.8 million year-to-date primarily due to \$1.5 million in unclaimed property payments to other states from reciprocity agreements;
- Property Tax Reduction Fund – shows a negative variance of \$2.5 million year-to-date due to soft video lottery receipts; and
- Net Transfers In – shows a positive variance of \$1.4 million year-to-date most likely from the timing of deposits.

Mr. Olson noted that the total collections into the general fund through September are \$327.4 million, which is \$25.5 million over budget. However, when the \$4 million Bank Franchise Tax refund is removed, the adjusted total is about \$21.5 million over budget.

**Senator Jeffrey Haverly** asked about the decline in video lottery revenue. Mr. Olson said that the decline started about the time the statewide smoking ban went into effect. Other states with similar smoking bans had a decrease then a leveling off, but South Dakota has not experienced that yet. He added that the current economy could also be a factor.

In response to committee questions, **Mr. Jason Dilges**, Commissioner of the Bureau of Finance and Management, said that there are two issues in regards to Bank Franchise Tax. First, the entire Bank Franchise Tax refund was made in FY2011 versus being split between FY2011 and FY2012. Therefore, we start the 2012 fiscal year with no liability to the banks.

The second issue is the result of a merger of a large bank in South Dakota. The bank paid \$15.1 million to the state due to the restatement of earnings in September and will ask for a refund of about \$5 million for taxes paid in 2006, 2007, and 2008. The state will be able to keep the \$10 million as a one-time receipt. In addition, there is approximately \$10 million of normal recurring quarterly deposits that were made in August. The state will receive three more quarterly deposits this fiscal year.

### **Flood Update**

Commissioner Dilges distributed a document that outlines that Missouri River flood costs through October 11, 2011. (**Document #2**) Since the June meeting, the most significant development has been FEMA's approval of worksheets for flood expenses. The total actual and anticipated costs is \$20.9 million. The estimated FEMA reimbursement is \$9.5 million for a total remaining cost to the state of \$11.4 million. He noted that the cost to the state could decrease as more project worksheets are approved.

The state of South Dakota issued two loans to cities to help address the costs associated with the flood. The community of Dakota Dunes signed an agreement for a maximum of \$15 million loan. Currently, Dakota Dunes has borrowed \$11.1 million and FEMA has reimbursed \$6.9 million. To repay the outstanding \$4.2 million loan, Dakota Dunes will opt out of the property tax freeze and place a surcharge on citizens' water bills. The City of Fort Pierre signed a loan agreement for a maximum of \$5 million. Currently, Fort Pierre has borrowed \$2.9 million with

almost \$700,000 reimbursed from FEMA. Fort Pierre is still expecting more FEMA reimbursements from the levee construction north of the Highway 83 bridge. Therefore, the city has not determined a method of repayment yet.

In response to **Representative Susan Wismer's** questions, Commissioner Dilges stated that expenses included in the current state budget would be removed from the amount owed by the state. The chart distributed indicated the total amount of cost incurred, but the state does not need to appropriate money for disaster items that are already in the budget. The \$1.2 million in remaining costs for the EOC staff time will not likely need an appropriation.

### **Budget Implementation Reports**

#### Department of Game, Fish and Parks

**Mr. Doug Hofer**, Director of Parks and Recreation with the Department of Game, Fish and Parks (GFP), presented a PowerPoint presentation on the impacts to the state park system and costs associated with the flooding in the state. (**Document #3**) South Dakota experienced record numbers in the state park system in 2010 with 7.8 million visitors, 263,000 overnight camping units, and \$10.6 million in park entrance and camping revenue. The department was anticipating another great year in 2011 and therefore the GFP budget included a \$650,000 (22%) decrease in general fund operating expenses. The loss of general fund revenue was to be generated through the implementation of a \$2 per camping site fee increase on all state camping sites and the elimination of the seven day, per person park entrance at Custer State Park.

In 2011, fishing licenses were down about 10% because of flooding and closed park areas; pheasant numbers were down about 46% statewide due to winter snow, spring flooding, and loss of CRP land; visitation was down 9%; camping was down 10%; and revenue was down 2%. Mr. Hofer commented that the GFP was anticipating a 9% increase in revenue from 2010 with the fee adjustment; therefore, the GFP is down 11% from the projected figures used to create the FY2012 budget.

The state park system also endured over \$8 million in flood damage to facilities in areas across the state. There was flood damage in 41 areas across the state with the majority of the damage occurring in about 12 areas primarily along the Missouri River below the Oahe Dam. Mr. Hofer showed pictures of the flood damage. Some of the damage includes damaged shorelines, roads, facilities, electrical systems, trees, and trails.

Mr. Hofer said that the seasonal workers that are normally employed over the summer were laid-off and those FTE hours are now being used to clean-up the park grounds. Currently, 200 of the 550 flood campsites are operational. Expenses that can be reimbursed by FEMA are roads, buildings, structures, and utilities. FEMA will not pay for loss of trees, turf, landscaping, and shoreline.

The committee recessed at 12:06 p.m. and reconvened at 1:14 p.m.

## Budget Implementation Reports

### Education Survey

**Senator Corey Brown** updated the committee on the education survey that was sent to all the school districts. (**Document #4**) A total of 106 of the 152 school districts responded to the survey. Some of the survey results include:

- 80% of the school districts will probably have to draw from reserve funds compare to 50% last year;
- The number of school districts utilizing some or all of the Capital Outlay Fund flexibility has increased from 41% in school year 2009/2010 to 73% in school year 2011/2012;
- School districts overwhelmingly held the line on salary increases;
- Class sizes increased in approximately 60% of the responding school districts; and
- 78% responded they would not seek a new or expanded Property Tax Opt Out.

The committee discussed the use of Capital Outlay Funds.

**Senator Larry Tidemann** would like to have any private donations to the school district included in the next survey.

### Department of Corrections

**Ms. Laurie Feiler**, Deputy Secretary of the Department of Corrections, and **Mr. Scott Bollinger**, Director of Operations with the Department of Corrections, provided an update on the FY2012 budget. Ms. Feiler said that the budget cuts in FTEs and in operation expenses has not been easy, but the department was able to slowly adjust from March (when the FY2012 budget was passed) to July (when the FY2012 budget was implemented).

One of the impacts of the budget cuts is that adult parole agents have taken on higher case loads. The case loads for the juvenile parole agents are not higher because case numbers have decreased. Ms. Feiler noted that the women's prison in Pierre has two case managers, which is down from three, with the same number of prisoners.

In response to committee questions, Ms. Feiler stated that some of the budget cuts will be long-term and some cuts will remain as long as case numbers remain down. The department will monitor the numbers and if needed will ask for changes. One of the smaller cost saving items was the utilization of web meeting to reduce the travel budget.

Senator Brown asked about the construction of the new Rapid City minimum prison unit. Ms. Feiler stated that the parole agents were moved and the department is no longer paying to lease space in Rapid City. Due to the wet spring, construction is behind on the new minimum prison unit. Anticipated opening date has been moved back to April 2012.

### Department of Social Services

**Ms. Kim Malsam-Rysdon**, Secretary of the Department of Social Services (DSS), and **Ms. Brenda Tidball-Zeltinger**, Chief Financial Officer with the DSS, distributed a handout listing the department's FY2012 budget. (**Document #5**) The FY2012 budget included reductions to provider reimbursement, elimination or reduction in funding to certain providers and programs, and reductions to FTEs.

There were no adjustments to the provider rate reductions as appropriated and outlined in the Letter of Intent. No providers have discontinued participating in the Medicaid program as a result of the rate cuts. The Graduate Medical Education continued to be funded for FY2012. Several of the changes required amendments to the Medicaid State laws and Administrative Rules. These changes have been approved by the Federal Center for Medicare and Medicaid Services and the South Dakota Legislature.

To meet the approved FY2012 budget reduction, the department had to eliminate or reduce funding to certain providers and programs. Some of the changes include:

- The DSS reduced funding to Early Childhood Enrichment Centers (ECEs) by reducing staffing hours, not filling vacant position, and centralizing training. The Health and Safety Grants are no longer funded;
- Reduced income guidelines for eligibility for Child Care Subsidy from 200% of the Federal Poverty Level to 175% of the Federal Poverty Level;
- Contracts for community based substance abuse treatment were aligned with the appropriated budget;
- The Supplemental Nutrition Assistance Employment Training Program was reduced and employment and training related services are provided in Minnehaha and Pennington Counties;
- Several contracts supporting community based services to the elderly were not renewed;
- Funding for legal services for the elderly and victims services were reduced by 10%; and
- Rates paid to child support prosecutors and referees were reduced.

Ms. Malsam-Rysdon stated that the DSS removed a total of 7.7 FTEs from the DSS budget. The positions were budgeted in the Economic Assistance, Child Care, Child Support, and the Secretary's Office. This reduction was accomplished through attrition and duties of these positions have been assigned to other staff within DSS.

In response to Senator Brown's question, Ms. Malsam-Rysdon stated that the federal government initiated a new plan that requires state agencies to justify that there will not be an access issue with the proposed budget cuts.

#### Office of School and Public Lands

**Mr. Jarrod Johnson**, Commissioner of the Office of School and Public Lands (SPL) said that the FY2011 budget for his office was \$547,000 in general funds. The approved FY2012 budget included a reduction of \$54,000 (10%) in general funds. To meet the approved budget, the SPL eliminated all discretionary travel (\$12,000 in operating expenses) and laid-off 1.0 FTE (\$42,000 in personal services). The office now has 6.0 FTEs.

Senator Haverly asked if the office gave any raises or bonuses. Commissioner Johnson responded that additional money in the budget was used to give 3% raises to the remaining three staff members. He increased the salary of the deputy commissioner by 20% to the reach level that was agreed upon when he was hired. Commissioner Johnson stated that the raises were given to retain the current staff and accomplish the duties of the SPL.

**Senator Deb Peters** asked about the position that was cut. Commissioner Johnson stated that position was an accountant. The office is able to continue providing the services through a contract. **Representative Lance Carson** requested the cost for the accountant contract.

The committee stated their dissatisfaction with the salary increases within the Office of School and Public Lands.

#### Office of the State Treasurer

**Mr. Rich Sattgast**, State Treasurer, informed the committee that the budget was incorrectly loaded in the budget system for his office for FY2012. Part of the mistake was a cut in personal services, so there was an adjustment in the budget of \$14,760 in personal services to contractual services making the budget cuts in contractual services a total of \$51,000. To meet the approved budget the Office of the State Treasurer:

- Cut subscriptions to newspapers, publications, and magazines - \$1,000 savings;
- Cut nonessential memberships and dues - \$3,000 savings;
- Increased computer upgrades from three years to five years - \$2,500 savings;
- Implemented a check scanning service - \$4,000 savings; and
- Eliminated out-of-state service contracts - \$41,000.

Senator Peters asked about the out-of-state services contracts that were eliminated. State Treasurer Sattgast said that before, the office would contract with a law firm to collect on defaulted veterinarian school loans. His office has found that most students are willing to repay the defaulted loan and therefore his staff is doing the work and talking to students' about repayment.

In response to Senator Haverly's questions about a remodeling project, State Treasurer Sattgast stated that unused filing cabinets and divider walls were removed and a bi-fold door was installed. Three desktops were purchased to support the removal of the divider walls. The total cost of the project was about \$1,000 in the Division of Treasury Management and about that same amount in the Division of Unclaimed Property.

#### Condition Statement

**Mr. Fred Schoenfeld**, Chief Fiscal Analyst with the LRC, distributed a memo addressing a recommendation for condition statements for the FY2013 budget. (**Document #6**) He suggested that the committee co-chairs request from the Bureau of Finance and Management condition statements on selected other funds. The list will be based on LRC recommendation and other funds identified by committee members. He discussed the rationale for this suggestion, which are outlined on pages 1 and 2 of Document #6.

After committee discussion, the committee decided to move forward with the recommendation.

### **Governor's Task Force Reports**

#### Medicaid Solutions Workgroup

**Ms. Deb Bowman**, Senior Advisor to Governor Daugaard, told the committee that the last meeting of the Medicaid Solutions Workgroup Task Force was held on October 3, 2011. The final report is being completed and won't be finished for a couple weeks. When completed, the final report will be available to the entire legislature.

As a result of the major reduction to Medicaid rates that were made in the last legislative session, a group of key stakeholders was formed to find short-term solutions. No solutions were discovered, therefore additional people were added to the task force. A listing of the task force members was distributed to the committee. (**Document #7**)

After analyzing data from the DSS, the task force found areas of significant usage of Medicaid. Some of the areas are neonatal, cancer, heart conditions, respiratory issues, and injuries. Ms. Bowman stated that a small population is using a large sum of the Medicaid funds. The task force will work to address the manageable diseases in South Dakota.

Ms. Bowman noted that emergency room usage with Medicaid was found to be no different than with private insurance. The people that over utilize emergency room visits typically have a behavioral health issue associated with it. She stated that some people don't have any other option than visiting the emergency room. To address the situation, the task force would like to implement a "Safe to Wait" program.

Ms. Bowman stated that the Medicaid program is extremely cost effective. The state will need to do upfront investment to gain long-term savings. Some of the recommended changes include:

- Placing a \$1,000 annual cap on adult dental services;
- Increase non-generic medication co-pay from \$3 to the maximum \$3.30; and
- Install a \$1 co-pay for all generic medication.

#### Health Insurance Exchange

Senator Brown stated that the federal government has not finalized the rules as to how health insurance exchange should occur. Therefore, the task force has not obtained enough information to provide a report.

#### Infant Mortality

**Ms. Doneen Hollingsworth**, Secretary of the Department of Health, distributed a list of the members of the Governor's Task Force on Infant Mortality. (**Document #8**) She said that South Dakota has the highest infant mortality rate in the surrounding states. The 29 member task force learned about factors that contribute to infant mortality. Three of the most significant factors include:

- Approximately 20% of pregnant women in South Dakota smoke (about twice the national average);
- About 30% of mother's don't receive prenatal care in the first trimester; and
- SIDS deaths are higher in South Dakota than in other states.

Ms. Hollingsworth stated that the task force is looking at ways to improve birth outcomes based on those factors. The final meeting of the task force is scheduled for November 3, 2011, and the final report is due to the Governor on December 15.

#### Higher Education

**Mr. Tony Venhuizen**, Director of Policy Communications with the Office of the Governor, sent a letter and a brief update (**Document #9**) reporting the task force's progress. The final report of the Higher Education Task Force will be completed by November 1 and the committee will receive the report by the next meeting.

### Report on Statutes Not Supported by Appropriations

Senator Brown stated that there were a couple problems throughout the last legislative session where a statute is on the books but is not funded. He believes this creates a liability and therefore asked staff to create a list of statutes that are not funded.

Since the request was made, the Governor's office and his administration started to identify unnecessary statutes that remain on the books. He would like to have the LRC staff work with the Governor's office to ensure the work effort is not overlapped, but also that all unnecessary statutes are identified. A more comprehensive list will be presented at the December meeting.

### Fall Budget Schedule

Ms. Schoenfeld distributed and reviewed the "Fall Budget Schedule" (**Document #10**) which outlines the typical schedule for the remainder of the interim.

### Trust Fund

Distributed to the committee was the Trust Fund Report as of August 31, 2011. (**Document #11**) Representative Wink noted that the total trust fund balance has decreased about \$70 million since April.

### **Next meeting**

The next meeting of the Joint Committee on Appropriations is scheduled for December 6, 2011, in Pierre, SD following the Governor's Budget Address.

### **Committee Discussion**

Senator Haverly requested written information about the expenses and purchases made for the remodel in the Office of the State Treasurer.

### **Adjourn**

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

The committee adjourned at 4:13 p.m.



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>).