



MINUTES

Executive Board

**Third Meeting
2010 Interim
August 23, 2010**

**Room 413
State Capitol
Pierre, South Dakota**

The third 2010 interim meeting of the Legislative Research Council Executive Board was called to order by Chair Senator Jean Hunhoff at 10:00 a.m. (CT), August 23, 2010, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Gene G. Abdallah, Dan P. Ahlers, Jean M. Hunhoff (Chair), Gary Hanson, Kathy Miles, and Craig Tieszen; and Representatives Quinten L. Burg (Ranking Minority Member), Justin Cronin, Larry Lucas, J.E. "Jim" Putnam, Tim Rave, Larry Tidemann, and Charles M. Turbiville. Representative Shantel Krebs (Vice Chair) and Senator Bob Gray were excused.

Staff members present included James Fry, LRC Director; and Teri Retrum, Administrative Assistant.

(Note): For the purpose of continuity, these minutes are not necessarily in chronological order. Also, all material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.state.sd.us> under "Interim Information – Minutes and Agendas."

(Note): On Monday, August 23, 2010, the Investment Council Subcommittee met at 7:30 a.m.; the Budget Subcommittee met at 8:30 a.m.; the Computer Technology, Legislative Interns, and Personnel Subcommittees met at 9:20 a.m.

Approval of Minutes

REPRESENTATIVE TURBIVILLE MOVED, SECONDED BY REPRESENTATIVE RAVE, THAT THE MINUTES OF THE JUNE 7, 2010, MEETING BE APPROVED. The motion prevailed unanimously on a voice vote.

Approval of Agenda

There being no changes to the agenda, **Chair Jean Hunhoff** declared the agenda approved.

Report of the Investment Council Subcommittee

Mr. Haven Stuck, Chair of the South Dakota Investment Council (SDIC), introduced the following Council members who were present at the meeting: Mr. Joseph A. Anglin (Vice Chair), Spearfish; Mr. Hugh M. Bartels, Watertown; Mr. Jon Hunter, Madison; Mr. Wesley G. Tschetter, Brookings; and Mr. Rob Wiley, Executive Director/Administrator for the South Dakota Retirement System (SDRS), Pierre.

Mr. Stuck and **Mr. Matt Clark**, SDIC Investment Officer, reviewed the Investment Council's report to the Executive Board (**Document #1**). The report begins with the organizational chart of the Council and includes the following graphs and charts:

- Assets Managed for Fiscal Years 1973 to 2010;
- Dollar and Percentage Impact of Investment Performance—Total SDRS dollars earned in Fiscal Year 2010 were \$1.050 billion; total dollars earned in the last six years were \$1.851 billion; total dollars earned in the last ten years were \$2,475 billion. The South Dakota Retirement System's beginning FY 2010 assets were \$5.640 billion, and the SDRS ending June 30, 2010, assets were \$6.488 billion;
- Graph denoting annualized total fund;
- Comparison graph showing benchmarks of the Investment Office performance against the private capital markets;
- Graph showing potential excess earnings historic versus average returns;
- Chart showing realistic expectations for the future;
- Graph depicting management fees per \$1,000 for assets managed—one of the reasons for the successes of the Investment Council is due to keeping expenses low;
- Graph depicting cost effectiveness ranking;
- Graph showing wealth accumulation;
- Investment Council FY2010 budget summary;
- Investment Council Long-Term Plan (Executive Summary);
- Fiscal Year 2012 Budget Request—Version A request includes increases for long-term plan; Version B includes the promotional increases for younger and intermediate investment positions—assumes zero percent state salary policy and no increases at all for senior investment and administrative positions.

The remainder of the report was a summary of trust fund value and asset allocation and a narrative outlining the FY 2010 Performance Compensation and Return-Linked Incentive Methodology Review (**Document #2**) and Amendment L Talking Points (**Document #3**). Amendment L increases the probability of protecting the long-term viability of the cement plant trust fund by preserving the principal value and purchasing power. A chart showing the FY 2010 investment performance impact on SDRS member accounts and impact of State Investment Officer incentive compensation was also distributed (**Document #4**).

Mr. Clark introduced the following SDIC investment officers who were in attendance at the meeting: Mr. Brett Fligge, Mr. Chris Nelson, and Ms. Tammy Otten; and Ms. Laurie Riss, Business Manager.

In conclusion, Mr. Clark said that the Investment performance for SDRS was up 18.73% and substantially beat the capital market benchmark by 7.6%, which was its best year ever and

earned over one billion dollars. Mr. Clark attributed the success that the Investment Council experienced this year to the Council's ability to stick to its goals and strategies and to the support and patience of the Legislature, Governor's Office, and other entities to stick to the long-term values that the council has outlined, especially during the most difficult period that it has ever experienced.

REPRESENTATIVE TIDEMANN MOVED, SECONDED BY SENATOR AHLERS, THAT THE EXECUTIVE BOARD APPROVE THE BUDGET, AS PRESENTED BY THE SOUTH DAKOTA INVESTMENT COUNCIL, TO GO FORTH TO THE APPROPRIATIONS COMMITTEE DURING THE 2011 LEGISLATIVE SESSION. The motion prevailed on a roll call vote with 12 voting AYE and 3 EXCUSED. Those voting AYE: Abdallah, Ahlers, Hanson, Miles, Tieszen, Burg, Cronin, Lucas, Putnam, Rave, Tidemann, Hunhoff. Those EXCUSED: Gray, Krebs, Turbiville.

State Investment Officer's Incentive

REPRESENTATIVE TIDEMANN MOVED, SECONDED BY SENATOR AHLERS, THAT THE EXECUTIVE BOARD GO INTO EXECUTIVE SESSION FOR THE PURPOSE OF DISCUSSING AND SETTING THE STATE INVESTMENT OFFICER'S INCENTIVE FOR FY 2010. The motion prevailed on a voice vote.

The executive session commenced at 11:40 a.m.

The executive session concluded at 11:55 a.m.

REPRESENTATIVE TIDEMANN MOVED, SECONDED BY REPRESENTATIVE RAVE, THAT THE STATE INVESTMENT OFFICER'S INCENTIVE BONUS BE SET AT \$239,074.96 FOR FY 2010. The motion prevailed on a roll call vote with 13 voting AYE and 2 EXCUSED. Those voting AYE: Abdallah, Ahlers, Hanson, Miles, Tieszen, Burg, Cronin, Lucas, Putnam, Rave, Tidemann, Turbiville, Hunhoff. Those EXCUSED: Gray, Krebs.

Report of the South Dakota Retirement System

Mr. Rob Wiley, Executive Director/Administrator for the South Dakota Retirement System (SDRS), distributed a copy of "South Dakota Retirement System Preliminary FY 2010 Funded Status Overview" (**Document #5**).

The report included:

- (1) A chart showing SDRS funding policy
 - Funding objectives
 - Establishment of Reserve
 - Policy regarding consideration of benefit improvements
 - Statutory conditions that would require corrective action (SDCL 3-12-122);
- (2) A chart indicating funded status comparisons;
- (3) A chart outlining projected funded status as of June 30, 2010;
- (4) A chart showing projected required investment return (includes 2010 corrective action); and
- (5) A graph showing funded status projection.

In conclusion, Mr. Wylie remarked that the SDRS' investment experience was very favorable for FY 2010 and that SDRS funded status compares very favorably with similar systems; however, the system must improve substantially to return to prior funding levels. Mr. Wylie stated that legislation put forth by the SDRS Board of Trustees and outstanding investment performance in 2010 have returned SDRS to actuarial balance and moved the plan closer to meeting the long-term funding goals of the Board of Trustees. Also, Mr. Wylie said that without the corrective action legislation in 2010, SDRS would not currently meet all of the thresholds defined in SDCL 3-12-122.

Report of the Budget Subcommittee

Legislative Research Council FY 2011 Budget Request

Representative J.E. "Jim" Putnam, Chair of the Budget Subcommittee, addressed the subcommittee's plan regarding the LRC budget regarding Modified Plan C (**Document #6**). Representative Putnam said that the subcommittee recommended that the Executive Board adopt Modified Budget Plan C.

Mr. Fry noted that the amount of dues paid to the National Conference of State Legislatures (NCSL), Council of State Governments (CSG), Education Commission of the States (ECS), and Uniform Laws Commission (ULC) will be reduced by 50%. These dues currently are paid in full up through June 2011. Mr. Fry said that the underlying goal has been to prepare a budget that will do the least long-term harm to the Legislature. Modified Budget Plan C proposes a total reduction of \$185,803.

Representative Putnam said that the Legislature will be able to put forth to the public that it is doing its part regarding budgetary concerns. He stated that, hopefully, the other branches of government also will proceed in a manner of constraint.

Representative Tim Rave spoke in support of the Modified Budget Plan C. He said that the plan is a good start.

Representative Larry Lucas asked about the Legislator insurance premium.

Mr. Fry said that it will remove the insurance paid for legislators in the event of accidental death while a member of the Legislature.

Representative Lucas said that this reduction needs to be made clear to current legislators and future legislators since it might be a determining factor on whether a person decides to run for the Legislature.

Senator Gene Abdallah agreed with Representative Lucas's concern. Senator Abdallah said that Legislators travel to all types of meetings throughout their districts. He stated that to disallow insurance in the event of unforeseen circumstances seems to be wrong and that he is not in favor of cutting this insurance from the budget.

Representative Quinten Burg said that to cut back on meetings and other things limits the capability of the legislative body to do its job as a third branch of government.

Senator Craig Tieszen said that he generally agrees with Representative Burg's comments. Senator Tieszen expressed concern that there could be a time when the Legislature's ability to function appropriately as a third branch of government could be limited.

Chair Hunhoff asked Representative Putnam if there is the possibility of changing the amounts.

Representative Putnam said that they absolutely can be changed. He said that he would hope that things could change as the budget goes through the Appropriations process. Representative Putnam recommended that the Board reach common ground concerning Modified Budget Proposal Plan C, with the caveat that it may be tweaked later.

REPRESENTATIVE PUTNAM MOVED, SECONDED BY REPRESENTATIVE RAVE, THAT THE EXECUTIVE BOARD APPROVE THE MODIFIED BUDGET PLAN C, AS PRESENTED BY THE BUDGET SUBCOMMITTEE, TO GO FORTH TO THE APPROPRIATIONS COMMITTEE DURING THE 2011 LEGISLATIVE SESSION.

SENATOR ABDALLAH MADE A SUBSTITUTE MOTION, SECONDED BY REPRESENTATIVE LUCAS, THAT THE EXECUTIVE BOARD APPROVE THE MODIFIED BUDGET PLAN C, WITH THE LEGISLATOR INSURANCE PREMIUM REINSTATED. The substitute motion prevailed on a roll call vote with 12 voting AYE, 1 voting NAY, and 2 EXCUSED. Those voting AYE: Abdallah, Ahlers, Gray, Miles, Burg, Cronin, Lucas, Putnam, Rave, Tidemann, Turbiville, Hunhoff. Those voting NAY: Tieszen. Those EXCUSED: Gray, Krebs.

Department of Legislative Audit FY 2012 Budget Request

Mr. Martin Guindon, Auditor General, Department of Legislative Audit, distributed copies of the FY 2012 Budget Request for the Department of Legislative Audit (**Document #7**).

Mr. Guindon said that the Department of Legislative Audit made an honest attempt to reduce its impact to the general fund by 10 percent. He said that this is not the budget he would have preferred; however, Mr. Guindon said that the proposal will produce the desired 10 percent reduction without laying off any of the excellent Department of Legislative Audit's employees who are currently serving the Legislature.

Representative Putnam said that the Legislature is working to limit the budgets of its agencies and expressed support for Mr. Guindon's budget proposal.

Senator Abdallah agreed with Representative Putnam's remarks.

SENATOR ABDALLAH MOVED, SECONDED BY SENATOR AHLERS, THAT THE EXECUTIVE BOARD APPROVE THE DEPARTMENT OF LEGISLATIVE AUDIT'S BUDGET REQUEST, AS PRESENTED BY THE AUDITOR GENERAL, TO GO FORTH TO THE APPROPRIATIONS COMMITTEE DURING THE 2011 LEGISLATIVE SESSION. The motion prevailed on a roll call vote with 13 voting AYE and 2 EXCUSED. Those voting AYE: Abdallah, Ahlers, Hanson, Miles, Tieszen, Burg, Cronin, Lucas, Putnam, Rave, Tidemann, Turbiville, Hunhoff. Those EXCUSED: Gray, Krebs.

Report on the Federal Medical Assistance Percentage (FMAP)

Mr. Jason Dilges, Commissioner, Bureau of Finance and Management, reviewed FMAP funding. Mr. Dilges said that South Dakota has applied for one-time federal funding for Medicaid and education, which, if approved, will allow South Dakota to receive a total of approximately \$47.2 million dollars—about \$20.9 million to help pay Medicaid costs, and about \$26.3 million to be used in the state aid formula. Mr. Dilges said that South Dakota has to make some changes so that it can receive the money; however, the federal government is willing to wait for states to make those changes.

Responding to Representative Putnam regarding a tracking system, Mr. Dilges said that a tracking system showing information on how the money is being spent will be available.

Representative Lucas said that he wants the information available so that the public can access the information on how the money is being spent.

Mr. Dilges said that due diligence is being exercised to meet the requirements of the edicts outlined in the federal law.

Senator Dan Ahlers asked if LRC staff has a copy of all four of the requirements. Mr. Dilges said that the requirements are outlined in the bill, which is easy to download.

Representative Burg said that one of the criteria is not to grow budget reserves. He questioned how the money would grow and where is this money—in the cash flow account that would not get used? Mr. Dilges said that the revenue will go into the general fund, which will qualify South Dakota to meet the maintenance of effort requirement.

Representative Burg questioned whether it really would be helping the schools and asked how South Dakota will grow the economy if that money is not put out there to schools.

Mr. Dilges said that 100 percent of the education money will be spent on K-12 education—the question is when.

Representative Larry Tidemann said that he spoke to one of his district's local superintendents and that that educator expressed support for getting this money. Representative Tidemann said that the educator told him that to hire a teacher and then have to let that teacher go is an undesirable circumstance. Representative Tidemann said that the educator understood the concept of the plan.

The Executive Board recessed at 1:15 p.m. and reconvened at 2:15 p.m.

Representative Rave assumed the Chair.

Addition to the Minutes of the June 7, 2010, Executive Board Meeting

Stating that there is an addition to be made to the minutes of the June 7, 2010, Board meeting, **REPRESENTATIVE PUTNAM MOVED, SECONDED BY REPRESENTATIVE TIDEMANN, THAT THE JUNE 7, 2010, MINUTES OF THE EXECUTIVE BOARD BE CORRECTED TO REFLECT A MOTION BY THE BOARD TO FORWARD TO THE**

APPROPRIATIONS COMMITTEE THE ISSUE OF POSSIBLE PAYMENT OF DUES TO MHEC FROM LRC GENERAL FUND REVERSIONS. The motion prevailed on a voice vote.

Subcommittee Reports (Continued)

Computer Technology Subcommittee

At the direction of **Representative Justin Cronin**, Chair of the Subcommittee, **Ms. Lou Adamson**, Legislative Information System Coordinator, distributed copies of options the subcommittee considered for providing computers to legislators (**Document #8**). Ms. Adamson said that the Legislature can buy or lease the computers it is currently using. She commented that the Dell computers ended up being too high-priced. Ms. Adamson said the subcommittee concluded that the best option would be to purchase the current HP EliteBook 2730p Tablets, to which a two-year \$15,120 maintenance contract must be added.

Responding to Representative Rave, Ms. Adamson said that the maintenance contract agreement does not include batteries.

Senator Ahlers asked if the money is available to purchase the batteries. Ms. Adamson responded affirmatively.

REPRESENTATIVE TURBIVILLE MOVED, SECONDED BY REPRESENTATIVE TIDEMANN, THAT THE EXECUTIVE BOARD APPROVE THE RECOMMENDATION BY THE COMPUTER TECHNOLOGY SUBCOMMITTEE TO PURCHASE THE CURRENT HP ELITEBOOK 2730p TABLETS AND A TWO-YEAR \$15,200 MAINTENANCE CONTRACT. The motion prevailed on a roll call vote with 12 voting AYE and 3 EXCUSED. Those voting AYE: Abdallah, Ahlers, Hanson, Miles, Tieszen, Burg, Cronin, Lucas, Putnam, Rave, Tidemann, Turbiville. Those EXCUSED: Gray, Krebs, Hunhoff.

Legislative Interns subcommittee

As Chair of the Subcommittee, **Senator Craig Tieszen** said that LRC staff will be contacting the schools this week regarding internships. Senator Tieszen stated that October 15 is the deadline for applications. He said that interviews are conducted electronically. Senator Tieszen said that the legislative leaders should have the staff's intern recommendations shortly after the November election and the election of legislative leadership.

Representative Rave asked that new leadership be informed of the recommendations as soon as possible.

Personnel Subcommittee

At this time, Representative Tidemann, Chair of the Subcommittee, said that the new member orientation is designed to conduct the orientation separate from the Governor's Budget Address and other presentations. He said the plan puts together an agenda to really help new legislators become more informed on the legislative process.

Mr. Fry noted that the Governor's Budget Address is scheduled for December 7, 2010.

After brief discussion, the Board agreed that the new member orientation would be held on a day during the week of December 13 to December 17.

Representative Tidemann commented that the outline of the responsibilities of LRC staff was received very favorably. He requested Director Fry to conduct yearly staff performance appraisals, with the assistance of Mr. Reuben Bezpaletz, Chief of Research and Legal Services, and Mr. Fred Schoenfeld, Chief of Fiscal Services and Budget Analysis.

Representative Lucas asked that a link be added to the website to allow the public and other governmental agencies to access the information.

REPRESENTATIVE PUTNAM MOVED, SECONDED BY REPRESENTATIVE TIDEMANN, THAT STAFF BE DIRECTED TO ADD A LINK TO THE WEBSITE TO ALLOW THE PUBLIC AND OTHER GOVERNMENTAL AGENCIES TO ACCESS THE INFORMATION REGARDING THE RESPONSIBILITIES OF STAFF. The motion prevailed on a voice vote.

REPRESENTATIVE TIDEMANN MOVED, SECONDED BY SENATOR AHLERS, THAT THE EXECUTIVE BOARD ACCEPT THE REPORT OF THE PERSONNEL SUBCOMMITTEE. The motion prevailed on a voice vote.

At the direction of Representative Rave, Mr. Fry explained the purpose of the Uniform Laws Commission. He said that the ULC was established to draft laws relevant to all states. The advantage of appointing members to the ULC is that South Dakota has a voice in the process of developing those uniform laws. Mr. Fry commented that the Board has chosen to make its appointments to the ULC at its November 15 meeting.

Also, the Board will make its appointments to MHEC at the Board's November meeting.

Update on Federal High Risk Pool and Health Care Reform

Ms. Kathi Mueller, Governor's Office, provided an update on the federal high risk pool and talked about South Dakota's work on health care reform. Ms. Mueller said that the objective is to work with the federal government to make sure that South Dakota gets what it needs. She said that the administration has set a goal to get this up and running as soon as possible and to lay out as much as possible for the new incoming administration. Ms. Mueller said that the Health Care Commission still is a good resource for health care reform.

Mr. Larry Kucker, Bureau of Personnel, distributed copies of a brochure titled "Federal High Risk Pool (**Document #9**).

Responding to questions posed by Representative Burg, Mr. Kucker said that currently, the program has 24 members but has the capability to cover between 300-307 people. Mr. Kucker said that they have been hearing from individuals that they are unable to come into the program because the cost of premiums is too high.

Representative Burg stated that legislators will want more information down the road.

Mr. Randy Moses, Department of Revenue and Regulation, spoke regarding short-term insurance changes. Mr. Moses briefly discussed some of the requirements. He said that now an insured has direct access to certain doctors and that an insurance company is required to provide preventative benefits. Also, preexisting conditions are to be covered for a child less than 19 years of age, and dependents up to the age of 26 can be kept on the plan of the parent(s).

Representative Rave announced that November 15, 2010, is the Board's next meeting.

Adjournment

SENATOR ABDALLAH MOVED, SECONDED BY REPRESENTATIVE LUCAS, THAT THE EXECUTIVE BOARD ADJOURN. The motion prevailed on a voice vote.

The Executive Board adjourned at 3:15 p.m.

