



MINUTES

Executive Board

**Three hundred fourteenth Meeting
Monday and Tuesday
November 17 & 18, 2003**

**LCR 1 & 2
State Capitol Building
Pierre, South Dakota**

Monday, November 17, 2003

The three hundred fourteenth meeting of the Legislative Research Council Executive Board was called to order by Chair Representative Orville B. Smidt at 9:25 a.m. (CT), November 17, 2003, in LCR 1 and 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Arnold M. Brown, Tom Dempster, H. Paul Dennert, Brock L. Greenfield, Gil Koetzle, Royal "Mac" McCracken, and Ed Olson; and Representatives Julie Bartling, Rebekah Craddock, Phyllis M. Heineman, Claire B. Konold, Matthew Michels, Orville B. Smidt, and Ron Williamson. Representative Gerald Lange was excused on November 17, 2003, and in attendance on November 18, 2003.

Staff members present included James Fry, Director; and Teri Retrum, Senior Legislative Secretary.

(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.)

(Clarification: Voice votes that prevail with all members present voting "aye" will carry the disposition language "prevailed unanimously." Voice votes that prevail with a majority of all members present voting "aye" will carry the disposition language "prevailed." Voice votes that prevail without all members present voting "aye" will list those members casting "nay" votes if so requested by the dissenting voter.)

Approval of Minutes

SENATOR DEMPSTER MOVED, SECONDED BY SENATOR BROWN, THAT THE EXECUTIVE BOARD APPROVE THE MINUTES OF THE AUGUST 4, 2003, MEETING AS PRINTED AND MAILED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Approval of Agenda

SENATOR ED OLSON MOVED THAT THE AGENDA BE AMENDED TO PLACE DISCUSSION ON THE LEGISLATURE'S MEMBERSHIP IN THE EDUCATION

COMMISSION OF THE STATES TO THE END OF THE SECOND DAY'S AGENDA. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

SENATOR OLSON MOVED, SECONDED BY REPRESENTATIVE HEINEMAN, THAT THE BOARD APPROVE THE AGENDA AS AMENDED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Director's Report and Correspondence

Director Fry reviewed the FY 2004 financial statement for the period ending October 31, 2003 (Document #1). Mr. Fry said that the budget is in good shape and on track.

Doctor-of-the-Day Program

Mr. Fry reported on a survey taken of the Doctor of the Day Program participants. Many noted the small size of the room provided for the Doctor of the Day; however, overall, the remarks were positive. (Survey results are labeled Document #2.)

REPRESENTATIVE KONOLD MOVED, SECONDED BY SENATOR DENNERT, THAT THE EXECUTIVE BOARD APPROVE THE DOCTOR-OF-THE-DAY PROGRAM FOR THE 2004 LEGISLATIVE SESSION. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Room User Fee

SENATOR DEMPSTER MOVED, SECONDED BY REPRESENTATIVE WILLIAMSON, THAT THE EXECUTIVE BOARD WAIVE THE FEE FOR USE OF LEGISLATIVE COMMITTEE ROOMS DURING THE 2004 LEGISLATIVE SESSION. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Legislative Printing Contract

Mr. Fry reviewed the proposals from State Publishing to print and bind legislative documents and West Group to bind legislative documents (Document #3). In discussing the proposals, Mr. Fry said that the printing and binding of legislative documents most commonly are done by the same publisher to avoid splitting the contract. For future reference, Mr. Fry mentioned that the plan is to put lobbyists on-line for the 2005 Legislative Session, which may reduce the number of printed copies required.

Responding to Representative Rebekah Craddock, Mr. Fry said that the Legislature has not done business with West Group in the past; however, the company is the primary publisher for the court system in the United States, and the South Dakota Code will be published by West Group for at least the next five years.

Senator Royal J. "Mac" McCracken said that the numbers of printed materials provided during a Legislative Session should be evaluated and reduced wherever possible.

Chair Orville Smidt asked how many sets of printed documents are currently printed.

Mr. Fry responded that he will provide that information.

Senator Arnold Brown suggested that the number of printed documents be addressed next year after further observation and investigation.

REPRESENTATIVE CRADDUCK MOVED, SECONDED BY SENATOR BROWN, THAT THE EXECUTIVE BOARD AWARD TO STATE PUBLISHING COMPANY OF PIERRE, SOUTH DAKOTA, THE LEGISLATIVE PRINTING CONTRACT (BILLS AND RESOLUTIONS, DAILY JOURNALS, INDEX, SESSION LAWS, AND THE 2004 OFFICIAL DIRECTORY AND RULES OF THE SOUTH DAKOTA LEGISLATURE (REDBOOK). MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Personnel Subcommittee

SENATOR DENNERT MOVED, SECONDED BY REPRESENTATIVE BARTLING, THAT THE EXECUTIVE BOARD APPROVE THE RECLASSIFICATION OF SCOTT DARNALL TO SENIOR PROGRAMMER AND ANALYST. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Proposed Rule Changes

Document #4 is a proposed Joint Rule change to amend 1-5 to change the time allowed for a member to speak. Document #5 is a proposed Senate Rule change to amend S4-1 to change the Local Government Standing Committee to the "Local Government and Professional Licensing" Standing Committee and to increase its membership from (6) to (7).

Senator Ed Olson said that whatever decision is made concerning adding Professional Licensing to Local Government, the membership should be increased to eliminate the possibility of a tie vote.

Representative Matthew Michels said that there needs to be some leeway in assigning legislation concerning professional licensing boards—for instance, matters pertaining to a board issuing licenses to those in the health field should most likely be assigned to the Health and Human Services Committee rather than automatically assigning the legislation to the proposed Local Government and Professional Licensing Committee.

Chair Smidt said that perhaps the entire committee structure should be reviewed.

SENATOR BROWN MOVED, SECONDED BY SENATOR OLSON, THAT THE EXECUTIVE BOARD REMAND, WITHOUT RECOMMENDATION, THE PROPOSED AMENDMENT TO S4-1 TO CHANGE THE LOCAL GOVERNMENT STANDING COMMITTEE TO THE LOCAL GOVERNMENT AND PROFESSIONAL LICENSING STANDING COMMITTEE AND TO INCREASE ITS MEMBERSHIP FROM (6) TO (7) TO THE LEGISLATIVE PROCEDURE COMMITTEE FOR DISCUSSION AND REVIEW.

Senator McCracken said that the change is unnecessary and that he opposed the motion.

Senator Brown said that at least the Legislative Procedure Committee could review the membership of the Local Government Committee.

MOTION PREVAILED ON A VOICE VOTE.

Regarding the proposed Joint Rule change to amend 1-5 to change the time allowed for a member to speak, Senator Brown said that he does not believe that the current rule is being abused.

REPRESENTATIVE KONOLD MOVED, SECONDED BY REPRESENTATIVE HEINEMAN, THAT THE BOARD TABLE THE PROPOSED JOINT RULE AMENDMENT TO 1-5 TO CHANGE THE TIME ALLOWED FOR A MEMBER TO SPEAK. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Compensation for Legislative Leaders

For discussion purposes, Mr. Fry distributed copies of possible compensation for legislative leaders (Document #6).

Senator McCracken said that when he chose to run for a leadership position, he did so with the full understanding of the additional work that the position required.

Representative Michels said that he understood that he would have to relinquish something that he enjoyed in a legislative capacity in order to have the time to handle all the responsibilities of a leadership position. He questioned whether there should be a division between presiding officers and other legislators; for example, those who may have heavy constituent demands due to a very large district.

Senator Tom Dempster stated: "We are citizen legislators, and it is an honor to serve." However, he said that a small compensatory amount may be a way to thank the leadership for their extra time and effort.

Representative Claire Konold said that perhaps it is time to compensate legislative leaders for their extra time.

Senator Brown said that, speaking as someone who is in a leadership position, he does spend a lot of out-of-pocket money but that he knew that would be the case when he went into the position. He said that anyone should be able to run for a leadership position. Senator Brown said that the possibility that a financial burden may be a factor in someone's decision of whether to run would be, in some part, alleviated by compensation.

Representative Phyllis Heineman commented that staffing assistance would help with the additional time required.

Senator McCracken said that he receives great response from LRC staff whenever he has asked them to help with a personal or constituent request.

Senator H. Paul Dennert said that the leadership compensation issue would have to be drafted as a bill and would have to go through the legislative process because it would require input from the Legislature as a whole.

Senator Gil Koetzle expressed his opinion that the legislative leaders should be compensated for their extra time but said that he was concerned that this could expand beyond its original purpose. Senator Koetzle stated: "What about interim committee chairs—should they be compensated for their extra time and work? Maybe we should look at the whole gamut." He said that he was not sure that he could support compensation right now since those positions were accepted knowing the time involved.

Representative Julie Bartling said that she agreed with Senator Dempster in that it would be a minute form of gratuity for all the work done by the leadership; however, she said that the full legislative body should have input and that she would not be comfortable making this decision in the Executive Board.

Responding to a question posed by Representative Heineman, Mr. Fry said that, in addition to LRC staff, clerical, intern, and page assistance is provided during the session. During the interim, Mr. Fry said that any request of a legislative concern would be handled by LRC staff. He said that the staff does not provide assistance for political purposes, because the LRC is a bipartisan office with bipartisan staff.

Chair Smidt noted that some of the leadership positions require running for the office, others are appointed positions.

Representative Ron Williamson said that the South Dakota Legislature is a part-time Legislature and that he has some concerns about the compensation issue and that the discussion perhaps should be referred to the entire legislative body.

SENATOR DEMPSTER MOVED, SECONDED BY REPRESENTATIVE KONOLD, THAT THE EXECUTIVE BOARD DIRECT LRC STAFF TO DRAFT LEGISLATION ON COMPENSATION FOR LEGISLATIVE LEADERSHIP FOR INTRODUCTION AS AN EXECUTIVE BOARD BILL IN THE 2004 LEGISLATIVE SESSION. MOTION PREVAILED ON A ROLL CALL VOTE WITH 8 VOTING AYE, 6 VOTING NAY, AND 1 EXCUSED. Those voting AYE: Brown, Dempster, Dennert, Bartling, Craddock, Heineman, Konold, and Smidt. Those voting NAY: Greenfield, Koetzle, McCracken, Olson, Michels, and Williamson. Those EXCUSED: Lange.

Correspondence

Included in the director's report were copies of the following:

- A press release from the Governor's Office concerning the \$1 million federal grant to create South Dakota's Risk Pool (Document #7);
- A letter from Chair Smidt to Senator Lee Schoenbeck, Chair of the Interim Review Committee on Corrections, regarding a request for additional meeting day(s) (Document #8);
- Letters from Chair Smidt inviting Senator Larry Diedrich, Chair of the Social Services Department Agency Review; Representative Phyllis Heineman, Chair of the School District Educational Equality and Organization Committee; and Senator Lee Schoenbeck, Chair of the Corrections Agency Review Committee to the Executive Board's November meeting to present their respective committee's report (Document #9);
- A letter from Senator Clarence Kooistra expressing concerns about the interim Department of Social Services Legislative Review Committee (Document #10);
- A letter addressed to Representative Matthew Michels from Mr. C. Woodson Cockrill, Mid-States Organized Crime Information Center, which, per United States Department of Justice Guidelines, notified the South Dakota Legislature that their organization is operating within the state (Document #11);
- Condolence letters sent from Chair Smidt, on behalf of the Executive Board, to the leadership of the Indiana Legislature on the loss of Indiana Governor Frank O'Bannon (Document #12);
- A letter of thanks from the Honorable Robert D. Garton, President Pro Tempore of the Indiana Legislature (Document #13);
- A letter from Chair Smidt to Ms. Barbara Everist thanking her for her service with the National Conference of Commissioners on Uniform State Laws (Document #14); and
- A calendar of upcoming legislative meetings (Document #15).

Update of DCI Expansion Project

Mr. Kevin Thom, Director, Division of Criminal Investigation, and Mr. Tom Dravland, Secretary, Department of Public Safety, updated the Board on the DCI expansion project. Giving a physical description of the building, Mr. Thom explained that the plans call for an attractive entrance to the building with a utilitarian interior. He said that the expansion would facilitate moving employees from several different rental spaces into one facility for better efficiency. Mr. Thom said that the timeframe for completion is about a fifteen-to-eighteen month construction period.

Responding to questions from Board members, Mr. Dravland said that the current facility is inadequate for training and for use as an emergency operation center. Mr. Dravland said that the structure will house primarily DCI, State Radio, and technology services. He explained that the facility will provide a centralized location with the ability to conduct a unified effort to deal with emergencies. One of the key components will be to bring in state radio dispatch. Funding for the facility will be provided by a \$4.5 million federal grant, with a twenty-five percent state match—roughly \$1.4 million. The state match must be nonfederal money. Mr. Dravland said that 965 square feet will be shared space. He said that some of the homeland security money can be used to provide for technology but not bricks and mortar.

The Executive Board recessed at 11:55 a.m. and reconvened at 1:43 p.m.

Presentation of Draft Issue Memorandums

Legislative Research Council staff reviewed the following draft Issue Memorandums:

Economic Development in the New Economy (Document #16)—**Jim Fry**, Director.

Mr. Fry said that the issue memo focuses on intellectual property and venture capital regarding economic development. He said some of South Dakota's constitutional provisions may prohibit innovations in economic development. Mr. Fry said that South Dakota's children are its strength and that the educational opportunities must be available to those children in order for the state to advance economically.

Representative Williamson said that the issue memo seems to "look inward instead of outward to expanding markets."

Mr. Fry said that markets were not to be part of the focus.

Representative Williamson said that, in that case, perhaps the title of the issue memo should be changed.

The Executive Board agreed to accept this issue memo and distribute it to all legislators.

The Regulation of Vehicle, Implement, and Equipment Dealer Franchises and Dealer Agreements (Document #17)—**Dave Ortbahn**, Principal Research Analyst.

Mr. Ortbahn said that the Executive Board was requested to review statutes concerning the regulation of vehicle, implement, and equipment dealer franchises and dealer agreements and the Governor's role in those agreements after HB 1123 failed to pass the 2003 Legislature due to a breakdown in negotiations among the involved parties.

Mr. Ortbahn said that some of the sections in Chapter 37-5 are very difficult to understand and result in confusion. He discussed the possibility that rewriting the definitions in Chapter 37-5 based on Montana's Code perhaps would resolve some of the confusion.

Representative Konold and other Board members agreed that Chapter 37-5 needs to be rewritten because some of the sections are very difficult to understand.

SENATOR OLSON MOVED, SECONDED BY REPRESENTATIVE KONOLD, THAT STAFF BE DIRECTED TO DRAFT LEGISLATION BASED ON MONTANA'S CODE REGARDING THE REGULATION OF VEHICLE, IMPLEMENT, AND EQUIPMENT DEALER FRANCHISES AND DEALER AGREEMENTS. MOTION PREVAILED UNANIMOUSLY ON A ROLL CALL VOTE.

REPRESENTATIVE KONOLD MOVED, SECONDED BY REPRESENTATIVE HEINEMAN, THAT THE EXECUTIVE BOARD ACCEPT THE ISSUE MEMORANDUM ON THE REGULATION OF VEHICLE, IMPLEMENT, AND EQUIPMENT DEALER FRANCHISES AND DEALER AGREEMENTS AS PRESENTED AND THAT THE ISSUE MEMORANDUM BE DISTRIBUTED TO ALL LEGISLATORS. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Consumer-Directed Health Care (Document #18)—**Jacquelyn Storm**, Principal Legislative Attorney, and Sue Cichos, Senior Fiscal Analyst.

Ms. Storm said that consumer-directed health care plans transfer more responsibility to the consumer to make decisions about if and how their health care dollars will be spent. She said that some states have developed consumer-directed health care programs. Those who favor such plans believe that they will encourage health care consumers to make more conscientious decisions about health care and that the personal freedom of choice about health care will lead to more satisfaction. Those who oppose such plans believe that the plans are too confusing and that there is the possibility that consumers may forgo needed health care, which could result in driving up costs.

SENATOR DEMPSTER MOVED, SECONDED BY SENATOR DENNERT, THAT THE EXECUTIVE BOARD ACCEPT THE ISSUE MEMORANDUM ON CONSUMER-DIRECTED HEALTH CARE AND THAT THE ISSUE MEMORANDUM BE DISTRIBUTED TO ALL LEGISLATORS. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Taxation (Document #19)—**Fred Baatz**, Principal Research Analyst.

Mr. Baatz said that South Dakota has fewer classes of property that are taxed. He commented that the state has a relatively simple tax system. Mr. Baatz said that the sales and use taxes are a significant portion of the state's tax revenue.

The issue memorandum included discussion and various charts and graphs to illustrate each tax in South Dakota.

REPRESENTATIVE KONOLD MOVED, SECONDED BY REPRESENTATIVE HEINEMAN, THAT THE EXECUTIVE BOARD ACCEPT THE ISSUE MEMORANDUM ON TAXATION AND THAT THE ISSUE MEMORANDUM BE DISTRIBUTED TO ALL LEGISLATORS. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Sales Tax on Food (Document #20)—**Aaron Olson**, Fiscal Analyst.

Mr. Olson reported that as of January 1, 2003, forty-five states charged a state sales tax with twenty-nine states exempting the sale of food from the tax. He said that if the sales tax on food was repealed, the possible revenue loss to South Dakota could be from \$45 million to \$50 million.

Mr. Olson briefly discussed the Streamlined Sales Tax Agreement.

The Executive Board agreed to accept this issue memo with a few changes and distribute it to all legislators.

Reports of Interim Committees

(Note: Copies of each interim draft committee report are compiled and labeled Document #21.)

Department of Corrections Agency Review Committee—**Senator Lee Schoenbeck**, Chair of the Department of Corrections Agency Review Committee, distributed copies of a synopsis of the committee's deliberations (Document #22).

Senator Schoenbeck said that the committee served as a "huge educational" opportunity for him. He said that the committee's deliberations resulted in two proposed pieces of draft legislation:

- A clean-up bill for the Department of Corrections title in the Code; and
- A bill to provide for a revision of the criminal code (Document #23).

Responding to Senator Olson regarding the emergency clause in the criminal code revision legislation, Senator Schoenbeck said that the emergency clause will allow for the time required to complete such a large undertaking.

In response to Senator Koetzle, Senator Schoenbeck said that there is a lack of coordination between tribes and the Department of Corrections, particularly in aftercare.

Senator Schoenbeck commended Department of Corrections' personnel.

Senator Schoenbeck distributed copies of "Comparison of Penalties" (Document #24) and "South Dakota Criminal Code" (Document #25).

Report on Governor's Mansion Project

Mr. Paul Kinsman, Commissioner, Bureau of Administration, reported on the Governor's mansion project. He said that the Bureau of Administration selected Banner Associates to conduct an inspection of the present mansion and to provide a report on its findings. The three options were to renovate the present mansion, to rebuild the residence, and to move the present mansion off-site and build a new one in its place. It would cost three million dollars to rebuild the present mansion versus two million dollars to move the current mansion off-site and build a new one. Mr. Kinsman said that a twenty-seven member committee reviewed the Banner study, and bids were solicited from seven architectural firms. The selected plans provide for building a 14,000 square foot dwelling, a little over which one-half would be public space. A recordation contract has been awarded to document each facet of the current mansion so that when it is moved, it can be returned to its original presentation. The present mansion is scheduled to be completely moved by December 4, 2003, with construction to begin on a new dwelling in the spring of 2004, and the scheduled time for completion of the new mansion is summer 2005. Mr. Kinsman said that the goal of the participants is to provide a functional facility that will not be a burden to the state.

Senator Dennert asked: "Any talk about using state money for the old facility?"

Mr. Kinsman said that the state does not plan to own the building.

Senator Koetzle expressed his concern about the absence of legislative involvement and asked Mr. Kinsman to provide the names of the committee members who selected the plan for the new Governor's residence.

Mr. Kinsman said that he did not know how the committee was formed and that he will provide those names to the Executive Board.

Representative Williamson said that he was concerned about the precedent being set and stated: "What about other buildings? We would not do this for other buildings." He agreed that, somehow, the citizens of the state and the Legislature should have the names of the monetary contributors to the fund for building a new mansion. Representative Williamson said that the Appropriations Committee should know about the funding. He questioned: "if the dollars come up short, how is it going to be built, and where will the money come from to maintain the residence?"

Mr. Kinsman said that the intent is to create an endowment so that the taxpayer does not have to pay for upkeep on the residence.

Mr. Kinsman showed the Board a picture of the exterior of the proposed new Governor's mansion.

Reports of Interim Committees (Continued)

Social Services Department Agency Review—**Jacquelyn Storm**, Principal Legislative Attorney, said that the committee learned that department services are provided to one out of every seven South Dakotans. Ms. Storm said that personnel from the Department of Social Services reviewed the programs provided by the department. She briefly discussed those programs. Legislation was adopted to update and revise certain provisions pertaining to the Department of Social Services.

School District Educational Equality and Organization Committee—**Representative Phyllis Heineman**, Chair, distributed copies of the following proposed draft legislation:

1. An Act to require schools to offer a core curriculum in order to meet state accreditation standards;
2. An Act to provide for a basic high school program and a recommended high school program, and to require most students to complete the recommended one;
3. An Act to allow two or more school districts to include an existing excess tax levy in their consolidation plan; and
4. An Act to require the Department of Education to provide for computer access for certain rural attendance centers in South Dakota and to make an appropriation therefor.

(The draft legislation is compiled into one document labeled Document #26.)

Representative Heineman said that the committee wanted to focus on high school graduation requirements in South Dakota, particularly to strengthen those requirements. She said that the committee also wanted to make educational data more meaningful information and stated: "We need better tools of analysis."

Representative Heineman distributed copies of a presidential announcement encompassing two phases—the first phase is to make NCLB data useful in improving student learning; the second phase is to provide Standard & Poor's School Evaluation Services with Training and Support Services free of charge to all fifty states, Puerto Rico, and the District of Columbia (Document #27).

Mr. Fry announced that an Education Forum will be held for all legislators on December 2, 2003, beginning at 10:30 a.m., in Room 412 of the State Capitol.

Responding to questions from Board members, Representative Heineman said that some of the Hutterite Colonies in South Dakota do not want their schools to become wired for

technology; however, some do want that service. She said that she was not sure whether the committee would combine its proposed legislation with educational legislation proposed by the Governor.

Clare Cholik, Senior Research Analyst, presented the draft written interim report from the School District Educational Equality and Organization Committee.

Property Tax Exemptions Committee—**Fred Baatz**, Principal Research Analyst, reported that the committee conducted three meetings over four days, including three subcommittee meetings on the first day of its second meeting. The subcommittee meetings were held in Aberdeen, Rapid City, and Sioux Falls. Mr. Baatz also discussed the legislation adopted.

Retirement Laws Committee—**Representative Matthew Michels**, Chair, reported on the types of legislation that the Board of Trustees of the South Dakota Retirement System will propose. The Board also will be discussing possible solutions to benefit leakage and other topics. The Retirement Laws Committee will hold a second meeting on December 10, 2003.

Government Operations and Audit Committee—Chair Smidt reported that he received communication from Representative Ted Klaudt, Chair of the committee, expressing his concern about the awarding of consulting contracts and the process involved.

Representative Cradduck said that the committee is expecting a report concerning this issue on November 18, and if it is not received, the committee will be drafting legislation to address the issue.

SENATOR OLSON MOVED, SECONDED BY SENATOR BROWN, THAT THE EXECUTIVE BOARD APPROVE THE 2003 INTERIM COMMITTEE REPORTS AS PRESENTED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Selection of Agencies for Review during 2004 Interim

Senator Olson suggested that the Board select the Departments of Education and Transportation for review during the 2004 interim.

Representative Bartling agreed that the Board should review the Department of Transportation and that perhaps the Department of Game, Fish and Parks should be the other review.

Senator Greenfield urged the Board not to forget about the bureaus of state government and suggested that the Board review the Departments of Education, Transportation, Game, Fish and Parks, and the Bureau of Information and Technology.

Senator Brown commented that, due to the issues currently surrounding education, the Board probably should review the Department of Education and the Bureau of Information and Technology.

Senator Koetzle said that perhaps, because the committee membership was increased for this year's interim, the Board should expand its agency reviews and review two agencies plus the Bureau of Information and Technology. He said that this would result in smaller committee membership, which would make the committees easier to manage.

SENATOR OLSON MOVED, SECONDED BY SENATOR GREENFIELD, THAT THE EXECUTIVE BOARD REVIEW THE DEPARTMENT OF EDUCATION DURING THE 2004 INTERIM. MOTION PREVAILED ON A VOICE VOTE.

Representative Heineman asked: "If the Board chose to review the Bureau of Information and Technology, would they also look at the state's technology overall?"

Chair Smidt responded positively. He also said that another bureau could be added depending upon suggestions from legislators for interim studies.

SENATOR GREENFIELD MOVED, SECONDED BY REPRESENTATIVE WILLIAMSON, THAT THE EXECUTIVE BOARD REVIEW THE BUREAU OF INFORMATION AND TECHNOLOGY DURING THE 2004 INTERIM. MOTION PREVAILED ON A VOICE VOTE.

Executive Board/Leadership Retreat

Mr. Fry distributed an outline that the Executive Board and Leadership developed regarding the appropriations process (Document #28).

Chair Smidt said that he and others have spoken to the Governor about the concerns and that he is expecting a reply from the Governor on December 2, 2003.

The Board recessed at 5:13 p.m. and reconvened at 8:05 a.m. on Tuesday, November 18, 2003.

Tuesday, November 18, 2003

Report of Computer Technology Subcommittee

Representative Heineman reported on the results of the computer survey that was sent to all legislators (Document #29). She said that 78 legislators responded to the survey. Representative Heineman said that 66 respondents indicated that they would elect to consolidate bill books in the chambers; 8 respondents replied that they wanted the bill books to remain at the current number.

Representative Heineman said that the subcommittee discussed increased training on the laptops. The subcommittee also asked the technology staff of the LRC to conduct a review of committee meeting rooms to determine what could be done to make them more conducive to technology.

Lou Adamson, Legislative Information System Coordinator, demonstrated three tablet personal computers. Ms. Adamson stressed the importance of e-mail and said that it is a valuable tool for legislative communication. She also asked for legislative input on any needs that they have regarding technology.

Representative Konold suggested eliminating the bill lists and assigning a page to each intern for direction to distribute the bills for each committee.

Representative Michels expressed support for that suggestion.

Stating that the leaders of both houses should discuss paper reduction, **REPRESENTATIVE MICHELS MOVED, SECONDED BY SENATOR BROWN, THAT THE EXECUTIVE BOARD WORK WITH THE PRESIDING OFFICERS OF BOTH HOUSES TO REDUCE THE PRODUCT OF PRINTED BILLS AND JOURNALS AND TO DETERMINE THE PLACEMENT OF EACH. MOTION PREVAILED ON A VOICE VOTE.**

**Report of Investment Council Subcommittee
And
Consideration of Investment Officer's Salary Bonus**

Representative Michels introduced the members of the South Dakota Investment Council in attendance.

Mr. David Anderson, Investment Council Chair, Mr. Steve Myers, State Investment Officer, and Mr. Tom Everist, Investment Council member, discussed the Council's annual report. The transmittal letter; graphs showing the annualized total fund ending June 30, 2003, the management fees per \$1,000, and the growth of wealth accumulation; a chart showing dollar and percentage impact of superior performance; a summary of the PIMCO South Dakota Scholarship Program; a report on the summer 2003 Investment Council Intern Program; and a training guide for the 2003 Intern Program are compiled and labeled Document #30). Mr. Myers briefly reviewed questions on Trust Fund Distribution Amounts (Document #31).

Mr. Anderson reported on the long-term performance of the Investment Council over the three decades since its inception. The Council's performance for the entire thirty years ranks strongly in the top one percent. Mr. Anderson said that future wealth grows an extra \$5.9 billion by keeping management costs low. Council costs are very low—the Council's internal management cost is \$0.83 per \$1,000 of assets. Mr. Anderson stated: "The great performance that we have had is due to teamwork."

Mr. Myers commented that the excellent performance rate of the Investment Council is due to a combination of a good investment plan and of good fortune. He said that conditions were conducive during the three decades to result in excellent investment performance. Mr. Myers cautioned that the Council has underperformed in the past and they will underperform

in the future. He said that expectations should be lowered. Mr. Myers briefly discussed asset allocation and Pacific Investment Management Company (PIMCO) Funds.

Mr. Everist announced that Mr. Myers has given notice that he will retire in January 2005 and explained the succession plan developed by the Investment Council.

Mr. Myers said that the intensive intern program developed by the Investment Council is laying the groundwork for the new foundation for the future of the Investment Council. In addition to academic background, Mr. Myers listed the following among the personal characteristics that the Investment Office looks for in those it hires:

- One hundred percent integrity;
- Hard workers;
- A love of South Dakota and Sioux Falls;
- A willingness to dedicate a long-term career to the Investment Office.

REPRESENTATIVE MICHELS MOVED, SECONDED BY SENATOR GREENFIELD, THAT THE EXECUTIVE BOARD GO INTO EXECUTIVE SESSION TO CONSIDER THE INVESTMENT OFFICER'S SALARY BONUS. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The Board went into executive session at 10:00 a.m. and came out of executive session at 10:27 a.m.

Reporting that the subcommittee is recommending a bonus to Mr. Myers based on the current formula, **REPRESENTATIVE MICHELS MOVED, SECONDED BY SENATOR OLSON, THAT THE EXECUTIVE BOARD APPROVE THE AWARDING OF A BONUS OF \$149,043.66 TO THE STATE INVESTMENT OFFICER FOR THE TWO-YEAR PERIOD ENDING JUNE 30, 2003.**

Investment Officer's Bonus Plan

Section 1. Definitions.

- (1) "performance period" is the two fiscal years prior to the year in which the bonus is to be awarded.
- (2) "incentive maximum" is one-half of the investment officer's salary during the second year of the performance period.
- (3) "Investment Council capital market benchmark" is return of a portfolio mix determined by the South Dakota Investment Council during the performance period.

Section 2. Calculation of the bonus.

- I. multiply the incentive maximum by 0.3, and multiply that product by:

(a) zero if performance during the performance period versus the large plan universe does not reach the 40th percentile;

(b) 0.2 if performance during the performance period versus the large plan universe reaches the 40th percentile;

(c) 0.5 if performance during the performance period versus the large plan universe reaches the 33rd percentile;

(d) 1.0 if performance during the performance period versus the large plan universe reaches the 25th percentile.

II. multiply the incentive maximum by 0.3, and multiply that product by:

(a) zero if performance during the performance period does not exceed the Investment Council capital market benchmark by 0.25%;

(b) 0.2 if performance during the performance period exceeds the Investment Council capital market benchmark by at least 0.25%;

(c) 0.4 if performance during the performance period exceeds the Investment Council capital market benchmark by at least 0.50%;

(d) 0.6 if performance during the performance period exceeds the Investment Council capital market benchmark by at least 0.75%;

(e) 0.8 if performance during the performance period exceeds the Investment Council capital market benchmark by at least 1.00%;

(f) 1.0 if performance during the performance period exceeds the Investment Council capital market benchmark by at least 1.25%.

III. multiply the incentive maximum by 0.4, and multiply that product by the quotient of the aggregate bonus earned by portfolio managers in the South Dakota Investment Council divided by the aggregate potential bonus of portfolio managers in the South Dakota Investment Council for the performance period.

IV. The bonus is the sum of the results of steps I, II, and III.

THE MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The committee recessed at 10:25 a.m. and reconvened at 12:01 p.m.

Membership in Education Commission of the States

Senator Olson reported that the Board of Regents is the only entity paying its portion of the dues for membership in the Education Commission of the States (ECS). In the past, the Legislative Research Council, the Bureau of Administration, and the Board of Regents shared the cost of the dues. Senator Olson said that he supports becoming a dues-paying member of the ECS because it is an excellent resource.

Representative Heineman introduced a letter from Ms. Cholik outlining the valuable service that the ECS provides in researching education issues. She suggested that LRC staff write a letter to the Governor to inform him that it is the intention of the Legislature to rejoin ECS and to have South Dakota become a full-fledged member.

Representative Cradduck expressed her opinion that the Legislature's portion of the fees be paid immediately. She stated that the Legislature currently is using the services without payment and reiterated her opinion that the Legislature's portion of the fees should be paid immediately.

Senator Dennert questioned: "Do we want to do it if the Governor does not commit?"

Representative Heineman said that the Legislature is not required to pay two-thirds of the dues, only one-third.

Representative Cradduck said that the Legislature has identified the ECS as a valuable research tool, so the Legislature should pay its portion of the dues for services that it receives.

REPRESENTATIVE CRADDUCK MOVED, SECONDED BY REPRESENTATIVE KONOLD, THAT THE LEGISLATURE PAY THE 2003 DUES AND CONTINUE, IN THE FUTURE, TO PAY ITS MEMBERSHIP SHARE IN THE EDUCATION COMMISSION OF THE STATES. MOTION PREVAILED ON A VOICE VOTE.

Adjournment

SENATOR OLSON MOVED, SECONDED BY SENATOR DEMPSTER, THAT THE EXECUTIVE BOARD ADJOURN. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The Executive Board adjourned at 12:20 p.m.



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