

# Legislative Research Council

## *Fiscal Office*

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# MEMORANDUM

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**TO:** Members of the Interim Joint Committee on Appropriations  
**FROM:** Fred Schoenfeld, LRC  
**DATE:** March 15, 2012  
**SUBJECT:** Letters of Intent

Letters of Intent are issued by the Special Committee on Appropriations (Interim JCA) to various budget units to give them direction regarding implementation of the general appropriations bill and other appropriations. They may also convey the Committee's wishes regarding future budgets. The letters solely express the intent of the Special Committee and not the entire legislature.

The letters are a creature of legislative custom as they are not mentioned in either the Constitution or Codified Law. Thus, these letters do not have the force of law and a budget unit may choose to ignore any directive contained in such letters. However, it is likely any such failures to respond to the Committee's wishes may be revisited during the next budget cycle.

By tradition, the Interim JCA has required the letters be moved, seconded, and adopted. Drafts of the 4 letters staff has been asked to prepare are attached for advance review together with a sample of the letter transmitting them. These documents may be amended on their face prior to Committee action and in the past, the Committee has considered and acted upon verbal suggestions for additional letters which were not offered in advance writing.

**Update:** The Committee acted on 6 Letters of Intent, approving 5 of them. A copy of each letter follows.

## **2012 Legislative Session - Letter of Intent**

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Legislative Act: SB48

Department/Agency: Department of Social Services

Requesting Legislator: Senator Brown

### **One-Time Carryover of DSS Funds**

The 2012 Legislature approved SB48, revising the General Appropriations Act for FY12. Section 28 of that bill allows the department to carryover up to \$20 million dollars in general funds from its FY12 budget to FY13. This will be a one-time carryover. During testimony for SB48 the Committee was told the availability of this additional \$20M would provide more transparency, more predictability to the process and that the carryover was a new tool to manage Medicaid claims which would result in closer budgeting.

The Department should provide written quarterly updates beginning July 2012 through July 2013 to the Joint Appropriations Committee and its staff explaining how this carryover has improved the process. The reports should include the amount and disposition of carryover funding and FY13 budget status. The report should include if/how the carryover funds are being used and how those funds impact the FY13 budget and the FY14 budget request. In the January 2013 report, the department should also identify if it plans to propose a carryover from FY13 to FY14 and if so, how much.

Also, at each interim Joint Appropriations Committee meeting and during the 2013 Legislative Session the Department should be available to discuss these updates and answer questions.

## **2012 Legislative Session - Letter of Intent**

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Legislative Act: HB1137

Department/Agency: Department of Education

Requesting Legislator: Senator Brown

### **Nonrecurring State Aid to General Education Formula**

The 2012 South Dakota Legislature approved a one-time, nonrecurring increase of \$8,689,359 to the State Aid to General Education budget in HB1137 which amended the FY2012 General Appropriations Act.

It was the goal of the Committee that the one-time, nonrecurring money assist each school district proportionally, therefore the Committee directs the Secretary of the Department of Education to distribute the funds on a fall enrollment basis using the actual 2011 fall enrollment figures.

It is also the intent of the Joint Committee on Appropriations that the one-time, nonrecurring money consist entirely of State General Funds and not affect the rate of any property tax levy.

## **2012 Legislative Session - Letter of Intent**

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Legislative Act: SB197

Department/Agency: Office of School and Public Lands

Requesting Legislator: Representative Carson

### **State Owned Dam Maintenance and Repair**

The Joint Committee on Appropriations approved an increase of \$500,000 in general funds for the Office of School and Public Lands. Through the adoption of amendment 197ad, the FY13 operating expense budget was increased from \$105,969 to 605,969.

It is the intent of the Committee that the Commissioner of School and Public Lands will utilize the additional funding for actual repairs and maintenance of state owned dams under the control of any state agency. The funding should not be used for studies or assessments.

It is also the intent of the Committee that the Commissioner will find matching funds from other entities or individuals who have a vested interest in the safety and longevity of the aging dams.

# 2012 Legislative Session - Letter of Intent

Legislative Act: HB1137

Department/Agency: Departments of Social Services, Human Services, Corrections and the Unified Judicial System

Requesting Legislator: Senator Brown

## **One-Time Funding for Providers**

This letter of intent is to inform you and the public of the intent of the Senate and House Joint Appropriations Committee for implementation of HB1137, An Act to revise the General Appropriations Act for fiscal year 2012 and to declare an emergency, specifically Section 13.

The letter of intent serves three purposes:

1. Supplements HB1137 by providing policy guidance for implementation of Section 13.
2. Conveys the committee's wishes as to how the funds are to be distributed to community providers.
3. Provides some documentation as to the basis of decisions that were part of the construction of HB1137. This letter of intent serves as a document for future reference.

The funds appropriated through HB1137, Section 13 are in two categories \$4,030,039 in general funds and \$4,204,303 in federal fund authority appropriated in Section 8, chapter 23 of the 2011 Session Law for the purposes of providing a one-time increase to various community providers. These funds are to be used by the community providers to provide a one-time salary adjustment for employees of the organizations in State Fiscal Year 2012. The increase may not be provided in the form of an on-going salary increase. The funds may also not be used to cover salary increases already provided by an organization.

The funds will be provided to each individual provider through a 3% increase on the provider's current reimbursement level (SFY12) by the Department of Social Services, the Department of Human Services, the Department of Corrections or the Unified Judicial System depending upon which department has oversight responsibility. The committee requests that departments notify providers that in order to receive the one-time funds, each provider must agree to submit in writing to the appropriate department a document that states the funds were provided to their employees and the distribution method utilized. The committee recognizes individual providers will receive varying amounts of funds to provide the one-time salary adjustment for their employees based upon the payor-mix of the organization.

If you have any questions or concerns regarding the contents of this letter of intent, please contact the committee through its co-chairs.

Provider One-Time Bonus FY12

Options - FY12 Provider One-Time Bonus

DRAFT 2-27-12

- Based on current SFY12 FMAP
- This proposal would increase FY12 reimbursement by 3% one a one-time basis for nursing homes, assisted living, and community based services providers

	Current FY12 One Time Funds			Proposed Additional One Time Fund			
	FY12 One Time Adjustment			% Increase	FY12 One-Time Bonus		
	%	General	Total Funds		General	Total Funds	
1 Hospitals	6.52%	4,759,943	11,936,948	0.00%	-	-	1
<i>Access Critical/Critical Access</i>				0.00%			
<i>Graduate Medical Education Program (GME)</i>		1,225,700	3,038,423	0.00%			
2 Auxiliary Placement	2.3%	189,756	215,566	3.00%	229,380	229,380	2
Physicians							
3 ■ Primary Care/Pediatricians	2.5%	267,916	682,867	0.00%	-	-	3
4 ■ All other	2.9%	568,637	1,449,348	0.00%	-	-	4
5 Pharmacies	2.2%	307,901	763,265	0.00%	-	-	5
6 Durable Medical Equipment	3.6%	130,615	326,388	0.00%	-	-	6
7 Emergency Medical Transportation	2.9%	57,380	143,254	0.00%	-	-	7
8 Optometrists/Ophthalmologist	3.6%	46,055	118,011	0.00%	-	-	8
9 Chiropractors	3.6%	8,217	21,180	0.00%	-	-	9
10 Dentists	3.6%	228,745	595,025	0.00%	-	-	10
11 Psychiatric Residential Treatment (Medical Services)	2.5%	111,469	282,724	3.00%	170,588	425,160	11
12 Long Term Care (Nursing Home, Hospice, Assisted Living)		1,952,713	4,840,636		2,217,758	5,426,372	12
13 ■ Assisted Living and Hospice	3.5%	154,795	383,725	3.00%	175,805	430,157	13
14 ■ Nursing Homes 0-50% Medicaid Occupancy	5.0%	341,035	845,402	3.00%	387,324	947,698	14
15 ■ Nursing Homes 51-56% Medicaid Occupancy	4.75%	418,186	1,036,653	3.00%	474,947	1,162,091	15
16 ■ Nursing Homes 57-66% Medicaid Occupancy	4.00%	870,346	2,157,521	3.00%	988,477	2,418,587	16
17 ■ Nursing Homes 67% or more Medicaid Occupancy	2.2%	115,718	286,858	3.00%	131,425	321,569	17
18 ■ 9 Critical Access Nursing Homes	2.2%	52,636	130,481	3.00%	59,781	146,270	18
19 Elderly Nutrition Program - Senior Meals	1.8%	22,269	89,078	3.00%	140,280	140,280	19
20 In-Home Services for the Elderly	1.8%	103,565	159,205	3.00%	219,083	250,710	20
21 Group Care Providers (Child Protection)	2.5%	127,717	154,383	3.00%	67,178	94,380	21
22 Psychiatric Residential Treatment (Child Protection)	2.5%	181,066	448,850	3.00%	202,012	494,280	22
23 Substance Abuse Providers	2.5%	285,794	371,939	3.00%	329,058	443,070	23
24 Community Mental Health Centers	2.5%	272,740	519,609	3.00%	454,701	730,710	24
25 Dept of Human Services - Community Services	2.5%	1,051,055	2,497,055	3.00%	1,232,297	2,896,890	25
26 Dept of Corrections - Community Services	2.5%	257,071	412,678	3.00%	249,493	457,170	26
27 Unified Judicial System - Community Services	2.5%	31,656	31,656	3.00%	19,980	19,980	27
<b>Totals</b>		<b>12,187,983</b>	<b>29,098,091</b>		<b>5,531,809</b>	<b>11,608,382</b>	

\* Note: the allocation of funds applied to the groups that took a cut in SFY12

## **2012 Legislative Session - Letter of Intent**

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**Legislative Act:** SB197

**Department/Agency:** Department of Education

**Requesting Legislator:** Senator Haverly

### **Postsecondary Vocational Education**

The Joint Committee on Appropriations approved an increase of \$500,000 for the four postsecondary technical institutes. Through the adoption of amendment 197mw, the FY13 budget was increased from \$20,896,857, which was recommended by the Governor, to \$21,396,857 made up entirely of State General Funds.

It is the intent of the Committee that the Secretary of Education shall make the additional amount available to the Lake Area Technical Institute, the Southeast Technical Institute, the Mitchell Technical Institute, and the Western Dakota Technical Institute based on the existing funding distribution formula prescribed in administrative rule ARSD 24:10:42:28.

In addition, the Committee directs that the presidents of the four technical institutes use the additional amounts received in this distribution, or a like amount of other funding, to establish a scholarship program that would address critical needs areas of the state's work force, or enhance existing scholarship programs which address those same needs. The presidents are encouraged to find partnerships with private industry and education foundations that could leverage additional scholarship funding.

Each campus is required to submit a written report annually to the Committee detailing the scholarship requirements, the number of scholarship recipients, the amounts awarded during each semester, the critical needs areas addressed, and any other related data as requested. The annual reports are due December 31 of each year.

## 2012 Legislative Session - Letter of Intent

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Legislative Act: SB197

Department/Agency: Department of Education

Requesting Legislator: Representative Carson

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It is the intent of the Committee that this additional funding should be used by the Technical Institutes primarily to support the repair, upgrade or purchase of equipment needed for current or new programs. This funding should be distributed by the Department of Education in accordance with its current distribution formula set forth in administrative rule ARSD 24:10:42:28.

Date

Agency Head  
Agency  
Address  
Pierre, SD 57501

**RE: Joint Committee on Appropriations Regarding Legislation Approved in the 2012 Session**

Dear (Agency Head):

This Letter of Intent sets forth a particular view held by the Joint Committee on Appropriations in approving your <<FY12 or FY13>> appropriation. As such, it supplements that appropriation with a specific policy guideline.

While the guideline does not have the direct force of statutory law, it rests solidly on a long-standing tradition of Legislative-Executive relationships in South Dakota and it will be used by the Joint Committee as one basis for the fiscal oversight of your agency and its continued funding.

Specifically, it is the request of the Joint Committee that:

(Insert Letter of Intent request approved by the Interim JCA)

In addition, it is also expected that you will be prepared to address this guideline in your FY14 budget presentation to the Joint Committee next January.

Thank you for your consideration.

Senator Cory Brown  
Co-Chair

Representative Dean Wink  
Co-Chair

cc: Marty Guindon, Auditor General  
Jason Dilges, Commissioner, Bureau of Finance and Management