

87<sup>th</sup> Legislative Session – 2012

Committee: Joint Appropriations

Wednesday, February 15, 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 Senator Corey Brown.

**Physics Ph.D. Proposal**

**Mr. Dana Byrum**, Master Student of Physics at the University of South Dakota (USD), and **Mr. Chris Chiller**, Master Student of Physics at the USD, distributed a handout entitled “Why South Dakota Needs a Physics PhD This Year”. (**Document #1**)

Funding for a Ph.D. program in physics was not included in the Governor's FY2013 budget proposal. Mr. Chiller and Mr. Byrum believe that Ph.D. program in physics has many opportunities for both the state and physics students.

Currently, USD and the Sanford Underground Research Facility (SURF) work in collaboration. The students from USD are the only master program students at the SURF; all other students are in a Ph.D. program. Mr. Chiller noted many opportunities at the SURF are only available to Ph.D. students and therefore he had to turn some down. There have also been federal grants that USD is denied due to the university not having a Ph.D. program in physics.

Mr. Chiller stated that a Ph.D. program in physics at USD would allow the state to generate revenue from licenses and sale of products. Currently, USD is performing research that could generate revenue. Some of those research projects include:

- Zone refining process through ultra-pure germanium;
- Germanium crystal growth;
- Germanium detectors;
- Germanium based solar cells; and
- Thermal diffusion.

Senator Haverly asked how many other places grow crystal germanium. Mr. Chiller replied that there are two crystal germanium growers in the United States. One location is producing crystal germanium for their own output of optical devices. The other location produces crystal germanium for the U.S. Department of Defense, but the producer is not able to meet the output demands.

Mr. Chiller stated that the U.S. has an agreement to sell crystal germanium to China because China does not have the capability to grow crystal germanium. There is other market potential for crystal germanium in the U.S. If USD had a Ph.D. program in physics, the state would be able to commercialize the product and receive sales tax revenue – an estimated \$974,000 for the sale of crystal germanium to China and two U.S. locations.

Mr. Byrum stated that SURF has selected liquid argon as a target material to be used in the underground projects. It will require 34,000 tons of ultra-pure liquid argon. It will cost \$20.4 million to purchase the material which includes \$13 million to deliver the product. If South Dakota was able to produce the ultra-pure liquid argon, the state would receive about \$500,000 in sales tax revenue.

In response to Senator Brown's questions, Mr. Chiller stated that South Dakota needs a Ph.D. program in physics because the masters program is only a two year program which does not give students enough time to work a project through to the conclusion.

To have a career in physics, a person needs to have a Ph.D. Currently, Iowa State is willing to accept all credits earned in South Dakota and allow students to continue with research in their area of interest. Mr. Chiller commented that if the work is performed at Iowa State, that university will own the licenses for any commercialized products. Any revenue generated from the products would go to Iowa.

In response to committee questions, Mr. Chiller said that experiments that are being created in South Dakota are done less expensive than in other areas of the country and will be paid by a National Science Foundation grant. A Ph.D. program in physics at USD would require minimal state general funds because most of the work performed at the Ph.D. level is research. Professors would be able to write grants to support the research.

In response to Senator Heineman's question about the urgency of implementing a Ph.D. program in physics, Mr. Chiller stated that the SURF needs crystal germanium for the Majorana project. They are willing to wait a little longer to see if South Dakota is willing to produce the product, otherwise, the lab will purchase the product from Russia.

Mr. Chiller informed the committee that a master's program is about mastering the prior art of a particular area. The students are trying to understand what prior professors and students did. The Ph.D. program in physics is the development of something new that has not been previously done. Intellectual property will most likely never come from a master's program.

### **Department of Labor and Regulation**

For FY2013, the Governor recommends a budget of \$44,691,039; comprised of \$892,958 in general funds, \$35,618,600 in federal fund expenditure authority, and \$8,179,481 in other fund expenditure authority; and 449.7 FTEs. This request is a total increase of \$1,090,441 – made up of an increase of \$120,975 (15.7%) general funds, an increase of \$737,949 in federal fund expenditure authority, and an increase of \$231,517 (2.9%) in other fund expenditure authority – from the FY2012 budget.

**Ms. Pam Roberts**, Secretary of the Department of Labor and Regulation (DLR), introduced the staff present – **Mr. Mike Youngberg**, Director of the Division of Securities; **Mr. James Marsh**, Director of the Division of Labor and Management; **Mr. Brett Afdahl**, Director of the Division of Banking; **Mr. Mike Ryan**, Director of the Division of Employment Services; **Mr. Merle Scheiber**, Director of the Division of Insurance; **Ms. Pauline Heier**, Director of the Division of Unemployment Insurance; **Ms. Marcia Hultman**, Deputy Secretary and Director of Workforce Services; **Mr. Nathan Lukkes**, Director of Legal Services; **Ms. Dawn Dovre**, Director of Public Affairs; and **Mr. Lyle Harter**, Administrative Services Director.

Distributed was an overview of the department and the agency's FY2013 budget request. **(Document #2)** Secretary Roberts explained the major budget changes. They include:

- Dakota Roots Marketing program – The Governor is recommending an increase of \$100,000 in general funds for Dakota Roots marketing efforts. This amount is to be added to the base and will allow the Dakota Roots program to plan for annual marketing campaigns as well as targeted programs for South Dakota alums;
- Governor's Salary Policy- Increase of \$20,038 from general funds, \$661,727 in federal fund expenditure authority, and \$219,873 in other fund expenditure authority for the Governor's recommended salary policy; and
- Interagency Billings - Increase of \$937 from general funds, \$76,222 in federal fund expenditure authority, and \$11,644 in other fund expenditure authority due to changes in space billing and computer service billings.

As of December 2011, there are 451,300 people in the South Dakota labor force, with 432,200 people employed and 19,100 people unemployed. The unemployment rate for South Dakota is 4.2% which is lower than the national average of 8.5%. Secretary Roberts said that the statewide unemployment rate is trending down; however, the unemployment rate in rural areas across the state is about 5% compared to about 3% for more urban areas.

Secretariat Administration – The Governor's FY2013 budget recommendation is \$19,198,585 – comprised of \$280,000 in general funds, \$18,781,809 in federal fund expenditure authority, and \$136,776 in other fund expenditure authority – and 53.5 FTEs. The budgetary changes include:

- An increase of \$100,000 in general funds for marketing of the Dakota Roots program;
- An increase of \$121,635 in federal fund and other fund authority for the Governor's recommended salary policy; and
- An increase of \$73,947 in federal fund authority for space and computer service billings.

Unemployment Insurance Service - The Governor's FY2013 budget recommendation is \$5,133,582 in federal fund expenditure authority and 92.0 FTEs. The budgetary changes include: an increase of \$181,498 in federal fund for the Governor's recommended salary policy.

Employment Services - The Governor's FY2013 budget recommendation is \$10,685,559 in federal fund expenditure authority and 186.0 FTEs. The budgetary changes include:

- An increase of \$348,491 in federal fund authority for the Governor's recommended salary policy; and
- An increase of \$1,952 in federal fund authority for space and computer service billings.

Secretary Roberts noted that the employment services include the field services of 19 offices across the state providing services to citizens in the local communities.

In response to Representative Wink's question, Secretary Roberts stated that it is not unusual for the DLR to be cut in federal funding. When cuts are made, the department makes adjustments.

State Labor Law Administration - The Governor's FY2013 budget recommendation is \$1,466,411 – comprised of \$612,958 in general funds, \$412,662 in federal fund expenditure authority, and \$440,791 in other fund expenditure authority – and 19.7 FTEs. The budgetary changes include:

- An increase of \$41,294 in general funds, federal funds, and other fund authority for the Governor's recommended salary policy; and
- An increase of \$3,211 in general funds, federal funds, and other fund authority for space and computer service billings.

Banking - The Governor's FY2013 budget recommendation is \$1,980,406 in other fund expenditure authority and 22.5 FTEs. The budgetary changes include:

- An increase of \$57,867 in other fund authority for the Governor's recommended salary policy; and
- An increase of \$1,914 in other fund authority for space and computer service billings.

Securities - The Governor's FY2013 budget recommendation is \$419,235 in other fund expenditure authority and 5.0 FTEs. The budgetary changes include:

- An increase of \$13,820 in other fund authority for the Governor's recommended salary policy; and
- An increase of \$467 in other fund authority for space and computer service billings.

Insurance - The Governor's FY2013 budget recommendation is \$2,378,924 – comprised of \$604,988 in federal fund expenditure authority and \$1,773,936 in other fund expenditure authority – and 28.0 FTEs. The budgetary changes include:

- An increase of \$58,615 in federal funds and other fund authority for the Governor's recommended salary policy; and
- An increase of \$3,381 in other fund authority for space and computer service billings.

Secretary Roberts introduced the Board and Commission staff members present at the meeting – **Ms. Nicole Olson-Kasin**, Executive Director of the Board of Accountancy; **Ms. Carol Tellinghuisen**, Executive Director of the Board of Barber Examiners; **Ms. Kate Boyd**, Executive Director of the Cosmetology Commission; **Mr. Mike Richards**, Executive Director of the Plumbing Commission; **Mr. Mark Humphreys**, Executive Director of the Board of Technical Professions; **Mr. JJ Linn**, Executive Director of the Electrical Commission; **Ms. Melissa Miller**, Executive Director of the Real Estate Commission; and **Mr. Greg Wick**, President of the Abstracters Board of Examiners.

For FY2013 the total recommended budget for all the boards and commissions is \$3,428,337 and 44.0 FTEs. The total budgetary changes include:

- An increase of \$ 78,415 for the Governor's recommended salary policy increase and
- An increase of \$3,931 for space and computer service billings.

Senator Billie Sutton asked about the Cosmetology Fund balance. Ms. Kate Boyd, Executive Director of the Cosmetology Commission, stated that the commission has been trying to build the fund balance to pay for several modernization projects:

- Online licensing renewals – anticipated cost of \$50,000;
- Rebuild and update database – anticipated cost of \$50,000; and
- Allow for the 4 inspectors to use laptops and electronically submit inspections online – anticipated cost of \$50,000.

### **Unemployment Insurance Trust Fund**

Secretary Roberts stated that the economy is flat right now, the department is starting to see changes in employers hiring. As of the last week of December 2011, there were 4,439 unemployment insurance (UI) claimants with 3,442 of those being state claimants. The total amount of benefits paid is \$1,151,748 with the state paying \$836,973 in benefits. The UI trust fund balance is \$36.5 million and there are 9,694 job openings.

Secretary Roberts stated that until the end of February, federal law stated that any person that is laid off by no fault of their own and submits a claim by the end of February will be able to receive an additional 24 weeks of UI benefits for a total of 60 weeks. She noted that the benefits for the additional 24 weeks are paid by the federal government.

In response to Representative Wismer's question, Ms. Pauline Heier stated that a seasonal employee that is laid off, but still waiting to be rehired after the off-season ends, is considered attached to an employer. Those UI benefit recipients are not required to look for work and are not included in the 19,100 people looking for work. The department will provide the number of seasonal workers receiving benefits.

Secretary Roberts said that payments out of the UI Trust Fund were the highest in 2009; which resulted from increased layoffs in October, November, and December of 2008. The surcharge to employers was implemented in September 2009 and was removed in September 2010. The bulk of the surcharge was received in 2010 and therefore the amount of funds generated that year was not typical. The U.S. Department of Labor recommends that South Dakota have a target amount for the UI Trust Fund that is three times higher than the highest benefits paid – about \$100,000,000. Secretary Roberts recommended that DLP have about \$76 million in the UI Trust Fund. She said that currently the U.S. Department of Labor only recommends this amount, but because other state UI Trust Funds are bankrupt from the recession, it is possible that the amount could become regulated.

Slide 25 of Document #2 shows the UI Trust Fund financial summary. The fund receives payments from businesses on a quarterly basis with the first payment being in April. Most UI benefit payments are made in January, February, and March. The DLR needs to constantly monitor the UI Trust Fund to ensure the fund balance is large enough to cover the benefit payment.

In response to Senator Heineman's question, Secretary Roberts stated that the department will research the possibility of job service providers searching the unemployed list.

Secretary Roberts said, in response to Senator Tidemann's question, that the DLR used to average about 10 weeks for people being on UI benefits before returning to work. With the recession and additional federal weeks, the average has increased to 14 weeks. The department has noticed that people who receive UI benefits for 16 weeks or longer become lackadaisical about looking for employment.

In response to Senator Tidemann's question pertaining to the unemployment training component that was initiated last year, Secretary Robert stated that the unemployment training component helped workers obtain new skills especially those that needed training for a new area of work. The department will report back facts about the unemployment training component that was implemented last year.

Distributed was the agency's response to the Budget Call letter. (**Document #3**)

**Bureau of Personnel**  
**Continued from January 23, 2012**

State Employee Health Plan

**Ms. Sandy Zinter**, Commissioner of the Bureau of Personnel (BOP), introduced the staff member present – **Mr. Larry Kucker**, Director of Employees Benefits; **Ms. Mary Keeler**, Accounting Manager; and **Ms. Tony Richardson**, Senior Compensation Analyst.

In response to a prior committee request, Commissioner Zinter distributed a document that compares the total compensation in South Dakota to the surrounding states. (**Document #4**)

Distributed was a handout entitled "South Dakota State Employee Health Plan". (**Document #5**)

Commissioner Zinter stated that if the state does nothing to the FY2013 health care plan, the total amount needed would be \$8.2 million to account for medical inflation. The issue will be addressed by \$3.3 million in administrative changes, about \$2.4 million in changes in deductibles and copayments for members, and an appropriation request of \$2.5 million (\$948,848 in general funds).

Mr. Kucker said that as of July 2011, there are 26,193 members enrolled in the state health plan – 12,524 employees, 556 retired employees, 203 COBRA members, and 12,910 dependents. The average age of the plan member is 34.9 years and the average age of an employee is 45.8 years.

In response to Representative Wink's question, Mr. Kucker said that COBRA is a federal requirement for employers of a certain size to allow terminated employees the option to remain on the health plan for up to 18 months. The members pay the full premium and all costs associated. He noted that if there is a disability, the COBRA length is extended to 29 months.

In response to committee questions, Mr. Kucker stated that the state offers three different health care coverage options - \$300 deductible, \$1,000 deductible, and \$2,000 deductible. The state provides coverage to active members at no charge and the members pay premiums for the dependents. The premium cost for dependents and retirees is more than active employees, but the federal law does not allow for a markup higher than 2% for COBRA participants.

The state health plan is self-funded therefore the state hires people to administer the plan and provide services to the members. Many different companies perform the administrative services of the plan. A chart outlining the service partners is shown on slide 28 of Document #5

Slide 29 of Document #5 shows the claims by cost segments for FY2011. Mr. Kucker noted that 5,800 (19.4%) members did not submit a claim in FY2011. There were 16,178 (54%) members that submitted claims totaling less than \$1,500; with an average claim cost per member of \$353.66. The high cost claimants (claims totaling \$50,000 or more) had total claims of \$34,506,328 for only 271 (0.9%) members. The average claim was \$127,329.62 per member. Mr. Kucker noted that 36.6% of the plan claims were submitted by the 271 members.

In response to Representative Carson's question, Mr. Kucker stated that most retirees move directly to retiree status for health care and not to COBRA. The BOP said they would provide the cost difference for the different premiums.

Mr. Kucker went through the most costly conditions to the state health plan. They are:

- Forms of chronic heart disease;
- Newborns with complications (small number of babies, but the treatment is high);
- Oncology (accounts for about 1/3 of \$34 million of the high cost claims);
- Degenerative joint disease;
- Back conditions; and
- Postoperative infections.

Some of the cost drivers include increasing inflation, costs of new medial treatments, costs of specialty pharmacy drugs, costs of hospital stays, utilization, and federal mandates.

The FY2013 proposed administrative changes include:

- Member impact
  - Deductible increase from \$300 to \$500;
  - Deductible decrease from \$2,000 to \$1,800;
  - Modification of medial and pharmacy plan co-payments
- Administrative impact
  - Case Manager assigned to High Cost Claimants;
  - Management of Emergency Department use at facilities;
  - Pre and post payment claim audits;
  - Direct contracts with providers; and
  - Movement to wellness.

In response to Senator Brown's inquiry about the decreased deductible for the \$2,000 health plan, Mr. Kucker stated that the change still fits within all federal regulations for the allowable HAS options. It was noticed that members in the \$2,000 plan were paying about 77% of the total costs of the plan. Commissioner Zinter added that about 80% of the executive branch employees make less than a \$45,000 salary. The \$2,000 plan was too expensive and risky for many members. She hopes that the change will attract more members.

Mr. Kucker stated that some of the medial and pharmacy plan changes for the proposed \$500 and \$1,000 deductible plans include:

- Emergency room visits will be a flat \$250 co-payment;
- Out-patient procedures will be a \$500 co-payment;
- Inpatient facility procedures will be a \$800 co-payment;
- CAT scans and MRIs will be a \$150 co-payment; and
- Name brand medications will be a \$32 co-payment.

For FY2011, South Dakota's employee contribution for health insurance (about \$6,000) is lower than the surrounding states. BOP is able to keep the contribution lower because the agency has aggressively managed the health plan. Commissioner Zinter noted that South Dakota only provides coverage for employees, whereas North Dakota provides coverage for all members including dependents. There could be other factors to the difference in contribution rates.

Ms. Keeler said that the goal of BOP was to end FY2011 by breaking even. The cumulative over recovery for FY2011 was \$75,162. The estimated cumulative over recovery at the end of FY2012 is \$1,389,327 and \$1,427,272 at the end of FY2013.

Representative Romkema asked about the administrative expense increase. Ms. Keeler stated that there will be savings with the reduction of claims. An increase to administrative services will provide future reduction of high cost claims by helping the members in that category with one-on-one assistance.

Representative Dryden asked about the federal early retirement. Mr. Kucker stated that the federal government developed a program to help pay for early retirees (under age of 65). The program had \$5 billion for funding and costs from states for early retirements could be reimbursed by the federal government. The state recovered \$973,223 in FY2011 and estimates \$650,000 in FY2012. The program is expired and therefore no reimbursement is listed for FY2013.

Minutes Approved

Jan 20 and 25 – Deelstra, Juhnke

Feb 7 – Dryden, Haverly

Jan 30 – Bolin, Haverly

Feb 6, Putnam, Haverly

Feb 1 – Juhnke, wink

Adjourn – haverly, tidemann

MOTION: TO APPROVE THE MINUTES OF JANUARY 20, 2012

Moved by: Deelstra

Second by: Juhnke

Action: Prevailed by voice vote.

MOTION: TO APPROVE THE MINUTES OF JANUARY 25, 2012

Moved by: Deelstra

Second by: Juhnke

Action: Prevailed by voice vote.

MOTION: TO APPROVE THE MINUTES OF FEBRUARY 7, 2012

Moved by: Dryden

Second by: Haverly

Action: Prevailed by voice vote.

MOTION: TO APPROVE THE MINUTES OF JANUARY 30, 2012

Moved by: Bolin

Second by: Haverly

Action: Prevailed by voice vote.

MOTION: TO APPROVE THE MINUTES OF FEBRUARY 6, 2012

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

MOTION: TO APPROVE THE MINUTES OF FEBRUARY 1, 2012

Moved by: Juhnke  
Second by: Wink  
Action: Prevailed by voice vote.

MOTION: ADJOURN

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

Lisa Shafer  
Committee Secretary

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Corey Brown, Chair