

TABLE OF CONTENTS

APPROPRIATIONS COMMITTEE.....	2
CODE COMMISSION (SOUTH DAKOTA)	9
GOVERNMENT OPERATIONS AND AUDIT COMMITTEE	10
LEGISLATIVE REDISTRICTING COMMITTEE	14
PRESCRIPTION DRUG ISSUES COMMITTEE.....	16
RETIREMENT LAWS COMMITTEE	21
RULES REVIEW COMMITTEE	23
STATE-TRIBAL RELATIONS COMMITTEE	24
STREAMLINED SALES TAX PROJECT TASK FORCE	26
TEACHER CREDENTIALING AND COMPENSATION COMMITTEE ...	29
WIND POWER GENERATION COMMITTEE	31



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.cfm>).

APPROPRIATIONS COMMITTEE

Study Assignment

A continuing review of the appropriations process, a study of the funding and fund balance of the state's adjustment training centers, a study of community-based mental health services, and a study of the state's salary structure with respect to competitiveness within state government and also with other units of government and the private sector. The study should also examine recruitment and retention issues.

Summary of Interim

If more federal or other funds are available to the state than were provided in the General Appropriations Act, the additional funds may not be spent without approval of the Interim Appropriations Committee pursuant to SDCL 4-8B-10. Expenditure authority grants during the interim were as follows:

1. \$580,000 of FY2001 other fund expenditure authority to the Department of Revenue for the production of the 2000 motor vehicle license plates, trailer plates and commercial plates;
2. \$15,000,000 of FY2001 other fund expenditure authority and \$32,500,000 of FY2001 federal fund expenditure authority to the Department of Social Services for the nursing facilities budget---this allows the state to claim federal Medicaid funding and meet the required state match;
3. \$4,713,430 of FY2001 federal fund expenditure authority and \$12,966,322 of FY2001 federal fund expenditure authority to the Board of Regents---the School of Medicine had the largest share of the grants, mostly for a fetal alcohol study---the rest of the grants were mostly for distance learning, particularly at Northern State University;
4. \$1,452,792 of FY2001 federal fund expenditure authority to the Department of Human Services to cover increased costs of pharmaceuticals and medical supplies;
5. \$400,000 of FY2001 other fund expenditure authority to the Department of Tourism to allow for the expenditure of tourism promotion revenues---the revenues are to be spent on Internet development, technology in reservation systems, and marketing and research;
6. \$300,000 of FY2001 other fund expenditure authority to the Department of Military and Veterans' Affairs to cover increased costs associated with caring for residents at the State Veterans' Home;
7. \$3,000,000 of FY2001 federal fund expenditure authority to the Department of Education and Cultural Affairs to allow DECA to distribute the federal grants to school districts;
8. \$27,000 of FY2001 federal fund expenditure authority and \$110,000 of FY2002 federal fund expenditure authority to the Department of Commerce and Regulation, Office of the State Fire Marshal, to allow for the expenditure of grants from FEMA for training courses;

9. \$1,000,000 of FY2001 other fund expenditure authority and \$1,200,000 of FY2002 other fund expenditure authority to the Board of Regents to utilize a grant from the United States Department of Education to make education accessible to South Dakota residents who are unable to relocate to one of the Board of Regents' campuses;
10. \$19,013 of FY2001 other fund expenditure authority and \$19,500 of FY2002 other fund expenditure authority to the Department of School and Public Lands to utilize a weed grant from the United States Department of Agriculture to fight leafy spurge in Harding and Butte Counties;
11. \$1,000,000 of FY2002 federal fund expenditure authority to the Office of the Attorney General to utilize a grant to develop technologies and automated systems to assist state and local law enforcement agencies in investigating, responding to, and preventing crime;
12. \$176,000 of FY2002 federal fund expenditure authority and \$325,985 of FY2002 other fund expenditure authority and 5.8 FTE to the Department of Game, Fish, and Parks for the operation and maintenance to three additional Missouri River recreation areas;
13. \$6,400,000 of FY2002 other fund expenditure authority to the Board of Regents for the Al Neuharth Media Center and Old Main Renovation projects;
14. \$6,726,277 of FY2002 other fund expenditure authority and 64.0 FTE to the Department of Health to deliver health care services to the adult and juvenile inmates in the care and custody of the Department of Corrections;
15. \$975,832 of FY2002 other fund expenditure authority and 14.0 FTE to the Department of Human Services to provide mental health services to the adult inmates in the care and custody of the Department of Corrections;
16. \$600,000 of federal fund expenditure authority and \$90,000 of other fund expenditure authority to the Office of the Attorney General. The federal fund expenditure authority is to allow for the pass-through of federal grants to other state agencies that have Byrne funded projects. The other fund expenditure authority is allow the expenditure of funds from the consumer settlement fund to return to consumers those items that were held by D&J Glass in Sioux Falls.
17. \$700,000 of federal fund expenditure authority to the Department of Human Services in order to utilize the Medicaid infrastructure grant (\$500,000) and to utilize the family support grant (\$200,000);
18. \$85,000 of other fund expenditure authority to the Office of School and Public Lands in order to spend the funds in the weed and pest control fund;
19. \$1,307,867 of federal fund expenditure authority to conduct mountain pine beetle suppression work on state and private forest lands in the Black Hills and to implement the national fire plan in South Dakota;
20. \$874,000 of federal fund expenditure authority to the Department of Corrections for the winter project in Custer State Park using inmates to clear trees, create fire lanes and trails, tree thinning, and slash pile cleanup;

21. \$265,000 of federal fund expenditure authority to the Department of Corrections to utilize Byrne funds for computer hardware to improve communications in the Department of Corrections;
22. \$2,000,000 of federal fund expenditure authority to the Department of Corrections to utilize Title XIX funding for the juvenile programs;
23. \$195,000 of other fund expenditure authority to the Department of Corrections for four tuckpointing crews that were unbudgeted for in the FY2002 budget;
24. \$973,913 of other fund expenditure authority and \$7,374,533 of federal fund expenditure authority to the Department of Commerce and Regulation, Highway Patrol, to upgrade communication systems and in-car video systems.

The committee failed to approve \$165,000 of other fund expenditure authority and \$87,000 of federal fund expenditure authority to the Department of Corrections for the purchase of 25,000 weather radios to be distributed around the state by emergency management.

Adjustment Training Centers

Mr. Rich Hornak, Department of Legislative Audit, presented the committee with financial data about the adjustment training centers (ATCs) in South Dakota. ATCs provide vocational opportunities and residential options for individuals who need help to integrate as independently as possible into a community. The following information was presented to the committee.

Selected Balance Sheet Accounts, FYs 1996-2000

Adjustment Training Centers	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000
ATC 1, Unrestricted Cash Balance	\$ 152,515	\$ 168,498	\$ 93,019	\$ 358,491	\$ 347,753
As a % of Annual Expenditures	4.2%	3.9%	2.1%	7.9%	7.3%
ATC 2, Unrestricted Cash Balance	\$ 209,790	\$ 155,083	\$ 171,470	\$ 178,053	\$ 150,744
As a % of Annual Expenditures	6.7%	4.5%	4.7%	4.8%	3.9%
ATC 3, Unrestricted Cash Balance	\$ 293,203	\$ 269,956	\$ 212,662	\$ 201,847	\$ 217,845
As a % of Annual Expenditures	23.1%	21.4%	15.2%	13.5%	14.6%
ATC 4, Unrestricted Cash Balance	\$ 125,513	\$ 79,413	\$ 87,339	\$ 191,756	\$ 298,963
As a % of Annual Expenditures	14.3%	9.1%	9.4%	18.5%	24.9%
ATC 5, Unrestricted Cash Balance	\$ 362,479	\$ 405,636	\$ 298,563	\$ 193,731	\$ 261,795
As a % of Annual Expenditures	8.2%	8.0%	5.6%	3.4%	4.2%
ATC 6, Unrestricted Cash Balance	\$ 266,604	\$ 279,967	\$ 226,811	\$ 154,849	\$ 189,354
As a % of Annual Expenditures	14.3%	14.2%	10.8%	7.2%	8.9%
ATC 7, Unrestricted Cash Balance	\$ 891,583	\$ 670,038	\$ 903,349	\$ 809,619	\$ 1,268,805
As a % of Annual Expenditures	19.6%	13.9%	18.1%	15.7%	24.4%
ATC 8, Unrestricted Cash Balance	\$ 300,135	\$ 329,957	\$ 275,658	\$ 313,878	\$ 402,886
As a % of Annual Expenditures	30.7%	32.3%	25.2%	26.4%	32.3%
ATC 9, Unrestricted Cash Balance	\$ 240,725	\$ 217,099	\$ 285,651	\$ 427,918	\$ 542,139
As a % of Annual Expenditures	7.4%	5.2%	6.4%	9.4%	11.8%
ATC 10, Unrestricted Cash Balance	\$ 595,140	\$ 556,033	\$ 906,002	\$ 857,777	\$ 1,062,326
As a % of Annual Expenditures	38.8%	27.9%	41.3%	34.7%	42.4%
ATC 11, Unrestricted Cash Balance	\$ 132,487	\$ 141,559	\$ 19,768	\$ 40,950	\$ 48,209
As a % of Annual Expenditures	14.4%	14.2%	1.8%	3.4%	3.8%
ATC 12, Unrestricted Cash Balance	\$ 191,698	\$ 239,746	\$ 253,014	\$ 157,420	\$ 227,480
As a % of Annual Expenditures	11.6%	16.0%	14.5%	7.8%	9.9%
ATC 13, Unrestricted Cash Balance	\$ 309,856	\$ 388,083	\$ 319,903	\$ 310,266	\$ 427,288
As a % of Annual Expenditures	15.9%	19.5%	14.7%	13.7%	18.1%
Average, Unrestricted Cash Balance	\$ 313,210	\$ 300,082	\$ 311,785	\$ 322,812	\$ 418,891
As a % of Annual Expenditures	16.1%	14.6%	13.1%	12.8%	15.9%

Currently, the ATCs select their own accounting firms to perform audits. Mr. John Jones, Secretary, Department of Human Services, noted that the department does receive copies of the audit reports. It is department policy to allow a 90-day reserve for the ATCs. The department reviews the financial statements received from the ATCs, with on-site reviews, if necessary. The department also receives a cost report every three years.

Mr. Hornak indicated that he would want the Office of Attorney General to clarify whether the Department of Legislative Audit has statutory authority to audit anything other than general fund revenues and expenditures within an ATC. In response to committee questions, Mr. Hornak indicated that it would not be a good practice to audit only one source of funding because it would be very difficult to reach any valid conclusions based on one piece of information.

The committee did not take action on this issue.

Community Mental Health Centers

During its summer tour of the eastern part of the state, the Joint Committee on Appropriations visited the Lewis and Clark Behavioral Health Services Center in Yankton. Dr. Thomas Stanage, executive director, explained the services provided by the Lewis and Clark Center. Mr. Terry

Dosch, executive director of the South Dakota Council of Community Mental Health Centers, provided the committee with a statewide review of mental health services.

Mr. Dosch explained that South Dakota is served by eleven community mental health centers (CMHCs) . They are located in Aberdeen, Brookings, Huron, Lemmon, Mitchell, Pierre, Rapid City, Sioux Falls, Watertown, Winner, and Yankton. Each center is assigned an area of one to several counties. The CMHCs collectively cover the entire state. Each center is organized as a private, nonprofit entity. The centers are governed by a local board of directors selected from the region that the center serves. Mr. Dosch believes that local control guarantees responsiveness to community needs.

CMHCs provide out-patient services and transitional care. Emergency care is provided twenty-four hours a day, seven days a week. A center may employ psychiatrists, psychologists, nurses, physicians' assistants, social workers, counselors, and case managers. Services are provided to adults with major mental illness, children, professionals in the business, legal, and medical communities, and to other communities.

The centers are biennially accredited by the Division of Mental Health in the Department of Human Services. Accreditation is a prerequisite to providing contractual services to the state.

Mr. Dosch stated that the accreditation process ensures that quality care is provided to the public.

According to Mr. Dosch, an estimated 14,200 clients will have been served by the community-based mental health system. More than 3,300 of those clients are expected to be children. The number of persons served has steadily increased over the past several years. He said that while the state has dedicated new money for new programs (such as IMPACT and indigent medication), it has not increased the reimbursement rates for older services. The state Council of Mental Health Centers is presently working with the Division of Mental Health to review and update the state's rate structure.

The committee took no action on this issue. The committee may further study this issue during future budget hearings of the Department of Human Services.

State's Salary Structure

During its fall tour of the Black Hills, the Joint Committee on Appropriations heard testimony from Bureau of Personnel (BOP) Commissioner Sandra Zinter, along with Sandy Jorgensen from BOP's compensation division and Larry Kucker from the benefits division. They briefed the committee on the state's compensation policy. Ms. Jorgensen started the presentation by outlining the need for a pay system. A system should be designed to help ensure there is no discrimination, to pay employees properly and fairly, and to establish a human resources base that can be used for future budgeting.

Prior to 1990, there was no uniform pay system. Salary policy was made after other budgetary concerns were addressed. Starting in 1990, the State has used a Performance and Compensation Equity (PACE) System. PACE is composed of an annual salary adjustment (most recently it has been 3.0 percent), longevity, and a 2.5 percent increase for those employee salaries that are not at job worth. The system links the state's ability to pay with its goals. Those goals include a salary policy that is competitive with the private, in-state market and developing

a consistent salary range.

Salaries are determined with the use of surveys of the larger job markets in the state and with data provided by the Department of Labor. Currently 25 percent of the state's payroll is in the form of cash benefits (premiums and contributions for Social Security, insurance, and workers' compensation) and 11.5 percent is in the form of non-cash benefits (holidays, vacation, and sick leave).

Ms. Jorgensen explained that job worth is defined as the amount that the state can afford to pay. Most employees are hired at a salary or wage rate that is less than job worth. Over the next seven years, an employee receives an annual adjustment and a 2.5 percent movement to job worth until they reach the level of job worth. Afterwards the employee receives the annual adjustment and a longevity payment on their employment anniversary. Currently 46 percent of the state's work force is paid below job worth. Thirty percent is paid at job worth, and 23 percent is paid above. Committee members questioned the precision of using the word "job worth" because it may mislead some employees when they are paid less than that amount.

The state compares its salaries and wages to private employers in the state and to surrounding state governments. Ms. Jorgensen provided information to the committee which compared starting salaries offered by the state, private in-state employers, and adjacent state governments. The data showed that as job skills increase and as jobs become more desirable to employers (such as engineers and nurse positions), South Dakota's competitiveness has a tendency to decrease.

In FY 1999 there were 14,171 applicants for state positions. In FY 2000 there were 13,164 applicants, a decrease of 1,007 (7.1 percent) from FY 1999. In FY 2001 there were 14,963 applicants, an increase of 1,799 (13.7 percent) from FY 2000.

The committee was provided the following information regarding turnover rates.

Turnover Rates, FYs 2000 - 2001

	FY 2000	FY 2001
Resignations	10.0%	8.2%
Retirements	1.4%	1.9%
Involuntary	1.8%	1.8%
TOTAL	13.2%	11.8%

Mr. Ken Melius, executive director of the South Dakota State Employees Organization (SDSEO), testified that SDSEO supports the state's PACE compensation plan. Mr. Melius also testified that SDSEO appreciates the stability of the PACE system. He provided the committee with salary and benefits data that compared public employees to their counterparts in the private sector within the state and to public employees in neighboring states. Mr. Melius commented that dental coverage is an important benefit to employees.

The committee took no action on this issue.

Listing of Legislation Adopted

None.

Summary of Meeting Dates & Places and Listing of Committee Members.

The committee met three times during the 2001 interim. The first meeting was held in Pierre on May 21. The second meeting was held in Camp Rapid in conjunction with the West River Tour on October 10. The third meeting was held in Pierre on December 20.

Committee members included Senator Bob Drake, Co-Chair; Representative Mitch Richter, Co-Chair; Senators Jerry Apa, H. Paul Dennert, Robert Duxbury, Brock Greenfield, Marguerite Kleven, John Koskan, Cheryl Madden, and J.E. "Jim" Putnam (Vice-chair); Representatives Stan Adelstein, Quinten Burg, Judy Clark, Michael Derby (Vice-chair), Ted Klaudt, Gerald Lange, Willard Pummel, and Duane Sutton.

Staff members included Dale Bertsch, Chief Analyst for Fiscal Research and Budget Analysis; Mark Zickrick, Principal Fiscal Analyst; David Becker, Senior Fiscal Analyst; Reed Holwegner, Senior Fiscal Analyst; Annie Mertz, Senior Fiscal Analyst; and Rhonda Purkapile, Senior Legislative Secretary.

CODE COMMISSION (SOUTH DAKOTA)

Study Assignment

The Code Commission supervises the publication of the *South Dakota Codified Laws*, corrects errors to the code, assists the code counsel, makes recommendations to the Legislature, and contracts for replacement volumes.

Summary of Interim

The Code Commission identified three volumes to reprint for the upcoming year. The volumes to be reprinted are Volumes 5, 10B, and 12B. There is a direct relationship between the size and cost of the cumulative supplement and the number of replacement volumes authorized by the Commission. Replacing volumes eliminates pocket parts and shrinks the size and cost of the supplement; it also makes the code easier to use. In order to manage the code, the Commission attempts to maintain page count of the supplements in proportion to the bound volume page count.

The Code Commission determines which county, state, and federal offices receive a free printed copy of the *Session Laws*. The need for a printed copy has been reduced due to the availability of the *Session Laws* on the Legislature's Internet site. The Commission is currently reviewing the list of approved offices with a goal to reduce the need to distribute printed copies.

The publishing contract for the South Dakota Code will expire June 30, 2002, and the Commission is currently reviewing the process to either renew the contract or open the contract to bids from other publishers. The contract process for the publishing of the code is regulated by SDCL 2-16-7 to 2-16-7.2, inclusive.

Listing of Legislation Adopted

The Commission will propose the annual legislation to update SDCL 2-16-13, the publications constituting the official code.

Summary of Meeting Dates & Places and Listing of Committee Members.

The Code Commission met at the State Capitol in Pierre on February 20, 2001. The Code Commission also met in conjunction with the state bar convention in Sioux Falls on June 22, 2001.

Commission members are Chair Michael DeMersseman, Vice Chair Senator Eric Bogue, Representative Matt McCaulley, Tom Lee, and Lee McCahren.

Code Counsel Doug Decker serves as staff to the Commission.

GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

Study Assignment

The Government Operations and Audit Committee was established by South Dakota Codified Laws (SDCL) 2-6-2. The Committee is appointed at each regular session of the Legislature. Senate Bill 141 was passed during the 2000 legislative session. Section 11 of the Bill changed the composition of the Committee from five to ten members and expanded the functions of the committee to include a continuing study of the operation of the state's correctional system.

The Committee consists of ten members, five members from the Senate appointed by the President Pro Tempore of the Senate, one of whom shall be a member of the Judiciary Committee and five members from the House appointed by the Speaker of the House, one of whom shall be a member of the Judiciary Committee.

The responsibilities of the Committee are:

- To inquire and review any phase of the operations and the fiscal affairs of any department, institution, board or agency of the state as directed by the Executive Board of the Legislative Research Council;
- To review any findings of abuse or neglect in a juvenile corrections facility;
- To make a continuing study of the operation of the state's correctional system; and,
- To make a detailed report to the Senate and House of Representatives and submit a copy of its report to the Appropriations Committee of each House of the Legislature at the next succeeding session of the Legislature or any special session of the Legislature upon request of the body.

The review process of the Committee relating to the operations and fiscal affairs of state government was conducted within the limits of the following objectives:

- Evaluate the findings and recommendations contained in audit reports of state agencies concerning:
 - The manner in which administrators of the agencies and departments of the state have discharged their responsibilities to faithfully, efficiently and effectively administer the programs of the state.
 - The agency's management of its fiscal affairs and the adequacy of accounting procedures.
- Review audit reports with agency officials and accounting personnel to obtain their views on the Auditor General's audit recommendations.

- Determine the action to be taken to implement audit recommendations.
- Assess the agency's progress toward implementing audit recommendations.
- Require a department, institution, board, or agency to present a report to the Appropriations Committee, containing the reasons for not implementing audit recommendations and a corrective action plan.
- Introduce legislation.

The review process of the Committee relating to juvenile corrections and the state corrections system was conducted within the limits of the following objectives:

- Review the juvenile monitor's reports of findings of abuse or neglect in juvenile corrections facilities.

Summary of Interim

The Committee held two meetings to discuss audit reports issued and to review juvenile corrections issues. The following summarizes the actions that were taken by the Committee.

Review of Audit Reports

Financial and compliance audits involve testing financial transactions of the state to determine that all money is properly accounted for and expended in accordance with state and federal laws and regulations. All audits conducted on state agencies were consolidated and reported in the Single Audit Report. The Single Audit Report includes the Comprehensive Annual Financial Report for the State of South Dakota prepared by the Bureau of Finance and Management, a schedule showing the federal awards received by the state and related expenditures, and audit findings and recommendations issued by the Department of Legislative Audit.

The Committee reviewed the Single Audit Report for the fiscal year ended June 30, 2000, and separately issued reports on audits conducted by public accounting firms for the fiscal year ended June 30, 2000. These reports were issued in accordance with Auditing Standards Generally Accepted in the United States of America, Government Auditing Standards issued by the Comptroller General of the United States and South Dakota Codified Laws. A copy of these reports may be obtained from the Department of Legislative Audit.

The Committee reviewed financial reporting, internal control and compliance deficiencies written on 16 state operations, containing 23 recommendations for corrective action. Six recommendations related to violations of state laws and regulations; eleven recommendations related to violations of federal laws and regulations; and, six recommendations related to inadequate internal control procedures over receipts, revenue collections and expenditures.

The following represents the state agencies with audit findings and recommendations from fiscal years 2000 and 1999 and the implementation of fiscal year 1999 audit recommendations:

	Recommendations		
	Fiscal Year <u>2000</u>	Fiscal Year <u>1999</u>	FY1999 Imple- <u>mented</u>
Agriculture, Department of	1	3	2
Agriculture, Department of State Fair	1	1	1
Attorney General, Office of	2	0	N/A
Board of Regents, School for the Deaf	0	1	1
Dakota State University	1	0	N/A
Commerce, Department of, Licensing and Regulatory Boards & Commissions			
Electrical Commission	3	0	N/A
Medical and Osteopathic Examiners	1	0	N/A
Board of Nursing	1	1	0
Governor, Office of the	1	0	N/A
Economic Development Finance Authority	1	0	N/A
Education, Department of	1	0	N/A
Health, Department of	1	0	N/A
Human Services, Department of	0	1	1
Military & Veterans' Affairs, Department of	1	4	4
Personnel, Bureau of	0	1	1
Public Utilities Commission, One Call Notification Board	1	0	N/A
Revenue, Department of	1	1	1
School and Public Lands	1	0	N/A
Secretary of State	0	2	N/A
Social Services, Department of	6	6	2
Transportation, Department of	0	2	2

The Committee sent letters to all state agencies with audit findings and encouraged the state agencies to implement the audit recommendations. The Committee requested responses from four state agencies identifying the actions taken to implement the audit recommendations. The Committee continues to monitor the responses and corrective actions taken by state agencies.

The Committee reviewed financial statements and cash flow projections for the South Dakota State fair. The Committee requested the State Fair Board provide a business plan that will demonstrate what actions will be taken to ensure the financial integrity of the State Fair.

Review of Juvenile Corrections

The meeting of December 5, 2000, was primarily for the newly created Juvenile Corrections Monitor position, established by the 2000 Legislature in SB141, to update the committee on his task to investigate claims of neglect and abuse from juveniles held in state correctional institutions. Juvenile Corrections Monitor, John Ellis, was hired in April and since that time had established lock-boxes at each of the institutions and had formulated policies and procedures for incarcerated juveniles to anonymously report any signs of neglect or abuse.

The Juvenile Corrections Monitor provided an annual report of his activities as required in § 26-11A-27. From April 10, 2000, until June 30, 2001, there were 164 complaints received by the monitor. A full investigative report is prepared when it is necessary to provide a complete record of the investigation to the Department of Corrections. Of the 164 complaints filed, 42 required investigative reports. The complete document is on file with the Legislative Research Council.

SB 141 also required the Department of Corrections to study and report the feasibility of American Corrections Association (ACA) accreditation at the juvenile correctional facilities. Jeff Bloomberg, Secretary, Department of Corrections, recommended that the state not pursue ACA accreditation for the juvenile facilities due to prohibitive costs. A motion was made for staff to draft legislation for the upcoming 2001 Session requesting that the Department of Corrections pursue ACA accreditation to the extent it is economically feasible. The bill ultimately failed in the 2001 Session.

Listing of Legislation Adopted

The Committee sponsored two bills during the 2001 legislative session. Senate Bill 50 was enacted into law and revised certain provisions regarding the state's accounting system and the financial statements prepared by the Bureau of Finance and Management. Senate Bill 157 would have required the Department of Corrections to seek accreditation by the American Correctional Association and would have made an appropriation therefor. Senate Bill 157 did not become law.

Summary of Meeting Date and Places and Listing of Committee Members

The committee met on December 5, 2000, and May 22, 2001, in the State Capitol in Pierre.

Committee members in 2001 were: Senator Marguerite M. Kleven, Chair, Representative Gordon R. Pederson, Vice-Chair, and Representatives Quinten L. Burg, Margaret V. Gillespie, Claire B. Konold, and Hal Wick; and Senators Eric H. Bogue, Don Brosz, Dennis M. Daugaard, and Garry A. Moore.

Committee members in 2000 were Senator Marguerite M. Kleven, Chair; Representative Donald E. Munson, Vice-Chair; and Representatives Kevin R. Crisp, Deb Fischer-Clemens, Gil Koetzle, and Matthew Michels; and Senators Eric H. Bogue, Dennis M. Daugaard, Robert N. Duxbury, and Garry A. Moore.

Staff members were Rich Hornak, Audit Manager, Department of Legislative Audit; Annie Mertz, Senior Fiscal Analyst; and Rhonda Purkapile, Senior Legislative Secretary, Legislative Research Council.

LEGISLATIVE REDISTRICTING COMMITTEE

Study Assignment

A review of census data and maps and preparation of a redistricting plan for the consideration of the Legislature.

Summary of Interim

The committee began its study by reviewing the legal foundations of redistricting, the demographics of the state as revealed by the 2000 federal census, and the redistricting technology that was available for committee and staff use. The committee had an early discussion about establishing redistricting policies that would govern the committee's redistricting process. The committee adopted at its first meeting the policy that the state be redistricted based on thirty-five senate districts and coterminous dual-member house districts.

Since Shannon and Todd Counties are covered by the Voting Rights Act and any changes to the legislative district in these counties are subject to the approval of the United States Department of Justice, the committee began its deliberations regarding these counties early in the process. The committee did this with the hope that any plan involving these counties could be precleared by the Department of Justice before an entire statewide plan was recommended to the Legislature. At its second meeting the committee went to Todd and Shannon Counties seeking the input from residents of that area regarding majority-minority representation. The committee received public testimony regarding whether or not the current District 27 should remain unchanged. The committee also reviewed the history of legislative redistricting on the reservations in this state.

At the committee's third meeting, the committee began looking at maps displaying possible legislative districts. The committee looked at various configurations involving legislative districts in Lakota areas, a Brookings legislative district, a Watertown legislative district, and two Aberdeen/Brown County legislative districts and took public testimony regarding these configurations. The committee also reviewed possibilities for the formation of conurbation areas around Sioux Falls and Rapid City and for the formation of two southeastern legislative districts. The committee heard testimony from persons in the northeast part of the state asking the committee to consider putting Day, Marshall, and Roberts Counties into one legislative district.

The committee decided at this third meeting to submit to the United States Department of Justice, for expedited preclearance, a plan that would keep District 27 the same. The committee also chose tentative configurations to be incorporated into a statewide foundation map. Tentative configurations involving the cities of Brookings, Watertown, and Aberdeen and the counties of Brown, Spink, Marshall, Day, Roberts, Lawrence, Yankton, Clay, and Turner were approved by the committee. The committee also established tentative conurbation areas around the cities of Sioux Falls and Rapid City.

Staff developed five statewide redistricting maps based on these tentative configurations for the committee's review prior to its fourth meeting. Three of these maps were also distributed to all legislators for their review.

The committee received public testimony on the proposed statewide maps at its fourth meeting. Most of the testimony received was from residents of Meade County regarding how that county should be split into legislative districts. Considerable testimony was also received regarding the desirability of maintaining a single-member House district in old District 28 so that Lakota voters would have a better opportunity to elect a representative of their choice. The committee approved three statewide redistricting maps to be sent to all members of the Legislature for their review prior to the committee's final meeting. These maps were also made available to the news media and placed out on the Internet for the public to review.

At the committee's final meeting, the committee learned that the United States Department of Justice declined to make a decision on the committee's submission for preclearance of the committee's plan to maintain old District 27 as it was. The Department of Justice wanted the entire Legislature to act on this plan before it would take it under consideration.

The committee proceeded to approve a statewide redistricting plan for consideration by the full Legislature. The recommended plan included thirty-five senatorial districts with coterminous dual-member house districts in thirty-four of these districts. Old Legislative District 28 was once again recommended to be split into two House districts so that a majority-minority House district could be maintained. The committee also recommended to the Legislature a draft bill to establish redistricting principles for the 2001 legislative redistricting process. The Legislature called itself into special session on October 23-24, 2001, for the purpose of redistricting. Maps and supporting data of the plan adopted during the special session are available at the Legislature's Web site: <http://legis.state.sd.us>.

Listing of Legislation Adopted

An Act to provide for redistricting principles for the 2001 legislative redistricting.

An Act to provide for the decennial redistricting of the State Legislature.

Summary of Meeting Dates and Listing of Committee Members

The committee met on June 19, July 24, August 21 & 22, September 28, and October 9. The July 24 meeting was held in Mission in the morning and in Pine Ridge in the afternoon. All other meetings were held in the State Capitol in Pierre.

Committee member included Senator Arnold M. Brown, Co-Chair; Representative Mike Derby, Co-Chair; Senators Eric Bogue, Don Brosz, Robert Duxbury, Barbara Everist, Jim Hutmacher, and Gil Koetzle; and Representatives Jay Duenwald, Kent Juhnke, Matthew Michels, Mel Olson, Gordon Pederson, Bill Peterson, and Paul Valandra.

Staff members included Reuben D. Bezpaletz, Chief of Research Analysis and Legal Services; David L. Ortbahn, Principal Research Analyst; Annie Mertz, Senior Fiscal Analyst; Reed Holwegner, Senior Fiscal Analyst; and Teri Retrum, Senior Legislative Secretary.

PRESCRIPTION DRUG ISSUES COMMITTEE

Study Assignment

A study of the problem of purchasing prescription drugs for people in South Dakota versus outside the state from mail order service.

A study to determine steps the Legislature could take with respect to the problems in the pharmaceutical area, including availability and finance programs.

A study of prescription drug issues relating to the state's role in the usage, coverage, and cost of, and access to, prescription drugs, including a review of current programs and the coverage, cost, and growth of the programs; state resources available to pay for prescription drug coverage; programs used in other states to provide coverage for both Medicare and non-Medicare populations; current pricing strategies of manufacturers; and the state's role, if any, in increasing access to pharmaceutical drugs and information.

Summary of Interim

At its first meeting, the Prescription Drug Issues Committee focused on the current situation of prescription drug coverage in South Dakota. The committee heard presentations from the Department of Social Services regarding publicly insured populations in the state, that is, those who receive pharmaceutical assistance from state or federal programs. The department also informed the committee about the Rx Access Program, which facilitates qualified senior citizens in accessing free prescription drugs from pharmaceutical manufacturers.

To get an overview of what is available in the private market for prescription drug coverage, the committee took testimony from Doneen Hollingsworth, Secretary of Health; Darla Lyon, Director of the Division of Insurance; Janet Griffin, Wellmark Blue Cross Blue Shield; and Dean Krogman, DakotaCare. Secretary Hollingsworth informed the committee that the department received a grant to conduct a survey to determine how many South Dakotans are uninsured and to better identify characteristics of that population. Director Lyon discussed the state of the insurance marketplace in South Dakota, noting that prescription costs are not the major cost but a significant cost of rising premiums. She also noted that within the last several months at least four insurance carriers left South Dakota as well as other states.

Janet Griffin informed the committee that about 78,000 South Dakotans had some form of prescription drug coverage with Wellmark. She stated that annual cost increases of 15 to 18 percent are expected for prescription drugs, with over half of the increase attributable to drugs used for the cardiovascular and central nervous systems. Griffin also stated that the average annual costs are highest among senior citizens; however, the rate of increase was highest among the 40- to 55-year olds with developing chronic conditions. Drivers of drug costs include the use of newer, brand name drugs, direct to consumer advertising, physician behavior, and demographic changes which prompt a demand for lifestyle drugs for such things as weight loss and hair growth. Finally, Griffin noted that although some drugs are used in place of more costly surgery, increased prescription drug costs and usage will raise health premiums, which in turn may prompt some employers to shift the cost to employees or drop the coverage.

Dean Krogman spoke about the pharmacy benefit provided to enrollees of DakotaCare. It includes a formulary specific to DakotaCare and contains both brand name and generic drugs with different copayments depending on the type of prescription drug the patient chooses.

Marjorie Powell, Pharmaceutical Research and Manufacturers Association, and Kelly Marshall, Pharmacia Corporation, discussed pricing acronyms, the patent process, and drug research. They noted that there has been a tremendous reduction in death by diseases since the 1920s and an increase in lifespan that is attributable to the development of drugs. They stated that pharmaceutical manufacturers invest more money as a percentage of sales in research and development than any other industry. Explaining the stages of bringing a drug to market, they noted that of the twenty-year patent life, most of that time is spent in research and development. Finally, they stated that only three of ten drugs return the research and development costs, so blockbusters must recover their costs and carry the load for the other drugs.

At its second meeting, the Prescription Drug Issues Committee examined a number of issues regarding prescription drugs, beginning with an overview of the responsibility of counties to pay for prescription drugs. By statute, counties, as the payer of last resort, must provide emergency medical services. The payment of all other services, including prescription drugs, is optional. Because the lack of certain drugs may result in costly hospital stays, counties often pay for prescription drugs but it varies among the counties. Those receiving assistance are typically the elderly, the disabled, and the working poor. Counties work with manufacturers of drugs, much like the Rx Access Program, to assist indigents in getting drugs free of charge.

Another issue examined by the committee was pricing. Harvey Jewett, Chair, Jewett Drug, a wholesale distribution company, spoke about the pricing structure of prescription drugs. Average wholesale price (AWP) is the manufacturer's suggested price, but it is not the actual wholesale price. Jewett suggested that the state should look at a formulary approach as a way to address the rising costs of prescription drugs.

From the retail perspective, Bill Ladwig, Pharmacy Director, Lewis Drug Stores, also spoke to the committee on pricing. Ladwig indicated that in the retail sector four out of five prescription drugs are priced by third-party plans. Ladwig emphasized that education of the consumer is a key component in addressing the rising costs of prescription drugs. Ladwig noted that few consumers are aware of costs because of co-payments. Ladwig favors shared co-pays so the consumer is more aware of the costs of prescription drugs.

Ruth Krystopolski, Executive Director, Sioux Valley Health Plan, provided information regarding Medicare + Choice plans, which are provided in some areas as an option to traditional fee-for-service Medicare. Krystopolski testified that Valley Choice is the only Medicare + Choice provider in the state. It covers thirteen counties in this state but extends to counties in Minnesota and Iowa.

The committee then examined what other states are doing to address the rising costs of prescription drugs. Richard Cauchi, Program Manager, Pharmaceuticals Project, Health Care Program, National Conference of State Legislatures, testified that the cost of prescription drugs is a very active topic and many states are proposing legislation to address the problem. Cauchi said that the Medicaid programs in all fifty states provide pharmaceuticals, most with cost containment programs, and twenty-four states provide subsidies for pharmacy assistance to

seniors. Many states are proposing measures to lower the cost of prescription drugs to broader segments of residents through discount programs, bulk purchasing programs, expanded manufacturer rebates, price negotiations, or price controls.

David Gross, AARP Public Policy Institute, stated that some of the state approaches designed to help residents pay for prescription drugs include price reduction and buying pool programs, direct benefit programs, pharmacy assistance programs, and income tax credits for Medicare beneficiaries. Gross listed key issues to consider when designing a state pharmacy assistance program: (1) what are the goals – expand coverage, subsidize, or reduce costs? (2) what revenues are available? (3) what income groups or at-risk groups are the targets? (4) what kind of coverage should be provided? (5) will the program expand access? (6) will the program address double-digit growth? and (7) how will the program address administrative issues associated with fixed budgets?

Turning to a local program, Jim Stephens, Vilas Pharmacies, explained the Pierre Pilot Project, which is a cooperative effort between the retail pharmacies and physicians in Pierre and the South Dakota Bureau of Personnel. The program provides state employees and their families with prescription services using techniques and practices that are cost effective to the state. A pharmacy and therapeutics committee, consisting of local pharmacists and physicians, developed a list of frequently prescribed drugs and a protocol for prescribing pharmaceutical drugs. The program was implemented and resulted in significant savings. This program is now being expanded to six more cities in South Dakota and may be expanded to include the Medicaid program as well as other in-state programs.

The final portion of the second meeting focused on disease management. Jo Prang, Medicap Pharmacies, told the committee of her experience as a pharmaceutical case manager and suggested these services can save a lot of money. Dr. Michael C. Rost, President, Health Care Medical Technology, Inc., said that the South Dakota state employee health plan has in place a disease management program for high-risk pregnancies and will have a cardiac disease management program starting soon. Dean Krogman, South Dakota Medical Association, provided the committee with information on a quality care management program and how it saves money. Dr. Jerry Walton, Medical Director of the Sioux Valley Health Plan, stated that disease management is a team approach and doctors need to be the leaders on the team. Lynn Thomas, Health Services Director for Sioux Valley Health Plan (SVHP), testified that SVHP has management programs for diabetes, heart disease, migraines, adolescent health, healthy pregnancy, home health, and hypertension.

The third meeting of the Prescription Drug Issues Committee was held shortly after the events of September 11. As a result about half of those persons on the agenda testified via teleconference. Nonetheless, the committee examined a number of issues relating to prescription drugs such as Canadian pricing and pending federal legislation. The committee meeting began with comments from the president of the South Dakota State Medical Association (SDSMA), Dr. Richard P. Holm. Dr. Holm remarked that the increased cost of prescription drugs reflects the advances that have taken place in the field of pharmaceuticals, noting that anti-depressant drugs are the most expensive; however, they are not only a wonderful improvement in treatment but also are cost effective. Dr. Holm also stated that the issues of safety and undue influence of pharmaceutical companies on physicians were issues being addressed by SDSMA this year.

Another issue examined by the committee was Canadian pricing. Chris Ward, former Canadian lawmaker and current consultant, and Dr. Tony Lorden, Canadian physician, testified via teleconference from Canada. Mr. Ward stated that the price of prescription drugs is one of the top issues in Canada. There are ten provincial drug programs in Canada that provide some prescription drug coverage to disabled persons, very poor persons, and persons over 65 years of age. However, even in these programs there are delays in access to new drugs. Dr. Lorden emphasized that access, excellence, and choice are the key issues with regard to prescription drugs. He reiterated that access to drugs is just the first step. Even if prescription drugs are available more cheaply, responsible prescribing is also important. Finally, he advocated choice in prescribing drugs rather than the use of a restricted formulary as is done in his province, where he must write a special letter to prescribe drugs that are commonly prescribed in the United States.

Brian Kaatz, Head of the Department of Clinical Pharmacy, SDSU, spoke to the committee about trends in pharmacy education and practice. Like other speakers, he emphasized that problems associated with prescription drugs do not begin and end with cost, citing other issues like the misuse of drugs and drug interactions. Kaatz remarked that pharmacists are an untapped resource in dealing with such problems. Under the current system pharmacists are paid according to the number of interactions they have with products, so the more they dispense the more they get paid. However, the more prescription drugs a person takes, the more likely the person is to have bad interactions with those drugs. Kaatz stated that pharmacists should get paid for their knowledge, not just for dispensing drugs.

The committee also heard from Senator Tim Johnson and Congressman John Thune. Senator Tim Johnson remarked that in light of the events of September 11, priorities have changed, but there is still a domestic agenda that includes prescription drug coverage. Johnson commented that the issue of reimportation may be reexamined in the context of farm legislation, but it would be limited to FDA-approved prescription drugs from Canada. Another piece of legislation is one Johnson introduced that would require that the best price be available to senior citizens. Johnson noted, however, that the larger debate is over the addition of prescription drug coverage to Medicare. He added that an allocation of \$28 billion over 3 years to reduce the number of uninsured through the use of tax credits and expansions in CHIP and Medicaid has a greater chance for passage. Congress is also looking at increasing Medicaid reimbursements for rural states. Although there is no consensus on a comprehensive solution, some of these separate pieces could garner bipartisan support. Johnson ended by stating that the issue of prescription drug coverage is fundamentally important to South Dakota and he is hopeful something can be done in Washington on this issue.

Congressman John Thune noted that the issue of prescription drugs is a pocketbook issue for South Dakota. In terms of potential solutions, last year the House passed a prescription drug program for Medicare-eligible seniors, but the Senate did not take it up. The legislation would provide 100 percent coverage for those under a certain income level. After that level, there is cost sharing with a cap on out-of-pocket costs. The legislation was designed with three principles in mind--availability, affordability, and voluntarism. The other big question is whether the program should be run by Medicare or on a market-based approach. Other federal issues are the reimportation of prescription drugs and the length of patents for prescription drugs. State issues include waivers such as in Florida and how to use block grant moneys if they become

available. Thune concluded by stating that although these issues remain fluid and may not currently be in the forefront of discussions in Washington, there is a strong interest in doing something in the area of prescription drugs.

Dan Crippen, Director of the Congressional Budget Office and a native of South Dakota, addressed the committee regarding the issue of access to pharmaceutical drugs for the elderly. Crippen noted that 70 percent of the elderly have some insurance coverage for prescription drugs, although that coverage may not be adequate in all cases. The remaining 30 percent still get some prescription drugs, although fewer prescriptions than those with coverage. Adding prescription drug coverage to Medicare without other reforms would greatly increase the cost of the program. Currently there are three persons paying in to support each beneficiary. Crippen noted that by the time he retires, there would only be two. Adding prescription drug coverage to Medicare would add to the already large burden on the next generation of taxpayers unless the coverage was financed by enrollee premiums.

The following websites are designed to help people who need prescription drugs find programs that may provide those drugs. A website that provides information regarding the programs that manufacturers have to assist people who cannot afford the drugs they need is www.needymeds.com. A website that helps seniors and their families connect with federal and state programs available to provide assistance is www.BenefitsCheckUp.org.

South Dakota Public Broadcasting provided audio recordings of the second and third meetings of the committee, which are available on the 2001 interim page of the LRC website.

Listing of Legislation Adopted

None.

Summary of Meeting Date & Places and Listing of Committee Members

The committee met on June 25, August 7, and September 20. All the meetings were held in the State Capitol in Pierre.

Committee members were Representative Phyllis Heineman, Chair; Senator Kenneth Albers, Vice Chair; and Representatives Julie Bartling, Jarvis Brown, Larry Frost, Tom Hansen, Jim Hunstad, Jean Hunhoff, Frank Kloucek, Claire Konold, Casey Murschel, David Sigdestad, Dale Slaughter, and Donald Van Etten; and Senator Ed Olson.

Staff members were Jacquelyn Storm, Principal Legislative Attorney; and Phyllis Petersen, Senior Legislative Secretary.

RETIREMENT LAWS COMMITTEE

Study Assignment

A continuing study of the pension, annuity, and benefit laws relating to employees and officers in public service.

Summary of Interim

The Committee's first meeting was held less than a month after the September 11th terrorist attacks, and the primary focus was on the health of the \$4.9B retirement account. Steve Myers, State Investment Officer, reported that the financial well being of the retirement fund was still good, mainly due to the healthy \$368M surplus last year. The reserve fund can absorb a one-year loss of ten percent. Mr. Myers provided a chart detailing national crises of this century and their significance to the level of the Dow Industrial Market. He found that the effects of invasions, assassinations and other historic events turn into minor blips in the market's bigger underlying trend. History shows that corporate profits and economic growth determine the broad fate of financial markets.

Paul Schrader, Consulting Actuary for SDRS, echoed Mr. Myers' report on the health of the fund investments. He added that since 1996, the SDRS has experienced such favorable investment returns, they have been able to fund a phenomenal \$800 million in benefit improvements.

Other items discussed were the 2001 Tax Act changes that will affect how SDRS processes distributions from the IRS §457 Plans; a possible addition of two members to the South Dakota Retirement Board of Trustees; a possible solution to the long debated Alternative Formula A funding controversy; and the retire/rehire policies within the South Dakota Retirement System. The committee recommended that the SDRS Board of Trustees further study the retire/rehire issue and report its discussion and any solutions to the Retirement Laws Committee. Most of the public testimony focused on the retire/rehire issue. The school districts unanimously supported the rehiring of retired professionals and explained how they use it as a benefit and a way of paying people a salary over and above what the school district alone can pay.

Many members of the South Dakota Retirement System Board of Trustees joined the Retirement Laws Committee at the October meeting. The Board Chair, Elmer Brinkman, told the committee that he and the members looked forward to continued cooperation in working with the committee to the benefit of the SDRS.

Listing of Legislation Adopted

None.

Summary of Meeting Date & Places and Listing of Committee Members

The committee met one time on October 1, 2001 in the State Capitol building.

Committee members were Representative Matthew Michels, Chair; Senator Kenneth D. Albers, Vice Chair; Senators Larry W. Diedrich, Royal "Mac" McCracken, John McIntyre, and Ron Volesky; and Representatives Kay Davis, Clarence Kooistra, Mel Olson, and Lou Sebert.

Staff members were Annie Mertz, Senior Fiscal Analyst, and Teri Retrum, Senior Legislative Secretary.

RULES REVIEW COMMITTEE

Study Assignment

A review of proposed state agency rules.

Summary of Interim

The Rules Review Committee reviewed 79 sets of rules this interim. The committee accepted 78 sets of rules as presented; accepted one set of rules without recommendation; and referred one rule for a suspension hearing. The agency later withdrew the rule from consideration, and the suspension hearing was cancelled.

The committee has used teleconferencing to facilitate agency needs and conflicts with committee member schedules.

Upon occasion the committee referred rules for further public hearing or reconsideration by the agency. This procedure for resolving conflicts regarding the substantive provisions of a particular rule has worked well.

Listing of Legislation Adopted

The committee has not proposed any legislation for the next legislative session.

Summary of Meeting Dates & Places and Listing of Committee Members

The Rules Review Committee met at the State Capitol in Pierre on the following dates: April 17, 2001; May 8, 2001; June 12, 2001; August 12, 2001; September 10, 2001; September 20, 2001 (telephone conference call); October 23, 2001; and November 29, 2001.

Committee members were Representative Orville Smidt (Chair); Senator Eric Bogue (Vice-Chair); Senators H. Paul Dennert and Royal "Mac" McCracken; and Representatives Gerald Lange and Matthew Michels.

Staff members were Doug Decker, Code Counsel, and Phyllis Petersen, Senior Legislative Secretary.

STATE-TRIBAL RELATIONS COMMITTEE

Study Assignment

The State-Tribal Relations Committee selected its study topics for the 2001 Interim at its first meeting: racial profiling by law enforcement personnel in South Dakota; Native American health care, with particular attention to the issue of the licensure and practice of Indian Health Service physicians in South Dakota and an update on the subject of care for the elderly on Indian reservations; and economic development on Indian reservations.

Summary of Interim

The first meeting was held in the Capitol on June 12, with the primary task of selecting study topics for the 2001 Interim. Unlike other interim committees, which are temporary and are established to study particular issues, the State-Tribal Relations Committee is ongoing and selects its study topics at the beginning of the interim. Committee members selected Senator J.E. "Jim" Putnam as Chair and Representative Stan Adelstein as Vice Chair. As noted above, the committee chose to study racial profiling, health care and physician licensure issues, and economic development for the 2001 Interim. At the first meeting, the committee also heard additional informational presentations. Mr. Webster Two Hawk, Commissioner of Tribal Government Relations, and representatives of the Department of Game, Fish and Parks discussed land management issues at Bear Butte related to use of the area and development issues posed by the annual Sturgis rally. They also discussed the acquisition of Spirit Mound by a Vermillion group for cultural and historical purposes.

At the second meeting, which was held in Pierre on July 9, Reuben Bezpaletz of the Legislative Research Council briefed the committee on the results of the 2000 Census and implications for the Native American population and demographic trends. South Dakota's Native American population is becoming younger and more concentrated, which will have political as well as socioeconomic impacts. The primary focus of the second meeting was on issues related to the licensure and credentialing of Indian Health Service (IHS) physicians and the possibility of allowing certain IHS physicians who are not licensed in South Dakota to treat Native American patients in facilities outside IHS facilities. Current South Dakota law exempts IHS physicians "in the actual performance of their duties" from South Dakota licensure requirements. There are conflicting opinions on whether this exemption would apply to IHS physicians treating Native American patients in facilities outside the physical boundaries of IHS facilities, such as nursing homes. A proposal of the Sisseton-Wahpeton Sioux Tribe would involve joint use of hospital facilities in Sisseton by tribal members and the general public, which would create savings and efficiencies for both the tribe and the community. The licensing issue, however, could prevent the proposal from being implemented because of the difficulty of obtaining IHS physicians who are licensed in South Dakota. The committee heard presentations in support of the proposal by members of the Sisseton-Wahpeton Sioux Tribe, the Indian Health Service, and the community of Sisseton, while the South Dakota Board of Medical and Osteopathic Examiners and the South Dakota Association of Health Care Organizations expressed reservations about the proposal based on liability and billing issues. The committee requested that an Attorney General's opinion on the matter be obtained. The committee also heard public testimony on nursing home and elderly care issues.

The third meeting was held on August 27 at Agency Village, headquarters of the Sisseton-Wahpeton Sioux Tribe, in the Tribal Council Chambers. The meeting focused on economic development issues and activities for the Tribe. The committee heard presentations by tribal economic development and planning officials and by representatives of the Dakota Western Corporation, a tribally owned manufacturing firm. The committee also was briefed by the Sisseton-Wahpeton Tribal Gaming Commission and heard additional testimony and updates on physician licensure issues and on the status of federal legislation that would address elderly care issues. The committee requested that letters be sent to South Dakota's congressional delegation requesting their support of federal legislation to provide elderly care for Native Americans and requesting them to inform the committee of their efforts on this issue. The committee also toured the Dakota Western plant as well as an economic development project at the Long Hollow District and the Dakota Magic Casino, one of the tribe's three casinos.

The topic of the fourth meeting, which was held in Pierre on October 17, was racial profiling. The committee first heard presentations by representatives of the South Dakota Sheriffs' Association, the South Dakota Chiefs of Police Association, and the South Dakota Peace Officers' Association. They described their organizations' policies and efforts to prevent racial profiling, and they discussed methods of improving the situation, particularly increased training for law enforcement personnel and the use of video cameras in police cars. The Pierre Indian Council briefed the committee on its joint efforts with the Pierre Police Department to reduce racial profiling in the Pierre area, and they were pleased with the department's response and cooperative efforts and felt that progress has been made. The committee also heard presentations by the Mobridge Race Relations Organization and the American Civil Liberties Union. The remainder of the meeting was devoted to public testimony.

Listing of Legislation Adopted

None.

Summary of Meeting Dates & Places and Listing of Committee Members

The committee met in the State Capitol in Pierre on June 12, July 9, and October 17, and at Agency Village on the Sisseton-Wahpeton Reservation on August 27.

Members of the committee include Senator J.E. "Jim" Putnam (Chair) and Representative Stan Adelstein (Vice Chair); Senators Arnold Brown, Patricia de Hueck, Richard Hagen, and Ron Volesky; and Representatives Jean Hunhoff, Barry Jensen, Paul Valandra, and Thomas Van Norman.

Committee staff members were Tom Magedanz, Principal Research Analyst; Reuben Bezpaletz, Chief Analyst for Research and Legal Services; and Phyllis Petersen, Senior Legislative Secretary.

STREAMLINED SALES TAX PROJECT TASK FORCE

Study Assignment

The Streamlined Sales Tax Project Task Force, created by Senate Bill 166, shall study the final report of the Streamlined Sales Tax Project to determine how the requirements found in the report impact the sales and use tax laws of South Dakota. The study shall include an analysis on how the requirements found in the report will impact the businesses and citizens of South Dakota.

Summary of Interim

During the first meeting, Harley Duncan, Executive Director, Federation of Tax Administrators stated that the sales tax is a complex revenue source and that there is a need for uniformity and standardization among the states in the collection of revenue from remote sales. He estimated that the revenue impact of collecting taxes on all forms of Internet sales for the year 2003 is twenty-one billion dollars. He said that a uniform and streamlined sales tax among the states would result in equity among retailers and across transactions and the ultimate long-term survival of the sales tax. However, if the states adopt a uniform and standard sales tax, state governments, and particularly local governments, will lose some autonomy. In conclusion, Duncan said that it is important that states get serious about simplifying the sales tax and that the focus should be on the commonalities among the states.

Scott Peterson, Director of the Division of Business Tax for the Department of Revenue, discussed the sales tax simplification requirements. He said that the following requirements are among some of the issues for South Dakota:

1. After December 31, 2005, a state can have only one sales tax rate;
2. After December 31, 2005, the tax base to which local option sales and use taxes apply is the same as the base to which the state tax applies;
3. Local governments are allowed only one tax rate, which can vary from city to city;
4. Uniform sourcing rules for state and local taxes;
5. Uniform definitions;
6. Compensation to the service providers that will collect the sales tax.

The second meeting was held on September 11 and postponed due to the national circumstances that occurred on that date. The next meeting was held on September 18. In discussing recent activities of the Sales Tax Simplification Project, Secretary Gary Viken, Department of Revenue, reported that twenty-eight states have taken action concerning electronic commerce legislation.

Scott Peterson said that the members of the Streamlined Sales Tax Project are focusing on additional definitions—in particular, the term "digital products," which covers everything related to software, and a definition for a transaction that is not tangible personal property. The project members are also working on defining the terms "lease" and "rental."

Secretary Patricia Van Gerpen, Department of Tourism, stated that the visitor industry does not want to receive its funding from the general fund. She said that tourism is the second leading industry in South Dakota, and the industry wants a dedicated funding source that grows as the industry grows.

During the final meeting, Harley Duncan updated the task force on the activities in Congress in regard to the "Internet Tax Moratorium and Equity Act." The House of Representatives passed a two-year extension to the Internet Moratorium in October. He also discussed the bill introduced by Senator Enzi which addresses several issues concerning sales tax simplification. Gene Lebrun suggested that the task force send a letter in support of Senator Enzi's bill to the South Dakota congressional delegation.

Secretary Viken told the task force that he and Scott Peterson had met with a variety of organizations in South Dakota to discuss the streamlined sales and use tax bill and have received positive feedback on the proposed bills. He also said that since the last task force meeting, the Center for Business and Research at the University of Tennessee has issued an updated study on the estimated loss of sales tax revenue to states due to Internet sales. South Dakota will lose \$50 million in sales tax revenue by 2004 and \$66.8 million by 2006.

Peterson reviewed the draft legislation that would implement the provisions of the streamlined sales tax project. It makes state and local taxes uniform in South Dakota so retailers in other states could more easily calculate the tax obligation for South Dakota customers. The existing 4 percent state sales tax would also apply to farm machinery and oil and gas services, which are currently taxed at 3 percent. To offset the increased tax on agricultural machinery, it was proposed to exempt parts and repair services for farm machinery from sales tax. Because of the uniform sales tax rate, all municipalities in South Dakota would have to apply their local sales tax levy to groceries. Peterson also discussed the other two pieces of legislation that would create a separate taxing mechanism to replace the state tourism tax and the local bed, board, and booze tax.

Listing of Legislation Adopted

1. An Act to ratify the Uniform Sales and Use Tax Administration Act and to implement the uniform and simplified features proposed by the Streamlined Sales Tax Project.

The first eight sections of this legislation contain the Agreement for the sales and use tax simplification standards to be adopted by the participating states. The remaining sections of the bill enact, repeal, and modify the sales and use tax provisions in chapters 10-45, 10-46, and 10-52. These modifications establish a uniform rate of taxation for the state and each city and a single tax base. The legislation also defines new terms and modifies the procedures for cities to follow in changing their rate of taxation and boundaries.

2. An Act to impose a gross receipts tax on certain visitor related businesses.

This legislation creates a separate tax on visitor-related business to replace the current tourism sales tax that provides funding for the Department of Tourism. The Streamlined Sales and Use Tax Project requires that participating states only have one sales tax rate and one sales tax base, and this legislation creates a replacement tax in a new chapter.

3. An Act to authorize a municipal gross receipts tax on certain lodging, alcoholic beverages, prepared food, and admissions.

The Streamlined Sales Tax Project requires each taxing jurisdiction to use the same sales tax base as the state. This legislation creates a new taxing mechanism for municipalities to tax businesses engaged in providing lodging, alcoholic beverages, prepared food, and admissions. This tax is often referred to as the bed, board, and booze tax, and the legislation mirrors the existing tax.

Summary of Meeting Dates & Places and Listing of Task Force Members

The task force met on July 19, September 11, September 18, and November 14. All of the task force meetings were located in Pierre.

Task force members were Senator Dick Hainje, Chair of Senate Taxation Committee; Representative Richard "Dick" E. Brown, Chair of House Taxation Committee; Mr. Stan Anderson, Mr. Henry Carlson, Senator H. Paul Dennert, Mr. Brad Drake, Mr. Gary Drewes, Representative Mary Glenski, Mr. Gene Lebrun, Senator Royal "Mac" McCracken, Mr. Don Peterson, Representative Jim Peterson, Senator John Reedy, Representative Orville Smidt, and Ms. Yvonne Taylor.

Staff members were Fred Baatz, Senior Research Analyst and Teri Retrum, Senior Legislative Secretary.

TEACHER CREDENTIALING AND COMPENSATION COMMITTEE

Study Assignment

A study of governmental systems which feature “managing by results” as the centerpiece to measure performance and goal achievement; performance pay alternatives and suggestions to aid school districts in developing plans to reward teachers for extra and additional effort for self-improvement with teacher salary enhancement as a goal; and alternative certification for teaching in South Dakota accredited schools, to include need, planning, and implementation.

Summary of Interim

The committee began its work with a review by staff of 2001 legislation pertaining to teachers. Of the many education-related bills introduced and disposed of during the 2001 Session, several pertained to topics similar to those contained in the charge for this committee. The committee turned immediately to discussing the teacher credentialing issue, establishing that and alternative methods of certification as the two main topics of discussion for the course of the interim.

The committee’s discussion during the first meeting included a national component, featuring a presentation by a staff member of the National Conference of State Legislatures. This national information also addressed the various states’ compensation plans, some of which use “managing by results” and various performance pay systems. The committee learned of the history of teacher pay from a national perspective, and that there is little evidence yet, if any, as to the success of recent efforts in other states to address performance pay. All of those systems involve significant funding levels, however, which would require additional revenue if implemented in South Dakota. Following presentations by all of the entities involved in teacher credentialing in South Dakota, the committee held a frank discussion of the need for legislative action in light of efforts under way by those entities involved, as well as the Governor’s task forces also working on education reform.

At the second meeting, the committee dived deeper into the two main topics. The committee heard testimony from a dean of education at one of the public universities regarding how the Regents’ system is meeting the state’s needs for qualified teachers. Yet, the committee also heard first-hand, public testimony to the effect that the teacher certification process is very cumbersome, at best, in regard to its treatment of qualified educators from other states. The Board of Regents also presented information on its performance pay system. The committee carried that topic into a discussion of local control of education and funding issues. The committee agreed that a meaningful performance pay plan has to involve a significant funding source, and it was explained by the representative of the Board of Regents that two funding sources were utilized to attain their workable level of performance pay. Those funding sources were internal reallocations of funds at the institutional level and new money raised through student credit hour fees.

The committee continued its study of “managing by results” by discussing the state of Tennessee’s Value-Added Assessment System for education. To facilitate this, the committee heard via teleconference call from the author of Tennessee’s system.

Ultimately, the committee's discussion of its work product soon took into account the deep-seated views on matters of funding necessary for implementation of meaningful pay systems, especially those recognizing performance. The committee agreed with presenters who stated there must be agreement on goals for any sort of real reform to occur. Thus, the committee chose to ask of the entities involved in educating South Dakotans and striving for education reform that they consider integrating into their efforts and policies the following long-term goals: establishment of a meaningful system of performance pay in public education and identification of a source of funds for it; continued improvement of teacher education, and recognition of teachers who achieve self-improvement such as national certification; establishment of mentoring programs for teachers; and creation, re-creation, or strengthening of certain standards in education. The committee affirmed that the Legislature would work diligently with these entities toward achieving their goals for the betterment of education in the state of South Dakota, and adopted legislation as listed below.

Listing of Legislation Adopted

An Act to establish a program for mentor teachers.

An Act to provide for counselors in schools.

An Act to provide for a refund of tuition for certain teachers.

Summary of Meeting Dates & Places and Listing of Committee Members

The Teacher Credentialing and Compensation Committee held meetings on June 26, August 20 and 21, and October 22, 2001. All meetings were in Pierre.

Committee members were Senator Arlene Ham, Chair; Representative B. Michael Broderick, Jr., Vice-Chair; Senators John McIntyre, Garry Moore, Kermit Staggers, and Dan Sutton; and Representatives Jim Bradford, Cooper Garnos, Margaret Gillespie, Jim Holbeck, Matt McCaulley, Alice McCoy, Burdette Solum, John Teupel, and Hal Wick.

Staff members were Mark Zickrick, Principal Fiscal Analyst, and Rhonda Purkapile, Senior Legislative Secretary.

WIND POWER GENERATION COMMITTEE

Study Assignment

A study of small-scale wind power generation projects and the effect the adoption of a net energy billing provision in state law would have on the development of these projects.

A study of South Dakota's potential as an energy exporting state to serve the nation's energy needs.

Summary of Interim

The interim Wind Power Generation Committee held its first meeting on July 12 in Pierre. The committee heard two presentations that provided background information on wind energy. Jim Wilcox, Xcel Energy, spoke on wind energy's history, theory, and technology. Bob Miller, South Dakota Electric Utility Companies, spoke on tax issues related to wind energy.

The committee also heard testimony about a variety of wind energy projects. Jim Nichols, Lincoln County Commissioner from Lake Benton, Minnesota, told the committee about large- and small-scale wind power generation projects in the Lake Benton area. He also joined Dr. Ronald Spahr, University of Illinois, Springfield, and told the committee about the Zion Project, a project that would build a high voltage direct current transmission line from Wyoming to Zion, Illinois, and from Wyoming to Los Angeles, California. Coal-fired power plants in Wyoming and wind turbines located near the transmission line would generate the electricity. Individuals from East River Electric Power Cooperative, Miner County Community Revitalization, the Rosebud Sioux Tribe, Clipper Windpower, and CENDAK Winds informed the committee about their respective wind energy projects.

In the afternoon, the committee listened to testimony from individuals representing state government agencies. Bruce Lindholm and Bill Nevin, Department of Transportation, spoke on the Aeronautics Commission's authority over tower siting. Mike Ropp, South Dakota State University, testified on wind energy research issues. Ken Higgins, South Dakota State University, presented information on wind turbine effects on wildlife. Michelle Farris and Keith Senger, Public Utilities Commission, provided information on siting transmission lines.

The second meeting was held on August 23 in Brookings. The meeting began with a tour of the wind turbines on the Buffalo Ridge near Lake Benton, Minnesota.

In the afternoon, the committee held a public meeting in the University Student Union on the South Dakota State University campus. Mr. Jim Burg, Chair of the South Dakota Public Utilities Commission, testified that he would like the committee to consider legislation that would benefit landowners in the event that electric transmission lines are built across South Dakota. The landowner benefits could be an annual payment from the owner of the transmission line.

Mr. Burg also informed the committee about the issue of federal eminent domain that is being discussed by the United States Congress.

Ms. Jo Riley and Ms. Pauline Magdanz, South Dakota Department of Revenue, made a presentation to the committee on the contractor's excise tax and the tax refund for a power generating facility.

The committee also took public testimony on tax and transmission issues related to wind energy.

The committee held its third and final meeting on October 31 in Pierre. The committee reviewed and took public testimony on six bills. The committee decided to introduce four of the bills during the 2002 Legislative Session.

Listing of Legislation Adopted

1. An Act to revise the tax refund requirement for certain power production facilities. This bill refunds the contractor's excise for new construction of any power production facility that utilizes renewable resources to generate electricity. (The current law allows a refund for only the first ten megawatts of new construction. This bill removes that limitation.)
2. An Act to revise the refund of certain taxes attributed to the construction of certain new or expanded commercial power production facilities. This bill is similar to number one above, except it refunds the contractor's excise tax for new construction of any power production facility that utilizes coal or water. (The current law only allows a refund for new construction of a power production facility when renewable resources are used to generate the electricity.)
3. An Act to assess and tax renewable power companies. This bill would centrally assess renewable power companies that generate and transmit electricity from wind turbines and provide a graduated property tax break for renewable power companies.
4. An Act to appropriate money to conduct a wind resource assessment. This bill provides funding to measure wind speeds in South Dakota and place the wind speed data in a publicly accessible database.

Summary of Meeting Dates & Places and Listing of Committee Members

The committee met on July 12 in Pierre, August 23 in Brookings, and October 31 in Pierre.

Committee members were Senators David R. Munson (Chair), Patricia de Hueck, Elmer Diedrich, Paul N. Symens, and Drue J. Vitter; and Representatives Jeff Monroe (Vice-chair), Burt Elliot, Art Fryslie, Gary D. Hanson, Dale Hargens, Don Hennies, Sam Nachtigal, Jim Peterson, Larry Rhoden, and Bill Van Gerpen.

Staff members were David Becker, Senior Fiscal Analyst, and Rhonda Purkapile, Senior Legislative Secretary.