



One Hundred Thirty First Meeting
2003 Interim
Wednesday, June 25, 2003

LCR 1&2
State Capitol Building
Pierre, South Dakota

The one hundred thirty first meeting of the interim Appropriations Committee was called to order by Representative J.E. "Jim" Putnam, Co-chair, at 9:00 a.m., Wednesday, June 25, 2003, in Legislative Conference Rooms 1&2 of the State Capitol Building in Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Jerry Apa (Co-chair), H. Paul Dennert, Robert N. Duxbury, Brock L. Greenfield, Marguerite Kleven, William M. Napoli; and Duane Sutton (Vice-chair); and Representatives Stanford M. Adelstein (Vice-chair), Quinten Burg, Rebekah Craddock, Mary Glenski, Ted Klaudt, J.E. "Jim" Putnam (Co-chair), Orville B. Smidt, and Ron Williamson. Senators William F. Earley and Mike Jaspers and Representative Julie Bartling were unable to attend.

Staff members present included Reed Holwegner, Chief Analyst for Fiscal Research and Budget Analysis; Mark Zickrick, Principal Fiscal Analyst; Annie Mertz, Principal Fiscal Analyst; Sue Cichos, Senior Fiscal Analyst; Aaron Olson, Fiscal Analyst; and Rhonda Purkapile, Senior Legislative Secretary.

A list of guests present during all or part of the meeting is on file with the master minutes.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Minutes.)

Mr. Jason Dilges, Commissioner, Bureau of Finance and Management, briefed the committee on federal funds to be received due to a one-time rate change for Title XIX Medicaid and federal funds to be received from a one-time grant to the states (**Document #1**). Mr. Dilges reported that three percent will be added to the state's federal Medicaid assistance rate, resulting in the state spending less general fund dollars for Title XIX Medicaid and to realize a savings of \$25 million. Mr. Dilges stated that he will be asking the committee to approve \$5.1 million in FY2003 federal fund expenditure authority for this purpose. An additional \$17 million will be available for the FY2004 budget, allowing the state to save general fund dollars as well. Mr. Dilges also stated that the bureau will ask that the general appropriations act for FY2004 be amended next session to allow those general fund dollars to drop to the bottom line.

Mr. Dilges reported that South Dakota will be receiving \$50 million of federal funds from a one-time grant to the state from the Jobs & Growth Reconciliation Act of 2003. The first payment of \$25 million can be received around July 1, 2003, and the second payment of \$25 million can be received on or about October 1, 2003. Mr. Dilges stated that there will be an expenditure authority request for \$50 million in federal fund expenditure authority to allow this money to go to the Department of Education for the state aid to education formula. As a result, \$50 million from the Property Tax Replacement Fund would not be transferred to the state general fund in FY2004. This money will help the state's finances in the future.

Senator Napoli asked if the Property Tax Replacement Fund can be utilized for other purposes and Mr. Dilges responded affirmatively, noting that it would require legislative approval.

Chair Putnam recessed the committee at 9:20 a.m. and reconvened the committee at 11:30 a.m.

Expenditure Authority Requests

The *Interim Report*, prepared by the Bureau of Finance and Management, is on file with the master minutes as **Document #2**.

Department of Social Services--\$4,500,000

Ms. Darla Mayer, Department of Social Services, testified that the department is requesting \$1,500,000 of additional FY2003 other fund expenditure authority and \$3,000,000 of FY2003 federal fund expenditure authority for intergovernmental transfers within the Adult Services and Aging Program. This additional expenditure authority is necessary to claim federal Medicaid funding to complete the intergovernmental transfer process with nursing facilities, which will result in an additional \$1,500,000 in revenue for the state's Health Care Trust Fund.

In response to committee questions, Ms. Mayer noted that federal regulations with regard to this process have tightened considerably, so the amount the state will recapture in the future will be considerably less than in the past.

It was moved by Senator Duxbury, seconded by Representative Craddock, that the committee approve the request from the Department of Social Services for \$1,500,000 of FY2003 other fund expenditure authority and \$3,000,000 of FY2003 federal fund expenditure authority. The motion carried on a roll call vote (14-1-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Greenfield, Craddock, Klaudt, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Putnam. VOTING NAY: Apa. EXCUSED: Bartling, Earley, Jaspers.

Department of Health--\$1,524,592 and 4.0 FTE

Ms. Doneen Hollingsworth, Secretary, Department of Health, reported that the department is requesting authority for 1.0 additional FTE in FY2003 or they will overspend their FTE authorization for FY2003 by .6 FTE. Secretary Hollingsworth noted that 10.0 additional FTE were approved by the committee for FY2004 to reduce utilization of high-cost temporary staffing services. General funds were also reduced in the amount of \$221,810 due to savings that would be generated by this staffing change. In order to maximize these savings for FY2004, the process actually began in April 2003.

Secretary Hollingsworth stated that the department is also requesting \$1,524,592 in federal fund expenditure authority and 3.0 FTE for FY2004 for an increase in the Bioterrorism Hospital Preparedness grant. This funding will be passed through from the department to hospitals, outpatient facilities, and EMS systems through written agreements. The 3.0 FTE are for Regional Preparedness Coordinators.

Co-chair Apa asked what type of employment experience will be required of the individuals who will be hired as regional coordinators. **Mr. Kevin Forsch**, Department of Health, replied that they hope to hire individuals skilled in planning and training with medical backgrounds, and with experience in managing mass casualty scenarios to help hospitals and local health authorities plan and train for a catastrophic event. Co-chair Apa asked if the FTE would be eliminated if funding for this program were eliminated at the federal level. Mr. Forsch responded affirmatively.

A motion was made by Representative Adelstein, seconded by Representative Glenski, that the committee approve the request from the Department of Health for 1.0 FTE for FY2003 and for 3.0 FTE and \$1,524,591 federal fund expenditure authority for FY2004. The motion carried on a roll call vote

(13-2-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Craddock, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Apa, Putnam. VOTING NAY: Greenfield, Klautt. EXCUSED: Bartling, Earley, Jaspers.

Department of Transportation--\$2,500,000 and \$4,000,000

Ms. Roxanne Rice, Department of Transportation, testified that the FY2003 additional expenditure authority request of \$2,500,000 can be amended down to \$1,900,000. She noted that the department needs \$1,000,000 of FY2003 federal fund expenditure authority to complete the replacement of transport buses. The department is also requesting \$900,000 of FY2003 federal fund expenditure authority for the federal Transportation Enhancement Program which will enable the state (Department of Game, Fish and Parks) to complete improvements to recreation areas along the Missouri River. This federal funding is used for campground improvements to those federal properties along the Missouri River which were transferred to the State of South Dakota.

In response to questions, Ms. Rice indicated that the improvement projects were begun in FY2002, but the payments for the projects have carried over into FY2003. The additional authority is needed to complete the payments for the projects. Senator Apa asked why the dollar amount is being reduced from the original request. Ms. Rice replied that the end of the fiscal year is closer and the expenditures are more certain. In the case of the lower funds for the transport buses, Ms. Rice indicated that the department received much better bids for the buses than it was expecting.

Ms. Rice reported that the department is also requesting \$4,000,000 of one-time federal fund expenditure authority for FY2004. The department will serve as a pass-through agency for Federal Rail Administration funds to the City of Pierre for engineering and design of a rail by-pass.

Mr. Dennis Eisnach, Mayor, City of Pierre, testified that \$4,000,000 is the first of two appropriations for the rail by-pass. This first appropriation will be used for the design, planning, and engineering of the by-pass. The City of Pierre has entered into a Memorandum of Understanding (MOU) with the DM&E Railroad to build the by-pass. The next appropriation will be for over \$80 million. The remaining funds to build the by-pass will come from the DM&E due to savings realized by not having to bring the rail line through the City of Pierre. The initial \$4,000,000 will be expended over the next 18 months to two years. The City of Pierre will be acquiring the right-of-way for the by-pass.

Senator Apa asked if it is certain that the DM&E rail line will be built. Mayor Eisnach responded that it is not certain; however, according to the MOU, the City of Pierre must be ready to accommodate the first coal train that runs on the line. The permitting and acquisition process is quite lengthy and complicated. In order to meet the conditions of the MOU, the design, planning, and engineering of the by-pass must begin as soon as possible. He added that South Dakota's congressional delegation is convinced that this project will be built.

In response to committee questions, Mayor Eisnach indicated that the City of Pierre is utilizing the Department of Transportation to expedite the pass-through of the federal funds. The city will hire a team of consultants to do the work. A rail authority will be established which will include the cities of Pierre and Ft. Pierre, Hughes and Stanley Counties, and the Lower Brule Sioux Tribe. The funding will pass from the Department of Transportation to the rail authority and then to the contractors. The rail authority will be a legal entity that will be able to receive monies and enter into contracts. Ms. Rice added that each local government is permitted by statute to establish its own rail authority in order to receive Federal Rail Administration funds. In answer to committee questions, Mayor Eisnach stated that the rail authority will also have condemnation power.

Senator Napoli asked how the \$4 million was decided upon. Mayor Eisnach replied that the City of Pierre initially submitted a budget request of \$6 million which was reduced by Congress to \$4 million.

In response to questions, Mayor Eisnach stated that they are ready to begin work next month on some items associated with the project.

It was moved by Senator Greenfield, seconded by Senator Sutton, that the committee amend the department's request for FY2003 federal fund expenditure authority to \$1.9 million, that the FY2003 request be approved as amended, and that the request for FY2004 federal fund expenditure authority of \$4 million be approved. The motion carried on a roll call vote (15-0-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Greenfield, Craddock, Klaudt, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Apa, Putnam. EXCUSED: Bartling, Earley, Jaspers.

Department of Corrections--\$1,911,235 and 32 FTE

Mr. Tim Reisch, Secretary, Department of Corrections, reported that the department is requesting 7.0 FTE for the Community Service Program for FY2003 to cover the shortfall in FTE hours. Without these FTE, the department will exceed authorized FTE due to temporary employees covering the inmate crews in the Black Hills. Secretary Reisch noted that the temporary employee numbers fluctuate each year based upon contracts and needs. This request is for one-time authorization for FY2003. Representative Putnam asked if there are any general funds associated with these additional FTE, and Secretary Reisch responded negatively.

Secretary Reisch reviewed the FY2004 requests with the committee:

- 1.0 FTE for a building maintenance worker at the Custer Youth Corrections Center to replace the inmates who will no longer be available due to sight and sound separation requirements of the Juvenile Justice and Delinquency Prevention Act;
- 15.0 FTE and other fund expenditure authority of \$922,865 to staff and operate the Rapid City Trusty Unit (Secretary Reisch noted that the department will be going from 22 full time temporary employees to a total of 15 full time permanent employees);
- 5.0 FTE and \$176,370 in other fund expenditure authority in personal services in the Community Service Program to provide temporary supervision for agencies that are requesting inmate work crews in the Black Hills area;
- \$687,000 in federal fund expenditure authority within Administration for pass-through of Juvenile Justice and Delinquency Prevention Act funds to local units of government;
- \$125,000 in federal fund expenditure authority within Administration for the Comprehensive Approaches to Sex Offender Management Grant that was received during FY2003 (there is no match requirement);
- 2.0 FTE at the Custer Youth Corrections Center as a result of the Civil Rights for Institutionalized Persons Act (CRIPA) review, which required the department to add two additional classroom teachers to provide services to juveniles while in intake and disciplinary;
- 2.0 FTE in Administration for additional staff for the Central Records Area. Secretary Reisch noted that staffing in the records area has not increased despite inmate growth from 1,733 in FY1995 to 2,996 in FY2003. This area was reviewed under a technical assistance grant through the National Institute of Corrections and they actually recommended more FTE in this area--the minimum recommendation was for 2.0 FTE.

Senator Apa asked if there will be a cost savings in incarceration by housing these inmates in the Black Hills area. Secretary Reisch responded that there probably would not be a cost savings realized; however, the significant factor is that corrections is growing in the Black Hills area. There is a

need for the inmate beds, and there is a genuine demand for inmate labor in the Black Hills area. **Mr. Scott Bollinger**, Department of Corrections, added that the department will save money by consolidating to one facility in the Black Hills area rather than housing inmates in three temporary facilities. This expenditure authority request legitimizes the FTE count for the Custer Program.

Secretary Reisch stated that the FY2004 additional FTE and expenditure authority requests will be added to the base budget of the department.

In response to committee questions, Secretary Reisch indicated that the opening of the Black Hills facility is actually one year earlier than planned.

A motion was made by Representative Klaudt, seconded by Senator Greenfield, that the committee approve the request from the Department of Corrections for 7.0 FTE for FY2003. The motion carried on a roll call vote (15-0-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Greenfield, Cradduck, Klaudt, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Apa, Putnam. EXCUSED: Bartling, Earley, Jaspers.

It was moved by Representative Adelstein, seconded by Representative Cradduck, that the committee approve the request from the Department of Corrections for 25.0 FTE and \$1,911,235 of FY2004 expenditure authority (\$1,099,235 other fund authority and \$812,000 federal fund authority). The motion carried on a roll call vote (11-4-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Cradduck, Klaudt, Kleven, Smidt, Williamson, Sutton (Duane), Adelstein. VOTING NAY: Greenfield, Napoli, Apa, Putnam. EXCUSED: Bartling, Earley, Jaspers.

School and Public Lands--\$65,000 and \$60,000

Mr. Barry Jennings, Deputy Commissioner, School and Public Lands, testified that the Office of School and Public Lands is requesting \$65,000 of other fund expenditure for FY2003 due to increased awareness of noxious weeds from leaseholders and the success of the Cooperative Weed Management Areas program. The office is also requesting \$60,000 of other fund expenditure authority for FY2004 due to previous years' weed control efforts and appropriations balances. Due to the success of the current Cooperative Weed Project Areas, the office has been establishing other weed projects across the state (**Document #3**). These funds can be leveraged for national grants. Mr. Jennings added that this funding will be added to the base budget.

A motion was made by Senator Apa, seconded by Senator Dennert, that the committee approve the requests from the Office of School and Public Lands for \$65,000 of other fund expenditure authority for FY2003 and \$60,000 of other fund expenditure for FY2004. The motion carried on a roll call vote (15-0-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Greenfield, Cradduck, Klaudt, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Apa, Putnam. EXCUSED: Bartling, Earley, Jaspers.

Office of the Secretary of State--\$235,000 and 1.5 FTE

Mr. Chris Nelson, Secretary of State, testified that he is requesting 1.5 FTE for FY2003. He noted that prior to January, office staff was 16.3 FTE. The office is budgeted for 14.3 FTE. Beginning in January, staff was reduced to 14.3 FTE; however, adequate service level could not be maintained with staffing less than 14.3 FTE.

Mr. Nelson reported that the office is requesting \$235,000 of federal fund expenditure authority for FY2004. Of this amount, \$135,000 is for reimbursing four county governments for the purchase of

voting machines that replaced punch card voting systems. Replacement of existing punch card voting machines is required by the federal Help America Vote Act. Mr. Nelson reported that the state can anticipate receiving more funding in the future for replacement of these voting machines. The remaining \$100,000 is for a federal grant received for accessibility improvements at election polling places. This money will be passed through to the counties. Mr. Nelson noted that these requests will not be added to the base budget.

A motion was made by Senator Sutton, seconded by Representative Klaudt, that the request from the Secretary of State for 1.5 FTE for FY2003 and \$235,000 of federal fund expenditure authority for FY2004 be approved. The motion carried on a roll call vote (14-1-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Greenfield, Craddock, Klaudt, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Putnam. VOTING NAY: Apa. EXCUSED: Bartling, Earley, Jaspers.

Department of Agriculture--\$1,278,020 and 15.0 FTE

Mr. Larry Gabriel, Secretary, Department of Agriculture, testified that the department is requesting \$1,278,020 of federal fund expenditure authority and 15.0 FTE for FY2004 to be used by the Division of Wildland Fire Suppression. This funding will be utilized by four project areas: hazardous fuel reduction, planning and implementation of fuel management, fire-wise fire education and information, and urban interface. This funding will not be added to the department's base budget for FY2004. Secretary Gabriel added that \$175,000 of the federal fund authority and 15.0 FTE will be used for the hazardous fuels reduction projects remaining in Beaver Park, Griggs Gulch, and Golden Gulch.

It was moved by Representative Adelstein, seconded by Senator Apa, that the committee approve the request from the Department of Agriculture for \$1,278,020 of federal fund expenditure and 15.0 FTE for FY2004. The motion carried on a roll call vote (15-0-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Greenfield, Craddock, Klaudt, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Apa, Putnam. EXCUSED: Bartling, Earley, Jaspers.

Department of Game, Fish and Parks--\$935,000

Mr. Doug Hofer, Department of Game, Fish and Parks, testified that the department is requesting \$935,000 of FY2004 federal fund expenditure authority, which will not be added to the department's base budget. Mr. Hofer reported that the department has received a federal grant for \$635,000 from the U.S. Corps of Engineers to assist in the extension of boat ramps on Lake Oahe. This extra federal funding has allowed the department to modify the work plan and include 17 priority boat ramps in the project rather than 11 as originally planned (**Document #4**).

Mr. Hofer reported that the department has also received \$300,000 from the U.S. Corps of Engineers that will be utilized for implementation of a Cultural Resources Program on the Missouri River in accordance with Title VI. This will allow the department to inventory and stabilize all of the cultural resources that exist in the land along the Missouri River that has been transferred from the U.S. Corps of Engineers to the State of South Dakota.

A motion was made by Senator Dennert, seconded by Representative Smidt, that the committee approve the request from the Department of Game, Fish and Parks for \$935,000 of FY2004 federal fund expenditure authority. The motion carried on a roll call vote (10-5-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Craddock, Smidt, Williamson, Sutton (Duane), Adelstein, Putnam. VOTING NAY: Greenfield, Klaudt, Kleven, Napoli, Apa. EXCUSED: Bartling, Earley, Jaspers.

Department of Human Services--\$718,794

Ms. Betty Oldenkamp, Secretary, Department of Human Services, testified that the department is requesting \$718,794 in federal fund expenditure authority for FY2004, which will be added to the base budget of the department. Secretary Oldenkamp stated that the Division of Alcohol and Drug Abuse will utilize \$220,794 of this expenditure authority due to an increase in the federal block grant. The Division of Mental Health will utilize the remaining \$498,000 of expenditure authority due to higher utilization of Title XIX eligible services.

Representative Putnam asked if the state is required to match this additional federal funding. **Mr. Dan Lusk**, Department of Human Services, replied that the state match money has already been budgeted.

In response to committee questions, Secretary Oldenkamp stated that the department looks at trend data to establish its projected budget. The department is seeing an increase in the number of people eligible for Title XIX services. She stated that the department should hopefully see a reduction in the demand on programs financed by the state general fund as people shift over to Title XIX programs.

Representative Cradduck asked if the department will be shifting general fund dollars that go to mental health services for non-Title XIX individuals. Secretary Oldenkamp replied that this will be reducing the dollars targeted for the "working poor" because the department is seeing less demand there and more demand on the Title XIX programs.

It was moved by Representative Glenski, seconded by Representative Cradduck, that the committee approve the request from the Department of Human Services for \$718,794 of federal fund expenditure authority for FY2004. The motion carried on a roll call vote (11-4-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Cradduck, Kleven, Smidt, Williamson, Sutton (Duane), Adelstein, Putnam. VOTING NAY: Greenfield, Klaudt, Napoli, Apa. EXCUSED: Bartling, Earley, Jaspers.

Unified Judicial System--\$302,600

Mr. D.J. Hanson, Unified Judicial System, testified that the Judicial Branch is requesting \$302,600 in other fund expenditure authority for FY2004 which will be added to the base budget. This expenditure authority is required to enable the Unified Judicial System to pay the per diem and travel expenses of the Court Appointed Special Advocate (CASA) Commission (established in HB 1247 from the 2003 Legislative Session) and distribute grant awards to local CASA programs throughout the state.

Senator Apa expressed his concern that the CASA program is a volunteer program and now a commission has been established to distribute these funds. He asked why the commission would have travel expenses. Mr. Hanson replied that the commission is required to meet to approve the funding to the local CASA programs. Mr. Hanson stated that \$6,600 is being projected for travel expenses, leaving 97 percent of the funds for the local CASA programs.

Senator Apa volunteered to serve on the commission at his own expense to ensure that most of the money goes to the program and not for commission travel expenses. He noted that once government gets involved in programs, volunteerism seems to cease.

It was moved by Representative Glenski, seconded by Senator Sutton, that the committee approve the request from the Unified Judicial System for \$302,600 of other fund expenditure authority for FY2004. The motion carried on a roll call vote (11-4-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Cradduck, Kleven, Smidt, Williamson, Sutton (Duane), Adelstein, Putnam. VOTING NAY: Greenfield, Klaudt, Napoli, Apa. EXCUSED: Bartling, Earley, Jaspers.

Co-chair Putnam recessed the committee at 1:20 p.m. for lunch and reconvened the committee at 2:25 p.m.

Office of the Governor--\$10,350,000 and 3.7 FTE

Mr. Dilges reported that the Office of the Governor is requesting \$10,350,000 in federal fund expenditure authority and 3.7 FTE for FY2004. Of this amount, \$350,000 and 3.7 FTE are for the Homestake Laboratory Conversion Project. This money will be used to fund the FTE salaries and benefits. The National Science Foundation will soon select the location of the national underground laboratory; however, before the announcement of the location, potential sites will be required to prepare a detailed Phase One Proposal of how the selected mine will be prepared to fulfill the requirements of the scientific users of the underground laboratory. The target date for submission of this plan is January 5, 2004. In order to meet this deadline, a small working group will be assembled to draft the Phase One Proposal.

Mr. Dilges reported that the remaining \$10 million represents a federal grant that has been received from the U.S. Housing and Urban Development (HUD) Neighborhood Initiative Grant to maintain the physical integrity of the Homestake Mine in preparation for the potential development of a major research facility on that site. This funding request will not be added to the base budget of the Office of the Governor.

Dr. Richard Gowen, Executive Director, Homestake Laboratory Conversion Project, presented the committee with a Draft Implementation Plan for the Homestake Laboratory Conversion Project (**Document #5**). Dr. Gowen testified that the scientific community, as a whole, has determined the need for a deep underground laboratory. The debate has been whether this facility should be wet or dry. The National Science Foundation (NSF) selected the Homestake site. When this was announced, the discussion led to how and when this could occur. It is planned to bring all parties together to work toward making this happen and to seek federal funding for the laboratory. The planning process will include information being developed in the following five subsections: 1) science requirements; 2) experiments schedule; 3) detail costs; 4) environmental assessment; and 5) management of the facility.

The ownership of the mine would be transferred to the State of South Dakota. Dr. Gowen expressed his hope that the mine would be donated and that the NSF would provide the funding to build the laboratory. The laboratory would be operated under a board of trustees (a state/federal partnership). The mine is currently taking on water. The advantages or disadvantages to removing the water from the mine must be determined through the planning process.

In response to committee questions, Mr. Dilges reported that the state applied for the \$10 million grant and received the grant. The state has not yet received this funding because the ownership of the mine is in question. However, once that is settled, it would be impossible for the state to spend any of this grant money on the mine without the expenditure authority.

Representative Putnam asked if laboratory employees would be considered state employees in the event the project is approved. Dr. Gowen replied that this would be determined through the management and development process.

Mr. Dilges reviewed with the committee interdepartmental transfers totaling \$420,000, which, added to the \$350,000 of federal fund authority requested, would total \$770,000 and 3.7 FTE to get this office up and running by July 1. Mr. Dilges asked the committee to approve these transfers so the funding could be transferred into the Governor's Office to be encumbered for FY2004 for the express purpose of funding Dr. Gowen's project. This \$420,000 is available as a result of one-time savings within various departments of state government. Mr. Dilges informed the committee that a budget would then

need to be formulated for the FY2005 budget cycle if this project gains approval at the appropriate levels.

In response to committee questions, Mr. Dilges detailed the general fund transfers for this project from the various departments to the Governor's Office as follows:

- \$145,000 from the Department of Education from the technology line item as a result of lower ISP charges to the schools which are paid by the state;
- \$110,000 from the Department of Environment and Natural Resources as a result of one-time federal funding freeing general funds;
- \$100,000 from the Department of Commerce from savings realized from the reorganization of the department;
- \$25,000 from the Department of Human Services available from one-time savings realized from the renegotiation of the state's food services contract;
- \$20,000 from the Department of Revenue and Regulation (\$8,000 from office supplies, \$7,000 in excess travel funds, and \$5,000 in contractual services training);
- \$20,000 from the Department of Labor realized from turnover of personnel and the hiring freeze.

A motion was made by Representative Adelstein, seconded by Senator Sutton, that the committee approve the interdepartmental appropriation transfers totaling \$420,000 (state general funds) from the departments of Education (\$145,000), Environment & Natural Resources (\$110,000), Commerce (\$100,000), Human Services (\$25,000), Revenue and Regulation (\$20,000), and Labor (\$20,000) to the Governor's Office for the express purpose of funding the Homestake Laboratory Conversion Project. The motion carried on a roll call vote (12-2-4). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Cradduck, Kleven, Smidt, Williamson, Sutton (Duane), Adelstein, Apa, Putnam. VOTING NAY: Greenfield, Napoli. EXCUSED: Bartling, Earley, Klautd, Jaspers.

It was moved by Representative Adelstein, seconded by Representative Cradduck, that the committee approve the request of the Office of the Governor for \$350,000 of federal fund expenditure authority and 3.7 FTE for FY2004 for the Homestake Laboratory Conversion Project. The motion carried on a roll call vote (14-0-4). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Greenfield, Cradduck, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Apa, Putnam. EXCUSED: Bartling, Earley, Klautd, Jaspers.

Representative Williamson expressed agreement with moving forward with the project. However, he expressed concern about the policy statement the committee might be making if it approves the \$10,000,000 of federal fund expenditure authority. He felt that this should be a decision made by the whole Legislature. He felt that approval of this expenditure authority will make the statement that the state is more deeply involved in the mine. He also expressed concerns with liability issues with regard to the mine. He cautioned the committee that it should be well aware that the federal government may not always be there when it comes to funding for the underground laboratory.

Representative Glenski commented that it would seem the state would not have to spend this money if it is not the owner of the mine. Dr. Gowen replied that there has been considerable discussion on whether or not the mine should be wet or dry. They want this expenditure authority to determine whether or not it would help the physical structure of the mine for the project to move forward.

Representative Cradduck commented that the approval of \$10 million is a statement of commitment by the State of South Dakota that it is prepared to move forward with the project.

A motion was made by Representative Adelstein, seconded by Senator Greenfield, that the committee approve the request from the Office of the Governor for \$10,000,000 of federal fund expenditure authority for FY2004 for the purpose of maintaining the physical integrity of the Homestake Mine in preparation for the potential development of a major research facility on that site. The motion carried on a roll call vote (15-0-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Greenfield, Craddock, Klaudt, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Apa, Putnam. EXCUSED: Bartling, Earley, Jaspers.

**Board of Regents--\$38,891,637 and 66.2 FTE (FY2003)
\$25,450,877 (FY2004)**

Ms. Mary Ellen Garrett, Office of the S.D. Board of Regents, testified that the board is requesting \$38,891,637 in additional expenditure authority (\$20,437,203 federal fund authority and \$18,454,434 other fund authority) and 66.2 FTE for FY2003. The FY2003 request is for one-time authority and FTE. This request will bring the funding authority more in line with actual expenses for FY2003.

Ms. Garrett reported that the board is also requesting \$25,450,877 in additional expenditure authority (\$12,564,675 federal fund authority and \$12,886,202 other fund authority) for FY2004. This additional authority for FY2004 would be added to the base budget of the Board of Regents.

Representative Williamson asked if the increased other fund authority is from increases in tuition and fees. Ms. Garrett responded affirmatively, but added that this also includes money realized from increased enrollments.

A motion was made by Senator Apa, seconded by Representative Craddock, that the committee approve the request from the Board of Regents for \$38,891,637 additional expenditure authority (\$20,437,203 federal fund authority and \$18,454,434 other fund authority) and 66.2 FTE for FY2003. The motion carried on a roll call vote (13-2-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Greenfield, Craddock, Klaudt, Kleven, Smidt, Napoli, Sutton (Duane), Adelstein, Putnam. VOTING NAY: Williamson, Apa. EXCUSED: Bartling, Earley, Jaspers.

It was the committee's consensus that the FY2004 additional expenditure authority was not needed at this particular time.

Department of Education--\$50,000,000

Mr. Dilges informed the committee that this expenditure authority request from the Department of Education is the \$50 million of federal funds from a one-time grant to the state from the Jobs & Growth Reconciliation Act of 2003 as explained earlier in the meeting.

Representative Putnam asked if the State of South Dakota has taken possession of this money. Mr. Dilges replied that the federal grant requires the Governor to certify those funds and this has not yet been done. This funding must be used for essential services as presented in the most recent budget. The funds cannot be placed into the reserve fund. The funds cannot be used as the state match for other federal funds. The state cannot begin a new program with these funds. The federal funds cannot be placed directly into the general fund because this would not constitute expenditure of the funds. They can, however, be utilized in lieu of spending general funds.

Representative Putnam asked why the Department of Education was chosen to receive these funds. Mr. Dilges replied that they did not choose the Department of Social Services or the Department of Human Services because most of their general fund dollars are utilized to leverage other monies,

which would not be an allowable expense under this grant. The Department of Education was chosen because this money could be utilized for state aid.

In response to committee questions, Mr. Dilges reported that there will be two payments each of \$25 million. He noted that he can wait until September 30, 2003, to certify for the first payment. The deadline for the second payment is October 1, 2004. However, the Governor would like to have this done sooner because of the interest available to the general fund. Mr. Dilges stated that his proposal would be to certify both deadlines on July 1, to reap the most benefits with regard to interest earned.

Senator Apa asked if the Department of Education will still have \$50 million of general fund appropriation in addition to this federal funding. Mr. Dilges responded that until the 2004 Legislature amends the General Appropriations Act for FY2004, this general fund authority will still exist within the Department of Education. Mr. Dilges noted that state aid is paid to the local school districts on a monthly basis. He assured the committee that the \$50 million from the general fund would still be unspent by the department when the 2004 Legislature convenes. It is the Governor's intention for the Legislature to amend the FY2004 General Appropriations Act to transfer this \$50 million in general funds from the Department of Education to the Property Tax Replacement Fund at that time.

Representative Glenski asked if this \$50 million in general funds could be moved to another department. Mr. Dilges responded that this money cannot be moved without legislative approval.

Representative Putnam asked how money gets spent from the Property Tax Replacement Fund. Mr. Dilges replied that this requires authorization from the Legislature. The state's acceptance of this \$50 million in federal funds will result in \$50 million less from the Property Tax Replacement Fund being transferred to the general fund for the state's ongoing expenses. This would allow those dollars to stay in that fund for FY2004. The discussion on expenditure of the additional \$50 million will occur during the next budget cycle and legislative session. The Department of Education receiving the \$50 million in federal funds is merely an acceptable mechanism for the state to receive those funds.

Representative Klaudt commented that the \$50 million of general fund expenditure authority would still remain with the Department of Education, and the department could expend those funds because they have been given that expenditure authority. Mr. Dilges replied that this is correct. Senator Dennert asked if this \$50 million could eventually be placed in the budget reserve fund. Mr. Dilges replied that the \$50 million in unspent general fund authority could be placed in the budget reserve fund at the end of FY2004.

Senator Dennert asked if this additional \$50 million could be used to increase the payments from the Property Tax Replacement fund to 35 percent. Mr. Dilges responded that it could; however, he cautioned that this \$50 million is one-time revenue and the Property Tax Replacement program is ongoing.

Co-chair Putnam suggested that the committee add language regarding this issue to the letters of intent. He asked Mr. Dilges if all parties are in agreement that the general fund savings realized from this one-time revenue of \$50 million in federal funds would not be spent until the Legislature meets next January so all parties involved can have input into the process. Mr. Dilges responded affirmatively.

A motion was made by Senator Sutton, seconded by Representative Adelstein, that the committee approve the request from the Department of Education for \$50,000,000 of federal fund expenditure authority for FY2004 to enable the department to spend federal funding for state aid to education rather than state general funds, with a letter of intent being sent to the Department of Education and

to the Bureau of Finance and Management stipulating the terms of understanding that the Interim Appropriations Committee shall introduce legislation to amend the budget for the Department of Education by reducing the state general fund appropriation by \$50,000,000. The motion carried on a roll call vote (14-1-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Cradduck, Klaudt, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Apa, Putnam. VOTING NAY: Greenfield. EXCUSED: Bartling, Earley, Jaspers.

Departments of Social Services, Human Services, and Corrections--\$5,100,000 and \$17,000,000

Mr. Dilges reported that this request is for the extra federal fund expenditure authority realized by the enhancement of the Federal Medical Assistance Percentage (FMAP) rate, as presented to the committee earlier in the meeting. The FY2003 amount totals \$5,100,000 and the FY2004 amount totals \$17,000,000. This request for federal fund expenditure authority will not be added to the base budgets of the departments. This is all one-time money and will span one-fourth of the state FY2003 and all of FY2004. The departments will return to the old FMAP rate for the FY2005 budget cycle. The federal/state match rate will be changing from 65/35 to 68/32 for FY2004.

In response to committee questions, Mr. Dilges indicated that the medical community must realize that the reimbursement amount in the FY2004 budget is what they will receive—it will just include more federal dollars than state general fund dollars.

Representative Williamson asked what will happen to the excess general fund authority remaining in these departments as a result of utilizing more federal funds. Mr. Dilges replied that he would be willing to enter into the same type of discussions with the committee that took place with regard to the additional \$50 million in federal funds to the Department of Education. Mr. Dilges noted that the department secretaries have been given specific instructions not to spend these general funds—that they should revert at the end of FY2004.

A motion was made by Senator Apa, seconded by Senator Dennert, that the committee approve the request of \$5,100,000 federal fund expenditure authority for FY2003 and \$17,000,000 federal fund expenditure authority for FY2004 for the Departments of Social Services (\$4,000,000 for FY2003 and \$13,000,000 for FY2004); Human Services (\$1,000,000 for FY2003 and \$3,500,000 for FY2004); and Corrections (\$100,000 for FY2003 and \$500,000 for FY2004) with a letter of intent being sent to the Departments of Social Services, Human Services, and Corrections stipulating the terms of understanding. The motion carried on a roll call vote (15-0-3). VOTING AYE: Dennert, Duxbury, Burg, Glenski, Greenfield, Cradduck, Klaudt, Kleven, Smidt, Napoli, Williamson, Sutton (Duane), Adelstein, Apa, Putnam. EXCUSED: Bartling, Earley, Jaspers.

Co-chair Putnam recessed the committee at 5:35 p.m.

Friday, June 27, 2003

Co-chair Putnam reconvened the committee at 11:10 a.m. in Legislative Conference Room 1&2 on Friday, June 27, 2003, with the following members in attendance: Senators Jerry Apa (Co-chair), H. Paul Dennert, Robert N. Duxbury, William F. Earley, Mike Jaspers, Brock L. Greenfield, Marguerite Kleven, William M. Napoli, and Duane Sutton (Vice-chair); and Representatives Stanford M. Adelstein (Vice-chair), Quinten Burg, Rebekah Cradduck, Mary Glenski, Ted Klaudt, J.E. "Jim" Putnam, Orville B. Smidt, and Ron Williamson. Representative Julie Bartling was unable to attend.

Mr. Dilges directed the committee's attention to the FY2003 Proration of Investment Income Report (included in Document #2). Mr. Dilges reported that these funds are scrutinized very carefully to make sure the general fund receives all possible interest.

A motion was made by Senator Apa, seconded by Representative Klaudt, that the committee accept the FY2003 Proration of Investment Income Report as presented by the Bureau of Finance and Management. The motion carried on a voice vote.

FY2004 Letters of Intent

Mr. Reed Holwegner, Legislative Research Council, presented the committee with a draft copy of the FY2004 Letters of Intent (**Document #6**). He also presented the committee with draft letter of intent language on the following issues: the additional federal funding for Medicaid (**Document #7**); the federal funding for State Aid to Education (**Document #8**); presentation of condition statements to the committee (**Document #9**); and presentation of the major expansion and reduction items in each agency budget to the committee (**Document #10**).

A motion was made by Senator Apa, seconded by Representative Cradduck, that the committee send the following language in a letter of intent to the Departments of Social Services, Human Services, and Corrections regarding the additional federal money for Medicaid:

"In accordance with the provisions set forth in SDCL 4-8A, the interim Joint Committee on Appropriations on June 25, 2003, has approved additional federal expenditure authority of \$5.1 million for state Fiscal Year (FY) 2003, and \$17 million for FY 2004, as recommended by the Governor. The money represented in this federal authority is part of the amount the State of South Dakota is scheduled to receive from the Jobs and Growth Tax Relief and Reconciliation Act of 2003 (Public Law 108-27). Specifically, these federal funds are attributable to a hold harmless provision and a 2.95% enhancement to the Federal Medical Assistance Percentage rate in that Act.

The committee understands the federal money for FY 2003 will be distributed as follows: \$4 million to the Department of Social Services, \$1 million to the Department of Human Services, and \$100,000 to the Department of Corrections. For FY 2004, \$13 million will go to the Department of Social Services; \$3.5 million will go to the Department of Human Services, and \$500,000 to the Department of Corrections.

Finally, the committee further intends to study the issue of how this and other moneys received from the Congressional Act will be managed and utilized. The committee requests the Commissioner to keep the committee apprised as funds are received from the federal government pursuant to the federal Act."

The motion carried on a voice vote.

It was moved by Senator Apa, seconded by Senator Sutton, that the committee send the following language in a letter of intent to the Department of Education regarding the federal funding to be used for State Aid to Education:

"In accordance with the provisions set forth in SDCL 4-8A, the interim Joint Committee on Appropriations on June 25, 2003, has approved federal expenditure authority of \$50 million as recommended by the Governor. The money represented in this federal authority is part of the

amount the State of South Dakota is scheduled to receive from the Jobs and Growth Tax Relief and Reconciliation Act of 2003 (Public Law 108-27).

The committee understands this federal money will be expended during state Fiscal Year (FY) 2004 solely and in lieu of the same amount of state general fund dollars in the State Aid to Education foundation program established in SDCL 13-13. It is the committee's intent to introduce legislation in the 2004 Legislative Assembly amending the General Appropriations Act for FY2004 by reducing the general fund appropriations to the Department of Education's State Aid to General Education program \$50 million. The committee understands, as testified by the Commissioner of Finance and Management on behalf of the Governor, that the \$50 million general will not be transferred or used for any other purposes prior to such time that the Legislature is able to convene and amend the FY2004 General Appropriations Act.

Finally, the committee further intends to study the issue of how this and other moneys received from the Congressional Act will be managed and utilized. The committee requests the Commissioner to keep the committee apprised as funds are received from the federal government pursuant to the federal act."

The motion carried on a voice vote.

It was moved by Representative Adelstein, seconded by Senator Kleven, that the committee amend the letter of intent for the Bureau of Finance and Management by inserting the following language:

"The Joint Appropriations Committee requests that the Commissioner of the Bureau of Finance and Management, no later than the day that the Governor presents the recommended FY2005 budget to the Legislature, provide the Legislative Research Council with condition statements for each fund utilized to finance the state's government. Each fund's statement should identify the starting balance, revenues, expenditures, and ending balance for the preceding two fiscal years, and a projection for the current fiscal year and the next fiscal year.

The Joint Appropriations Committee finds that the State General Fund has progressively been used less, as a share of total spending, to finance state government. For FY2004, the State General Fund will pay for 34 percent of the state's expenditures through the General Appropriations Act. Ten years ago, the General Fund paid for 36 percent of expenditures. Funding from the categories of "federal" and "other" have accounted for a larger share. Fiscal Year 2004 will be the first year in the state's financial history that the Legislature approved over one billion dollars derived from the federal government to be spent.

It is very commendable to use additional funding sources to finance programs and projects because this allows the state's finite resources to be used for more things. As a result, the state's tax rates have stayed low. However, with so many additional funding sources, and in light of the recent Supreme Court ruling in Apa v. Butler which elucidates the Legislature's power over special funds, it is necessary for the Legislature and its Joint Appropriations Committee to have greater knowledge of available funding from all specific sources. The Joint Appropriations Committee needs to have the ability to generate and consider possible funding options so that good and beneficial decisions may continue to be made in the future."

The motion carried on a voice vote.

A motion was made by Senator Sutton, seconded by Representative Klaudt, that the committee amend the letter of intent for the Bureau of Finance and Management by inserting the following language:

“The Joint Appropriations Committee requests the Commissioner of the Bureau of Finance and Management to provide the Legislative Research Council with the major expansion and reduction items as requested by each agency. These lists should be provided no later than when the agencies’ requested budget data is provided to the Legislative Research Council. The Joint Appropriations Committee further requests that the Commissioner of the Bureau of Finance and Management, no later than the day that the Governor presents the recommended FY2005 budget to the Legislature, provide the Legislative Research Council with lists for each agency that explains the agency’s major expansion and reduction items as recommended by the Governor.

During the legislative session, the greatest adversary is the passage of time. By having this information made readily available, the Joint Appropriations Committee will be able to better utilize its time in identifying the major issues to be decided.”

The motion carried on a voice vote.

A motion was made by Senator Sutton, seconded by Senator Greenfield, that the committee approve the FY2004 Letters of Intent as amended. The motion carried on a voice vote.

Appropriations Committee Tours

The date for the East River Tour was tentatively set for the week of August 17, 2003. The date for the West River Tour was tentatively set for the week of October 7, 2003.

It was moved by Senator Napoli, seconded by Senator Greenfield, that the meeting adjourn. The motion carried on a voice vote.

Co-chair Putnam adjourned the meeting at 11:55 a.m.



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