

MINUTES

Executive Board



Senator Brock L. Greenfield, Chair
Representative Steven Haugaard, Vice Chair
Senator Troy Heinert, Ranking Minority Member

**Fourth Meeting, 2020 Interim
Monday, August 31, 2020**

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

The fourth meeting of the Executive Board for the 2020 Interim was called to order by Senator Brock Greenfield at 10:15 a.m. in Room 413 of the State Capitol, Pierre, SD. In accordance with COVID-19 guidance regarding limiting group gatherings, several of the members attended the meeting remotely.

A quorum was determined with the following members answering the roll call: Senators Jim Bolin, Bob Ewing (remote), Kris Langer (remote), Jim Stalzer (remote), and Jim White; Representatives Spencer Gosch (remote), Randy Gross, Chris Johnson (remote), John Mills (remote), Sue Peterson (remote), Lee Qualm (remote), and Jamie Smith (remote); Senator Troy Heinert, Ranking Minority Member; Representative Steven Haugaard, Vice Chair; and Senator Brock L. Greenfield, Chair.

Staff members present included Reed Holwegner, Director; Sue Cichos, Deputy Director; Scott Darnall, IT Manager (remote); Tamara Darnall, Chief Fiscal and Program Analyst (remote); David Ortbahn, Chief Research and Legal Analyst; Hilary Carruthers, IT Support Specialist; and Cindy Tryon, Senior Legislative Secretary (remote).

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was webcast live. The archived webcast is available at the LRC website at sdlegislature.gov.

Approval of Minutes

Representative Haugaard moved, seconded by Representative Gross, to approve the minutes of the June 8, 2020, Executive Board meeting. Motion prevailed on a voice vote.

Appointments to Task Forces

Senator Greenfield presented the Executive Committee report on appointments to the Mental Health Services Delivery Task Force and the Mental Health of First Responders Task Force ([Document #1](#)).

Investment Council Subcommittee Report

Senator Langer introduced Mr. Jeff Nelson, Chair, South Dakota Investment Council (SDIC), and Mr. Matt Clark, State Investment Officer, to give the Investment Council Report and present the FY 2022 budget proposal for the SDIC and Mr. Travis Almond, Executive Director, South Dakota Retirement System (SDRS), to give the SDRS update.

Investment Council Report

Mr. Jeff Nelson, Chair, SDIC, and Mr. Matt Clark, State Investment Officer, gave the SDIC report ([Document #2](#)). Mr. Nelson said the Investment Council is focusing on retaining and recruiting skilled staff. The SDIC is giving attention to the effective operation of the investment council due to COVID-19 and the investment teams have been performing well even though many are working off-site.

Mr. Clark said the earnings were about 6% below benchmark. Dealing with the volatility of this fiscal year has allowed SDIC to maintain a solid position. The SDIC was conservative and that is why the benchmarks have not been reached. The actions taken should have a good outperformance in the years ahead.

Mr. Nelson presented the slides regarding cost efficiencies and compensation overview. Every three years the SDIC conducts a compensation study to see if adjustments to the compensation plan are needed. Compensation studies for 2016 and 2019 indicated some slippage, but not sufficient to require adjustments.

Mr. Clark went through the FY 2020 approved budget request and actual expenditures. The approved budget was \$20,972,727 and the actual expended amount was \$10,649,947. This left \$10,322,782 unexpended. Most of the unexpended dollars were because less than half of the projected performance incentives were earned during the 2020 fiscal year.

Mr. Clark presented the FY 2022 budget request for the SDIC. The total request for FY 2021 was \$22,072,226. The total request for FY 2022 is \$22,982,186, an increase of 4.12%.

Senator Langer moved, seconded by Senator White, the Executive Board approve the FY 2022 budget request as presented for the South Dakota Investment Council. Motion prevailed on a roll call vote with 15 voting AYE. Voting AYE: Bolin, Ewing, Langer, Stalzer, White, Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Heinert, Haugaard, and Greenfield.

South Dakota Retirement System (SDRS) Report

Mr. Travis Almond, Executive Director, SDRS, presented a letter to the Executive Board explaining how the flexibility of the retirement program allowed SDRS to adapt to the changing conditions ([Document #3](#)). Mr. Almond talked about the legislative changes that have been made over the last 10 years. There will be a few pieces of legislation regarding SDRS for consideration during the 2021 legislative session.

Mr. Almond said the state retirement system will again be 100% funded for the fiscal year. SDRS has been fully funded for 25 of the last 30 years, which is remarkable in this industry. There will be a cost of living adjustment to the COLA in July of 2021.

Senator White congratulated the SDIC and SDRS on their hard work and continued success.

Management Reports

Mr. David Ortbahn, Chief Research & Legal Analyst, said the Research staff have been reviewing administrative rules, as well as staffing interim committee meetings, and working on issue memorandums. The staff have been taking advantage of some of the online training sessions offered by NCSL. Preparation for the 2021 session has begun, and staff are receiving bill requests. Mr. Ortbahn introduced Ms. Anna Madsen who replaces Ms. Clare Charlson who resigned as Principal Research Analyst this past spring.

Ms. Anna Madsen said she started as a Research Analyst with the LRC on August 3rd. Ms. Madsen grew up in Minnesota and graduated from USD in Vermillion with a major in Political Science. Senator Greenfield welcomed Ms. Madsen to the LRC.

Ms. Tamara Darnall, Chief Fiscal & Program Analyst, said the Fiscal staff continue working on policies and procedures for program evaluations. Information has been requested from agencies who were previously evaluated, and that information is being compiled into reports. Lean reviews scheduled for this year have been delayed because of COVID-19, although DSS did hold a kickoff meeting. The staff continues researching COVID-19

related funding and the financial impacts of the pandemic. There are many rules packets under review and the fiscal staff is responsible for any fiscal notes pertaining to the packets.

Ms. Darnall announced that Ms. Ariel Hammerquist, Senior Fiscal and Program Analyst, will be leaving the LRC on September 4. Ms. Hammerquist has accepted a position with the Montana Legislature. Senator Greenfield thanked Ms. Hammerquist for her hard work at LRC and wished her well on her new endeavor.

Mr. Scott Darnall, Information Technology Manager, said the IT staff have been focusing on COVID to make sure the LRC is prepared for what could be a remote or partially remote 2021 session. This planning includes making sure all meeting rooms have the required cameras and other technology needed. IT is working with the Chamber vendor so floor session could actually be conducted from the chambers rather than using committee rooms. The IT staff is also looking into a telephone system that will make it easier for all LRC staff if they need to be working remotely. There has been much interest from other states on how the IT staff was able to convert to the 2020 veto day being held remotely. Ms. Hilary Carruthers was commended for a presentation she made to the National Association of Legislative Information Technology (NALIT) on the MYLRC+ program.

Mr. Darnall said the development team is working on a replacement program for board papers. The staff has made a few changes to the website. Preparations are being made for legislator orientation as there will be new legislators next session who will need training with the lawmaker system.

Ms. Sue Cichos, Deputy Director, said 2021 session planning has been the focus. The two newly appointed legislators, Senator Crabtree and Representative Schneider, have taken their oaths of office and met with staff for orientation.

Mr. Reed Holwegner, Director, said he continues visiting with the LRC staff regarding procedures and work duties. Each staff person fulfills three to five roles. The turnover rate in the LRC office is a little high with the loss of about four people a year. Mr. Holwegner said the retention rate is a serious issue, and he will continue to find ways to improve the retention rate. In planning for the next session, it will be important to address safety concerns regarding the coronavirus pandemic. Right now it is assumed the session will be in person, but the LRC staff are preparing for other possibilities. Mr. Holwegner said he is learning what other states are doing to address this issue and will continue to communicate with the Executive Board members.

Budget Subcommittee Reports

Mr. Russell A. Olson, Auditor General, thanked the Executive Board and the LRC for helping him adjust to his new position as Auditor General. Mr. Olson presented the FY 2022 proposed budget request for the Department of Legislative Audit (DLA). The DLA is requesting a 1.21% increase over FY 2021 which amounts to \$49,075. Most of the increase, \$32,433, is for increases in salaries and employee benefits. The increase is used to recognize the value added by increased knowledge, skills and experience as an auditor progresses with DLA. It is vital DLA stay competitive in order to retain staff.

Mr. Olson explained the DLA is a general fund organization but charges for some services; the DLA generates revenue to the general fund. The DLA does revert funds not spent during the fiscal year and reverted \$399,736 in FY 2020.

Senator Bolin said the process of the Department of Legislative Audit and the Legislative Research Council reverting money back to the Executive Branch should be reviewed. Senator Bolin asked Mr. Olson if he would be requesting an increase in the budget if the Department had not reverted money back to the general fund. Mr. Olson said there would be no need to request an increase if DLA had not reverted the \$399,736.

Representative Peterson asked how many positions are vacant in the DLA at this time. Mr. Olson said there are still three vacant positions and filling those positions is a high priority. Legislative Audit has struggled finding the right individuals for some of these positions.

Representative Gosch moved, seconded by Senator Heinert, to approve the Department of Legislative Audit FY 2022 budget request as presented. Motion prevailed on a roll call vote with 15 voting AYE. Voting AYE: Bolin, Ewing, Langer, Stalzer, White, Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Heinert, Haugaard, and Greenfield.

Mr. Holwegner and Ms. Darnall presented the FY 2022 proposed budget request for the Legislative Research Council (LRC). The LRC is requesting an increase of 1.4% or \$104,286 in general funds for FY 2022. Most of the increase, \$88,030, is for technology services and purchases including annual and non-annual IT costs. There is a proposed increase of \$16,256 to meet the anticipated expenditures for part time session staff. The increase in pay for session staff was approved by the Executive Board in the FY 2021 proposed budget, but that amount was omitted from the recommended budget that the Legislature approved.

Ms. Darnall explained the need for the Executive Board to approve federal fund expenditure authority for Coronavirus Relief Funds (CRF) in order to use the federal funds to purchase items needed to mitigate for the COVID-19 pandemic. The approved FY 2021 budget does not include any federal fund authority; a motion to supplement the approved budget is needed.

Representative Gosch moved, seconded by Senator Heinert, to approve the Legislative Research Council FY 2022 budget request as presented. Motion prevailed on a roll call vote with 15 voting AYE. Voting AYE: Bolin, Ewing, Langer, Stalzer, White, Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Heinert, Haugaard, and Greenfield.

Representative Gosch moved, seconded by Senator White, that the Executive Board approve the transfer of \$650,000, or as much as is needed to purchase items approved by the Executive Board or its designated subcommittee for the mitigation of COVID-19, in other fund authority from the Legislative Priority Fund to federal fund expenditure authority to utilize the Coronavirus Relief Fund for allowable expenditures and to request replacement of the other fund authority in the FY 2021 supplemental appropriations act. Motion prevailed on a roll call vote with 15 voting AYE. Voting AYE: Bolin, Ewing, Langer, Stalzer, White, Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Heinert, Haugaard, and Greenfield.

Funding of Lean Projects

Ms. Sakura Rohleder said the Joint Committee on Appropriations selected three agencies to undergo a Lean study during 2021. Those agencies are the Attorney General's Office, the Department of Education, and the LRC's Fiscal Division ([Document 4](#), [Document 5](#), [Document 6](#)).

Senator White moved, seconded by Representative Gross, to direct the LRC to develop Requests for Proposals (RFPs) in cooperation with the Department of Education and the Office of the Attorney General, to solicit for Lean Consulting Services for the three agencies and direct the LRC to report to the Board at its November meeting with a recommended vendor or vendors and a proposed contract or contracts, for Board review and approval, and provide the Joint Committee on Appropriations with a progress report at its first meeting after completion of these tasks. Motion prevailed on a roll call vote with 13 voting AYE; 2 EXCUSED. Voting AYE: Bolin, Ewing, Langer, Stalzer, White, Gross, Johnson, Mills, Peterson, Qualm, Smith, Haugaard, and Greenfield. EXCUSED: Gosch and Heinert.

Dakota Corps Scholarship Board Appointment

Senator Greenfield said the Executive Board is responsible for appointing a replacement for the late Representative Glanzer on the Dakota Corps Scholarship Board ([Document #7](#)). Ms. Cichos did survey the members of the House of Representatives to see who is interested in completing the term on this board.

Representative Gross moved, seconded by Representative Peterson, the Executive Board appoint Representative Tony Randolph to fill the vacancy on the Dakota Corps Scholarship Board. Motion prevailed on a roll call vote with 13 voting AYE; 2 EXCUSED. Voting AYE: Bolin, Ewing, Langer, Stalzer, White, Gross, Johnson, Mills, Peterson, Qualm, Smith, Haugaard, and Greenfield. EXCUSED: Gosch and Heinert.

Executive Session to Discuss Vacancy of Code Counsel Position

Representative Smith moved, seconded by Senator Bolin, that the Executive Board go into executive session to discuss items relating to personnel. Motion prevailed on a roll call vote with 15 voting AYE. Voting AYE: Bolin, Ewing, Langer, Stalzer, White, Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Heinert, Haugaard, and Greenfield.

The Executive Board went into executive session at 1:30 p.m.

Senator Langer moved, seconded by Senator Ewing, that the Executive Board come out of executive session and that the record reflect no action was taken. Motion prevailed on a voice vote.

The Executive Board came out of executive session at 1:45 p.m.

Board Action on Code Counsel Vacancy

Representative Smith moved, seconded by Representative Haugaard, the Executive Board offer the position of Code Counsel to Mr. Justin J. Goetz at the starting annual salary of \$100,000. Motion prevailed on a roll call vote with 15 voting AYE. Voting AYE: Bolin, Ewing, Langer, Stalzer, White, Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Heinert, Haugaard, and Greenfield.

Additional Interim Committees

Senator Greenfield said there is a need to establish protocols regarding COVID-19 for the 2021 Legislative Session.

Representative Gosch moved, seconded by Representative Gross, to appoint a subcommittee of the Executive Board to discuss COVID-19 protocols for the 2021 Legislative Session. Motion prevailed on a roll call vote with 15 voting AYE. Voting AYE: Bolin, Ewing, Langer, Stalzer, White, Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Heinert, Haugaard, and Greenfield.

Senator Greenfield appointed the following members to the COVID-19 protocols subcommittee of the Executive Board: Senators Greenfield, Heinert, White, and Representatives Gosch, Haugaard, Smith, with Representative Gosch serving as subcommittee chair.

Representative Haugaard requested the board members consider establishing interim committees to address the COVID-19 funds available through the CARES act. Representative Haugaard said there is a need for additional information to be brought forward on the best use of these funds. The public wants to be included in the information gathering when making decisions regarding the funds. Representative Haugaard said assigned interim committees could gather information and the full Legislature can act on the information during a special session.

Representative Haugaard moved, seconded by Representative Johnson, the Executive Board or an appointed subcommittee identify a structure for which people from across South Dakota can give input as to the best use of CARES funding and that information be used so the Legislature can act to help alleviate some of the problems created by the COVID-19 epidemic.

Senator Heinert made a substitute motion, seconded by Representative Peterson, that the Executive Board authorize the formation of interim joint standing committees on Ag and Natural Resources, Education, Commerce and Energy, Health and Human Services, and Local Government. Each joint committee will meet one day during the week of September 8 and file a report with the Joint Committee on Appropriations.

Senator Heinert withdrew his motion and restated the motion with later dates for the committees to meet.

Senator Heinert made a substitute motion, seconded by Representative Haugaard, that the Executive Board authorize the formation of interim joint standing committees on Ag and Natural Resources, Education, Commerce and Energy, Health and Human Services, and Local Government. Each joint committee will meet one day during the week of September 14 through September 18, or as close thereafter as possible, and file a report with the Joint Committee on Appropriations. Motion prevailed on a roll call vote with 10 voting AYE; 5 voting NAY. Voting AYE: Ewing, Gosch, Gross, Johnson, Mills, Peterson, Qualm, Smith, Heinert, and Haugaard. Voting NAY: Bolin, Langer, Stalzer, White, and Greenfield.

Other Business

The next Executive Board meeting will be held November 16, 2020.

Adjourn

Senator Bolin moved, seconded by Senator White, the Executive Board be adjourned. The motion prevailed on a voice vote.

The board adjourned at 3:20 p.m.