



MINUTES

Executive Board

Seventh Meeting
2012 Interim
November 16, 2012

Room 413
State Capitol
Pierre, South Dakota

The seventh 2012 interim meeting of the Legislative Research Council Executive Board was called to order by Chair Charles M. Turbiville at 9:20 a.m. (CT), November 16, 2012, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Jim Hundstad, Ryan Maher, Tom R. Nelson, Larry Tidemann, and Craig Tieszen; and Representatives Kristin A. Conzet, Marc Feinstein, Larry Lucas (Ranking Minority Member), Val Rausch, Charles M. Turbiville (Chair), and Mark Venner. Senators Joni Cutler (Vice Chair) and Bob Gray; and Representatives Gene Abdallah and Lance Carson were excused.

Staff members present included Jim 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): The Legislative Interns Subcommittee met at 8:30 a.m. in the LRC Conference Room.

Approval of Minutes

SENATOR NELSON MOVED, SECONDED BY REPRESENTATIVE CONZET, THAT THE MINUTES OF THE AUGUST 20, 2012, MEETING BE APPROVED. The motion prevailed on a voice vote.

Approval of Agenda

REPRESENTATIVE RAUSCH MOVED, SECONDED BY SENATOR NELSON, THAT THE AGENDA BE APPROVED. The motion prevailed on a voice vote.

Legislative Research Council Director's Report

LRC Director, **James Fry**, presented his report. Included in the report is a Legislative Travel Report (**Document #1**). Mr. Fry said that very little money was spent on out-of-state travel; hopefully, more legislators will be able to attend national meetings at which valuable information is learned and discussion is conducted among many state legislators.

Mr. Fry said that New Member Orientation will be conducted on December 17 and 18, 2012. Mr. Fry noted that there are a few newly-elected members who have served in the past. The orientation was moved away from the Governor's Budget Address to allow for more focus on the orientation.

Responding to **Senator Ryan Maher**, Mr. Fry said that there are thirty-three new legislators.

Also included in the director's report were copies of the only bid submitted to take legislative photographs for the 2013 Legislative Session (**Document #2**). Therefore, Mr. Fry said that Mr. Edgar Matuska, Samuel's Studio, Rapid City, again will take the photographs.

Responding to a question from **Senator Larry Tidemann**, Mr. Fry said that Legislative Conference Rooms 1 and 2 should be ready for committee work by December 16. The audio system has been removed during renovation; hopefully, the audio system will run smoothly when it is back in place. He said that some cosmetic improvements have been made. Also, infrastructure has been added to accommodate possible technological improvements in the future.

Report on Legislative Planning Committee

Representative Scott Munsterman, LPC Chair, distributed an outline of the Legislative Planning Committee Planning Process—Preparing for the future development and well-being of South Dakota (**Document #3**). Representative Munsterman also distributed copies of the agendas for the planning committee's work during the 2012 interim (**Document #4**).

After directives from the Executive Board, Representative Munsterman said that the committee identified and defined the following areas of focus:

- Workforce development;
- Education;
- Government services; and
- Government organization.

Representative Munsterman said that the committee will establish benchmarks and performance measures for the areas of focus and hope to have a draft white paper by the spring. Moving into fall, the committee hopes to have a policy brief in draft form. The goal is to have the first policy brief, which will be on work force development, ready to present to the 2014 Legislature.

Board members commended Representative Munsterman and the committee for its work on the Legislative Planning Committee

Discussion then centered on how to select new members to replace those not returning to the committee. Chair Turbiville asked Board members for input on how to proceed, whether individuals should continue to serve on the committee regardless of whether they have termed out, or whether the Executive Board can select new members, or other means.

Representative Val Rausch said that the statute is unclear on the definition of the makeup of the committee.

Senator Jim Hundstad said that, most likely, the Legislature did not intend to have ex-legislators serving on this committee a year later. Senator Hundstad suggested that the Board draft a new piece of legislation or an amendment to current statute to remedy the situation.

Senator Tidemann said that he agreed with Representative Rausch and that this is a transition problem. He said that the President Pro Tem and the Speaker should be on the committee. If a person is no longer a member of the Legislature, Senator Tidemann questioned whether that person should be a member of the committee.

Representative Munsterman said that if a member of the committee is no longer a legislator, that member could resign and a new member appointed.

Because Representative David Lust sponsored the legislation regarding the creation of the Legislative Planning Committee, Representative Rausch suggested that Representative Munsterman and Representative Lust work together on any language to address the problem.

Board members concurred, and Chair Turbiville declared that the issue will be resolved in that manner.

Dakota Corps Scholarship program

Ms. Katie Maley, Human Services Coordinator for the Board of Regents, distributed copies of Dakota Corps Scholarship Program 2012-13 Annual Report (**Document #5**).

Ms. Maley said that the scholarship is funded through private businesses, nonprofit corporations, the Governor's Office, and the South Dakota Department of Labor. The scholarship recipients are selected by the Dakota Corps Scholarship Board, the members of which are appointed by the Governor. She said that the scholarships are awarded to students pursuing a course of study which will prepare them to enter a critical need occupation in South Dakota. For the past two years, the four general areas have been designated as critical need in both education and health related industries.

Senator Tidemann said that the last table denoting the current status of all recipients in the Dakota Corps Scholarship Program speaks volumes about the success of the program. The default rating is very low, and the money is being put to good use.

New Appointment to Midwestern Higher Education Commission

Chair Turbiville said that the funds for dues to MHEC have been added to the budget and recommended that Senator Larry Tidemann be reappointed and Representative Susan Wismer be appointed to MHEC. In addition Chair Tidemann recommended that Representatives Dan Dryden and Larry Lucas be appointed to MHEC as alternates.

REPRESENTATIVE RAUSCH MOVED, SECONDED BY SENATOR MAHER, THAT SENATOR LARRY TIDEMANN BE REAPPOINTED AND REPRESENTATIVE SUSAN WISMER BY APPOINTED TO MHEC AND REPRESENTATIVES DAN DRYDEN AND LARRY LUCAS BE APPOINTED AS ALTERNATES TO MHEC. The motion prevailed on a voice vote.

Reports of Interim Committees

(Note: Copies of each interim draft committee report are compiled and labeled **Document #6.**)

Agricultural Land Assessment Implementation and oversight Advisory Task Force

Mr. Fred Baatz, Principal Research Analyst, reviewed the Task Force's Final Interim Report.

Mr. Baatz reported that the U.S. Fish and Wildlife Service has the most acres in grassland easements. Mr. Baatz said that the Wetland Reserve Program is the most popular program administered by the Service.

Regarding private conservation easements statewide, the Department of Agriculture reported that there were 28,367 acres of private conservation easements statewide. By adjusting for these private conservation easement acres and based on certain assumptions, the Department estimates a loss in agricultural land value of \$14 million can be attributed to these private easements.

The following draft legislation was adopted:

1. An Act to determine whether factors affecting productivity should be applied if the actual use of agricultural land does not correspond to the soil classification standards.
2. An Act to restrict the term of conservation easements.

Joint Committee on Appropriations

Senator Larry Tidemann, Co-Vice Chair of the Joint Committee on Appropriations, began the report of the committee by outlining the eight letters of intent issued by the committee. Senator Tidemann commented that one additional letter of intent was issued at the committee's June 12 meeting.

The committee conducted the West River Appropriations Tour. The tour included the following locations:

1. Sanford Underground Research Facility, Lead, South Dakota;
2. Pine Beetle Damage and Facilities at Custer State Park;
3. Black Hills Correctional Transition Center, Rapid City;
4. South Dakota School of Mines and Technology, Rapid City;
5. Game, Fish and Parks Outdoor Campus, Rapid City; and
6. University Center, Rapid City

South Dakota Developmental Work Group

Senator Jean Hunhoff, Chair of the Work Group, briefed the Board on the activities of the Group. Senator Hunhoff reported that the mission of the work group is for further analysis to position the South Dakota Developmental Center (SDDC) in Redfield for its optimal use of campus and resources to meet the needs of the citizens of South Dakota. Currently, there

are three programs at the facility offering supports to people depending on their needs and cognitive functioning:

- Program One has a capacity of 60 men and provides structured living areas and a transitional living area;
- Program Two is the Turtle Creek Youth Program which provides structured living and transitional living for up to 30 male and 10 female adolescents;
- Program Three are cottages that have the capacity to serve 50 people (men and women) and currently have 42 people.

Senator Hunhoff said that the city of Redfield is very supportive of the facility as is Spink County and the school district.

Senator Hunhoff said that Ms. Laurie Gill, Secretary of the Department of Human Services, discussed with the committee the “Rebalancing Initiative” that the department has been working on for over a year. Ms. Gill indicated that the SDDC is committed to transitioning people into community-based settings while providing high levels of support to people remaining at SDDC.

Senator Hunhoff said that the Work Group agreed to the following findings:

1. The department’s Rebalancing Initiative is going in the right direction;
2. Crisis intervention including transitioning back to the community needs to be further explored;
3. Further workforce recruitment and development is needed at SDDC as well as in the communities;
4. There needs to be transparency with the community partners (CSPs) so both know the kinds of services that will best assist individuals in need; and
5. The department should continue to review the vision of the SDDC to ensure it is efficiently serving the needs of the state of South Dakota.

Code Commission

Mr. Doug Decker, Code Counsel, reviewed the Code Commission's report and informed the Board that the Commission continued the ongoing update of the Code. The Commission authorized the reprinting of Volumes 2, 30, and 31 of the Code. Also, Mr. Decker told the Board that the Code Commission extended the contract with Thomson West for publication of the South Dakota Codified Laws (Code) for another year.

Mr. Decker informed the Board that the Code Commission adopted legislation to correct an error in the recreational vehicle title statute.

Rules Review Committee

Mr. Decker discussed the committee's report. He said that the committee reviewed more than 66 sets of rules. Among those rules were those relating to body grip traps, publication

rates for public entity legal notices, and the octane rating of gasoline, which were three of the more controversial subjects considered by the committee

The Board recessed at 11:00 a.m. and reconvened at 11:15 a.m.

Reports of Interim Committees (Continued)

Government Operations and Audit Committee

Mr. Tim Flannery, Legislative Audit, distributed the "Report of the Government Operations and Audit Committee 2012" (**Document #7**).

Mr. Flannery reviewed the committee's activity, among which were audit reports, specific matters pertaining to various state agencies, and juvenile corrections. He said that the Committee also received testimony on the impact of the Missouri River flooding in 2011.

Responding to **Senator Craig Tieszen** regarding juvenile corrections abuse and neglect cases, Mr. Flannery said that the Department of Human Services reported one case of abuse and neglect. He said that the Committee was satisfied with the Department of Correction's resolution of this matter.

Oil and Gas Development Committee

Mr. Reuben D. Bezpaletz, Chief of Research Analysis and Legal Services; **Mr. Fred Baatz**, Principal Research Analyst; and **Ms. Amanda Reiss**, Legislative Attorney, reported on the activities of the Oil and Gas Development Committee.

Mr. Bezpaletz reviewed the committee's report. He said that he was very satisfied with the course of study by the committee and thanked the Board for approval for the committee's travel to North Dakota to discuss with that state's legislators and others concerning issues involved in North Dakota's Bakken region. Members of the Oil and Gas Development Committee also visited office facilities, gas plant, train load stations, oil drilling rig sites, fracking site, crew camps, and North Dakota communities experiencing the effects of the oil boom.

Mr. Bezpaletz reported that all of the committee's interim study committee meetings—June 12, September 26, October 30 in Pierre; and a meeting in Harding County on July 16, were very well attended by the public and much was learned.

Mr. Bezpaletz, Mr. Baatz, and Ms. Reiss then discussed the eight pieces of draft legislation that the committee adopted.

SENATOR NELSON MOVED, SECONDED BY REPRESENTATIVE RAUSCH, THAT THE EXECUTIVE BOARD APPROVE THE PROPOSED LEGISLATION BY THE OIL AND GAS DEVELOPMENT COMMITTEE TO BE INTRODUCED IN THE 2013 LEGISLATIVE SESSION. The motion prevailed on a voice vote with 11 voting AYE and 4 EXCUSED. Those voting AYE: Hundstad, Maher, Nelson, Tidemann, Tieszen, Conzet, Feinstein, Lucas, Rausch, Venner, Turbiville. Those EXCUSED: Gray, Abdallah, Carson, Cutler.

The Board recessed at 12:10 p.m. and reconvened at 2:00 p.m.

Reports of Interim Committees (Continued)

State-Tribal Relations Committee

Tom Magedanz, Principal Research Analyst, told the Board that the committee held two meetings in Pierre during the 2012 interim.

Among other individuals, Mr. Magedanz said that the committee heard a briefing from Mr. J.R. LaPlante, Secretary of the Department of Tribal Relations, who briefed the committee on his goals and activities for the department, which was newly created in 2011. Mr. LaPlante informed the committee that one of the major purposes of the department is to increase tribal access to state government.

Mr. Roger Campbell, Director of the Office of Indian Education, Department of Education, and Ms. Laurie Feiler, Deputy Secretary, Department of Corrections, also provided the committee with information.

Ms. Tanya Fiddler, Executive Director of the Four Bands Community Fund, Eagle Butte; Ms. Michelle DuBray Native Entrepreneur Investment Fund—a newly formed, statewide lending program for native Communities—Mr. David Whitebull, Loan Portfolio Manager with Lakota Funds, Kyle; Ms. Eileen Briggs, Executive Director of Tribal Ventures in Eagle Butte; Dr. Michael McCurry, State Demographer with SDSU, Ms. Courtney Two Lance, Executive Director of the Oglala Sioux Tribe Credit and Finance Program; Ms. Stacey LeCompte, Executive Director, Wakpa Sica Reconciliation Place, Ft. Pierre; Mr. Nathan Lukkes and Ms. Kim Easland, Governor's Office of Economic Development; Jim Hagen, Secretary, Department of Tourism, provided information and material regarding economic development on South Dakota's Indian Reservations.

Mr. Magedanz said that, as in most years, the committee did not adopt draft legislation. He said that a new State Tribal Relations Committee will be appointed for 2013-2014, when a chair and vice chair will be elected by the committee.

Regional Watershed Advisory Task Force

Mr. Magedanz said that the task force was created by SB 169 in the 2012 Legislative Session. The bill established the task force to operate until January 2015 and to address issues relating to watershed management, drainage, erosion, flood control, reclamation, and environmental protection and improvement of lands, soils, and waters. The task force consists of fourteen members, of which four are members of the House of Representatives, four are members of the Senate, and six are members of the general public with backgrounds in natural resources law, science, or management; agriculture; or business.

Mr. Magedanz reported that legislation was drafted, and the committee will take action on those drafts at its December meeting.

Postsecondary Education Study Committee

Clare Charlson, Principal Research Analyst, stated that the committee was created to study the purpose and funding of postsecondary education in South Dakota. The committee was instructed to determine the purpose of public postsecondary education and to establish policy performance expectations and a way to hold postsecondary education systems and institutions accountable. Also, Ms. Charlson said that the committee was directed to review alternative methods of funding postsecondary education, including ways that funding may be used to incentivize institutions, and to make recommendations on these topics to the Legislature.

Ms. Charlson said that South Dakota is the only state in the nation without a needs-based financial program. Also, many of the state's higher education students require remedial assistance to continue with their university studies.

Mr. Charlson said that the committee's efforts to meet the directives of its interim study resulted in adoption of the following draft legislation:

1. An Act to establish the public purpose and goals of postsecondary education, to provide for the funding of postsecondary education, and to create the Council on Higher Education Policy Goals, Performance, and Accountability;
2. An Act to require the reporting of the outcomes of certain licensure and certification exams; and
3. An Act to require the Department of Labor and Regulation to determine certain job placement outcomes for graduates of all public postsecondary education institutions in the state.

SENATOR MAHER MOVED, SECONDED BY REPRESENTATIVE RAUSCH, THAT THE EXECUTIVE BOARD APPROVE THE PROPOSED LEGISLATION BY THE POSTSECONDARY EDUCATION STUDY COMMITTEE TO BE INTRODUCED IN THE 2013 LEGISLATIVE SESSION. The motion prevailed on a voice vote with 10 voting AYE and 5 EXCUSED. Those voting AYE: Hundstad, Maher, Nelson, Tidemann, Tieszen, Conzet, Feinstein, Lucas, Rausch, Turbiville. Those EXCUSED: Gray, Abdallah, Carson, Venner, Cutler.

Subcommittee Reports

Letters of Intent Subcommittee

On behalf of the Letters of Intent Subcommittee, a document with the following proposals was distributed (**Document #8**):

- An Act to clarify the scope of authority of the special appropriations committee and the Executive Board of the Legislative Research with respect to expressions of legislative intent for the Board's consideration; and

- Proposed Amendment to the Joint Rules of the South Dakota Legislature stating, “Expressions of the Joint Committee on Appropriations regarding the intent of the committee relating to the nature and use of any appropriated funds shall be included as a part of the General Appropriations Bill reported to both houses of the legislature for final approval.”

Chair Turbiville said that it is his opinion that legislation is unnecessary and recommended giving the proposed amendment to the Legislative Procedure Committee to determine if the matter should be addressed in the Joint Rules.

Senator Hundstad agreed with the Chair.

Senator Tidemann said that sometimes there is not a lot of time to formulate a letter of intent. He said that the effort is a commendable idea; however, Senator Tidemann said that he does not think it can be done. He opposed the draft legislation. The Senator said that the Executive Board has oversight of the Appropriations Committee, and the process is in place to cover the issue. Senator Tidemann said that the letters of intent do not carry force of law.

Representative Lucas said that amendments to the general bill should be made available to all legislators before the discussion on the floor.

Representative Rausch said that maybe a letter of intent needs to be drafted with the requirement that the author of the letter of intent and the author of the amendment be the same.

Responding to Chair Turbiville, Senator Tieszen said that, on average, about 3 to 9 letters of intent are considered

Senator Tieszen said that these matters need to be decided before adjournment, and it is incumbent upon the Legislature to get it as clear as they can before it adjourns. Senator Tieszen said that he prefers the matter to be addressed in Joint Rules.

REPRESENTATIVE LUCAS MOVED, SECONDED BY SENATOR TIESZEN, THAT THE EXECUTIVE BOARD ADOPT THE PROPOSED AMENDMENT TO THE JOINT RULES OF THE SOUTH DAKOTA LEGISLATURE STATING THAT EXPRESSIONS OF THE JOINT COMMITTEE ON APPROPRIATIONS REGARDING THE INTENT OF THE COMMITTEE RELATING TO THE NATURE AND USE OF ANY APPROPRIATED FUNDS SHALL BE INCLUDED AS A PART OF THE GENERAL APPROPRIATIONS BILL REPORTED TO BOTH HOUSES OF THE LEGISLATURE FOR FINAL APPROVAL. The motion prevailed on a roll call vote with 7 voting AYE, 2 voting NAY, and 6 EXCUSED. Those voting AYE: Hundstad, Nelson, Tieszen, Feinstein, Lucas, Rausch, Turbiville. Those voting NAY: Maher, Tidemann. Those EXCUSED: Gray, Abdallah, Carson, Conzet, Venner, Cutler.

Legislative Interns Subcommittee

Senator Tieszen reported that the Legislature funds 22 interns. In past years, anywhere up to 68 applications were received. This year, a new low number of applications of 29 were received. Senator Tieszen said that LRC staff has qualified 25 of those applicants. The LRC is in the process of issuing those invitations.

Senator Tieszen said that the number of Republican and Democrat intern applicants do not break down the political demarcation allowed. So, he said that the selection is a work in progress. Senator Tieszen said that, for whatever reason, the applications have been declining in recent years.

Issue Memoranda

The following draft Issue Memoranda were distributed:

- History of the State-Tribal Relations Committee;
- Older Drivers, Teen Drivers, and Distracted Driving;
- Telecommunication Traffic Pumping; and
- Vendor Compensation Provided by a Sales Tax Collection Allowance.

Mr. Fry asked Board members to review the issue memos and let him know of any concerns. He noted that there also will be an issue memo on eminent domain forthcoming.

Award of Appreciation

Senator Tidemann presented outgoing Chair Turbiville with a plaque noting his term as Executive Board Chair. Senator Tidemann thanked the Chair for his fairness and inclusion of minority legislative members in leadership on the Board.

Representative Lucas also thanked Chair Turbiville for his service and his fairness and inclusivity.

All remaining Board members agreed with Senator Tidemann's and Representative Lucas's remarks, and staff and the Board gave Chair Turbiville a standing ovation for his service.

Chair Turbiville thanked all for the plaque and their kind remarks and said that it was a pleasure to serve as Chair of this Executive Board.

Adjournment

SENATOR TIDEMANN MOVED, SECONDED BY SENATOR NELSON, THAT THE EXECUTIVE BOARD BE ADJOURNED. The motion prevailed on a voice vote.

The Executive Board adjourned at 3:30 p.m.

