

87th Legislative Session – 2012

Committee: Joint Appropriations

Monday, February 06, 2012

P - Present
E - Excused
A - Absent

Roll Call

P Wismer
P Dennert
P Sutton
P White
P Dryden
P Bolin
P Romkema
P Deelstra
P Peters
P Novstrup (Al)
P Heineman
P Haverly
P Juhnke
P Putnam
P Carson
P Tidemann
P Wink, Vice-Chair
P Brown, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chairman Corey Brown.

Department of the Military

Major General Timothy Reisch, Major General/Secretary presented the FY13 proposed budget. Also in attendance were Connie Hohn, Steve Harding, Larry Zimmerman, Colonel Kit Cline, Lt. Colonel Al Punt, and Gerald Ball. Documents #1 and 2 were distributed.

The FY13 proposed budget totals \$25,336,253 and includes \$2,791,427 in general funds, \$22,518,003 in federal funds, \$26,793 in other funds and 103.4 FTEs. This budget represents an overall reduction of \$14,302,683 and a 2.0 FTE increase.

Major General Reisch said the Governor is recommending a decrease of \$231,293 in general funds and an increase in federal funds of \$231,293 for personal services. This is a funding swap from the administration area to the armories area for 6.0 FTEs that will be paid with federal funds.

The Department of the Military has 3 budget divisions. The Air Guard's budget totals \$5,279,531 or 20.8%; the Major General \$921,612 or 3.6%; and the Army Guard \$19,135,110 or 75.5%.

Major General Reisch explained the request for 2 FTE in the Army Guard Division. One position will be an energy manager and the second an access control manager with both positions located at Camp Rapid. These services are currently contracted out and Major General Reisch said they would like to make the positions state employees to retain the positions. A contract employee is not likely to stay in the position due to lack of benefits. The department will initiate a transfer of federal funds from contractual services to personal services to facilitate this swap.

The Army National Guard has a personnel end strength mission goal of 3,370. Currently statistics show 359 Officers, 110 Warrant Officers, and 2,930 Enlisted. There are 638 full-time federal employees 638 and 48.1 full-time state employees.

Representative White asked if the President's reduction in army numbers has affected South Dakota's Army Guard. Major General Reisch said yes, 258 army guard positions will be eliminated. The Air Guard and Army Guard will be impacted by the President's budget cuts. Thirty-three states will lose airplanes; however, South Dakota is one of 17 states who will not lose airplanes.

Major General Reisch told the Committee the department has 29 armories located in 28 different communities (2 in Rapid City). Ten of the 29 armories are 50 years or more old. Senator Tidemann asked for information on the condition of the aging armories. Major General Reisch said the structures are safe; however, many of them lack shower/locker rooms for females. As a rule, if the school uses the armory for activities, the schools may have done renovations; especially if the armory is the primary building for athletics.

The department has no military construction projects on the 2011-2016 Fiscal Year Defense Plan other than the \$25 million Watertown Readiness Center which is expected to be completed in January of 2013. In response Senator Heineman's question, Major General Reisch said approximately 10 armories have less than 50 soldiers.

Major General Reisch said the Army National Guard's future challenges include:

- R-Series MTOE (losing 258 slots on October 1, 2012)
- Armory modernization (Readiness Centers)
- Surviving future Army downsizing
- Striving for excellence
- Budget constraints

The Air National Guard has a military strength of 1,042 (officers and enlisted), 317 federal employees, and 47 state employees. The Guard has 22 – F-16 Block 40 aircraft with 31 pilots. In response to Senator Haverly, Major General Reisch said all (21) Block 30 aircraft were removed. Even though they have 22 Block 40 aircraft, the PAA is only budgeted for 18. Major General Reisch said the airplanes had a lot of maintenance issues and the Guard had spent a great deal of time and effort replacing hydraulic lines, etc.

The Air National Guard has specialized programs including: base security, STARBASE Youth Program and the Civil Air Patrol.

Future Commitments for the Air National Guard include:

- 2012 – Completion of Block 40 conversion
- 2012 – Resume Airspace Control Alert Mission
- 2013 – AEF in support of OEF
- 2014 – Operation Readiness Inspection Phases I & II

Future Challenges for the Air National Guard include:

- Completion of Block 40 conversion
- Surviving force structure and budget cuts
- Identifying a permanent alert mission
- Transitioning to the next generation of fighter aircraft

Major General Reisch briefed the Committee on the work done during the 2011 flood.

- Total workdays: 41,721
- Highest single day of personnel: June 6, 2011 – 1,347 personnel
- Total Number of Guardsmen: 1,957
- Total Cost: \$8,389,935 (people: \$6,252,435 and logistics: \$2,137,500)

Department of Veterans Affairs

Steve Harding, Deputy Secretary of the Department of Veterans Affairs appeared before the Joint Appropriations Committee to present the proposed FY13 budget. Also in attendance were Connie Hohn, Larry Wilcox and Larry Zimmerman. Document #3 was distributed.

The proposed budget totals \$31,110,943 involves \$3,174,491 in general funds, \$23,284,181 in federal funds and \$4,652,271 in other funds. The department is also requesting an increase of 3.5 FTEs.

Major expansions and reductions for the department include:

Veterans Benefits and Services:

- An increase of \$34,172 in general funds and \$8,480 in federal funds for the Governor's proposed salary increase.
- An increase of \$768 in general funds and \$302 in federal funds for space and computer service billings.
- An increase of \$26,373 in general funds for personal services and 0.5 FTE to fund the Cabinet secretary in FY2013. The start date for the Cabinet official will be January of 2013.

State Veterans Home

- An increase of \$77,696 in general funds, \$13,915 in federal funds and \$120,745 in other funds for the Governor's proposed salary increase.
- An increase of \$718 in general funds, \$1,105 in other funds for space and computer billings.
- An increase of \$12,823 in general funds, \$7,083 in federal funds, \$29,858 in other funds for personal services, and 1.0 FTE for an accountant position. This position is also included as an amendment to the FY12 general bill with an increase of \$6,946 in general funds, \$3,836 in federal funds, \$16,173 in other funds and 0.6 FTE.
- An increase of 2.0 FTEs for Nursing Services which will align the budget with historical FTE utilization. These FTE are also included as an amendment to the FY12 general bill.
- An increase of \$74,646 in other funds for personal services to fund the resident worker program. This increase will provide 198 additional hours per week, which is an average of 9 hours per worker. The resident workers earn a minimum wage of \$7.25.
- An increase of \$13,651 from general funds, \$2,812 in federal funds, and \$58,024 in other funds for operating expenses.
 - This includes a net increase of \$21,789 for contractual services. This consists of a decrease for electricity costs due to the energy cap system (\$8,424), and an increase for the food service contract (\$30,213).
 - This includes an increase of \$52,698 for supplies and materials. This consists of an increase in medical supplies based on an inflationary increase as it is estimated the vendor will increase costs by at least 5% over FY11 actual costs (\$36,871), as well as an increase for heating oil and propane per the energy cap system (\$15,827).

Mr. Harding said significant achievements for the department include:

- Approximately 7,500 South Dakota veterans and service members received benefits from the GI Bill with an estimated annual benefit of over \$12 million.
- Currently there are 159 veterans participating in on-the-job training and apprenticeship programs.
- Currently 79 apprentices are enrolled in training programs.
- Currently there are 42 colleges, technical schools, high schools and non-college degree certificate programs active in South Dakota.
- Secured over \$108 million in federal VA entitlements for South Dakota veterans and their dependents during calendar year 2011.

South Dakota's veteran's population is 71,800 with over 8,000 since September 2001.

Mr. Harding informed the Committee that the State Veterans Home had recently become a Medicaid facility. In response to Senator Tidemann's question, Ms. Hohn said the \$22.5 million of the Federal budget requested is for the new veteran's home and that roughly \$300,000 is Medicaid. Because the facility recently became Medicaid eligible, they are receiving approximately \$20,000/month. However, Ms. Hohn said this amount will grow in time.

Presently the State Veterans Home has 100 veterans, 28 non-veterans, 82 in residential living services, 30 in the nursing care unit and 17 in the special care unit.

In response to Representative Carson's question, Superintendent Wilcox said the home currently has rooms available for independent men and women and has a waiting list for the special care unit. The couples rooms and nursing care units are full. Superintendent Wilcox said spouses are able to live at the home and that all residents are eligible for Medicaid.

Mr. Harding told the Committee that VA funding is still pending for the new veteran's home in Hot Springs. The department believes the cost projections are still doable and if the project is approved in the near future, the cost figures will be close.

Representative Wismer asked about the relationship between the new state vets home and the abandonment of the current VA facility. Mr. Harding said the abandonment will have no effect on the new facility; however, they are open to partnership discussions. Senator Tidemann asked if the nursing home would contract with Rapid City doctors or will the VA hospital move to Sturgis or Rapid City. Superintendent Wilcox said it will have no effect on the services provided at the Veteran's Home.

Mr. Harding updated the Committee on the proposed veteran's home in eastern South Dakota. Approximately one year ago, the department requested proposals for the proposed facility. Shortly after the department found out the VA's 65% construction grant was not possible because the proposed facility would be state-owned and privately operated. Consequently, new

proposals were requested in October of 2011 and the department has received 4. Those proposals are now being reviewed by the Department's of Health and Social Services. The department hopes to make a recommendation in March. The proposed facility will have 50 beds with the ability to expand when there is a need. No state funds will be used.

Mr. Harding told the Committee since 2004 the department has received 8,525 claims for the veteran's bonus. SB 4 in the 2012 legislative session asks for a \$1 million appropriation to continue the veteran's bonus program. The department was originally appropriated \$4,206,607 in 2004; the maximum payment is \$500.

Senator Heineman asked for clarification on the cost for care at the State Veteran's Home. Mr. Harding said the cost is based on the level of care. There are several methods of payment for care at the home including full-cost care (based on income), VA per diem (\$197/day), and Medicaid. Medicaid, which just recently came into play, is an area where the state could provide services to the veterans and yet save the state's general funds. The present home does not qualify for Medicaid, which resulted in the need for the new home. The present home has impediments (not handicapped accessible in many areas). Superintendent Wilcox said the home was granted a waiver because they are planning a new facility which will meet all Medicaid and Medicare standards.

Senator Heineman asked how the state's moratorium on nursing home beds fit into this facility. Mr. Harding said a bill was passed in 2011 to allow the department to look at a 50-bed facility in the eastern part of South Dakota. In response to Representative White's question, Mr. Harding said the cost of care at the home is about the same as in a private nursing home.

Public Utilities Commission

Mr. Chris Nelson, Commissioner of the Public Utilities Commission (PUC), and **Ms. Kristie Feigen**, Commissioner of the PUC, distributed the PUC "Top Priorities" (**Document #4**) and the PUC "2011 Highlights" (**Document #5**).

For FY2013, the Governor recommends a budget of \$4,205,774; comprised of \$475,441 in general funds, \$416,466 in federal fund expenditure authority, and \$3,313,867 in other fund expenditure authority; and 33.2 FTEs. This request is a total increase of \$93,172 – made up of an increase of \$12,662 (2.7%) general funds, an increase of \$37,369 (9.9%) federal funds, and a decrease of \$43,141 (1.3%) in other fund expenditure authority – from the FY2012 budget.

Commissioner Nelson stated that the PUC is not requesting to expand the agencies duties in FY2013. He noted that House Bill 1121 presented this legislative session will reduce the number of full-blown rate cases with PUC in the future.

The FY2013 budget recommendation includes increases for the Governor's recommended salary policy and for interagency billings. The recommended budget also includes budget shifts from federal funds to other funds to accurately align the budget with actual use.

A law change last year allowed the PUC to use the Do Not Call Telecommunication Market Fee for any telecommunication regulatory purpose. This is an increase of \$12,000 in Do Not Call other fund expenditure authority which would be used for Do Not Call outreach. Since this was changed, the Federal Communication Commission (FCC) ordered a change in the U.S. telecommunication regulation in November. Currently, the PUC is uncertain of the additional responsibility to state commissions associated with the changes. Therefore, the Do Not Call Telecommunication Market Fee may be used for the federal order instead of Do Not Call outreach.

In response to **Senator Corey Brown's** question, Commissioner Nelson stated that the FCC through the order, stepped into what has traditionally been state jurisdiction in which state commissions were given the authority to set the intrastate inter-carrier compensation rate. A number of states have filed lawsuit against the FCC over the order on that particular state preemption issue. The PUC supports those states and the national association that has also filed lawsuit on the preemption issue. It is before the federal courts, and PUC hopes the courts will rule that the federal agency cannot by preempting a state authority in that area. Currently, South Dakota has not joined the lawsuit because the PUC believes the state will be adequately represented by the national association and the other states.

Representative Jim Bolin asked about jurisdiction of the pipeline safety. Commissioner Nelson stated that jurisdiction is split. The federal government addresses the interstate pipelines and the PUC has control of the intrastate pipeline. The Pipeline Safety crew inspects the pipelines and works with operators to ensure the interstate pipeline requirements are met.

As to the Keystone Pipeline, the PUC is responsible to issue citing permits. The issue occurring in Nebraska was in part the result of the state not citing authority. The rerouting of the Keystone Pipeline will not change the existing plan in South Dakota.

The Legislature

For FY2013, the Governor recommends a budget of \$7,494,626; comprised of \$7,459,626 in general funds, \$35,000 in other fund expenditure authority, and 65.3 FTEs. This request is a total increase of \$511,164 (7.4%) in general funds from the FY2012 budget.

Legislative Research Council

Mr. James Fry, Executive Director of the Legislative Research Council (LRC), distributed a handout entitled "LRC Budget Analysis and Review – FY 2013 Budget" (**Document #6**).

For FY2013, the Governor recommends a budget of \$4,715,671; comprised of \$4,680,671 in general funds, \$35,000 in other fund expenditure authority, and 31.3 FTEs. This request is a total increase of \$431,610 (10.2%) in general funds from the FY2012 budget.

Director Fry stated that the FY2012 budget was sustainable and the LRC presented the Executive Board a FY2013 budget with no increase. The Executive Board added and approved an additional \$250,000 to the presented budget for national organization dues and legislator travel to out-of-state meetings. The budget approved by the Executive Board was presented to the Governor.

Senator Deb Peters asked about the decrease to a 35 legislative day session. Mr. Fry responded that with the budget cuts, the 36 day session (35 day legislative session and 1 legislative day for a special session on redistricting), was used to sustain a zero budget.

Mr. Fry said that the FY2013 recommended budget includes the following changes:

- \$77,001 to lease or buy new laptops; and
- Fund an average legislative interim including the 5 statutorily required committees (Appropriations, Executive Board, Government Operations and Audit, Rules Review, and Ag Land Implementation and Advisory Task Force) and three or four additional committee depending on committee membership size.

In response to Senator Brown's questions, Mr. Fry stated that an interim committee is allowed three meetings and up to five meeting days. The average cost is about \$17,000 per interim committee for three trips and five meeting days.

Mr. Fry said, in response to **Representative Dean Wink's** question, that the LRC is prepared to buy, lease, or a combination of both to acquire the computers depending on the computer system desired. Mostly, the LRC will have a combination of leasing tablets similar to those that are currently being used by the Legislature and purchasing a product comparable to the iPad, because the iPad does not lease products. Mr. Fry informed the committee that because the OneNote system utilized by the Appropriations committee is not compatible with the iPad, at least 22 tablets will be purchased and the older tablets will be used by future interns. He noted that there may be some legislators that prefer tablets over iPad, therefore the LRC could purchase 50% and lease 50% of the computers.

In response to **Senator Jeffrey Haverly's** question, Mr. Fry told the committee that the \$77,001 requested in the FY2013 budget is in addition to the \$31,000 the LRC has available in current budget for purchasing computers. The total budget for computers is \$108,001.

Mr. Fry informed the committee that after the Executive Board approved the FY21013 budget request, the Governor made budget increases for salary policy increase (\$70,500), interagency billings (\$16,110), and MHEC dues (\$95,000).

In response to committee questions, Mr. Fry said that the Legislature is currently a member in good standing with MHEC through June 2012. Total dues for all legislative members is \$254,000. The LRC has included \$200,000 in the FY2013 budget to partially restore dues. The LRC will pay for as much of the dues as possible – about \$50,000 – with overage in staff travel from the FY2012 budget. The majority of the membership dues will be paid in the FY2013 budget in July to make the Legislature in good standing.

Senator Peters asked about money for legislators to travel to the national conferences. Mr. Fry replied that the Executive Board approved \$50,000 in August for out-of-state legislator travel. Before the budget reductions, out-of-state travel for legislators had a budget of about \$200,000 annually.

Senator Havelry stated, in response to Representative Wink's question, that as per the bylaws signed by the state and the Governor, the state is required to pay membership dues to MHEC for two years after membership is withdrawn.

Mr. Fry stated, in response to Senator Havelry's question, that the LRC reverted \$79,000 last year after the MHEC dues were paid, and the LRC hopes to have \$50,000 remaining in the budget to pay part of the dues this year. The LRC pays \$118,689 annually for membership to the National Conference of State Legislatures and about \$90,000 annually for membership to the Conference of State Governments.

In response to Senator Haverly's question, Mr. Fry noted that the FY2013 recommended budget will allow funding for both Government Operations and Audit and the Appropriations Committee to have one two-three day tour.

Senator Peters asked about personnel evaluations. Mr. Fry responded that he performs those evaluations as requested by the Executive Board utilizing the performance evaluation form from the Bureau of Personnel.

Representative Wismer asked about a cost savings due to the elimination of two legislative days this session. Mr. Fry said that it costs about \$31,000 per day of legislative session. There is a possibility of the LRC having additional funds depending on the decision of legislative leadership to pay the session employees and interns for the planned days.

Legislative Audit

Mr. Martin Guindon, Auditor General, distributed a handout of the agency's responses to the committee's Budget Call letter. (**Document #7**)

For FY2013, the Governor recommends a budget of \$2,778,995 in general funds and 34.0 FTEs. This request is an increase of \$79,554 (2.9%) in general funds from the FY2012 budget.

Auditor General Guindon said that the only change from the FY2012 adopted budget in the FY2013 request presented to the Executive Board in August 2011 was an increase of \$16,820 in personal services to fund promotions for some of the auditors. All other operating expenses objects were held at their FY2012 levels.

The FY2013 budget recommended by the Governor includes \$61,180 of personal services in addition to the amount approved by the Executive Board to fund the 3% across-the-board salary policy increase and the health insurance increase proposed by the Governor. The Governor also added \$1,554 to the contractual services object for expected increases in the Bureau billings.

Auditor General Guindon noted that if the salary package was adopted for FY2013, additional funding for the movement to job-worth component would need to be added to the Legislative Audit budget to fund that portion of the salary package. Therefore, if the Legislature adopts a salary policy increase, an amendment in the amount of \$38,087 would be necessary to fully fund the increase.

In response to Representative H. Paul Dennert's question, Auditor General Guindon stated that promotions were given to employees that passed the six-month probationary period and increase in positions as were performed by the Executive branch even during the three year salary policy freeze.

Auditor General Guindon stated, in response to **Senator Larry Tidemann's** question that Legislative Audit has participated in the 2.5% movement-to-job worth component of salary policy as used by the Executive Branch since it was implemented.

Mr. Fred Schoenfeld, Chief Fiscal Analyst with the Legislative Research Council, stated in response to Representative Wismer's question, that exempt positions, such as the Office of Legislative Audit and the Legislative Research Council, are not included in the movement-to-job worth.

Mr. Guindon stated that the elimination of two FTEs last year will make it difficult for the office to complete the state's single audit within the nine month deadline required by federal law. The office did not meet the deadline for the fiscal year ended June 30, 2011. Going forward, the phasing out of the recovery act funding will reduce the number of federal grant programs to be

audited, but it will still be difficult to meet the nine month deadline. He is hopeful the office will be able to make the deadline for the fiscal year ended 2012.

Additionally, the office has not available resources to audit smaller agencies of state government that receive very little audit coverage as part of the single audit.

In response to Senator Haverly's questions, Auditor General Guindon stated that the stimulus funds compounded the problem because the office was already struggling to make the fiscal yearend deadline. The stimulus funds made it impossible to meet. Without the stimulus funds the office will be close to normal operations, but it will still be difficult to make the deadline. Auditor General Guindon said that he did not request an additional FTE for FY2013 because would like to see how the office handles the normal workload.

Auditor General Guindon replied to Senator Brown's question in that the federal government has not implemented any consequences yet for the state not making the deadline. However, there is the possibility of the state losing federal funding. He is not aware of any state that had that consequence yet, but it is an option with the federal government authority.

MOTION: ADJOURN

Moved by: Haverly
Second by: Peters
Action: Prevailed by voice vote.

Barb Bjorneberg and Lisa Shafer
Committee Secretary

Corey Brown, Chair