



MINUTES EXECUTIVE BOARD

**Three hundred eighteenth Meeting
Wednesday
June 2, 2004**

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

Wednesday, June 2, 2004

The three hundred eighteenth meeting of the Legislative Research Council Executive Board was called to order by Chair Representative Orville B. Smidt at 9:20 a.m. (CT), June 2, 2004, in LCR 1 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 Rebekah Craddock, Claire B. Konold, Matthew Michels, Orville B. Smidt, and Ron Williamson. Representatives Phyllis Heineman and Gerald Lange were present following the roll call. Representative Julie Bartling was unable to attend the meeting.

Staff members present included James Fry, Director, and Yolonda J. Soyer, Administrative Assistant.

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.)

(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.)

(NOTE: The following subcommittees met in conjunction with the Executive Board meeting: Budget, Computer Technology, Personnel, and Space Planning.)

Approval of Minutes

SENATOR DENNERT MOVED, SECONDED BY REPRESENTATIVE KONOLD, THAT THE MINUTES OF THE MAY 17, 2004, MEETING BE APPROVED AS PRINTED AND MAILED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Approval of Agenda

SENATOR DEMPSTER MOVED, SECONDED BY REPRESENTATIVE CRADDOCK, THAT THE AGENDA BE APPROVED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The Board observed a moment of silence in honor of Patsy Vitter, wife of Senator Drue J. Vitter. Mrs. Vitter passed away on June 1, 2004.

Director's Report and Correspondence

Legislative Research Council (LRC) Director James Fry explained that there was not an updated financial statement because the information has not changed demonstrably since the May meeting. The budget is in very good shape. He reported that the LRC will be finished with expenditures earlier in the month than normal. Also, some interim study committees will meet before the end of the fiscal year. Mr. Fry stated: "Our finances are in good shape. . . . The unplanned expense is for expert testimony at the redistricting lawsuit." He further stated that the costs of the expert testimony are in excess of \$100,000. Mr. Fry then provided an update on the timeline for the lawsuit. He noted that if the State loses, a decision will need to be made relative to an appeal. Upon a question from Senator Dempster, he explained that the redistricting case is in federal district court, before Judge Karen Schreier. The judge has stated that she fully expects any decision to be appealed. Any appeal would be made to the Eighth Circuit Court of Appeals. South Dakota has a member on this bench, The Honorable Roger L. Wollman. The appeals court is in St. Louis. A three-judge panel would be assigned to hear the case.

Representative Michels elaborated on the substance of an appeal. He also explained that if the State loses, the State may have to pay the legal costs of the American Civil Liberties Union (ACLU).

Addressing previous Board discussion relative to interim studies, the Director reported that the LRC information system is equipped to track interim study bills.

Subcommittee Reports

BUDGET SUBCOMMITTEE: Representative Craddock, Budget Subcommittee Chair, reported that the subcommittee met to review some of the appropriations process pieces. The revenues have outstripped estimates. The subcommittee is striving for a better way for the Legislature to get estimates rather than depending on the Governor's staff for those forecasts. The subcommittee has discussed doing a Request for Proposal (RFP). LRC staff would develop the RFP. The goal would be to develop the Legislature's own advisory revenue projection group. LRC staff and two or three economists would compose the group. The other component is the ability to analyze the dynamics; e.g., repeal of the food tax.

The other issue is the need to make the appropriations information available to all 105 legislators. The subcommittee posed the queries: What is the cost of making this information available? How is this information made available to the full Legislature? There is a need to look at the costs and ways to provide this information. Representative Craddock explained that the subcommittee has discussed an electronic file method.

REPRESENTATIVE MICHELS MOVED, SECONDED BY SENATOR OLSON, THAT THE EXECUTIVE BOARD AUTHORIZE PROCEEDING WITH THE REQUEST FOR PROPOSAL (RFP) FOR THE DEVELOPMENT OF THE LEGISLATURE'S OWN ADVISORY REVENUE PROJECTION GROUP.

Discussion ensued. In response to a question from Representative Williamson, Representative Craddock explained that instate resources would be explored. Representative Williamson asked to whom the revenue projection group would report, noting that the Governor has an economic advisory council that includes economists. Representative Craddock responded that the Executive Board would be the reporting body because the Board would execute the contract. The group would also work with the Appropriations Committees. Mr. Fry interjected that it would not be appropriate to seek out individuals who already serve on the Governor's group.

REPRESENTATIVE MICHELS' MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

SENATOR MC CRACKEN MOVED, SECONDED BY SENATOR OLSON, THAT THE EXECUTIVE BOARD AUTHORIZE LRC STAFF TO DEVELOP COST ESTIMATES AND MODES OF TRANSFERAL FOR THE BUDGETING PROCESS. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

COMPUTER TECHNOLOGY SUBCOMMITTEE: Ms. Lou Adamson, LRC Legislative Information System Coordinator, distributed a document detailing the subcommittee's recommendations relative to moving toward better using technology and at the same time reducing the amount of paper documents required by the Legislature (**Document #1**). She reported that certain LRC staff members had met with the Legislative Page Adviser, Rena Ortbahn, to discuss potential responsibilities for pages if certain other responsibilities (involving document distribution) were eliminated. The subcommittee reviewed Ms. Ortbahn's recommendations. Reducing the number of pages was an option offered in response to the declining work load. Ms. Adamson stated that the subcommittee recommends that legislators "opt in" to receive paper copies of documents.

Representative Williamson suggested providing paper copies of the Senate and House calendars to members of each body. Senator Dempster stated that he did not necessarily favor the idea of reducing the number of pages. He suggested that it might be better to devise other ways to keep pages busy and productive. Perhaps pages could start performing tasks that they have not done in the past. Senator Brown asked that Executive Board members strive to identify tasks that could be performed by the legislative pages. Senator Dennert stated that he favored the concept of assigning pages to specific legislators. He commented: "Any time you can individualize, the page likes it better."

Representative Heineman, Subcommittee Chair, explained that the subcommittee is attempting to identify those documents that are necessary and then encourage legislators, whenever possible, to use their computers to access information.

Representative Michels noted that the *Session Laws* and the *South Dakota Legislative Index* are examples of printed documents that could be eliminated because this information is available on the Internet. He also noted that not as many legislators are sponsoring pages. Representative Michels also suggested that the LRC *Update* be transmitted electronically to legislators. Legislators could "opt in" for a paper copy of this document.

Senator Koetzle stressed that greater use of technology and elimination of paper is an ongoing process; the subcommittee is open to suggestions. Ms. Adamson stressed that she does not want pages to use legislators' computers due to security concerns.

Chair Smidt requested that the Computer Technology Subcommittee meet in conjunction with the August 2 Executive Board meeting and that the agenda include a report from that subcommittee's meeting.

SPACE PLANNING SUBCOMMITTEE: Senator Olson, Subcommittee Chair, reported that the group is moving along with the directives issued at the last meeting. Mr. Fry explained that there is agreement as to the Legislature's desire to acquire additional space on the fourth floor of the Capitol. The plan is to develop a room that is accessible—both physically and electronically—to larger groups of people. Mr. Fry referred to such a facility as a "Twenty-First Century conference room." The Legislature would like to acquire the space on the Capitol's fourth floor currently occupied by the Bureau of Personnel.

Senator Olson echoed Mr. Fry's reference to the Capitol as the "people's house."

Interim Studies

BUREAU OF INFORMATION AND TELECOMMUNICATIONS AGENCY REVIEW COMMITTEE

Mr. Aaron Olson, LRC Fiscal Analyst, distributed copies of a letter from the Joint Appropriations Committee co-chairs to the LRC Executive Board Chair (**Document #2**). The letter requests that specific direction be given to the interim committee charged with a review of the Bureau of Information and Telecommunications.

SENATOR DENNERT MOVED, SECONDED BY SENATOR DEMPSTER, THAT THE EXECUTIVE BOARD DIRECT THE INTERIM BUREAU OF INFORMATION AND TELECOMMUNICATIONS REVIEW COMMITTEE TO UNDERTAKE AN ANALYSIS OF THE DIGITIZATION OF SOUTH DAKOTA PUBLIC BROADCASTING. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

PUBLIC UNIVERSITY EDUCATION CURRICULA STUDY COMMITTEE

The Executive Board appointed Representative Alice McCoy to this interim committee.

Drought Update

Mr. Emmett Keyser, an Assistant Director of the Division of Wildlife, Department of Game, Fish and Parks (GFP), distributed a map showing Lake Oahe water levels (January 2001-December 2004) (**Document #3**). He stated that there is also information posted at the GFP Web site. This information is updated weekly. Mr. Keyser next presented information on the Drought Task Force, explaining the various departments and agencies that participate in this group. He added that the department is putting together a Web site which should be operational very soon.

Document #4 includes information on radar estimated rainfall. This document also includes a drought monitor, information on normal percent of precipitation, and a departure from "normals" map. **Document #5** contains information on feed and water supplies, soil moisture condition comparison, crop and livestock conditions, crop progress, and temperature, precipitation, and growing degree days.

The Executive Board recessed at 10:15 a.m. and reconvened at 10:35 a.m.

South Dakota Investment Council Report

Mr. David Anderson, Chair of the South Dakota Investment Council, introduced council members Roy Burr, Tom Everist, Larry Ness, and Rob Wylie. Mr. Anderson then provided an update on the Investment Council's performance. He stated that the return (with one week to go because the end of the year is June 30) is 14.6%. Corporate pension funds returned approximately 15%. The indexed returns of the capital market benchmark were 13.9%. He observed that the performance was ahead of the internal benchmark. He explained that some of the funds, such as the Cement Trust Fund, are handled differently and are garnering a 5.1%-5.7% rate of return. Upon a query from Representative Williamson, **State Investment Officer Stephen Myers** stated that the long-term assumption is 8%. He further explained that they never have a year-by-year assumption because the markets are so volatile.

Mr. Roy Burr, Vice Chair of the South Dakota Investment Council, presented the report on the PIMCO South Dakota Scholarship Program. He distributed supporting material (**Document #6**). He stated that there are \$250 million in investment dollars. The money is coming in from all around the country. Mr. Burr explained the PIMCO scholarship program, noting that seventy (70) \$8,000 scholarships are awarded. These scholarships are paid out in \$2,000 increments over four years. In addition, there

are \$1,500 one-time scholarship awards. Mr. Burr noted that the average GPA for recipients of the \$8,000 scholarships is 3.95; the average ACT score is 31. He commented: "We're getting the 'cream of the crop.'"

PIMCO has guaranteed three years of scholarship funding; there are funds in place for next year. After next year, the council anticipates that the assets will spin off enough money to keep these scholarships funded. Mr. Burr read from letters from some of the scholarship recipients.

In response to a question from Representative Heineman, Mr. Burr stated that the scholarship program is in its third year. Upon further inquiry from Representative Heineman, he explained the asset spin off that will be used to maintain the scholarships. Mr. Myers noted that there were 308 highly qualified applicants, but only 70 scholarships could be awarded. He explained that the cutoff for the ACT score is 27; there are many good students who have an ACT of 26, for example.

Mr. Myers reported that PIMCO, like other companies, has found itself in a tough situation. It has been involved in a couple of lawsuits in the last six months. There is a settlement in the New Jersey lawsuit. There is also another matter involving the Securities and Exchange Commission (SEC), and this matter is separate from the New Jersey matter and does not involve PIMCO. Mr. Myers explained that his advice to the council was to wait for due process to occur; then make sure that there is full compensation if it is warranted.

Mr. Anderson reported that there is a major change occurring in the organization of the investment office. Mr. Myers addressed the topic of global equity. Two years ago the Executive Board authorized the Investment Council to add six members to its staff. As of July 1, the domestic process will be combined into one pool with the international side to create a global equity approach. Twelve people will be working on these 1,200 stocks. "I believe we have made the right move managerially within the office," Mr. Myers stated. He also explained a recent study which supported this strategy.

Mr. Tom Everist, a member of the South Dakota Investment Council, reported that the council is executing the plan that the Executive Board approved eight years ago for the succession of the State Investment Officer. Mr. Myers will retire on January 5, 2005. The Investment Council has secured the services of a national search group. There is a search team in place. Mr. Everist reported that the council also used a large display ad to advertise the position. "We are on track; we are moving along; and we're executing the plan that you approved." There are currently four viable candidates for the position, including a current council employee. Interviews will be conducted the middle of July, with an announcement by the third week of July. This will allow for a six-month overlap/transition.

Mr. Myers has agreed to serve as an ongoing consultant. The new Investment Officer will be included in the decision about how Mr. Myers' services will be used.

REPRESENTATIVE MICHELS MOVED, SECONDED BY SENATOR OLSON, THAT THE EXECUTIVE BOARD GO INTO EXECUTIVE SESSION FOR THE PURPOSE OF DISCUSSING THE PERSONNEL REPORTS OF THE STATE INVESTMENT OFFICER, THE DEPARTMENT OF LEGISLATIVE AUDIT, AND THE LEGISLATIVE RESEARCH COUNCIL; AND TO INTERVIEW APPLICANTS FOR APPOINTMENT TO THE SOUTH DAKOTA INVESTMENT COUNCIL. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The executive session commenced at 11:15 a.m. The Board recessed at 12:00 noon for lunch and a tour of the Department of Education. The executive session resumed at 1:15 p.m.

SENATOR OLSON MOVED, SECONDED BY SENATOR BROWN, THAT THE EXECUTIVE SESSION CONCLUDE. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The executive session concluded at 3:35 p.m. The Executive Board recessed briefly before resuming its agenda.

LEGISLATIVE APPOINTMENTS

South Dakota Investment Council Appointment

SENATOR DENNERT MOVED, SECONDED BY SENATOR BROWN, THAT CURTIS J. JOHNSON, PIERRE, SOUTH DAKOTA, BE APPOINTED TO A FIVE-YEAR TERM ON THE SOUTH DAKOTA INVESTMENT COUNCIL, SAID TERM TO COMMENCE JULY 1, 2004, AND EXPIRE ON JUNE 30, 2009. MOTION PREVAILED ON A ROLL CALL VOTE WITH 8 AYES AND 7 EXCUSED. Voting **AYE:** Brown, Dempster, Dennert, Koetzle, Heineman, Lange, Williamson, and Smidt. **EXCUSED:** Greenfield, McCracken, Olson, Bartling, Craddock, Konold, and Michels.

Chair Smidt congratulated Mr. Johnson on his appointment to the South Dakota Investment Council. Mr. Johnson spoke briefly.

Uniform Laws Commission

The Director noted that both Mr. Richard Gregerson and Mr. Gene Lebrun were interested in being reappointed to the Uniform Laws Commission. He also reported that Mr. Lebrun had been awarded the McKusick Award from the University of South Dakota Law School for his outstanding contributions as a lawyer. Mr. Fry stated that this is a most prestigious honor.

SENATOR BROWN MOVED, SECONDED BY SENATOR DEMPSTER, THAT MR. RICHARD O. GREGERSON, SIOUX FALLS, SOUTH DAKOTA, AND MR. GENE LEBRUN, RAPID CITY, SOUTH DAKOTA, BE REAPPOINTED TO THREE-YEAR TERMS ON THE UNIFORM LAWS COMMISSION, SAID TERMS TO COMMENCE AUGUST 1, 2004, AND EXPIRE ON JULY 31, 2007. MOTION PREVAILED ON A ROLL CALL VOTE WITH 9 AYES AND 6 EXCUSED. Voting **AYE:** Brown, Dempster, Dennert, Koetzle, Heineman, Lange, Michels, Williamson, and Smidt. **EXCUSED:** Greenfield, McCracken, Olson, Bartling, Craddock, and Konold.

ACTION ON PERSONNEL REPORTS

State Investment Office Personnel Report

REPRESENTATIVE MICHELS MOVED, SECONDED BY SENATOR DENNERT, THAT THE EXECUTIVE BOARD APPROVE A SALARY INCREASE OF 3% FOR THE STATE INVESTMENT OFFICER FOR FISCAL YEAR 2005. MOTION PREVAILED ON A ROLL CALL VOTE WITH 9 AYES AND 6 EXCUSED. Voting **AYE:** Brown, Dempster, Dennert, Koetzle, Heineman, Lange, Michels, Williamson, and Smidt. **EXCUSED:** Greenfield, McCracken, Olson, Bartling, Craddock, and Konold.

Department of Legislative Audit Personnel Report

SENATOR BROWN MOVED, SECONDED BY SENATOR DEMPSTER, THAT THE EXECUTIVE BOARD ACCEPT THE FY 2005 SALARY RECOMMENDATIONS FOR THE DEPARTMENT OF LEGISLATIVE AUDIT. MOTION PREVAILED ON A ROLL CALL VOTE WITH 10 AYES AND 5 EXCUSED. Voting **AYE:** Brown, Dempster, Dennert, Koetzle, McCracken, Heineman, Lange, Michels, Williamson, and Smidt. **EXCUSED:** Greenfield, Olson, Bartling, Craddock, and Konold.

Legislative Research Council Personnel Report

SENATOR KOETZLE MOVED, SECONDED BY SENATOR DEMPSTER, THAT THE EXECUTIVE BOARD ACCEPT THE FY 2005 SALARY RECOMMENDATIONS FOR THE LEGISLATIVE RESEARCH COUNCIL. MOTION PREVAILED ON A ROLL CALL VOTE WITH 10 AYES AND 5 EXCUSED. Voting **AYE:** Brown, Dempster, Dennert, Koetzle, McCracken, Heineman, Lange, Michels, Williamson, and Smidt. **EXCUSED:** Greenfield, Olson, Bartling, Craddock, and Konold.

Next Meeting Date

The Board is scheduled to meet on Monday, August 2.

SENATOR MC CRACKEN MOVED, SECONDED BY SENATOR KOETZLE, THAT THE EXECUTIVE BOARD ADJOURN. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The Executive Board adjourned at 4:05 p.m.



All Legislative Research Council committee minutes and agendas are available at the South Dakota Legislature's home page: <http://legis.state.sd.us>. Subscribe to receive electronic notification of meeting schedules and the availability of agendas and minutes at **My LRC** (<http://legis.state.sd.us/mylrc/index.cfm>).