MINUTES
Executive Board

Representative G. Mark Mickelson, Chair
Senator Brock L. Greenfield, Vice Chair
Representative Spencer Hawley, Ranking Minority Member

Third Meeting, 2017 Interim
Monday, May 15, 2017

Room 413 – State Capitol
Pierre, South Dakota

The third meeting of the Executive Board for the 2017 Interim was called to order by Representative G. Mark Mickelson at 10:00 a.m. in room 413 of the State Capitol, Pierre, South Dakota. A quorum was determined with the following members answering roll call: Representatives Spencer Gosch, Steven Haugaard, Lee Qualm, Tim Reed, Mike Stevens, and Craig Tieszen; Senators Jim Bolin, R. Blake Curd (via telephone), Jeffrey Partridge, Jim Stalzer, and Billie H. Sutton; Representative Spencer Hawley, Ranking Minority Member; Senator Brock L. Greenfield, Vice Chair; and Representative G. Mark Mickelson, Chair. Excused: Senator Kris Langer.

Staff members present include Jason Hancock, Director; Sue Cichos, Deputy Director; Doug Decker, Code Counsel; Annie Mehlhaff, Chief Analyst for Fiscal; David Ortbahn, Chief Analyst for Research; Scott Darnall, Information Technology Manager; Randy Stockwell, Computer Network Administrator; Jeff Mehlhaff, Fiscal Analyst; and Cindy Tryon, Senior Secretary.

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 web cast live. The archived web cast is available at the LRC web site at http://sdlegislature.gov.

Approval of Minutes

A MOTION WAS MADE BY SENATOR SUTTON, SECONDED BY REPRESENTATIVE STEVENS, TO APPROVE THE MINUTES OF THE APRIL 18, 2017, EXECUTIVE BOARD MEETING. Motion prevailed on a voice vote.

Management Reports

Ms. Sue Cichos, Deputy Director, said the Board and LRC staff will be honoring Ms. Carol Huber, Business Manager, during the lunch break. Ms. Huber is retiring after 40 years with the LRC. Ms. Cichos announced that Ms. Kris Schneider, LRC Senior Secretary, will be replacing Ms. Huber as the new LRC Business Manager.

Mr. Jason Hancock, Director, presented the Board members with additional information on proposed initiated measures and constitutional amendments that have been submitted to LRC for review with the intent of being placed on the 2017 ballot. Mr. Hancock said LRC has fifteen days to review and respond to these proposals, and meeting the fifteen-day requirement can be a challenge depending on the complexity of the proposal. These proposed initiated measures are eventually placed on the Secretary of State's website.

Mr. Hancock said the LRC senior staff held a planning retreat in 2015 and again in May of this year. The senior staff compiled a list of projects that anticipate the needs of the legislature and find ways to make improvements within the LRC office. In 2015, the list included 62 suggested ideas/projects for the office to address, most of which were completed. The 2017 list includes 25 suggestions.

Mr. Scott Darnall, IT Manager, introduced Mr. Randy Stockwell, the new Network Administrator. Today is Mr. Stockwell's first day with LRC.

Mr. Doug Decker, Code Counsel, said the 2017 Session Laws are on the website. Mr. Decker does have the page proofs for the pocket parts from West Publishing and is reviewing those pages now. The contract with West for publishing the South Dakota code is up for review and will be finalized in June at the State Bar convention.

Ms. Annie Mehlhaff, Chief Fiscal Analyst, said the fiscal staff has completed the 2017 Session Summary booklet and it will soon be available on the website. The summary details the hard work of the Joint Committee on Appropriations during this past session.

Ms. Mehlhaff said Ms. Stephanie Gruba, Senior Fiscal Analyst, will be attending Law School this fall. The Fiscal Analyst position will be announced soon and Ms. Gruba will be leaving in August.

The Fiscal Staff is preparing for the Joint Committee on Appropriations' East River Facilities Tour starting in Yankton and concluding with facilities located in Sioux Falls. The tours will be held June 7-9 and any Executive Board member interested in attending should contact Ms. Mehlhaff.

Workforce Housing Interim Study Committee

The scope for the Workforce Housing Interim Study Committee is to study the need for workforce housing in South Dakota, especially in the rural areas and in smaller communities. The study should include a review of programs offered by the South Dakota Housing and Development Authority. The study should explore and recommend possible ways to address current and future workforce housing needs ***(Document #1)***.

Representative Mark Mickelson suggested the scope of this study be concentrated to communities with a population of 2,500 or less. There is a more acute and unique need in the smaller communities.

Senator Jim Bolin suggested the study concentrate on second and third class communities which have populations of less than 5,000; statute defines first class communities as communities with population of 5,000 or more.

Representative Spencer Hawley said the focus should not be limited to the smaller communities, as it is a big issue for communities of all sizes.

A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY REPRESENTATIVE STEVENS, THAT ALL MUNICIPALITIES SHOULD BE INCLUDED IN THE FOCUS OF THE STUDY, BUT PRIORITY SHOULD BE GIVEN TO CLASS 2 AND CLASS 3 MUNICIPALITIES. The motion prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Tieszen, Bolin, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. Those EXCUSED: Curd and Langer.

A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY REPRESENTATIVE HAWLEY, THAT THE FOLLOWING MEMBERS BE APPOINTED TO THE WORKFORCE HOUSING INTERIM STUDY COMMITTEE: REPRESENTATIVES CHASE, KETTWIG, LUST, McPHERSON, SUE PETERSON, SCHOENFISH, SMITH, TURBIVILLE, WISMER, AND SENATORS HAVERLY, KILLER, MAHER, AND MONROE; REPRESENTATIVE LUST TO SERVE AS CHAIR AND SENATOR MAHER TO SERVE AS VICE CHAIR.

A SUBSTITUTE MOTION WAS MADE BY REPRESENTATIVE GOSCH, SECONDED BY SENATOR STALZER, THAT SENATOR MAHER BE APPOINTED CHAIR AND REPRESENTATIVE KETTWIG BE APPOINTED VICE CHAIR OF THE WORKFORCE HOUSING INTERIM STUDY COMMITTEE. The substitute motion failed on a roll call vote with 4 members voting AYE, 9 members voting NAY, 2 EXCUSED. Those voting AYE: Gosch, Haugaard, Stalzer, and Sutton. Those voting NAY: Qualm, Reed, Stevens, Tieszen, Bolin, Partridge, Hawley, Greenfield, and Mickelson. Those EXCUSED: Curd and Langer.

The original motion made by Senator Greenfield, seconded by Representative Hawley, prevailed on a roll call vote with 13 members voting AYE, 2 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Tieszen, Bolin, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. Those EXCUSED: Curd and Langer.

Government Accountability Task Force

A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY REPRESENTATIVE HAWLEY, THAT THE SCOPE OF THE GOVERNMENT ACCOUNTABILITY TASK FORCE REMAIN THE SAME WITH THE CHARGE OF THE TASK FORCE BEING TO FIRST FOCUS ON CAMPAIGN FINANCE, BUT AFTER STUDYING CAMPAIGN FINANCE THE TASK FORCE CAN REQUEST FROM THE EXECUTIVE BOARD TO EXPLORE MORE ISSUES. SENATOR YOUNGBERG SHALL SERVE AS THE TASK FORCE CHAIR AND REPRESENTATIVE BARTLING SHALL SERVE AS VICE CHAIR. The motion prevailed on a roll call vote with 14 members voting AYE, 1 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Tieszen, Bolin, Curd, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. EXCUSED: Langer.

Initiative and Referendum Task Force

A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY SENATOR BOLIN, TO APPOINT DR. EMILY WANLESS AS CHAIR AND REPRESENTATIVE HAGGAR AS VICE CHAIR OF THE INITIATIVE AND REFERENDUM TASK FORCE. The motion prevailed on a roll call vote with 13 members voting AYE, 1 member voting NAY, 1 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Tieszen, Bolin, Curd, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. Voting NAY: Partridge. EXCUSED: Langer.

A MOTION WAS MADE BY SENATOR STALZER, SECONDED BY SENATOR GREENFIELD, THAT THIS TASK FORCE BE AUTHORIZED BY THE EXECUTIVE BOARD TO BEGIN MEETING PRIOR TO JULY 1, 2017. The motion prevailed on a roll call vote with 14 members voting AYE, 1 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Tieszen, Bolin, Curd, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. EXCUSED: Langer.

Issue Memo Topic Selection

Mr. David Ortbahn, Chief Analyst for Research and Legal, presented a list of ideas for Issue Memoranda to be researched and written by the LRC Research and Fiscal staff.

A MOTION WAS MADE BY SENATOR SUTTON, SECONDED BY REPRESENTATIVE REED, TO HAVE ISSUE MEMORANDA WRITTEN ON THE FOLLOWING TOPICS: HISTORY OF THE INITIATIVE, REFERENDUM AND CONSTITUTIONAL AMENDMENT PROCESS; COMPARE HOW THE SYSTEM OF REGULATING ALCOHOLIC BEVERAGE SALES IN THE STATE COMPARES TO SYSTEMS IN OTHER STATES AND LOOK AT RECENT INNOVATIONS IN THE REGULATION OF ALCOHOLIC BEVERAGE SALES IN OTHER STATES; REVIEW THE USE OF TAX INCREMENT FINANCING (TIF) DISTRICTS IN THE STATE AND HOW THE SCOPE OF THE TIFS HAS EVOLVED OVER THE YEARS; COMPARE THE TUITION AND FEES CHARGED AT PUBLIC POSTSECONDARY TECHNICAL INSTITUTES AND AT PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS IN THE STATE WITH THOSE CHARGED IN SURROUNDING STATES; CIGARETTE AND TOBACCO TAXATION AND REVENUE; EARLY CHILDHOOD EDUCATION; AND REFUGEE RESETTLEMENT. The motion prevailed on a roll call vote with 14 members voting AYE, 1 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Tieszen, Bolin, Curd, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. EXCUSED: Langer.

Mr. Ortbahn said the goal will be to have these papers completed by the November Executive Board meeting. Representative Mickelson suggested reporting one or two of these memos at each of the Executive Board meetings, if possible.

Sales Tax Update

Representative Mickelson said the sales tax collection for FY2017 is down 2.2% from where it was in FY2016, and Representative Mickelson believes one of the main reasons for this decrease is online sales. Congresswoman Noem is taking the lead on this issue in Congress and is looking to attach the taxing of online sales to a tax bill during this session. Another option is that the state will have the authority to collect sales tax on online sales if South Dakota wins the lawsuit that is currently underway.

Representative Mickelson said the LRC staff is currently studying the possibility of collecting a fee on out-of-state deliveries which could be another option to address the loss of sales tax on online sales. A report on that research will be given at the next Executive Board meeting.

Mr. Jim Terwilliger, Deputy Commissioner, Bureau of Finance and Management, distributed the document, *Bureau of Finance and Management's Recent Sales Tax Activity and Analysis* ***(Document #2)***. Mr. Terwilliger discussed the information found in this document with the Executive Board. As of today, sales tax collections for FY17 is $11 million less than the estimate made when preparing the state budget, and this document breaks down the possible reasons for this decline in sales tax collections.

Mr. Terwilliger said page 4 of the document breaks down tax collection by Standard Industrial Classification (SIC) codes and more clearly demonstrates which businesses are seeing a decrease in sales tax collections. Some of the decreases may be the result of reduced prices or deflation.

Mr. Terwilliger said one of the main reasons for the difference in personal consumption and the sales tax base, as seen on page 11 of the document, is the growth in healthcare costs.

Mr. Terwilliger said page 12 of the document shows the decline in farm income over the past few years. This decline in income leads to less spending and lower sales tax collections.

Representative Mickelson thanked Mr. Terwilliger for his report and asked that the Bureau of Finance and Management give another update at the August Executive Board meeting.

Mr. Jeff Mehlhaff, Fiscal Analyst, reported on the state sales tax collections based on SIC codes ***(Document #3)***. Mr. Mehlhaff said every business remitting sales tax falls under an SIC code and there are 10 different major divisions of those codes and further groups within each division, as seen on page 1 of document #3. In FY16, 52.2% of the taxable sales was within the retail trade division. Pages 2-4 of document #3 contain graphs comparing 2014 through 2017 taxable sales by SIC code.

Representative Mickelson thanked Mr. Mehlhaff for this report and suggested that he continue with similar reports at every Executive Board meeting.

American Health Care Act Update

Mr. Andrew Christianson, Chief of Staff, and Mr. Matthew Hittle, Legislative Director, Congresswoman Kristi Noem's Office, answered questions from the Executive Board regarding the American Health Care Act and other national issues.

In response to Representative Mickelson's question, Mr. Christianson said what was called the Main Street Sales Tax Bill or Streamlined Sales Tax is now called the Remote Transaction Parody Act. Congresswoman Noem is the prime sponsor of the bill in the House and there is a similar bill introduced in the Senate by Senator Enzi of Wyoming. Mr. Christianson said they are hopeful that with the new administration they will be able to get some forward movement on this issue. Mr. Hittle added that they have an equal number of Republicans and Democrats signed on to this bill, as this is a bipartisan issue.

Representative Mickelson asked Mr. Hancock to develop a list of states that are supporting this issue so that when legislators attend national meetings and conferences, South Dakota legislators can discuss this issue with legislators from those other states.

Mr. Hittle reported on the American Health Care Act. Mr. Hittle said they expect the Senate to make several modifications to the legislation, and they can only afford to lose support from two Republican Senators to pass this legislation in that chamber. Mr. Hittle said he does not expect to see a finished product before late summer or fall.

Third Floor Restrooms

Representative Mickelson said the remodel of the third-floor Senate bathrooms is still under discussion and more work needs to be done to make sure the new restrooms meet all ADA regulations, and that Mr. Hancock will be working with the Bureau of Administration to meet ADA requirements and the needs of the Senate.

Technology Subcommittee Report

Representative Hawley, Chair, Technology Subcommittee, said replacement of the Legislators' iPads is still under discussion. The IT staff will be redesigning the LRC website and in preparation for doing that they conducted a survey asking for users' opinions. Over 700 survey responses have been submitted.

Representative Hawley said there has been some discussion of putting interim committee documents on board papers for easier access on the iPads. By using the board papers, committee documents can be accessed without being connected to the internet.

Mr. Darnall continued the report by saying the IT staff is working on upgrading the technology in committee rooms 412, 413, and 414. The current technology was installed in those rooms almost ten years ago, which means the equipment is at or nearing end-of-life. The intention is also to add cameras to the rooms to make them all Skype capable. Mr. Darnell said they are looking at a way to broadcast session internally to eliminate the 20 second delay that occurs with PBS. Mr. Darnall said the big IT project for this year will be the website overhaul.

Budget Subcommittee Report

Senator Jeffrey Partridge, Chair, Budget Subcommittee, presented the LRC FY17 YTD expenditures and encumbrances through April ***(Document #4)***. The budget as written shows a $63,728 reversion which does match the 1% reversion the Governor has requested from all agencies. The $400,000 allocated for Capital Outlay is for new chairs in the chambers and the technology upgrades reported by the Technology Subcommittee.

Representative Spencer Gosch, Vice Chair, Budget Subcommittee, said the travel budget allocation for interim travel for FY18 is $501,220. This amount was determined based on 2016 travel expenditures. There is a decrease of $85,000 in out-of-state travel from last year's budget. Senator Partridge said out-of-state travel has been over budgeted in past years and the new budget amount is intended to bring that amount closer to the actual expenses for out-of-state travel.

Representative Steven Haugaard said he would like to see some of these savings repurposed and used to hire more interns for Session. Representative Haugaard said there is not always an intern available when needed.

Mr. Hancock explained that the LRC budget was approved in the FY18 General Bill. The Executive Board's responsibility today is to allocate the FY18 travel dollars.

A MOTION WAS MADE BY REPRESENTATIVE GOSCH, SECONDED BY SENATOR GREENFIELD, TO ALLOCATE THE FY2018 NON-SESSION LEGISLATIVE TRAVEL, PER DIEM, AND REGISTRATION FEE BUDGETS AS FOLLOWS: 58.4% ($282,272) TO THE HOUSE OF REPRESENTATIVES; 38.2% ($184,956) TO THE SENATE; 3.4% ($16,492) TO THE

NON-LEGISLATIVE MEMBERS APPOINTED TO THE LEGISLATIVE COMMITTEES; AND $17,500 TO THE UNIFORM LAWS COMMITTEE. The motion prevailed on a roll call vote with 14 members voting AYE, 1 EXCUSED. Those voting AYE: Gosch, Haugaard, Qualm, Reed, Stevens, Tieszen, Bolin, Curd, Partridge, Stalzer, Sutton, Hawley, Greenfield, and Mickelson. EXCUSED: Langer.

Senator Partridge said he would like the Executive Board to look more closely at the budget to see if more can be cut from the Capital Assets budget item found on page 3 of document #4.

Mr. Darnall explained the amount allocated to update end-of-life technology in committee rooms. Representative Mickelson said it would be helpful when asking the public to testify at committee meetings to be able to use Skype or video conferencing so the testifier would not have to travel to Pierre at a moment's notice.

Senator Blake Curd said having the ability for more people to be able to testify during committee meetings would be helpful. Allowing the public to be a part of making decisions is a fundamental role of the legislature.

Representative Hawley said the Technology Subcommittee has discussed the timelines for life expectancy of equipment and it is better to upgrade a little each year rather than having to upgrade everything at the same time.

Senator Bolin asked if this is a special request or part of the base budget. Ms. Mehlhaff said this is money remaining from the base operating budget.

Senator Partridge said this specific item was not part of the original budget request and is not included in the budget brief, and he does not think this is the time to be doing this.

Mr. Darnall said this is much more than just installing video conferencing; as the technical equipment ages, it increases the chances that something can break down during session and losing the use of a committee room even for a few days during session can be a serious problem.

Representative Mickelson said the Board will delay action on funding the upgrades to technology in committee rooms, and requested more information on these upgrades be provided for the next meeting.

Representative Tim Reed requested the additional information be provided to the Technology Subcommittee prior to the June 6 meeting, allowing them to come back to the full-board with a prepared proposal.

Investment Council Subcommittee

Representative Mickelson, Chair, Investment Council Subcommittee, said applications are being taken at this time for a seat on the Investment Council. Interviews will be conducted and an appointment will be made at the June Executive Board meeting.

Governor's Office of Economic Development

Mr. Scott Stern, Commissioner, Governor's Office of Economic Development (GOED), provided a strategic overview of what GOED is doing in the state to support economic development.

The Bulldoze, Build and Beautify (BBB) program is one of the components being used to address the workforce housing issue. GOED has identified 3,800 structures in communities across the state that are dilapidated beyond use but the communities cannot afford to tear them down. This program is a shared strategy between the state and the communities to finance the removal of these buildings providing land for developing workforce housing. The state is requesting a million dollars a year for the next five years from HUD to fund this project. Applications to be a part of this program will be accepted in June and the selected communities will be notified mid-July.

Commissioner Stern updated the Board on workforce recruitment activities, especially focusing on attracting the blue/gray collar workers, which is the workforce most needed in South Dakota. There will be two job concierges hired to reach out directly to possible workers to determine what they are looking for when deciding where they want to work. This project is a partnership between GOED and the Department of Labor, and will allow for a laser like focus to attract workers to this state. The Commissioner said they will have some idea of the results of this project in 90-120 days.

Commissioner Stern gave an update on the SD Equity Fund. It is difficult to find investors for the types of businesses that do not have a lot of hard assets, such as science-based, knowledge-based companies. In response to that need for capital, the South Dakota Future Fund made an investment in what is now called the SD Equity Fund. Enterprise 605 is the board that oversees the SD Equity Fund. The intent is that the state will provide $7 million in seed capital, along with the SD Development Corporation providing $3 million, and then will seek $20 million in private capital for a total of $30 million. This equity fund will then take an equity position or capital position in these new innovative companies.

Enterprise 605 will manage this fund so that the state does not have any involvement in who receives these funds. The SD Equity Fund is a non-profit corporation. This fund should be able to start investing money in July.

Commissioner Stern gave a list of the top ten businesses GOED is currently working to bring to South Dakota. The top ten businesses are three biotechnology industries, electronics, consumer products, four ag businesses, and a regional headquarters for a distribution company.

Senator Billie Sutton asked about the future of the Building South Dakota program. Commissioner Stern said they will be taking an analytical look at the program to determine what is and is not working. Once the analysis is completed, GOED will be seeking the support dollars needed to fund the project.

Representative Haugaard said he believes the BBB program does not seem to be going to touch many communities and using federal dollars is adding to the federal debt and it would be more prudent to say no thanks to those federal dollars. The communities should be able to do this clean up themselves.

Balanced Budget Amendment Planning Convention

Representative Mickelson said the State Legislature approved a resolution to adopt amending the US Constitution to include a balanced budget. Thirty-eight states are needed to call a Constitutional Convention and they are close to having that number of states. The Speaker of the House and the President Pro Tem of the Senate received letters asking them to appoint representatives to the committee for developing rules for a Constitutional Convention. Senator Stalzer would prefer the Executive Board appoint those representatives.

Senator Jim Stalzer said the committee for developing the rules will meet in Arizona on September 12 – 14, 2017 ***(Document #5)***. The majority consensus of the Board is that South Dakota should have representation at this planning convention. Representative Mickelson said this will be discussed further at the next Executive Board meeting.

Other Business

Representative Lee Qualm gave an update on the Non-Meandered Waters Interim Study Committee. Representative Qualm said the committee has held two meetings and forty-five people testified at the May meeting held in Aberdeen. The next meeting is May 24 in Pierre and at that time the Committee will discuss possible legislation and a possible Special Session.

Adjourn

A MOTION WAS MADE BY SENATOR GREENFIELD, SECONDED BY REPRESENTATIVE QUALM, THAT THE EXECUTIVE BOARD BE ADJOURNED. The motion prevailed on a voice vote.

The Board adjourned at 2:30 p.m.