



Legislative Research Council

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AGRICULTURAL LAND ASSESSMENT IMPLEMENTATION AND OVERSIGHT ADVISORY TASK FORCE

The Agricultural Land Assessment Implementation and Oversight Advisory Task Force consists of four members of the House of Representatives, four members of the Senate, and six members of the general public (at least two of the general public members shall have an agricultural background and at least two of the general public members shall have a business background).

Study Assignment

The Task Force shall review the implementation of the provisions of law concerning the assessment and taxation of agricultural land and advise the Department of Revenue and Regulation regarding the rules promulgated by the Department to administer the provisions concerning the assessment and taxation of agricultural lands. In addition, the Task Force shall make recommendations in the following areas:

1. The proper percentage of annual earning capacity to be used to determine the agricultural income value for cropland and noncropland;
2. The proper capitalization rate that minimizes the shift in total taxable value between agricultural land and the other property classifications.

Summary of Interim

The interim Agricultural Land Assessment Implementation and Oversight Advisory Task Force held its first meeting on July 28. Senator David Knudson was elected Chair of the Task Force and Representative Larry Rhoden was elected Vice Chair. Fred Baatz, Legislative Research Council, reviewed the provisions of HB 1005 which outlined the responsibilities and duties assigned to the Task Force.

Michael Kenyon, Director of the Division of Property and Special Taxes, provided a chart showing a breakout of the current equalized assessed valuations for cropland and noncropland based on the soil survey data. He illustrated the inequities in the equalized assessed valuations between counties under the current assessment system by asking the Task Force to compare the equalized values for Sully and Hughes counties which may have similar soils and climate. However, the land in Sully County is assessed at almost twice the value of land in Hughes County under the current assessment system.

Dr. Burton Pflueger, Professor of Economics from South Dakota State University (SDSU), provided an overview of the work and research SDSU has performed on the model. He explained the data sources used and also asked for input from the Task Force on how to move forward with such issues as the cropland mix to be used and methodology to value noncropland. There was also a discussion on determining commodity prices and how to consider or not consider government payments.

The Task Force held its second meeting on September 8. Dr. Pflueger focused on the results of the model and reported that not much has changed for cropland portion of the model since July. The National Agricultural Statistics Service (NASS) is the source for most of the data

used in the model. It was determined to use statewide prices since it will be difficult to determine local prices. To calculate the county production data per acre, SDSU took the total production divided by the number of planted acres to obtain the yield per planted acre. The total revenue per crop acre was determined by multiplying the statewide prices times the yield per planted acre.

The Task Force discussed other sources of agricultural income, such as government payments. Dr. Pflueger said that the assessment of additional sources of income from government payments was difficult. Due to the Freedom of Information Act, SDSU was not able to receive certain information from the Farm Service Agency (FSA). Dr. Pflueger suggested that the task force not include government payments in the formula.

The legislation passed during the 2008 session requires that the value of noncropland be determined on its capacity to produce agricultural products based on the animal unit carrying capacity of the land. Dr. Pflueger said the best source of carrying capacity he found is the grazing capacity map which is based on work from animal science grazing specialists; which identifies different capacities for range land across the state. Dr. Pflueger also distributed to the members a handout assessing agricultural land based on a cow/calf formula; however, the cow/calf methodology would be more complex.

Mr. Kenyon stated that there are several factors in the agricultural land assessment formula that Department will submit recommendations to the Task Force. The first factors are the percentage of the gross revenue used to represent the net income (landlord share) for each category of agricultural land and the second factor is the capitalization rate. Once all the information is obtained, a landlord share percentage is established for cropland and noncropland and a capitalization rate to apply to that net income. The landlord share percentage needs to be a percentage that minimizes the shift from cropland to noncropland once the process is completed and the capitalization rate needs to be set at a rate that minimizes the shift between agricultural land and the other property classifications. There will be a phase-in process for counties that may experience a dramatic change in values. Mr. Kenyon informed the task force that cropland and noncropland will initially be determined by soil type and then adjusted by factors documented by the directors of equalization.

The Task Force and the Department will track certain input costs and expenses including: seed, fuel, fertilizer, and chemicals. This supplemental information would be collected by SDSU and could be used by the Task Force to recommend periodic adjustments to the landlord's share. Dr. Pflueger reported that there is information available from the Bureau of Economic Analysis on a county by county basis. If the Task Force wanted to track machinery/equipment expenses, Dr. Pflueger was not certain where SDSU would obtain such information.

During the third meeting the Task Force members reviewed preliminary maps and data prepared by the Department and SDSU showing the average taxable value of agricultural land by county for cropland and noncropland. There will be swings in assessments between counties that are sharper than provided during the 2008 session when the data was based totally on cash rent data. Two sets of maps were provided showing the existing market valuations and valuations based on the productivity system and the shifts in assessed valuations that would occur between counties.

The AUM methodology to value noncropland was found to be troublesome and SDSU and the Department searched for alternatives. The Department reported that they used cash rent data from the NASS instead of the NRCS data for the noncropland assessment calculations, because the NRCS data was not producing rational results. The NRCS data did not show much differentiation between production capabilities of noncropland in the eastern part of the state to the western part of the state. Therefore, the Department and SDSU switched to using cash rents in the formula over animal unit per month (AUM) data. An eight-year Olympic average was applied to the cash rent data similar to the application to what would have applied to the AUM data. The Department then distributed the value across each county according to soil rating of each individual parcel.

Currently, there is about \$18.5 billion of agricultural land valuation on a statewide basis, which is encompassed in the maps provided to the Task Force. There is a split of about 85% of that land value being cropland and 15% being noncropland. The basic formula for the productivity valuation is gross revenue times the landlord's share percentage divided by the cap rate. The cap rate was determined to be 6.6%, which maintains revenue neutrality between agricultural land and the other classifications. The landlord's share would be 36% for cropland and 100% for noncropland. Mr. Kenyon stated that the productivity system is not based on the concept that agricultural assessed valuations will remain stagnant.

The legislation (HB 1005) limits the growth in the total taxable value of agricultural land within a county to 15% per year during the first three years when the productivity system is implemented. At this meeting, it was estimated that there were 14 counties that will experience an increase by more than 30% and 5 counties that will experience a decrease by more than 30%. There are some significant changes for some counties, but it is a revenue neutral system on a statewide basis. The Task Force discussed limiting the annual decrease in assessed valuations for agricultural land when the productivity system is implemented as well as extending the time period for phasing the changes in agricultural land assessments.

Mr. Kenyon said that the Directors of Equalization (DOEs) will receive the data regarding the average statewide commodity prices and productivity per acre for cropland and noncropland. The DOEs will have the ability to make adjustments based on soil type, climate, rainfall, topography, obstructions, etc. similar to the adjustments made currently under the market system.

During the fourth meeting, the Task Force Members reviewed the updated maps and data prepared by the Department and SDSU. SDSU made a couple of adjustments and corrections to the data base, including the removal of the influence of irrigated production from the model. Based on these adjustments and corrections the landlord's share should be 35% for cropland. The Task Force reviewed the proposed legislation regarding changes to the type of data and procedures used in the productivity model for the agricultural land assessment process. The Task Force also reviewed the proposed legislation concerning tax levy levies and limitations for school districts and taxpayers which may be impacted by changes in the procedures for assessing real property. The legislation approved by the Task Force is described below.

Public Testimony

The meetings were generally well attended by many interested parties representing many of the agricultural and businesses associations, the directors of equalization, individual farmers

and ranchers, and other interested taxpayers. The public provided input on various items reviewed by the Task Force and expressed concern on how this issue will be explained to the taxpayers.

Listing of Legislation Adopted

1. *An Act to revise certain provisions concerning the assessment of agricultural land.*

The legislation revises certain provisions related to the valuation of cropland and noncropland. The legislation also establishes the percentages that will be used for cropland and noncropland to determine the agricultural income to the land and revises the capitalization rate. The purpose of the legislation is to minimize the tax shifts between cropland and noncropland on a statewide basis and agricultural land and other real property on a statewide basis. Other modifications included the application of statewide crop prices in the model and the use of cash rent for determining the assessed valuation of noncropland. The legislation extends the period to time for buffering tax shifts that may occur as the transition to the use the agricultural land productivity methodology as the means to value agricultural land.

2. *An Act to revise certain tax levy limitations and property tax levies for school districts.*

The legislation extends the time to buffer the property assessment shifts that may occur from assessing agricultural land based on productivity instead of the market. The purpose of the legislation is to hold school districts harmless from a decrease in valuations and to limit the burden on taxpayers from an increase in valuations.

Summary of Meeting Dates & Places and Listing of Task Force Members

The Task Force met on July 28, September 8, and October 14, and November 14. The Task Force meetings were located in Pierre.

Task Force Members Were: Senator Dave Knudson, Chair, Representative Larry Rhoden, Vice Chair Senators Alan Hoerth, Kenneth McNenny, and Jim Peterson; Representatives H. Paul Dennert, Kristi Noem, and Steve Street; and Public Members Walter I. Bones III, Kirk Chaffee, Curt Everson, Larry Gabriel, Ron Olinger, and Duane Sutton.

Staff members were: Fred Baatz, Principal Research Analyst and Lisa Shafer, Legislative Secretary.

APPROPRIATIONS COMMITTEE

Study Assignment

A continuing review of the appropriations process.

Summary of Interim

On June 23, 2008, the Committee reviewed the budget transfers and investment income proration report prepared by the Bureau of Finance and Management for the period ending June 6, 2008.

The following agency reports were distributed and/or presented to the committee:

- Department of Public Safety – Staff bonuses and selected personnel policies;
- Board of Regents – Status of the Health Sciences Simulation Center; update on all construction projects, and the status of the funding for the Mobile Computing Project;
- Department of Social Services – Update on the Medicaid Management Information System (MMIS) Project;
- Department of Corrections - Intensive Meth Treatment Program;
- Department of Human Services – Status of Co-occurring State Incentive Plan (new grant in the Alcohol and Drug Abuse program);
- Office of School and Public Lands – Update on the Richmond Dam assessment;
- Department of Education – Update on the funding for the Classroom Connections project;
- Department of Corrections – Update on the closing of the Redfield Minimum Security Trustee Unit;
- Unified Judicial System – Quarterly report of the Northern Hills Drug Court; and
- Department of Military and Veterans' Affairs – status of consultant at the State Veterans' Home

The committee approved three Letters of Intent, which were in addition to those approved during the Legislative Session. The additional Letters of Intent were issued for the following agencies: Bureau of Information and Telecommunications regarding the Research, Education, and Economic Development (REED) computer network system; Department of Education regarding the Pilot Classroom Connections Laptop Program; and the Department of Agriculture / Brand Board regarding the Brand Inspection Program.

The West River Tour began on October 6th at the Science and Technology Authority building Lead. A presentation by the Authority's Executive Director was followed by a short underground tour. The committee also toured Custer State Park and received briefings on the park improvements made with the \$12M bond, approved in the 2007 Legislative Session.

Three subcommittees were appointed with the expectation of their reporting back to the full committee at its December meeting:

- REED Subcommittee – The subcommittee requested a copy of the Joint Powers Agreement between the Board of Regents and the Bureau of Information and Telecommunications upon its enactment. The agreement has not been finalized as of this writing. The subcommittee also requested timely updates on the project timelines, budget status, and other pertinent information from each agency. The subcommittee received a written report from BIT in July and October. The Board of Regents provided a written report in June.
- Board of Regents Airplane Subcommittee – The subcommittee was appointed to determine the airplane needs of state government. The members have received information from the Department of Transportation and the Board of Regents regarding current usage and continue to analyze the data.
- Informational Fund Balances Subcommittee – Based on the approach jointly adopted with the Government Operations and Audit Committee (GOAC), this subcommittee has been awaiting referrals from GOAC as to informational fund balances where appropriations action is indicated. To date, no such referrals have been made.

Listing of Legislation Adopted

None

Summary of Meeting Dates and Listing of Committee Members

The Committee met on June 23rd in the State Capitol Building in Pierre. The West River Tour was held on October 6th and 7th at the future site of the DUSEL in Lead, Custer State Park, the Cleghorn Fish Hatchery, South Dakota School of Mines and Technology, and the Ellsworth Air Force Base.

Committee members included: Senators Jerry Apa (Chair), Julie Bartling, Bob Gray, Brock Greenfield, Alan Hoerth, Jim Hundstad, Jean Hunhoff, Ryan Maher, and Orville Smidt; and Representatives Quinten Burg, Lance Carson, Justin Davis, H. Paul Dennert, Mary Glenski, Jeffery Haverly, J.E. “Jim” Putnam, Val Rausch, and Larry Tidemann (Vice-Chair).

Staff members included: Fred Schoenfeld, Chief Fiscal Analyst; Annie Mehlhaff, Principal Fiscal Analyst; Sue Cichos, Senior Fiscal Analyst; Aaron Olson, Senior Fiscal Analyst; Terry Miller, Senior Fiscal Analyst; and Lisa Shafer, Legislative Secretary.

DEPARTMENT OF GAME, FISH AND PARKS AGENCY REVIEW COMMITTEE

Study Assignment

The Department of Game, Fish and Parks Agency Review Committee was one of two agency review, or "sunset," committees conducted during the 2008 legislative interim. Each year, since 2003, pursuant to state law codified at SDCL 1-26E-1 to 1-26E-8, inclusive, the Executive Board of the Legislative Research Council selects two state agencies for study and assessment. The standard study plans for this type of oversight committee includes:

- (1) An in depth presentation by agency staff of the agency's programs, personnel, mission, and performance;
- (2) A physical walk through of the agency's facilities;
- (3) Committee selection of focus topics;
- (4) A major public hearing with testimony from all interested parties;
- (5) Preparation and approval of legislation in response to committee or agency concerns; and
- (6) Committee evaluation of agency performance.

Summary of Interim

The initial meeting of the Committee was held on June 11th and was devoted to an in depth overview of the agency presented by Secretary Jeff Vonk assisted by Game, Fish and Parks Commission members Spencer Hawley and Tim Kessler and staff members Tony Leif, Chris Peterson, Doug Hofer, Richard Neill, and Brooke Smith. The agency also responded to numerous committee questions and received requests for additional information to be addressed at subsequent meetings. The committee also selected four areas of emphasis to focus on at later meetings:

- (1) GF&P property acquisitions and acquisition policies;
- (2) Trespass and open fields doctrines;
- (3) Public access and landowner incentives; and
- (4) GF&P rules and rule promulgation process.

The committee also toured the principal offices of the agency in the Joe Foss Building.

The primary activity of the second meeting on August 11th and 12th was the conduct of the public hearing. Attendance was good with about thirty individuals presenting testimony. Most of those present were sportsmen or landowners with sportsmen tending to be complimentary of the agency but with landowners tending to be more critical. Agency experience with the modification and implementation of the open fields doctrine was a major topic.

The committee also heard detailed presentations from the agency staff on the four areas of emphasis previously selected:

- (1) GF&P property acquisitions and acquisition policies;
- (2) Trespass and open fields doctrines;
- (3) Public access and landowner incentives; and
- (4) GF&P rules and rule promulgation process.

Finally, the committee requested staff to draft legislation for consideration at the final meeting.

Other than a discussion of the South Dakota Comprehensive Wildlife Conservation Plan, the third meeting of the committee held September 23rd was entirely devoted to working through the proposed committee legislation. There were eight proposed drafts, seven of which were approved for introduction and are listed in the next section. The committee failed to approve an additional draft which would have transferred predatory animal control, rodent control, and reptile control from the Department of Game, Fish and Parks to the Department of Agriculture. The committee also took no formal action on a draft resolution expressing opposition to additional GF&P land acquisition or easement in the vicinity of Bear Butte.

Listing of Legislation Adopted

Q0015 – An Act to clarify, repeal, update, and make form and style revisions to certain statutes related to the Department of Game, Fish and Parks.

Q0017 – An Act to revise certain provisions related to free access to state parks and recreation areas to include certain persons with disabilities.

Q0027 – An Act to provide for the transfer of certain moneys from the Department of Game, Fish and Parks to the county road and bridge funds.

Q0029 – An Act to clarify the application of common law trespass and to provide for the recovery of damages against trespassers.

Q0032 – An Act to provide for the killing of mountain lions under certain circumstances and to provide for the disposition of such mountain lions.

Q0033 – An Act to require that certain land acquisitions by the Department of Game, Fish and Parks be conditioned upon subsequent legislative approval.

Q0034 – An Act to revise the available number of certain nonresident waterfowl hunting licenses.

Summary of Meeting Dates and Places

The Department of Game, Fish and Parks Agency Review Committee met at the State Capitol in Pierre on the following dates: June 11, 2008; August 11 and 12, 2008; and September 23, 2008.

Listing of Committee Members

Committee members were Tom Hansen, Chair; Representative Thomas Brunner, Vice Chair; Senators Ryan Maher, Ed Olson, and Nancy Turbak Berry; Representatives Mark DeVries, Dale Hargens, Gordon Howie, Kent Juhnke, Eldon Nygaard, Betty Olson, David Sigdestad, and Kim Vanneman.

Listing of Staff Members

Staff members were Reuben Bezpaletz, Chief Analyst for Research and Legal Services; Tom Magedanz, Principal Research Analyst; Aaron Olson, Senior Fiscal Analyst; Teri Retrum, Administrative Assistant; Reta Rodman, Legislative Secretary; Kris Schneider, Senior Legislative Secretary; and Lisa Shafer, Legislative Secretary.

DEPARTMENT OF TOURISM AND STATE DEVELOPMENT AGENCY REVIEW COMMITTEE

Study Assignment

An agency review of the Department of Tourism and State Development.

Summary of Interim

The Department of Tourism and State Development Agency Review Committee began its study with an overview of the department. Secretary Richard Benda introduced the presentation and then was assisted by key department personnel in providing more detailed information on the various divisions of the department. The divisions and key personnel who participated were as follows: Governor's Office of Economic Development, Kimberly Olson, Deputy Secretary of the department; Office of Tourism, Melissa Bump, Director; Office of Tribal Government Relations, Roger Campbell, Director; South Dakota Housing Authority, Mark Lauseng, Executive Director; Office of Arts/Arts Council, Dennis Holub, Executive Director; Office of History/State Historical Society, Jay Vogt, Director; Office of Energy Policy, Hunter Roberts, Director; Office of Research and Commercialization, Mel Ustad, Director; and South Dakota Science and Technology Authority, Bill Harlan, Public Information Officer. Kevin Forsch, Governor's Office, participated in the discussion of the Science and Technology Authority. The meeting also included a tour of the offices at Capital Lake Plaza and the areas behind the exhibits at the Cultural Heritage Center and a walk-through of a Governor's House.

The second meeting was preceded by concurrent subcommittee hearings held for the purpose of taking public testimony regarding the policies and performance of the department. The hearings were held in four locations across the state – Aberdeen, Oacoma, Rapid City, and Sioux Falls. Four hours of testimony were scheduled at each location, with the Sioux Falls hearing taking an additional hour to hear the testimony from those in attendance. The comments received were positive across all divisions of the department. The following day, the committee assembled in Pierre for its second meeting. The meeting began with public testimony followed by reports by the subcommittee chairs of the four public hearings held the previous day. The remainder of the second meeting was devoted to the department's responses to issues raised at the first meeting. The issues were primarily related to the Governor's Office of Economic Development and the Office of Energy Policy. The various funds administered by GOED were reviewed, including the legislative intent, criteria of the loans, and loss ratios of the loans. The discussion of energy included the relationships among the energy industry, local groups, and other states, and was continued at the third meeting of the committee.

Specifically, at its third meeting the committee reviewed the information provided by the reports of the South Dakota Energy Infrastructure Authority and discussed the role of the Energy Policy Director as well as energy policy for the state generally. The department provided its responses to the public testimony taken at the second meeting. The final portion of the meeting was spent reviewing clean-up legislation and discussing recommendations for the department. The legislation was unanimously approved by the committee for recommendation as a committee bill. There was also a motion to recommend to the Governor that a member of a public power utility be represented on the South Dakota Energy Infrastructure Authority. The motion prevailed.

A question discussed throughout the committee process was whether the combination of tourism and economic development was a good one. Secretary Benda responded that it was a good combination, noting that all divisions of the department are important and all pieces of the pie that make South Dakota a good place to visit and live. Arts and history are important to potential residents, and recruiting visitors can be integrated with recruiting potential residents and businesses to the state. Public testimony also indicated that the combination was working well. At its conclusion, the committee recognized that the department should be continued, having found the department met the burden of establishing sufficient public need is present to justify its continued existence.

Listing of Legislation Adopted

1. An Act to revise the form and style of certain provisions and to delete certain obsolete provisions regarding the Department of Tourism and State Development.

This Act revises awkward or archaic language and amends statutes that are gender specific to modernize language and make the statutes consistent with current drafting style. The Act also deletes statutes that are no longer relevant since the reorganization that occurred in 2003 when the Department of Tourism and State Development was created.

Summary of Meeting Date & Places and Listing of Committee Members

The committee met on July 9 and 10, September 16, and October 17 in the State Capitol in Pierre. The committee formed subcommittees and took public testimony on September 15 in Aberdeen, Oacoma, Rapid City, and Sioux Falls.

Committee members were: Representative Phyllis Heineman, Chair; Senator Kenneth Albers, Vice Chair; Representatives Quinten Burg, Thomas Deadrick, Brian Dreyer, Richard Engels, Roger Hunt, Larry Lucas, Russell Olson, and Charles Turbiville; and Senators Julie Bartling, Jason Gant, and Jim Hundstad.

Staff members were: Jacquelyn Storm, Principal Legislative Attorney; Terry Miller, Senior Fiscal Analyst; and Teri Retrum, Administrative Assistant.

GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

Committee Responsibilities

The ten member statutorily created Government Operations and Audit Committee's responsibilities include inquiry and review of any phase of the operations and fiscal affairs of any department, institution, board or agency of the state and the review of operations of the state's correctional system including review of abuse or neglect in juvenile correction facilities.

Committee Activities

During the interim, the Committee was very active in reviewing:

- cash and accumulated fund balances of "Other Funds"
- juvenile correction monitor reports
- reports of alleged abuse or neglect of juveniles in private placement facilities
- audit findings included in the Statewide Single Audit
- obsolete, inconsistent or unnecessary statutes concerning "Other Funds"
- numerous miscellaneous areas and concerns raised by current events or individual members of the Committee

Review of Cash Balances of Various State "Other" Funds

The Committee completed its review of cash balances and accumulated fund balances of the various "Other Funds" of the State of South Dakota.

Juvenile Corrections Issues and Reports

The Committee reviewed the semi-annual Juvenile Corrections Monitor Reports as well as any reports on substantiated cases of abuse or neglect involving juveniles in the custody and care of the Department of Corrections. The Committee also received and reviewed semi-annual reports on Alleged Abuse and Neglect of Juveniles in Private Contracted Facilities. The Springfield Correctional Facility was toured by the Committee.

Review of Audit Findings and Reports

The Committee requested four agencies to appear before the Committee and respond to their respective audit findings. Corrective action included:

- hiring staff with the needed expertise for the necessary function
- agreement to improve internal control over administering various aspects of external financial reporting

A prior audit finding concerning a fee increase approved by a professional and occupational licensing board without going through Legislative Rules Review Committee and the Administrative Procedures Act as required by statute led to an expanded review of all boards and commissions. The statutory construction of fee establishment and setting of maximums allowed for a fee within statute were inconsistent between the various boards and commissions. An omnibus bill was passed during the 2008 Legislative session but excluded the Electrical Commission and the Board of Technical Professions. The Committee

requested the Electrical Commission and the Board of Technical Professions prepare draft legislation to be introduced during the 2009 legislative session to bring consistency and uniformity to these entities as well.

General Fund Contract Encumbrances

The Committee continued to review encumbrances at fiscal year end given issues raised in previous years. Agencies with encumbrances of interest were asked to appear and explain what the encumbrance was and why it was necessary to be carried over.

Review of Specific Matters Pertaining to Various State Agencies

Other areas addressed by the Committee included:

- New leases entered into by the Board of Regents
- Department of Social Services Constituent Liaison activities
- Contractual services expenditures for departments under Agency Sunset Review
- Effect of rate decrease on the Future Fund
- Status report on State Comptroller activities
- The progress and status of the Medicaid Management Information System Project
- Aircraft donation by SD Corn Utilization Council
- Interest rates established for the various loan programs of the State
- Catastrophic County Poor Relief Fund
- Provisions relating to the promulgation of laws and rules for setting various fees for professional and occupational licensing boards and commissions, including passage of legislation to bring uniformity and consistency to this process
- Historical trend of General Fund appropriations involving Higher Education
- Historical information on revenues and expenditures concerning the employee spending accounts
- Continuation of the Classroom Connections Laptop Computer program
- Establishment and operations of State Auditor-State Treasurer approved local checking accounts
- Status of the renovation of the State Library and future operating plans including FTE levels
- Department of Revenue and Regulation Tax Relief Fund process and revenue collections to date
- Licensure issues involving the SD Electrical Commission
- Transitional issues involving the brand inspection program and feasibility study
- Northern State University – International Business Institute
- South Dakota Science and Technology Authority
- The Committee going to a paperless environment
- Future Fund expenditures for FY 2008
- Reciprocity/Endorsement agreements relating to each of the professional and occupational licensing boards and commissions

Committee Responsibilities

The Government Operations and Audit Committee was established by South Dakota Codified Laws (SDCL) 2-6-2. The Committee is appointed at each regular session of the Legislature.

The Committee consists of ten members, five members from the Senate appointed by the President Pro Tempore of the Senate, one of whom shall be a member of the Judiciary Committee and five members from the House appointed by the Speaker of the House, one of whom shall be a member of the Judiciary Committee.

The responsibilities of the Committee are:

- To inquire and review any phase of the operations and the fiscal affairs of any department, institution, board or agency of the state;
- To examine records and vouchers, summon witnesses, examine expenditures and the general management of departments, as deemed necessary;
- To review any findings of abuse or neglect in a juvenile corrections facility;
- To make a continuing study of the operation of the state's correctional system; and,
- To make a detailed report to the Senate and House of Representatives and submit a copy of its report to the Appropriations Committee of each House of the Legislature at the next succeeding session of the Legislature or any special session of the Legislature upon request of the body.

Committee Activity

The Committee conducted the following review activities during 2008:

- Audit reports issued including the Statewide Single Audit
- General Fund contract encumbrances
- Specific matters pertaining to various state agencies
- Juvenile Corrections Monitor Reports and activities
- Cash balances of various state funds

Reviewed Audit Reports

The Committee reviewed the South Dakota Single Audit Report for the fiscal year ended June 30, 2007. The following summarizes the actions that were taken by the Committee.

Financial and compliance audits involve testing financial transactions of the state to determine that all money is properly accounted for and expended in accordance with state and federal laws and regulations. All audits conducted of state agencies were consolidated and reported in the Single Audit Report. The Single Audit Report includes the Comprehensive Annual Financial Report for the State of South Dakota prepared by the Bureau of Finance and Management, a schedule showing the federal awards administered by the state and related expenditures, and audit findings and recommendations issued by the Department of Legislative Audit.

The Single Audit Report was issued in accordance with auditing standards generally accepted in the United States of America, Government Auditing Standards issued by Comptroller General of the United States and South Dakota Codified Laws. A copy of this report may be

obtained from the Department of Legislative Audit.

The Committee reviewed financial reporting, internal control and compliance deficiencies written on twenty-one (21) state organizations, containing fifty-eight (58) recommendations for corrective action. Four (4) recommendations related to violations of state laws and regulations; twenty-one (21) recommendations related to violations of federal laws and regulations; one (1) recommendation related to violations of both state and federal laws and regulations; and, thirty-two (32) recommendations related to inadequate internal control procedures over receipts, revenue collections, expenditures and financial reporting.

The following represents the state agencies with audit findings and recommendations from fiscal years 2007 and 2006 and the implementation of fiscal year 2006 audit recommendations:

State Agency	Recommendations		
	Fiscal Year	Fiscal Year	FY2006 Imple-
	<u>2007</u>	<u>2006</u>	<u>mented</u>
Bureau of Finance and Management	2	1	1
Bureau of Administration	1	0	N/A
Department of Revenue and Regulation	1	1	0
Department of Agriculture	3	0	N/A
South Dakota Corn Utilization Council	2	0	N/A
Economic Development Finance Authority	1	0	N/A
Department of Tourism and State Development	2	0	N/A
Science and Technology Authority	5	0	N/A
Board of Regents	3	1	1
University of South Dakota	1	0	N/A
South Dakota State University	1	0	N/A
South Dakota School of Mines and Technology	4	0	N/A
Department of Education	2	3	1
Department of Health	3	2	2
Board of Medical and Osteopathic Examiners	1	0	N/A
Department of Labor	4	0	N/A
Department of Public Safety	0	1	1
Department of Transportation	14	1	1
Department of Social Services	5	5	3
School and Public Lands	2	0	N/A
South Dakota Housing Development Authority	1	0	N/A

N/A This agency did not have any FY 2006 audit recommendations.

The Committee sent letters to state agencies with audit findings and encouraged the state agencies to implement the audit recommendations. The Committee requested state agencies to provide written reports to the Committee on the status of actions taken to implement the audit recommendations. Four state agencies with audit findings were asked to appear before the Committee to discuss the audit findings. The Committee continues to monitor the responses and corrective actions taken by state agencies.

Department of Transportation

The Department of Transportation appeared before the Committee to respond to Committee questions regarding the department's policies and procedures established for third party billing and associated accounts receivable. The Department explained actions taken already to resolve the issues raised by the audit findings. The Committee will continue to monitor this progress.

South Dakota Board of Regents

The South Dakota Board of Regents appeared before the Committee to respond to questions concerning the audit findings relating to each respective university or central office. The Committee requested the Board provide the Committee with its proposed action plan and time line established by the Board to improve the external financial statement reporting process and timeliness of the report preparation including progress made to date. The Committee also desired a cost report on the total costs incurred to implement the new Banner accounting system to date including projected future costs that includes maintenance costs of the system.

The Board appeared again before the Committee and provided the proposed time line for preparing financial reports and the costs data on the new accounting system. The Committee was informed that the Board would be including in its 2010 budget a request for an additional 10 FTE's and funding to obtain the necessary manpower to improve the external financial reporting process. The Board also provided the Committee with information and answered Committee questions concerning the South Dakota State University Research Park and associated leases. South Dakota State University submitted a letter informing the Committee that the audit finding relating to the disposal of personal property had been properly resolved.

Bureau of Finance and Management

The Bureau of Finance and Management appeared before the Committee to discuss an audit finding relating to the Bureau's proposed action plan and time line established to improve the external financial statement reporting process and timeliness of the report. Also provided to the Committee was a progress report on hiring new accounting analysts and their respective roles. No further action was deemed necessary by the Committee.

Department of Revenue and Regulation

The Department of Revenue and Regulation appeared before the Committee to discuss the repeat audit finding which related to not properly calculating and collecting interest on late payments of bank franchise/bank cards taxes. The Department explained actions taken to resolve the issue. No further action was deemed necessary by the Committee.

Department of Agriculture

The Committee requested an update on the June 30, 2008 cash balance of the Department's indirect cost fund that was reported to be in violation of state statute in FY 2007. The update was provide by DLA to the Committee and no further action was deemed necessary.

Reviewed General Fund Contract Encumbrances

This area continues to be an on going agenda item of Committee interest. In prior years, issues were identified concerning how General Fund appropriations were being carried over from one fiscal year to the next by inappropriate means. The Committee decided that encumbrances should be reviewed periodically to identify potential issues on a timelier basis. The Committee decided that quarterly updates concerning encumbrances would be adequate.

The Committee reviewed the General Fund contract carryovers that were in effect during fiscal year 2008. The General Fund contract encumbrances include contract carryovers totaling \$16,895,923.64.

The Committee reviewed the General Fund contract encumbrances that are in effect during fiscal year 2009. The General Fund contract encumbrances included 94 contract carryovers totaling \$13,608,131.90. This continues to be an ongoing agenda item for the Committee.

The Department of Human Services was asked to provide the Committee with information concerning its contract carryover with Western Interstate Commission for Higher Education. The Department responded to the Committee request but questions remained. The Committee asked the Department to appear before the Committee to address issues involving evaluation reports that were to be provided once the project was completed. The Department informed the Committee that the Department really did not anticipate receiving an evaluation report in that WICHE acted as a facilitator and no actual evaluation reports would be forthcoming.

Reviewed Specific Matters Pertaining to Various State Agencies

Department of Social Services – Constituent Liaison

In the summer of 2005, the Committee had conducted public hearings concerning issues surrounding foster children in the care of the Department of Social Services, Division of Child Protection Services and its handling of cases. The Constituent Liaison position was created January 1, 2006, to provide an independent source of information and explanation of services provided by the Department and to receive complaints from the public about services. The Committee requested that the department provide periodic updates on the progress being made and the types of activities and complaints being handled by the Constituent Liaison.

The Department of Social Services (DSS) provided the Committee with an update on the activities of the Constituent Liaison since the position's inception including any feedback received by the Department concerning this newly created position. The Secretary of the Department of Social Services agreed to provide the Committee with an annual report on the results of the activities relating to the Constituent Liaison and any actions taken. The Committee reviewed the calendar year 2006 annual report from the Constituent Liaison and discussed several issues. The Department provided the Committee with a brochure available at all DSS offices explaining the Constituent Liaison services.

The Committee also received the calendar year 2007 annual report from the Constituent Liaison. The report was reviewed with no further Committee action deemed necessary.

Contractual Services Expenditure

In prior years, the Committee requested contractual services expenditure information to gather insight into the operations of various state agencies including such things as hiring of consultants versus hiring additional FTE's and in-state versus out-of state contractors. This information was considered useful for the Agency Sunset Review Committees and copies of the reports were provided to those Committees.

Department of Tourism and State Development – Contract Review

The Committee requested a listing of all contractual services expenditures incurred by the Department of Tourism and State Development during FY 2008 which was reviewed by the Committee. This information was then provided to the Department of Tourism and State Development Agency Review Committees. The GOAC Committee requested further information on the Kelly Services, Bockorny Group, and the Lawrence & Schiller Inc. contracts including a breakdown of the expenditures and nature of services to be provided. This information was received and the Committee requested further clarification from the Department regarding the Lawrence & Schiller contract. This information will be reviewed at the December 1, 2008 meeting.

The Committee requested an update on the Future Fund expenditures for FY2008. This information was provided to the Committee resulting in the Committee requesting further clarification from the Department on the \$1.55 million grant to Eagle Creek Software to locate in Pierre. This information will be reviewed at the December 1, 2008 meeting.

South Dakota Department of Game, Fish and Parks – Contract Review

The Committee requested a listing of all contractual services expenditures incurred by the South Dakota Department of Game, Fish and Parks during FY2008. This information was then provided to the South Dakota Department of Game, Fish and Parks Agency Review Committee. The Committee requested further information on the Bockorny Group contract including a breakdown of the expenditures and nature of services to be provided. No further action was deemed necessary by the Committee.

South Dakota Board of Regents

Several years ago, DLA identified a lease that was a less than arms length transaction involving a related party. As a result of this situation, an agreement was reached with the Legislative leadership that the Board would provide a quarterly report of all new leases for the various higher education institutions and Board of Regents central office for review. Additional issues have been identified with leases entered into by the Board of Regents in subsequent years.

The Committee reviewed the All New Leases Signed quarterly reports of the Board of Regents. No further action was deemed necessary at this time.

Northern State University (NSU) and the International Business Institute

The Committee requested information from the University concerning the Institute's nature

and purpose; work performed; who has oversight and responsibility over the Institute and its employees; its organizational structure; the number of job opportunities created as a result of its activities since its creation; a recap of the funding sources utilized by the Institute since its inception to fund its operations; and, the economic impact the Institute and its activities has had on the State since its inception. The Committee received this information but requested additional information concerning who makes the decisions on which projects to invest in and how much to invest. The Committee also requested profit/loss statements for the last three years in reference to the annual International Business Conference they sponsor. The Committee received a response from Northern State University. Questions remain and representatives from NSU, Governor's Office of Economic Development and the International Business Institute have been asked to attend the December 1, 2008 Committee meeting to respond to Committee questions.

Science and Technology Authority

The Committee requested that a letter be sent to the Authority requesting an update on the progress made in hiring a Chief Financial Officer. The Committee received the requested information and requested additional information be provided concerning staffing and salary levels by position. Staffing and salary levels by position was provided to the Committee and no further action was deemed necessary at this time.

Office of Attorney General

The Attorney General was asked to provide the Committee with the number of back ground checks conducted on behalf of local law enforcement. The Attorney General supplied the Committee with this information. No further action was deemed necessary at this time.

Governor's Office and Department of Education

The Committee requested information surrounding the continuation of the Governor's Classroom Connection Project into FY 2009 and the prior and future spending of various funding sources for this program. The Committee requested a report detailing the FY07 and FY08 e-rate revenue collections and associated expenditures along with the month end cash balances of the e-rate funding. The Committee was provided a report containing the requested information and took no further action.

The Committee requested copies of the annual evaluation report concerning the effects of the Classroom Connection Project. The Department provided the Committee with the first year of the project report and answered Committee questions. This subject will continue to be an agenda item for future Committee meetings.

The Committee requested the Department provide an update on the Birth to Three Program and the implications of the fee reductions on the various service providers. Public testimony from various service providers was received by the Committee and the Committee requested that the Department provide the Committee with its quality assurance policies and procedures. The Department provided the Committee with its quality assurance policies and procedures. Further Committee discussion centered on the issues surrounding the Birth to Three program. The Committee requested that a letter be sent to the Department asking for information concerning the number of providers that were lost as a result of the rate adjustments; who makes the final decision on the number of visits per week or the type of

service to be provided; who established the frequency and duration of the services; and when reassessments are performed and how to get a handle on re-evaluating people served to improve fiscal responsibility. This continues to be an ongoing agenda item.

Governor's Office

The State Comptroller provided the Committee with a written report on the status of progress being made on the implementation of a new Medicaid Management Information System (MMIS). The Committee requested that the Comptroller appear again before the Committee to provide the Committee an update on progress being made. The Comptroller appeared at the July meeting and updated the Committee on the MMIS system. The Comptroller informed the Committee that he was the project director and has been heavily involved in this matter for several years already. This continues to be an ongoing agenda item.

State Brand Board

The Committee requested that the Brand Board appear before the Committee to provide an update on the transition from the SD Stockgrowers performing the brand inspections to the Brand Board performing the brand inspections. The Committee also requested that the Board appear to discuss with the Committee the feasibility study performed on transitioning the brand inspection program into a state program. The Board appeared before the Committee and responded to Committee questions. No further action was deemed necessary by the Committee.

Department of Education

The Committee requested a written report on the status of the State Library FTE's, the continued need for the FTE's, and the future plans for utilizing all the FTE's authorized by the General Appropriation Bill be provided to the Committee. The Committee received the report and took no further action.

Department of Labor

The Committee requested and received an updated report on what effects the rate decrease approved by the Legislature had on the Future Fund. The Committee requested that the Department supply the Committee with a report on the total collection, amount charged for administrative purposes and the actual amount transferred to the Future Fund on a quarterly basis.

South Dakota Electrical Commission

The Committee requested that the Commission appear before the Committee to address concerns surrounding reciprocity with North Dakota and issues involving apprentice and journeyman's licenses. The Administrator responsible for the professional boards and commissions attached to the Department of Labor also attended a meeting and responded to Committee questions and concerns. He assured the Committee that he also had similar questions and shared the same concerns as the Committee. The Administrator indicated that action would be taken and the various issues and concerns would be looked into and appropriate corrective action taken to resolve the matters. The Committee requested

additional information from the Commission concerning licensure issues and applicable supporting documentation. This information was provided and is being reviewed by a Committee member to report back to the Committee as a whole. The Committee requested that the Department of Labor appear again to provide the Committee with an update on the corrective actions taken and issues remaining. Secretary Roberts informed the Committee on the corrective actions taken already or planned to be taken including the hiring of a new Executive Director. Secretary Roberts indicated that she would be preparing and sending a letter to North Dakota regarding any unresolved issues relating to reciprocity between the two states and would keep the Committee informed. This continues to be an ongoing agenda item.

South Dakota Board of Medical and Osteopathic Examiners

The Committee requested an update on the rationale for changing the licensure period for physicians' assistants. The Committee desired an explanation on why refunds were not provided since the license period was shortened. The Committee directed that a letter be sent to the Board requesting that the Board prepare a letter which would be sent to all physicians' assistants in the state explaining the recent change in licensure periods and explaining what occurred and the resulting over charge to each licensed physician assistant. The letter should also provide the rights of each licensed physician assistant and the procedures to be followed in obtaining a refund for the amount of the overcharge. A response was sent to the Committee by the Board. As a result of the response, the Chair directed that the Chair and Vice Chair would meet with the Board's representative in an attempt to resolve the issue to everyone satisfaction. This meeting was not held and the Chair directed that a letter be prepared and sent to the Secretary of each department that has a board or commission administratively attached to it seeking input on a proposed definition of a one year license renewal period being 12 months in length and a two year renewal period being 24 months in length. If this definition can be agreed upon, draft legislation will then be prepared and submitted during the upcoming session to clarify this definition.

South Dakota Lottery

The Committee requested Lottery officials to appear before the Committee to discuss the status of updating the old protocol controlling VLT terminal machines and the Lottery's monitoring efforts over these old machines. The Committee requested and received an update regarding any recent RFP's regarding its online lottery services and whether the two systems (VLT and online) could be combined for efficiency purposes. The Committee also inquired as to what the State does to insure that it gets the best price and latest technology without being locked into one vendor. The Committee took no further action.

Department of Revenue and Regulation

The Committee requested the Department be present to discuss issues involving the Tax Relief Fund (SDCL 10-45C-14 and 10-45C-15). Specifically, the Committee sought an explanation of the process including where funds get deposited and the various terminologies used. The Committee also desired an explanation as to why "voluntary sellers who are not registered through the Streamlined Sales Tax System were not being deposited into the Tax Relief Fund. The Committee received the requested information and no further action was deemed necessary.

The Committee requested a report be prepared by the Department detailing the construction projects, companies involved, and the dollar amount of tax dollars to be potentially refunded from Company 8000, Construction Project Tax. This report will be reviewed during the December 1, 2008 Committee meeting.

State Auditor and State Treasurer

The Committee requested information concerning the approval, controls over and review of approved local bank accounts. A report was to be provided to the Committee of all approved local bank accounts. This report was provided to the Committee. The Committee also requested a report identifying accounts containing idle cash that could possibly be invested and earning additional interest for the state/entity. That report was also provided and reviewed by the Committee. The Committee requested that the Unified Judicial System perform some research into what other states do with idle cash held in a fiduciary capacity and report back to the Committee.

South Dakota Corn Utilization Council

The Committee began a review of the aircraft involved in ethanol research and the Council involvement in the research. Inconsistencies in the correspondence received by the Committee resulted in several requests for additional information and a request that the Council appear before the Committee to answer questions. The Committee was provided additional registration material and a recap of the dates and events surrounding the ownership of the two aircraft in question. No further action was deemed necessary by the Committee.

Various Loan Programs and Applicable Interest Rates

The Committee requested information from various state agencies concerning the rate of interest being charged by the various loan programs of the state and the process followed in establishing the rate of interest and the period of time when interest begins to accrue. The Committee requested that the DLA prepare a summary of the various programs' interest rates and procedures and provide the summary to the Committee for its use. This summary was prepared and provided to the Committee. No further action was deemed necessary by the Committee.

Cash Flow Portfolio

The Committee was provided a recap concerning the state's Cash Flow Portfolio by DLA. The Committee requested a three year comparison of the Cash Flow Fund by Fund Balances along with the corresponding percentage increase/decrease and that this information be shared with the Executive Board of the LRC. This report was provided to the Committee by DLA and reviewed. No further action was deemed necessary.

Professional and Occupational Licensing Boards and Commissions

The Committee requested that the various Boards and Commissions provide the Committee with information concerning reciprocity agreements and endorsements with other states. This

information was received and recapped by DLA and provided to the Committee. No further action was deemed necessary at this time.

Reviewed Juvenile Corrections

The Committee is charged with the responsibility to review any findings of abuse or neglect of juveniles in a juvenile correctional facility.

The Committee receives a semi-annual report from the Juvenile Corrections Monitor (JCM) as required by state law. This report details complaints received at the state owned juvenile corrections facilities. The JCM must immediately notify the Governor, Department of Corrections Secretary, and the Government Operations and Audit Committee in writing of any substantiated abuse or neglect.

The Committee requested that the Attorney General review various juvenile corrections reports to assure that no personally identifiable confidential information was contained in the reports prior to releasing the documents as public information.

The Semi-Annual Juvenile Correction Monitor Reports for the period July 1, 2007 through December 31, 2007, and for the period January 1, 2008 through June 30, 2008, along with the Department of Corrections Semi Annual Reports on Allegations of Abuse and Neglect in Private Placement Facilities for the period July 1, 2007 through December 31, 2007, and for the period January 1, 2008 through June 30, 2008, were reviewed by the Committee. The reports contained two sections which is in compliance with the new law passed during the last Legislative session. The first section contains the public information portion of the report and the second section contains the confidential information which is not open to public inspection. The Committee requested that more information be placed in the public information section of the report to provide the public with a description of the allegation, the outcome of the investigation and what was done to resolve the issue. The Department of Human Services agreed to provide this general information as an addendum for this report and will include this general information in future reports.

Beginning with the July 1, 2006 through December 31, 2006 report entitled Allegations of Abuse and Neglect in Private Contracted Facilities which was voluntarily prepared by the Department of Corrections, the Committee began receiving a report on juveniles under the Department of Corrections supervision that have been placed in private placement facilities. The Committee reviewed the report and discussed policies and procedures with the Department of Corrections. The Committee requested and was provided these reports on a semi-annual basis like the Juvenile Corrections Monitor Report. Committee discussion centered on policies and procedures and corrective action taken by the Department to address any problems/issues identified.

The Committee was concerned about the process that would need to be followed in notifying the Department of Social Services of alleged abuse or neglect of a child in state custody involving a state employee so that the Department can start the process of a central registry investigation. The Committee is drafting language for proposed legislation to reference the central registry which will then be reviewed by the Committee during the December 1, 2008 meeting.

The Department of Corrections was requested to provide the Committee with the current inmate hourly pay rate; the economic impact of inmate labor; the entities using inmate labor; and, how much entities are spending on inmate labor. This information was partially provided to the Committee. The Committee requested that clarification be received from the Department concerning the information that was provided which will then be further reviewed at the December 1, 2008 Committee meeting.

Reviewed Cash Balances of Various State Funds

During a previous interim, the Committee was provided a handout prepared by the Department of Legislative Audit that contained June 30, 2006 cash basis financial data and budgetary information covering all funds of the state. This report was then updated once FY2007 year-end information was available. After reviewing that document, the Committee decided to review all state agencies as part of an ongoing project to identify any unused and unneeded statutorily created funds and the associated enabling legislation concerning those funds. Representatives from the various state agencies were requested to appear before the Committee to review and discuss the funds under their control. The Committee completed that review with no additional action being taken.

Reviewed the Updated Blue Book

The Government Operations and Audit Committee had requested that DLA update the “Blue Book” (Other Fund Information by Agency) with current June 30, 2007 trial balances for all other funds of the state. While this would not identify funds available for appropriation, the information would be useful to identify those funds that would be candidates for closer review and work. The updated Blue Book was provided to the Committee. The Committee then approved the criteria for fund review approved by the Subcommittee on Informational Fund Balance and requested DLA to use those criteria plus several other criteria to rank all funds within the Blue Book for purposes of placing priority on which funds to review in depth. This criteria and ranking of all other funds was provided to the Committee. The Committee reviewed the listing and decided to take the first 100 ranked funds and determine which agencies have the most funds within the top 100 and then request that that the agency prepare and submit condition statements to the Committee for its review for all funds administered by those agencies. The Committee completed the review of the top 100 funds.

The Committee reviewed the following agencies and funds as part of this review:

Secretary of State

1. Company 3013 – Filing Statement Filing Fee Fund – GOAC continue to review

The Committee requested additional information concerning why the cash balance had not been reduced to the statutory prescribed maximum cash balance at year-end. The office provided the Committee with an explanation of the adjustment after year-end information was available and no further action was necessary.

Department of Military and Veteran’s Affairs

1. Company 5017 – Resident Trust Fund – GOAC continue to review
2. Company 3021 – State Veteran’s Home Operating Fund – No further review

The Committee requested additional information on the process followed to determine veterans' eligibility to reside at the home; whether the eligibility was need based and/or income based; and, whether veterans residing at the home are required to maintain all their cash assets in the Resident Trust Fund. This information was supplied to the Committee and no further action was taken.

Legislative Research Council

1. Company 6501 – Postage Administration – No further review

The Committee requested information concerning the policy for reimbursement of per diem for legislators involved with a legislative interim meeting the same day that Legislative session begins. This information was provided to the Committee.

Attorney General's Office

1. Company 3000 – Attorney General Other Fund – GOAC continue to review

The Committee requested that the Attorney General Department provide the Committee with data on the number of back ground checks performed on behalf of local law enforcement for the past several years. This information was provided to the Committee and no further action was deemed necessary.

Bureau of Finance and Management

1. Company 6010 – Budgetary Accounting Fund – No further review

Bureau of Information and Telecommunications

1. Company 6002 – Capitol Communications System Internal Service Fund – No further review

South Dakota Building Authority

1. Company 6013 – Building Authority Fund – GOAC continue to review

The Committee requested historical information on past bonds issued. This information was provided to the Committee and no further action was deemed necessary.

Department of Labor

1. Company 6503 – South Dakota Technical Professions Fund – GOAC continue to review

The Committee requested that the Department of Labor provide the Committee with the reason why personal services increased in FY2007 and also requested that the Board of Technical Professions prepare proposed legislation similar to that of the past last year to bring uniformity and consistency to the professional and occupational boards and commissions. The Board's response to the Committee indicated that the request to draft this legislation was not consistent with the administration's protocol for submitting legislation. The Committee therefore requested that a letter be sent to the Legislative Research Council to prepare draft legislation similar to the omnibus bill passed during the 2008 session. The Committee received the draft legislation and

requested that the draft legislation be submitted to the Department for its review.

2. Company 8304 – Private Workers Compensation Fund – No further review

School and Public Lands

1. Company 5018 – Permanent Fund – No further action

Unified Judicial System

1. Company 3012 – Court Automation Fund – No further action

The Committee requested that DLA update the “Blue Book” (Other Fund Information by Agency) with current June 30, 2008 trial balances for all other funds of the state. The completed Blue Book, with June 30, 2008 information, was provided to the Committee during the November 10, 2008 meeting. The Committee decided to request two Departments to attend the December 1, 2008 meeting to review funds under their control and that each department was to prepare and provide the Committee with condition statements for funds under review.

GOAC Committee – Going Paperless

The Chair desired that the Committee receive all Committee correspondence and requested information in electronic form. The Committee requested the Legislative Research Council research the best alternatives for going to a paperless environment and report back to the Committee. The Legislative Research Council provided the Committee with a proposal and the Committee decided to try utilizing the electronic environment going forward via an LRC website. The November 10, 2008 Committee meeting was the first meeting that was paperless and the general public was able to access the agenda and related correspondence via a website on the internet in advance of the actual meeting date. The Juvenile Corrections Monitor Report will not be available in advance of the Committee meeting date and then only the public portion of the report will be available in the paperless environment.

RULES REVIEW COMMITTEE

Study Assignment

A review of proposed state agency rules.

Summary of Interim

The Rules Review Committee reviewed 89 sets of rules up to this date in the interim. The committee has two additional meetings scheduled for December 2 and January 12, 2008. The last meeting will be used to review any rules that may be pending before the legislative session. These two meetings will add approximately 25 sets of rules to the committee's total for rules reviewed.

The rules reviewed this year were from 14 executive branch agencies, the Secretary of State's office, and the Public Utilities Commission. The rules updated many of the routine operations of state government that have been listed in previous reports such as hunting and fishing requirements, camping fees, speed zones, education requirements, clarification of certain federal requirements regarding clean water, insurance, and business related matters.

Four rule proposals from the committee's agenda were sent back to an earlier step in the rules process to allow the affected agency an opportunity to hold additional public hearings or meet with interested parties to address concerns expressed by the interested parties or concerns stated by the committee.

At the committee's organizational meeting following the 2008 session, the committee set a goal to become paperless. The committee asked the agencies to serve all documents electronically via e-mail. The legislator's utilized their lap top computers to achieve this goal. However "going paperless" is a goal that continues to be a work in progress.

The committee continues its scrutiny of any agency rules that propose to increase fees. The committee requires a thorough explanation of the agency's fiscal note, budget, and need for the fee increase. By statute, an agency is also required to present fund balance condition statements for three years to support the fee increase.

Ultimately all rules presented to the committee were accepted.

Listing of Legislation Adopted

The committee will consider two bill proposals at its December 2nd meeting. One proposed bill will modify the list of documents served on the rules review committee and the second proposal will be a rewrite of HB 1266 from the 2008 session.

Summary of Meeting Dates and Places

The Rules Review Committee met at the State Capitol in Pierre on the following dates: February 28, 2008; April 15, 2008; May 13, 2008; June 10, 2008; August 19, 2008; September 9, 2008; and October 2, 2008. The committee is scheduled to meet on

December 2, 2008, and on January 12, 2009, to consider any rules that need to be considered before the legislative session begins.

Listing of Committee Members

Committee members were Senator Orville Smidt (Chair); Representative Roger Hunt (Vice-Chair); Senators Jim Hundstad and Jean Hunhoff; and Representatives David Lust and William Thompson.

Listing of Staff Members

Staff members were Doug Decker, Code Counsel, Jim Fry, Director, and Kris Schneider, Senior Legislative Secretary.

SOUTH DAKOTA HIGHWAY NEEDS AND FINANCING COMMITTEE

Study Assignment

The committee was directed to study all South Dakota highway needs and financing (state, county, township, and municipal highways). The study was to include following issues:

- Projected long term state and local highway needs;
- Allocation and distribution of responsibility for all highway segments within the state;
- Future state and local highway cost projections compared to projected revenue;
- The sustainability of current sources of the state highway fund;
- Alternative sources of highway funding revenue;
- Strategies for creating greater efficiency in financing state and local highways; and
- Strategies to promote the development of innovative ideas aimed at reducing highway funding needs.

Summary of Interim

In conducting its review, the committee held three meetings.

At the first meeting of the committee, Ms. Debra Hillmer, Director of the Division of Motor Vehicles, presented to the committee background information about the highway revenues collected in the state and how those revenues are distributed. She told the committee that in FY07, just over \$116 million went to the State Highway Fund from the motor fuel tax and about \$57.5 million went to the State Highway Fund from the motor vehicle excise tax. Also in FY07, about \$60.6 million was collected from motor vehicle license fees and distributed among counties, municipalities, and townships. Of these three sources of revenue, only the motor vehicle excise tax revenue was steadily increasing each year. This was due primarily to the increasing prices of new and used motor vehicles.

The committee also received a presentation from Mr. Darin Bergquist, Secretary of the Department of Transportation, regarding the state highway system, highway revenues, and the challenges that face the department. He indicated that state highway funds have been declining in recent years, that future federal funding for state highways is uncertain, and that highway construction and maintenance costs have been inflating at unprecedented rates. He told the committee that highway needs are greatly exceeding the existing funding availability and that will eventually result in the deterioration of state highways and bridges.

Mr. Bob Wilcox, South Dakota County Commissioners Association, commented about a local roads needs assessment study that was also being conducted this summer in conjunction with the committee. This study was led by a technical panel consisting of state government, local government, highway contractors, and highway user representatives. The goal of this study was to assess the condition of local roads and bridges and address the future funding

needs. The results of the study were to be presented to the committee at its next meeting.

At the committee's second meeting, Secretary Bergquist presented more detailed information regarding the current and future needs of the state highway system. He explained the process by which highway needs are determined. His report covered field operation needs, roadway maintenance needs, building needs, and pavement and bridge preservation needs. He explained to the committee the efficiencies the department has been implementing to meet these needs with declining revenues. He told the committee that the department would need an additional \$128.8 million a year to continue to meet highway needs at the current level. Of this amount, \$72.3 million a year is needed for pavement preservation and \$17.4 million a year is needed for bridge preservation.

The committee also reviewed a menu of possible highway funding options for the future. The committee was informed of the troubles facing the Federal Highway Trust Fund and of the uncertainties of future federal highway funds. The committee was told that 55% of South Dakota's highway revenues are derived from the Federal Highway Trust Fund, therefore what happens at the federal level regarding highway financing will have a major impact on South Dakota. The committee reviewed a wide array of possible highway funding sources including taxes based on fuel (motor fuel excise, indexed fuel tax, and fuel sales tax), taxes based on vehicles (vehicle excise tax, vehicle registration fees, and wheel tax), taxes based on property or sales (front-foot assessments, special assessments, county road districts, developer fees, and municipal retail sales and use tax), and taxes based on vehicle use (vehicle miles traveled fees, weight-distance tax, overweight penalties, and tolls). The committee also reviewed the possibilities of bonding for highway improvements and the possibilities of public/private partnerships.

The committee was informed that a one cent increase in the motor fuel excise tax would increase revenues by \$5.7 million a year, a one percent sales tax on motor fuel would generate \$22 million a year, a one percent increase in the motor vehicle excise tax would generate \$19 million per year, a removal of the old vehicle exemption would generate \$13 million a year, and an increase of motor vehicle registration fees would bring in \$1 million a year for each dollar that the fees were increased.

At the committee's final meeting, the committee received the report of the 2008 Local Roads Needs Study. Mr. David Huft, Research Program Manager for the Department of Transportation, presented the report which had been compiled by the technical panel.

Among conclusions of that study were the following: local governments face significant challenges to provide and maintain a road and bridge infrastructure, funding and expenditures for local roads have remained fairly constant since 1999, the value of the "road dollar" has declined by 40% since 1998, and that agricultural, residential, and industrial development place significant demands on local transportation. The study concluded that an additional \$117 million was needed annually to meet local road surface and bridge needs. Of this amount, \$88 million was for counties, \$21 million was for townships, and \$8 million was for cities.

Secretary Bergquist also presented to the committee a range of funding needs on the state highway system depending on what happens at the federal level. He indicated that the department would need an additional \$128.8 million a year of state funds if nothing changed

at the federal level. He told the committee that based on the most likely level of future federal funding that the department would need an additional \$100.8 million a year.

The committee reviewed a list of possible recommendations to the 2009 Legislature. The list included the following: raising the motor vehicle excise tax, removing the reduction of motor vehicle license fees for older motor vehicles, increasing motor vehicle license fees, requiring all counties to implement a wheel tax, increasing the motor fuel tax, indexing the motor fuel tax, putting a sales tax on motor fuel, removing the exemption from the titling and registration requirements for mopeds, increasing license fees for all-terrain vehicles using the highways, lowering the collection allowance from 2 ¼% to 2%, establishing a flat fee for hybrid and alternative powered vehicles, modifying the diversions from the State Highway Fund, placing a one cent tax on dyed diesel fuel, and repealing the two cent tax break for ethanol.

The committee had considerable discussion regarding these options. The committee decided to recommend three bills to address the short term needs facing state and local highways in the state. The committee is also recommending that a task force be appointed to continue to review the other options considered by the committee and to continue to work on reforming our system of funding highways in this state. The committee is also recommending a resolution be sent to Congress to pass a well-funded, multiyear federal highway program in a timely manner.

Listing of Legislation Recommended

An Act to increase the motor vehicle excise tax by one percent.

This proposal would generate about \$19 million for state highways.

An Act to repeal the reduction of motor vehicle license fees applied to older motor vehicles.

This proposal would generate about \$13 million for local highways.

An Act to increase noncommercial license fees by ten dollars.

This proposal would generate about \$10 million for local highways.

An Act to create a Highway Finance Task Force to study long-term highway needs and financing.

A Concurrent Resolution urging Congress to pass a well-funded, multiyear federal highway program in a timely manner.

Summary of Meeting Dates

The committee met on June 19, September 24 & 25, and November 12 & 13. All of the meetings of the committee were held in the State Capitol in Pierre.

Listing of Committee Members

Committee members included Senator Cooper Garnos, Chair; Representative Gordon Pederson, Vice Chair; Senators Jerry Apa, Alan Hoerth, and Jim Peterson; and Representatives Dan Ahlers, Jamie Boomgarden, Jim Bradford, Tom Hackl, Shantel Krebs,

Garry Moore, Kristi Noem, Ryan Olson, J.E. “Jim” Putnam, Val Rausch, Mike Vehle, and Hal Wick.

Listing of Staff Members

Staff members included David L. Ortbahn, Principal Research Analyst; Fred Schoenfeld, Chief Fiscal Analyst; Aaron Olson, Senior Fiscal Analyst; and Lisa Shafer, Legislative Secretary.

STATE-TRIBAL RELATIONS STUDY COMMITTEE

Study Assignment

The State-Tribal Relations Study Committee held its organizational meeting and selected study topics for the 2008 Interim at its first meeting held at the Capitol in Pierre on February 27, 2008. The committee discussed holding a meeting in conjunction with the Midwest Legislative Conference held in Rapid City in July as well as meetings at other reservations. Committee members discussed possible topics for study, including gaming and education.

Summary of Interim

The State-Tribal Relations Study Committee is an ongoing interim committee that was created in statute (SDCL 2-6-20) in 1993 as a part of the state's reconciliation efforts. The committee provides a forum within state government for discussion by Indians and non-Indians of issues affecting the Native American community and issues involving Tribal governments and State government. The committee also serves as a way of familiarizing legislators with such issues.

The committee held its organizational meetings in the Capitol in Pierre on February 27 and June 9, 2008. At the June meeting, the committee completed plans for the July meeting in Rapid City and locations on the Pine Ridge Reservation, as well as later meetings with the Yankton Sioux Tribe and with the Flandreau Santee Sioux Tribe. At the June meeting, the committee also heard presentations on Native American tourism in South Dakota, as well as testimony on potential study topics and other issues.

The committee's third meeting was held on July 11-12, 2008 at the Badlands National Visitor Center, at Oglala Lakota College in Kyle, at Wounded Knee, and at Oglala Lakota College's He Sapa Center in Rapid City. At these sessions, the committee heard presentations and public testimony on a large variety of subjects, including management of Badlands areas located within the Pine Ridge Reservation, economic development, education, election issues, accreditation of tribal substance abuse counselors, restorative justice, tourism, and cultural awareness training methods.

The committee's fourth meeting was held on August 14-15, 2008. The August 14 meeting was held with the Flandreau Santee Sioux Tribe at the Royal River Casino in Flandreau. The committee heard presentations by Flandreau Tribal President Josh Weston and other tribal officials. The committee also heard a presentation on issues related to the upcoming 2010 Census by representatives of the U.S. Census Bureau. Mr. Jeremiah M. Murphy, representing the Great Plains Indian Gaming Association, discussed gaming contributions and gaming issues with the committee, including caps on slot machine numbers for each tribe and the length of the compact term for each tribe. Tribal attorney Rollie Samp addressed additional gaming issues, and the committee also heard public testimony.

On Friday, August 15, 2008 the Committee met with the Yankton Sioux Tribe at the tribe's Fort Randall Casino near Pickstown. The committee heard a presentation from the Census Bureau on the 2010 Census, as well as testimony from a number of tribal officials and agencies and from members of the public. Testimony addressed economic development, gaming, agriculture, environmental protection, and health care. Considerable testimony was provided in opposition to the proposed hog confinement facility near Wagner and about the

confrontation that occurred in April between tribal members and law enforcement in relation to the proposed hog facility.

Listing of Legislation Adopted

None

Summary of Meeting Dates and Places and Listing of Committee Members

The committee met in the State Capitol in Pierre on February 27, 2008, and June 9, 2008; at Badlands National Visitor Center, Oglala Lakota College in Kyle, and Wounded Knee on July 11, 2008 and at Oglala Lakota College's He Sapa Center in Rapid City on July 12, 2008; and at the Flandreau Santee Sioux Tribe's Royal River Casino in Flandreau on August 14, 2008, and the Yankton Sioux Tribe's Fort Randall Casino near Pickstown on August 15, 2008.

Members of the committee include Rep. Kent Juhnke (Chair) and Sen. Theresa Two Bulls (Vice Chair); Senators Julie Bartling, Tom Dempster, Cooper Garnos, and Tom Katus; and Representatives Jim Bradford, Mark DeVries, Tom Van Norman, and Keri Weems.

Committee staff members were Tom Magedanz, Principal Research Analyst; and Reta Rodman, Legislative Secretary.