



MINUTES

Executive Board

**Fifth Meeting
2013 Interim
September 25, 2013**

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

The fifth 2013 interim meeting of the Legislative Research Council Executive Board was called to order by Chair Ryan Maher at 10:00 a.m. (CST), September 25, 2013, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Corey Brown, Phyllis Heineman, Larry Lucas, Ryan Maher (Chair), Deb Peters, Deb Soholt, and Craig Tieszen; and Representatives Lance Carson (Vice Chair), Brian Gosch (via phone), Spencer Hawley, Charles Hoffman, Isaac Latterell, Betty Olson, Kathy Tyler, and Steven Westra.

Staff members present included Jim Fry, LRC Director, and Teri Retrum, Administrative Assistant.

(Note): For the purpose of continuity, these minutes are not necessarily in chronological order. Also, all material distributed at the meeting is 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 – Minutes and Agendas."

(Note): The Budget Subcommittee met at 7:30 a.m. in LCR 2. The Operations Subcommittee met at 8:00 a.m. in Room 413.

Approval of Minutes

REPRESENTATIVE HOFFMAN MOVED, SECONDED BY SENATOR SOHOLT, THAT THE MINUTES OF THE AUGUST 19, 2013, MEETING BE APPROVED. The motion prevailed on a voice vote.

Approval of Agenda

Chair Ryan Maher requested Board consensus to the following addition to the agenda:

- Discussion of attendance at the International Legislative Forum (request from Representative Spencer Hawley).

WITH THE CONSENSUS OF THE BOARD, CHAIR MAHER DECLARED THE AGENDA APPROVED WITH THE ADDITION.

Chair Maher began the meeting by reading a letter from LRC Director Jim Fry announcing his resignation effective October 11, 2013.

REPRESENTATIVE CARSON MOVED, SECONDED BY SENATOR HEINEMAN, THAT THE EXECUTIVE BOARD ACCEPT MR. FRY'S RESIGNATION EFFECTIVE OCTOBER 11, 2013. The motion prevailed on a roll call vote with 10 voting AYE, 3 voting NAY, 2 EXCUSED. Those voting AYE: Heineman, Peters, Sohlt, Tieszen, Hoffman, Latterell, Olson, Westra, Carson, Maher. Those voting NAY: Lucas, Hawley, Tyler. Those EXCUSED: Brown, Gosch.

**Presentation of National Conference of State Legislatures (NCSL) Report
on the Legislative Research Council (LRC)**

Brian Weberg, Director, NCSL Legislative Management Program, and **Angela Andrews**, Senior Policy Specialist, NCSL Legislative Management Program, distributed a report titled "Management and Performance Audit South Dakota Legislative Research Council September 2013" (**Document #1**).

Mr. Weberg began his remarks by stating that there was an outstanding response from the South Dakota legislators regarding the survey, and NCSL also appreciated the comments gathered from LRC staff.

Mr. Weberg said that South Dakota operates its Legislature with the smallest staff of any in the nation. It is a nonpartisan staff that provides services to all of South Dakota's 105 legislators.

Quoting from the report:

"NCSL believes that a confluence of factors at the South Dakota Legislature and within the LRC have combined to create misunderstanding between staff and some members, break down trust between LRC management and legislative leaders and foster an environment that is detrimental to the maintenance of a strong assertive and independent staff agency."

According to Mr. Weberg, the primary concerns of the legislators focused on quality and responsiveness—some legislators responded that bill and amendment drafting errors resulted in a decline in bill drafting quality—some legislators expressed that the fiscal staff could do a better job of delivering data and analysis to allow the Legislature to be more independent from the Executive Branch regarding budget issues.

Responding to a question from **Senator Larry Lucas**, Mr. Weberg said that NCSL did not compile a report concerning LRC staff input. Senator Lucas said that a general summary of LRC staff input would be beneficial.

Senator Deb Peters questioned whether such a summary would be within the scope of the contract. Senator Peters also said that the responses were to be kept confidential.

Chair Maher agreed with Senator Peters and commented that should the Executive Board want to pursue the idea brought forth from Senator Lucas, the Board would have to enter into a new contract with NCSL.

In conclusion, Mr. Weberg said that the South Dakota Legislature is a very part-time Legislature—probably the epitome of a citizen legislature. Mr. Weberg also said that he believes the South Dakota Legislature is the right model for South Dakota.

Representative Charles Hoffman asked Mr. Weberg to quantify a number of terms that would more easily enable the South Dakota Legislature to work effectively.

Mr. Weberg replied that NCSL does not support term limits. However, he added that term limits are publicly popular and are not easily rescinded.

Mr. Weberg stated his opinion that a term limit of 12 years in each chamber for a total of 24 years, which is about the average for most of the states, is perhaps the appropriate number; the average in the other states is between 12 to 15 years.

Representative Hoffman said that he also has grave concerns about South Dakota's short term limits.

Senator Phyllis Heineman asked a question concerning SDCL 2-9-8 (found on page 23 of the NCSL report).

Mr. Weberg said that the Executive Board acts as the Board of Directors. The Board sets a high level of expectation and discusses those standards with LRC. Where agreements can be achieved, the LRC and the Executive Board should develop policies that define the parameters of these practices and that protect the nonpartisanship image and status of the LRC.

Continuing his response to Senator Heineman, Mr. Weberg said that the Legislature should look regionally for examples of what works in other states. He commented that there is no one single example that could be defined as the best legislative operation in the country. Mr. Weberg noted that NCSL has a model that is a solid conceptual structure and a good system for review should the Board be interested.

Regarding performance appraisals, **Representative Spencer Hawley** asked whether NCSL would provide a model for conducting appraisals, other information, and a summary of term limits in other states or would the Board have to contract with NCSL to provide the information.

Mr. Weberg said that NCSL considers such requests as part of their regular research services to the state and would provide that information without entering into a contract.

According to Mr. Weberg, it is unusual to split leadership responsibility between the interim and the Legislative Session. He told the Board that it is more common to have leadership as members on a legislative executive body. Mr. Weberg also said that, during legislative interviews, split control was a strong theme of concern.

Mr. Weberg discussed the vulnerability of legislative communications. In order to maintain integrity of the three separate branches of government, Mr. Weberg said that perhaps the Legislature should have its separate communication venue—it is unusual to have legislative communication sources travel through the system set up by the Executive Branch.

Representative Kathy Tyler expressed concern about not receiving the report from NCSL until right before the meeting and stated that she does not agree that the 50 percent response is a good response rate.

Senator Peters said that none of the members of the Executive Board, except the Operations Subcommittee, received the NCSL report prior to this meeting.

Mr. Weberg said that the 50 percent response is an excellent legislative response; in fact, Mr. Weberg said that it is the highest response rate that NCSL has experienced concerning this type of survey.

Representative Tyler said that the Executive Board needs to be as committed to addressing issues as the LRC staff.

Mr. Weberg agreed that the concerns need to be addressed as a shared responsibility.

Responding to Representative Tyler, Mr. Fry said that the NCSL report will be posted on the LRC website.

Operations Subcommittee Report

As Chair of the Operations Subcommittee, **Senator Craig Tieszen** told the Board that the Subcommittee discussed the employer/employee responses to the NCSL survey.

Discussion on the International Legislative Forum

Senator Tieszen encouraged the Executive Board to continue the Legislature's involvement in the International Legislative Forum.

After further positive comments from Board members, **REPRESENTATIVE HAWLEY MOVED, SECONDED BY REPRESENTATIVE HOFFMAN, THAT THE EXECUTIVE BOARD CONTINUE THE LEGISLATURE'S MEMBERSHIP IN THE INTERNATIONAL LEGISLATIVE FORUM.** The motion prevailed on a roll call vote with 12 voting AYE, 1 voting NAY, 2 EXCUSED. Those voting AYE: Heineman, Lucas, Peters, Soholt, Tieszen, Hawley, Hoffman, Latterell, Olson, Tyler, Westra, Maher. Those voting NAY: Carson. Those EXCUSED: Brown, Gosch.

Executive Session

REPRESENTATIVE CARSON MOVED, SECONDED BY SENATOR PETERS, THAT THE EXECUTIVE BOARD GO INTO EXECUTIVE SESSION. The motion prevailed on a voice vote.

The Executive Board went into Executive Session at 12:45 p.m.

REPRESENTATIVE CARSON MOVED, SECONDED BY SENATOR HEINEMAN, 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 3:26 p.m.

At this time, **SENATOR BROWN MOVED, SECONDED BY REPRESENTATIVE CARSON, THAT FRED SCHOENFELD, CHIEF ANALYST FOR FISCAL RESEARCH AND BUDGET ANALYSIS, BE APPOINTED THE INTERIM LRC DIRECTOR DURING THE TRANSITION. The motion prevailed unanimously on a roll call vote: Brown, Heineman, Lucas, Peters, Sohlt, Tieszen, Gosch, Hawley, Hoffman, Latterell, Olson, Tyler, Westra, Carson, Maher.**

The Executive Board agreed to postpone discussion and final action on the recommendations outlined in the NCSL report until a new LRC Director is on board.

Budget Subcommittee Report

Senator Peters, Chair of the Budget Subcommittee, reported that the Subcommittee members approved a transfer of money from the travel budget to the personnel budget. This does not reflect a budget increase but a redirection and would enable LRC to implement some of the changes recommended in the NCSL audit.

After brief discussion, **SENATOR PETERS MOVED, SECONDED BY REPRESENTATIVE CARSON, THAT THE EXECUTIVE BOARD APPROVE THE BUDGET SUBCOMMITTEE REPORT. The motion prevailed on a roll call vote with 14 voting AYE, 1 voting NAY. Those voting AYE: Brown, Heineman, Peters, Sohlt, Tieszen, Gosch, Hawley, Hoffman, Latterell, Olson, Tyler, Westra, Carson, Maher. Those voting NAY: Lucas.**

Discussion of Legislators' Salaries

Senator Lucas expressed his opinion that legislator salaries should be increased to encourage more people to run for office. He said that such an increase should be included on the ballot as a referendum so that the public could weigh in on the issue.

Representative Hoffman said that by figuring in cost of living increases over the years, current legislator salaries would be \$9,400. He recommended that, if there is a legislative salary increase, it should be \$3,400 added to the current salary.

Senator Corey Brown stated that he is uncomfortable discussing legislative salaries at this time. He said that the Executive Board needs to focus on other issues.

Senator Heineman agreed.

Representative Brian Gosch recommended that the Board defer further discussion on this issue indefinitely.

Next Executive Board Meeting

Chair Maher announced that the next scheduled meeting of the Executive Board is on November 18, 2013. The Chair asked members whether they also want to meet in October.

Senator Brown said that perhaps the Chair should work with Mr. Schoenfeld to plan a possible meeting in October.

Senator Tieszen said that the Operations Subcommittee will meet to discuss the recommendations outlined in the NCSL report.

Adjournment

REPRESENTATIVE CARSON MOVED, SECONDED BY REPRESENTATIVE LATTERELL, THAT THE EXECUTIVE BOARD BE ADJOURNED. The motion prevailed on a voice vote.

The Executive Board adjourned at 3:55 p.m.

