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EXECUTIVE BOARD

The Executive Board met six times during the period January 2002 through December 2002: April 15, May 13, June 10, August 5, November 18-19, and December 2. At its April and May meetings, the Board established the interim program by appointing study committees and appointing legislators to the Governor's Health Insurance Task Force. The Board also assigned two issue memorandums: (1) Alternative lending and legislative policy; and (2) Education regulation. The other highlights of the 2002 meetings are summarized on pages 4 and 5 of this report.

The Board monitors the legislative participation in the **Council of State Governments (CSG)**. The 2002 Midwestern Meeting was held in Fargo, North Dakota, August 18-21. The meeting included presentations on a variety of topics, including regional population demographics, North Dakota's approach to higher education, and biotechnical farming techniques. South Dakota received the Innovation Award for a South Dakota history project, *The Weekly South Dakotan*. The project, developed by the Department of Education and Cultural Affairs, is an on-line textbook on South Dakota history for fourth graders that provides extensive materials for both students and teachers (<http://www.sd4history.com>).

The 2003 meeting of the Midwestern Legislative Conference is scheduled for August 24-27, in Milwaukee, Wisconsin.

Legislators who served on Council of State Governments committees are listed below.

COUNCIL OF STATE GOVERNMENTS NATIONAL COMMITTEE APPOINTMENTS

APPOINTING AUTHORITY: Senator Arnold M. Brown, **Senate President Pro Tem**
Representative Scott Eccarius, **Speaker of the House**

Governing Board	Senator Arnold M. Brown Representative Scott Eccarius
Annual Meeting Committee	Senator Marguerite Kleven Representative Judy Clark
Associates Advisory Committee	Senator Jerry Apa
Agricultural Policy Task Force	Senator John Koskan Representative Kent Juhnke
Intergovernmental Affairs Committee	Senator Arlene Ham Representative Bill Peterson
International Committee	Senator J.E. "Jim" Putnam
Suggested State Legislation Committee	Senator Barbara Everist Representative Bill Napoli Mr. Thomas Magedanz
Corrections and Public Safety Task Force	Senator Eric Bogue Representative Jarvis Brown
Environmental Task Force	Senator Jim Hutmacher Representative Jim Peterson

Health Capacity Task Force	Senator Kenneth D. Albers Representative Kay Davis
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COUNCIL OF STATE GOVERNMENTS

MIDWESTERN LEGISLATIVE CONFERENCE APPOINTMENTS

APPOINTING AUTHORITY: Senator Arnold M. Brown, **Senate President Pro Tem**
Representative Scott Eccarius, **Speaker of the House**

Executive Committee	Senator Arnold M. Brown Senator Dennis Daugaard Representative Scott Eccarius
Midwest-Canada Relations Committee	Senator Robert Drake Representative Jeff Monroe
Health and Human Services Committee	Senator Kenneth D. Albers Representative Jim Hundstad
Economic Development Committee	Senator Brock Greenfield Representative Stan Adelstein
Agriculture Committee	Senator H. Paul Dennert Representative Gary Hanson
BILLD Steering Committee	Senator John R. McIntyre Representative Claire Konold
Innovations Selection Committee	Senator Dennis Daugaard Representative Charles E. Flowers
Annual Meeting Committee	Senator Cheryl Madden Representative B. Michael Broderick, Jr.
Resolutions Committee	Senator Elmer Diedtrich Representative Duane Sutton
Midwestern High-Level Radioactive Waste Transportation Project	Senator Richard "Dick" Hagen

The Midwestern Legislative Conference's annual Bowhay Institute for Legislative Leadership Development (BILLD) was held July 12-16, 2002, in Madison, Wisconsin. Senator Royal "Mac" McCracken and Representatives Cooper Garnos and Phyllis Heineman participated in this training program, which is designed exclusively for Midwestern legislators. The Bowhay Institute is named in honor of the late James Bowhay, the first director of the Midwestern Office of The Council of State Governments.

In addition to the Council of State Governments, the Legislature is a member of the **National Conference of State Legislatures (NCSL)**. The *Summit for America*, the 2002 Annual Meeting of the National Conference of State Legislatures, was held in Denver, Colorado, July 23-27. Among the topics covered by experts in the respective fields were education, health care, state budgets, public safety, welfare reform, election reform, Medicaid, and capitol security.

The 2003 meeting will be held in San Francisco, California, on July 21-25.

Members of the 2002 NCSL committees are listed on the following pages.

**NATIONAL CONFERENCE OF STATE
LEGISLATURES APPOINTMENTS**

ASSEMBLY ON STATE ISSUES (ASI)	
Children, Families & Health	Senator Ed Olson Representative Cooper Garnos Ms. Jacquelyn Storm
Communications & Information Policy	Senator Royal "Mac" McCracken Representative Matt McCaulley Ms. Lou Adamson Mr. David Ortbahn Mr. Mark Zickrick
Criminal Justice	Senator Fred C. Whiting Representative Margaret V. Gillespie Ms. Annie Mertz
Economic & Cultural Development	Senator John R. McIntyre Representative Michael Derby (Vice-Chair)
Education	Senator Don Brosz Representative Orville Smidt Ms. Clare Cholik, Mr. Tom Magedanz
Fiscal Affairs	Representative Willard Pummel Mr. Fred Baatz Mr. Dale Bertsch
Legislative Effectiveness	Mr. Doug Decker Mr. David Ortbahn
Science, Energy & Environmental Resources	Senator Dan Sutton Representative John E. Teupel Mr. Mark Zickrick
Redistricting Task Force	Senator Eric Bogue Representative Bill Peterson Mr. Reuben Bezpaletz

ASSEMBLY ON FEDERAL ISSUES (AFI)	
Agriculture & International Trade	Senator Larry Diedrich Senator Paul N. Symens Representative Jay Duenwald Representative Larry Rhoden (Alternate)
Commerce & Communications	Senator David R. Munson <i>(Resigned from Legislature 5/17/2002)</i> Representative Claire Konold Representative B. Michael Broderick, Jr. (Alternate)
Education, Labor & Workforce Development	Senator Gil Koetzle Senator Kermit Staggers <i>(Resigned from Legislature 5/20/2002)</i> Representative Julie Bartling Representative Clarence Kooistra (Alternate)
Energy & Transportation	Senator Jim Hutmacher Representative Gordon Pederson Representative Charles E. Flowers (Alternate)
Environment	Senator Drue J. Vitter
Federal Budget & Taxation	Senator Bob Drake Representative Mike Jaspers Representative Charles E. Flowers

ASSEMBLY ON FEDERAL ISSUES (AFI)	
	(Alternate)
Health	Senator Arnold M. Brown Representative Phyllis Heineman Representative Don Van Etten (Alternate)
Human Services	Senator Robert N. Duxbury Representative Burdette Solum Representative Duane Sutton (Alternate)
Law & Justice	Senator Patricia de Hueck Senator Garry A. Moore Representative Matthew Michels Representative Christopher Madsen (Alternate)

NOTE: Senator Larry Diedrich served on the NCSL Executive Committee for 2001-2002.

In late 2002, NCSL premiered the newly constituted committees, known collectively as the NCSL Standing Committees. These fifteen committees resulted from the merger of the Assembly on Federal Issues and Assembly on State Issues and have two primary missions: (1) to promote information exchange and encourage policy innovation among legislatures; and (2) to guide NCSL's representation of state interests with the national government. The jurisdictions of the fifteen committees roughly track the topics covered in the standing committees of state legislatures. The new committees are: Agriculture and Rural Development; Budgets and Revenue; Communications, Technology and Interstate Commerce; Economic Development, Trade and Cultural Affairs; Education; Energy and Electric Utilities; Environment and Natural Resources; Financial Services; Health; Human Services and Welfare; Labor and Workforce Development; Law and Criminal Justice; Legislative Effectiveness and State Government; Redistricting and Elections; and Transportation.

The Board is responsible for appointments to the State Investment Council and Uniform Laws Commission (ULC). At its June 10 meeting, the Board appointed Mr. Larry Ness of Yankton to a five-year term on the Investment Council. The Board also appointed Mr. Sean O'Brien of Brookings to a three-year term on the Uniform Laws Commission. (Mr. O'Brien was subsequently appointed to and elected to the South Dakota House of Representatives.)

In other action throughout the year, the Executive Board:

- Appointed Senator Royal "Mac" McCracken and Representative Orville Smidt as delegates and Senator H. Paul Dennert as an alternate to the South Dakota Streamlined Sales Tax Implementation System.
- Appointed Senator John McIntyre and Representative Matthew Michels to the Children's Mental Health Task Force.
- Authorized compliance with the order of the three-judge panel in *Bone Shirt v. Hazeltine* and filing for preclearance with the Department of Justice for the 2001 redistricting plan for District 27.

- Rejected a settlement offer in the lawsuit brought by the American Civil Liberties Union relative to the 2001 legislative redistricting.
- Authorized the leasing of up to 108 laptop computers for use by the 2003-2004 Legislature.
- Authorized increasing the per diem paid to legislative interns to \$100 for the 2003 Legislative Session and \$110 for the 2004 Legislative Session.
- Took action to comply with the state's policy on the use of proceeds from the sale of artifacts.
- Awarded the State Investment Officer a salary bonus of \$162,815.95 for the two-year period ending June 30, 2002.
- Appointed LRC Principal Research Analyst Fred Baatz to the Personnel Management Advisory Board.
- Awarded the 2003 session printing contract to State Publishing Company, Pierre, South Dakota.
- Awarded the contract for photographing the 2003-2004 Legislature to Samuel's Studio, Rapid City, South Dakota.

In addition, the Executive Board served as the interim Bonding Committee. The committee met on November 18 and 19 to review the operations, programs, and financial conditions of the various state authorities and agencies authorized to incur debt. The committee received the annual reports from and asked questions of the representatives of the following: the South Dakota Housing Development Authority, the South Dakota Building Authority, the South Dakota Health and Educational Facilities Authority, the South Dakota Economic Development Authority, the South Dakota Conservancy District, the South Dakota Railroad Authority, and the South Dakota Value Added Finance Authority.

Staff members to the Bonding Committee included: Fred Baatz, Principal Research Analyst; and Teri Retrum, Senior Legislative Secretary.

The Executive Board is responsible for the entire interim research program of the Legislative Research Council. The several committees, working within the framework of the Legislative Research Council, have submitted their summaries in this report and will submit their legislative recommendations to the 2003 Legislature.

Committee members were: Senator Arnold M. Brown, Chair; Representative Michael Derby, Vice Chair; Senators Kenneth D. Albers, Don Brosz, Dennis Daugaard, H. Paul Dennert, Robert N. Duxbury, and Royal "Mac" McCracken; and Representatives Quinten L. Burg, Scott Eccarius, Phyllis Heineman, Claire B. Konold, Gerald F. Lange, Gordon R. Pederson, and Orville B. Smidt.

Staff members to the Executive Board included: James A. Fry, LRC Director; Yolonda J. Soyer, Administrative Assistant; and Rhonda Purkapile and Teri Retrum, Senior Legislative Secretaries.

ALCOHOLIC BEVERAGE LICENSING AND REGULATION COMMITTEE

Study Assignment

A study of the issuance of licenses for alcoholic beverages and the fee structure for any new license and license renewal. The study shall include a review of the types and number of the licenses permitted and the option of providing additional local control and regulation of alcoholic beverage licenses.

Summary of Interim

During the first meeting, Paul Kinsman, Director of Property and Special Taxes with the Department of Revenue, explained the state's role in the licensing procedure for alcoholic beverages. Mr. Kinsman went on to explain the "three-tier system" which consists of manufacturers and distillers; wholesalers; and retailers. He said the three-tier system is an efficient way to regulate and tax alcoholic beverage sales.

Ms. Yvonne Taylor, Executive Director of the Municipal League, explained the municipalities' role in licensing retailers. The maximum number of on-sale licenses a city or county may issue is based on census figures. Consideration is given to the suitability of the applicant, type, and location of the business before a license is issued. Alcoholic beverage licenses are valid for one year with renewals subject to approval by the city. The license fees generally stay in the unit of government that issues the license.

Mr. Dick Howard, Executive Director of the Association of County Commissioners, said that counties issue on- and off-sale alcoholic beverage licenses outside the city limits. The process is the same as that followed by cities. He said that a significant portion of law enforcement and court-related expenses are caused by persons using alcohol. Counties no longer receive a portion of the taxes collected from the sale of alcoholic beverages.

At its second meeting the interim Alcoholic Beverage Licensing and Regulation Committee discussed the direct shipment laws for wineries and the "three-tier system." A chart was distributed that outlined the number of special on-sale licenses permitted in addition to the licenses that may be issued based on population. Jim Schade and Eldon Nygaard provided reports on their experiences in establishing farm wineries, the added-value benefits, and issues that may assist them in their businesses.

During the final meeting, the interim Alcoholic Beverage Licensing and Regulation Committee reviewed seven legislative proposals and approved two. The committee reviewed and approved draft legislation defining operating agreements that are used by municipalities and revising convention facility on-sale alcoholic beverage license requirements for second- and third-class municipalities.

The committee also considered draft legislation concerning reasons for approving or disapproving an alcoholic beverage license, changing when certain on-sale licensees may open, revising the procedure for determining renewal fees for certain on-sale licensees, and two other proposals for revising convention facility on-sale alcoholic beverage license requirements. The committee did not recommend these legislative proposals.

Listing of Legislation Adopted

1. An Act to define operating agreements for the purpose of regulating and licensing alcoholic beverages.

This legislation states that an entity that has entered into an operating agreement with a municipality shall be deemed a licensee for the purpose of regulating and licensing alcoholic beverages.

2. An Act to revise the convention facility on-sale alcoholic beverage license requirements.

This legislation changes the number of rooms and amount of seating required to obtain a convention facility on-sale alcoholic beverage license in a second- and third-class municipality.

Summary of Meeting Dates & Places and Listing of Committee Members.

The Alcoholic Beverage Licensing and Regulation Committee met on June 7, August 7, and September 18. All of the committee meetings were located in Pierre.

Committee members were: Senator Eric Bogue, Chair; Representative Michael Derby, Vice Chair; Senators Gene Abdallah, Kenneth Albers, Jerry Apa, Elmer Diedtrich, Dick Kelly, and Drue Vitter; and Representatives Kay Davis, Dale Hargens, Jean Hunhoff, Barry Jensen, Clarence Kooistra, Lou Sebert, and David Sigdestad.

Staff members were Fred Baatz, Senior Research Analyst, and Phyllis Petersen, Senior Legislative Secretary; and Rhonda Purkapile, Senior Legislative Secretary.

APPROPRIATIONS COMMITTEE

Study Assignment

A continuing review of the appropriations process, a study of the funding and fund balance of the state's adjustment training centers, a study of community-based mental health services, and a study of the state's salary structure with respect to competitiveness within state government and also with other units of government and the private sector. The study should also examine recruitment and retention issues.

Summary of Interim

The Interim Appropriations Committee held its first meeting of the 2002 interim on May 7, 2002, via conference call. The committee's only action was to approve a request for \$540,000 of federal fund authority and \$1,640,389 of other fund authority to the Department of Agriculture. The source of the federal funds is through the Commodity Credit Corporation. The source of the other funds is \$1.4 million from the future fund and the remaining \$240,389 from energy funds. The funds will be allocated to the Division of Wildland Fire Suppression for the Northern Great Plains Interagency Dispatch Center Project. The center will bring U.S. Forest Service and state dispatch centers together. The funds will be used to complete renovation of the old Rapid City Regional Airport terminal building to serve as the dispatch center.

The Appropriations Committee held its second meeting of the 2002 interim on Thursday, June 13, 2002. The committee approved a number of expenditure authority requests. These requests included the following.

1. \$250,000 of FY2002 federal fund expenditure authority and \$6,623,827 of FY2003 federal fund expenditure authority to the Department of Health to upgrade the state's ability to respond to bioterrorism attacks.
2. \$45,328 of FY2003 federal fund expenditure authority to the Department of Education and Cultural Affairs to hire a National Assessment for Educational Progress administrator.
3. \$150,000 of FY2002 other fund expenditure authority to the Department of Tourism to allow the department to spend additional revenues from the tourism tax and Deadwood gaming on the tourism marketing plan.
4. \$1,300,000 of FY2002 federal fund expenditure authority and \$510,000 of FY2003 federal fund expenditure authority to the Department of Corrections for violent offender incarceration/truth in sentencing funding and to provide the federal Title XIX match from the Department of Social Services for juveniles in alternative placements.
5. \$167,721 of FY2002 other fund expenditure authority to the Department of Military and Veterans' Affairs to cover budget shortfalls.
6. \$3,000,000 of FY2002 other fund expenditure authority to the Department of Social Services to claim federal Medicaid funding by meeting the required state match to complete the intergovernmental transfer process with nursing facilities.

7. \$14,408,673 of FY2002 federal fund expenditure authority and \$14,442,876 of FY2002 other fund expenditure authority and 119.0 FY2002 FTE to the Board of Regents to allow for the expenditure of funds associated with various grants that were received but not included in the FY2002 budget.
8. \$766,200 of FY2003 federal fund expenditure authority and 15.0 FTE to the Department of Agriculture to minimize the exposure to wildland fire damage.
9. \$150,000 of FY2003 other fund expenditure authority to the Department of Game, Fish, and Parks to allow for capital improvements in Custer State Park.
10. \$675,000 of FY2003 federal fund expenditure authority to the Department of Human Services to allow the expenditure of funds received from a highway safety grant.
11. \$7,218,000 of FY2003 federal fund expenditure authority to the Department of Commerce and Regulation---\$400,000 to improve the integrity of commercial driver's license tests---\$153,000 to enhance the capability to respond to terrorist attacks---\$6,665,000 to continue to upgrade the statewide communications system.

The committee also approved letters of intent for FY2003 and approved the investment proration report for investment earnings to be distributed in FY2003.

Listing of Legislation Adopted

None.

Summary of Meeting Dates & Places and Listing of Committee Members.

The committee met twice during the 2002 interim. The first meeting was held in Pierre on May 7 via conference call. The second meeting was held in Pierre on June 13.

Committee members included Senator Bob Drake, Co-Chair; Representative Mitch Richter, Co-Chair; Senators Jerry Apa, H. Paul Dennert, Robert Duxbury, Brock Greenfield, Marguerite Kleven, John Koskan, Cheryl Madden, and J.E. "Jim" Putnam (Vice-chair); Representatives Stan Adelstein, Quinten Burg, Judy Clark, Michael Derby (Vice-chair), Ted Klautdt, Gerald Lange, Willard Pummel, and Duane Sutton.

Staff members included Dale Bertsch, Chief Analyst for Fiscal Research and Budget Analysis; Mark Zickrick, Principal Fiscal Analyst; Sue Cichos, Senior Fiscal Analyst; Reed Holwegner, Senior Fiscal Analyst; Annie Mertz, Senior Fiscal Analyst; and Rhonda Purkapile, Senior Legislative Secretary.

CODE COMMISSION (SOUTH DAKOTA)

Study Assignment

The Code Commission supervises the publication of the *South Dakota Codified Laws*, corrects errors to the code, assists the code counsel, makes recommendations to the Legislature, and contracts for replacement volumes.

Summary of Interim

The publishing contract for the South Dakota Code with the LEXIS-NEXIS Publishing Company was renewed for one year. The Commission issued a Request For Proposals (RFP) to solicit bids from interested publishing companies. Three publishers responded to the RFP. The companies were: LEXIS-NEXIS; WEST Group; and American Legal Publishing. All three filed a written Notice of Intent to Propose. The closing date for the RFP was December 16, 2002.

At the January 16 meeting the Commission awarded the bid to publish the *South Dakota Codified Laws* for the State of South Dakota to WEST Group. The Code Commission, under the authority of SDCL ch. 2-16, solicited bids from publishers interested in publishing the codified laws for the state. The bid process was started in October of 2002 when Requests For Proposals (RFP) were issued on October 16. The LRC received RFPs from two publishers, LexisNexis, the current publisher of the Code, and WEST Group. The bids were opened December 16, 2002, and mailed to each of the Commissioners. The RFP allowed for a time to study the respective bids and answer any questions the publishers may have. The Code Commission held a meeting on January 16, 2003, at the beginning of the legislative session, to select the successful bidder. The RFPs from both publishers were complete and detailed. The state was fortunate to have two nationally recognized publishers interested in publishing its Code. After reviewing the bids, the Code Commission selected WEST Group to publish the *South Dakota Codified Laws*. LexisNexis will be responsible for the Code and the pocket supplements resulting from the 2003 Legislative Session. The contract with WEST Group will commence on July 1, 2003, and WEST will be responsible for publishing the Code beginning with the 2004 Legislative Session. Details regarding the transition from LexisNexis to WEST Group will be negotiated before July 1.

Listing of Legislation Adopted

The Commission will propose the annual legislation to update SDCL 2-16-13, the publications constituting the official code.

Summary of Meeting Dates & Places and Listing of Committee Members.

The Code Commission met four times. The Commission held one meeting in conjunction with the State Bar Association on June 21, 2002, and met three times at the State Capitol in Pierre, October 10 and October 25, 2002, and January 16, 2003.

Commission members are Chair Michael DeMersseman, Vice Chair Senator Eric Bogue, Representative Matt McCaulley, Tom Lee, and Lee McCahren.

Staff members were Doug Decker, Code Counsel; Phyllis Petersen, Senior Legislative Secretary; and Kris Schneider, Legislative Secretary.

GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

Study Assignment

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 as directed by the Executive Board of the Legislative Research Council;
- 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.

The review process of the Committee relating to the operations and fiscal affairs of state government was conducted within the limits of the following objectives:

- Evaluate the findings and recommendations contained in audit reports of state agencies concerning:
 - The manner in which administrators of the agencies and departments of the state have discharged their responsibilities to faithfully, efficiently and effectively administer the programs of the state.
 - The agency's management of its fiscal affairs and the adequacy of accounting procedures.
- Review audit reports with agency officials and financial management personnel to obtain their views on the Auditor General's audit recommendations.
- Determine the action to be taken to implement audit recommendations.
- Assess the agency's progress toward implementing audit recommendations.
- Require a department, institution, board, or agency to present a report to the Appropriations Committee, containing the reasons for not implementing audit recommendations and a corrective action plan.
- Introduce legislation.

The review process of the Committee relating to juvenile corrections and the state corrections system was conducted within the limits of the following objectives:

- Review the juvenile monitor's reports of findings of abuse or neglect in juvenile corrections facilities.

Summary of Interim

The Committee held one meeting to discuss audit reports issued. The following summarizes the actions that were taken by the Committee.

Review of Audit Reports

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 on 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 Committee reviewed the Single Audit Report for the fiscal year ended June 30, 2001. This 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 11 state organizations, containing 23 recommendations for corrective action. Four recommendations related to violations of state laws and regulations; four recommendations related to violations of federal laws and regulations; and, fifteen recommendations related to inadequate internal control procedures over receipts, revenue collections and expenditures and financial reporting.

The following represents the state agencies with audit findings and recommendations from fiscal years 2001 and 2000 and the implementation of fiscal year 2000 audit recommendations:

	RECOMMENDATIONS		
	<u>Fiscal Year 2001</u>	<u>Fiscal Year 2000</u>	<u>FY2000 Implemented</u>
Agriculture, Department of	0	1	1
Agriculture, Department of State Fair	1	1	0
Attorney General, Office of Board of Regents	2	2	0
School for the Deaf	6	0	N/A
Dakota State University	1	1	0
Commerce, Department of	1	0	N/A
Commerce, Department of, Licensing and			

	RECOMMENDATIONS		
	<u>Fiscal Year 2001</u>	<u>Fiscal Year 2000</u>	<u>FY2000 Implemented</u>
Regulatory Boards & Commissions			
Electrical Commission	N/A*	3	N/A
Medical and Osteopathic Examiners	0	1	1
Board of Nursing	N/A*	1	N/A
Governor, Office of the	2	1	0
Economic Development Finance Authority	0	1	1
Education, Department of	1	1	0
Health, Department of	2	1	0
Human Services, Department of	1	0	N/A
Internal Service Funds	1	0	N/A
Revenue, Department of	0	1	1
Social Services, Department of	5	6	5

N/A* These audits are on a two-year audit cycle and did not have a FY 2001 audit.

The Committee sent letters to all state agencies with audit findings and encouraged the state agencies to implement the audit recommendations. The Committee requested an update on the actions taken to implement audit recommendations from the Office of Attorney General, Department of Social Services, and Department of Human Services. The Committee continues to monitor the responses and corrective actions taken by state agencies.

Juvenile Corrections, Legislative Research Council

The annual report of the Juvenile Corrections Monitor for the period July 1, 2001, through June 30, 2002, was distributed to members of the committee. The committee delayed discussion on the annual report until its December 2002 meeting.

Listing of Legislation Adopted

None.

Summary of Meeting Date and Places and Listing of Committee Members

The committee met on August 6 in the State Capitol in Pierre.

Committee members were: Senator Marguerite Kleven, Chair; Representative Gordon Pederson, Vice Chair; Senators Eric Bogue, Don Brosz, Dennis Daugaard, and Garry Moore; and Representatives Quinten Burg, Margaret Gillespie, Claire Konold, and Hal Wick.

Staff members from Legislative Audit were Marty Guindon, Auditor General, Rich Hornak, Audit Manager, and Gary Hoscheid, Audit Manager.

JUVENILE OFFENSES AND SENTENCING COMMITTEE

Study Assignment

A study of juvenile crime, including the issues addressed at the January 2002 Juvenile Crime Conference and a study of the statutes dealing with the sentencing for juveniles for DUI and underage consumption with a focus on development of a comprehensive plan to resolve statutory conflicts and provide the courts more discretion.

Summary of Interim

The first meeting of the committee focused on the current state of troubled juveniles in South Dakota. The Unified Judicial System began by underscoring the importance of realizing that juveniles are developmentally different from adults and require more extensive rehabilitation and treatment.

Judge Janine Kern, Rapid City, voiced concern regarding the significant number of juveniles with drug and alcohol addictions. In her courtroom, she tries to sentence juveniles to facilities and services in the community, but they are extremely limited. Her number one recommendation is to find funding to expand in-home services that serve the juvenile as well as siblings and parents. The money spent in this type of treatment is far more effective than waiting until the child commits more serious offenses and must be sentenced to the Department of Corrections.

Judge Kern and Judge Jack Von Wald, Selby, agreed that additional court services officers were critically needed in the juvenile justice system. Each court services officer in Rapid City supervises as many as one hundred juveniles. The judges agreed the ratio is far too large. Court services officers provide a long-term savings by preventing juveniles from sliding deeper into the system.

Marlene Todd, Teen Court, Lawrence County, presented a recently released video outlining all aspects of Teen Court, a juvenile diversion program for those committing minor offenses. The Lawrence County Teen Court is experiencing a 93-94% success rate. Along with the courtroom procedures, she also offers classes teaching values, attitudes, and proper behaviors.

The second meeting of the committee began with a tour of the Custer Youth Corrections Center (CYCC). On August 26 the committee toured the CYCC, which includes the Brady Bootcamp, ExCEL, QUEST, and other juvenile programs. Doug Herrmann, Director of Juvenile Corrections, and his staff gave a description of the programs and the services available to each juvenile. While touring the facilities, current and former cadets answered questions and gave short presentations. DOC staff made special note of the excellent condition of the facilities, the large number of services offered, and the high level of education and experience of the staff.

After the tour, the committee heard presentations from the Department of Corrections (DOC) and from Dr. John Usera of the Chiesman Foundation. The DOC staff explained the process needed to find an appropriate program and facility for each juvenile that is committed to their care. They also touched on a new federal grant that would aid the department with re-entry issues. Dr. Usera summarized data from a recent study he conducted on alcohol and drug abuse in the Rapid City School System.

The highlight of the final Juvenile Offenses and Sentencing Committee meeting was a panel discussion that focused on improvements in the prevention and intervention of juveniles in the court system. The twelve members on the panel were Mr. Dallas Johnson, Unified Judicial System; Ms. Virgena Wiesler, Department of Social Services; Mr. Gib Sudbeck, Department of Human Services; Judge Janine M. Kern, Rapid City; Judge William Srstka, Jr., Sioux Falls; Mr. Doug Herrmann, Department of Corrections; Mr. Jay Newberger, retired administrator, Unified Judicial System; Mr. Terry Dosch, S.D. Council of Mental Health; Mr. James Kinyon, Catholic Social Services; Ms. Susan Randall, S.D. Children's Coalition; Ms. Kathey Wilson Ecoffey, Indian Health Services; and Ms. Marla Bullbear, Native American Advocacy Project.

The panel and the committee agreed that the key to curbing juvenile delinquency is early intervention and prevention. The problem lies in finding successful programs and a steady funding source. Family counseling services are proven to help communications between the parents and the juvenile, but these services are not available to many families in the rural regions of this state. While there are many social services-type agencies in the private, state, and federal government sectors, the committee felt there is a great need for expansion and coordination of these services.

Al Lick, Juvenile Services Director with the North Dakota Department of Corrections and Rehabilitation, gave a presentation which included statistics comparing the North Dakota juvenile delinquency population with that of South Dakota. Even though the overall juvenile population and the arrest rates are roughly the same, North Dakota has only 294 juveniles in state and private facilities (in-patient facilities, therapeutic family homes, residential child care facilities, residential treatment centers, Job Corps, and the N.D. Youth Corrections Center). South Dakota, on the other hand, has 595 juveniles in the same types of facilities, excluding Job Corps participants. North Dakota revamped its juvenile corrections system in 1987 and since that time has put a larger emphasis on keeping children in community-based programs. Mr. Lick felt that even a short stay at a minimum-security detention center encouraged the juvenile to "act as a delinquent." He suggested South Dakota make every attempt at keeping kids out of detention centers as part of a solution to the high number of juveniles sent to the Department of Corrections.

The committee approved a resolution outlining changes to South Dakota's system that will be sent from the committee to the newly elected Governor after the November elections.

Listing of Legislation Adopted

- An act to require an inventory of parenting programs and to establish a volunteer mentor program for parents.
- An act to reconstitute the Juvenile Justice and Delinquency Act Advisory Group and to revise its authority and responsibilities.
- An act to require the Department of Corrections to seek membership in the Performance-based Standards Project.

Summary of Meeting Dates and Listing of Committee Members

On April 15, 2002, the Executive Board of the Legislative Research Council created The Juvenile Offenses and Sentencing Committee. The following members of the South Dakota Legislature

were appointed to the committee: Senator Arlene Ham, Chair; Representative Claire Konold, Vice Chair; Senators Patricia de Hueck, Marguerite Kleven, John Koskan, John McIntyre, and Garry Moore; Representatives Jarvis Brown, Thomas Hennies, Christopher Madsen, Casey Murschel, Sam Nachtigal, Bill Van Gerpen, Thomas Van Norman, and Hal Wick

The committee met on June 6 in Pierre, August 26 in Custer, and October 7 and 8 in Pierre.

Staff members were Annie Mertz, Senior Fiscal Analyst; Reuben D. Bezpaletz, Chief of Research Analysis and Legal Services; and Teri Retrum, Senior Legislative Secretary.

MEDICAL SCHOOL STUDY COMMITTEE

Study Assignment

A study of the mission, scope of operation, administration and financing of the Medical School at the University of South Dakota.

Recommendations

The Committee recommends that the Senate and House Committees on Appropriations approve an additional \$387,000 and 4.0 FTE for the Office of Medical Student Education. This newly created office, listed as one of the strengths of the Medical School by the re-accreditation committee, records and assesses the academic progress and skills of medical students. The office should help ensure that the School of Medicine continues to produce qualified physicians. The assessment of students is a requirement for the future accreditation of the School.

Summary of Interim

The first meeting dealt with medical education in general, the history of the School of Medicine, the School's current operations and financing, the administration, and challenges that the School faces.

Dr. Robert Talley, Vice President of the Division of Health Affairs and Dean of the USD School of Medicine, briefed the Committee. South Dakota's School of Medicine is in the process of renewing its seven-year accreditation. This should be finished in October 2002.

It takes a minimum of eleven years for a person out of high school to be skilled, trained, and certified to practice medicine. The state's medical school admits students after four years of college. The Medical Doctor Program takes four years to complete. The Residency Training Program, which begins after an MD degree is granted, lasts three to six years. Approximately \$500,000 of state funds goes to the residency programs. While the School of Medicine is responsible for the residency requirements, the actual training is done by hospitals in Rapid City, Sioux Falls, and Yankton.

Over half of the graduates who enter a residency program train to become a primary care physician. Since the School required four years of medical training before granting a degree in 1974, there have been 1,077 graduates. Forty-three percent (463) practice in the state, and 231 (22%) work in medically under-served counties.

The School is classified as a community based institution and does not have a traditional medical school hospital. The teaching sites are with actual, practicing physicians in their offices, clinics, and in community hospitals. Community residencies are financed by Medicare. The benefits to this arrangement include a cheaper operating cost and a real environment to provide instruction. The detriments include less revenue for the School and a lack of willingness to evaluate students.

The role of University Physicians (UP), the faculty practice plan, was extensively discussed. The organization was the full-time teaching faculty for the School of Medicine. It provided the School with opportunities to maintain faculty skills as well as learning opportunities for students and residents. It was also a source of revenue for the School of Medicine, providing 92 percent of the

faculty's salary. UP had relatively high overhead compared to its revenue. It formerly had a hundred physicians in Sioux Falls and thirty in Rapid City. The Rapid City membership has broken away due to the group's finances and management. The Sioux Valley Hospital bought the Central Plains Clinic. This caused a conflict between the School's independence and its management.

Currently there are 17–20 faculty members in UP. It does not have the ability to fund the School. It will provide some faculty salaries and will offer patients and a site for ambulatory medical student education.

Since UP has greatly diminished in size, there will be a greater reliance upon the hospitals to provide education. The School will pay \$4.5 million for clinical education services. The School will offset the loss of revenue (\$1.2 million) derived from UP by cutting clinical and residency programs. Presumably the hospitals will sponsor these programs.

The basic science disciplines (anatomy, biochemistry, physiology, and microbiology) taught at the Vermillion campus have been consolidated into one academic department which is headed by a dean. Medical science ultimately analyzes things at the molecular level, and the disciplines often become blended when research is conducted. This consolidation could be a better use of resources and funding. The change could allow resources to be more equitably shared between the disciplines. South Dakota's school of medicine is the first institution in the country to do this.

The dean admitted that there is some disgruntlement over the change because of a perceived loss of identity amongst faculty.

The School's goals for the 2002 – 2003 Academic Year include:

- Continue all medical student educational programs at all campuses.
- Continue without reduction the funding of the basic sciences (the first two years of education, research, and the PhD program) and for academic support (libraries, administration).
- Narrow the School's mission to teaching medical students and research, ending the service mission and clinical care.
- Restructure University Physicians to support the mission of the School and salaries of critical clinical faculty, such as family physicians and primary care physicians, but have no "dean's or department tax".
- Locate two academic departments at the community hospitals in Sioux Falls.
- Use all available money from the state, tuition, and fees in clinical departments (\$4.5 million) in a Mission Based Management format for clinical education.

At the second meeting the Committee heard testimony from the Board of Regents, several hospital administrators, and individual doctors.

Mr. Harvey Jewett, President, S.D. Board of Regents, testified that over the last 12-18 months, University Physicians was losing money and referrals. The revenue loss was being aggravated as physicians left the clinic. There was a structural problem in the management of UP from the Medical School's perspective because the Medical School had no say in the management of UP. Ultimately, the dean of the Medical School brought a reorganization plan to the Board of Regents, which was ultimately adopted. UP will now play a diminished and more administrative role in the education of medical students. This reorganization was not particularly popular in some circles within the Medical School. The Regents decided to not involve themselves in the personnel

decisions of which doctors and staff would be retained by UP after the reorganization. Both hospitals in Sioux Falls have agreed to serve certain administrative functions of UP in a partnership with the Medical School. Nationally, medical schools have moved away from maintaining their own practice plans toward hospitals maintaining a practice plan because they can afford it. The dean tried to work this reorganization out for the best interest of all parties involved. However, some department chairs were trying to work out separate deals on their own and ultimately had to be removed. External market forces played a role in the demise of UP. As hospitals began acquiring practice clinics, referrals to UP were declining, which contributed to the lack of revenue.

Mr. Ronald T. Porzio, Director/Chief Operating Officer of the Royal C. Johnson Veterans Memorial Hospital and Regional Office Center in Sioux Falls, spoke to the Committee. The Department of Veterans Affairs (VA) was critical in the conversion of South Dakota's two-year medical school to a four-year MD degree granting institution. To facilitate the conversion, the VA granted the state \$8 million. Without a state affiliated medical school, the VA could not fulfill its mission nor adequately provide health care to the veterans in South Dakota and surrounding areas.

Dr. Mike Davies, MD, Chief of Staff, VA Black Hills, also spoke. The VA has been a silent partner over the years with the state medical school. There has been a tremendous expansion of outpatient clinics nationally, and South Dakota has seen benefit from this expansion. About half of the doctors in the United States receive part or all of their education through the VA. Teaching is a high priority mission of the VA, not only for physicians, but for all aspects of the medical profession. The VA also contributes to many research projects; there is a research building at the VA in Sioux Falls. Research is an area that needs to be developed in South Dakota. South Dakota can get more involved in VA research efforts by hiring doctors that are interested in research and can take advantage of VA connections to bring more research money into the state.

Dr. Davies testified that some of the best physicians he has recruited to the VA had been students educated in South Dakota. The Legislature should nurture the relationship with the VA. Private hospitals also need to make a contribution to medical education.

Members of the Committee asked why the VA system has worked so well with the Medical School. The VA culture emphasizes teaching and education. Staff realize a part of their job is teaching. The mission of UP was to make money. If a physician's mission is teaching, then a doctor does not want to have to worry about generating enough money for the clinic so there is a stable job.

Mr. Fred Slunecka, Regional President and CEO, Avera McKennan Hospital, Sioux Falls, urged the Committee to look to the future for medical education in South Dakota so as to ensure that there is high quality faculty that are dedicated to teaching medical students. There are two components to medical education: 1) undergraduate medical education (medical school); and 2) graduate education (residency programs). The residency programs are funded through hospitals, the practice plan (UP), state support, and research dollars. Hospitals fund medical education through their revenue and with Medicare reimbursements. Medicare funding for medical education is on the decline and will not keep up with the cost of providing residency programs.

The funding for residency programs in South Dakota exists in large part on the good will of teaching hospitals because there are no formal agreements between the hospitals and the Medical School. Each teaching hospital has agreed to pay money into the Residency Corporation which pays the residents' salaries and benefits. Previously the Medical School residency department chairs were left to their own devices to convince the hospitals of their needs for additional resources, which resulted in a variety of deals being made. Large amounts of money were going into certain academic areas while others received little, which was a key issue that necessitated the consolidation of academic departments at the School of Medicine.

Medical education has changed over the years. Medical students used to spend the bulk of their time in the hospitals but are now hardly ever in the hospital setting because the bulk of their training occurs in the clinical setting. However, there is a tremendous value for a hospital to be involved in medical education because it keeps the staff sharp and involved in the learning process. The emphasis of the medical school on training primary care physicians generates substantially less revenues than more profitable specialties like cardiology or orthopedics.

Most rural medical schools operate under a consortium model or multi-party affiliation agreement, Mr. Slunicka observed. The current organizational model of multiple affiliations is problematic for rural community-based medical schools because medical schools negotiate separately with each teaching facility. This can lead to inter-organizational and administrative complexities. Mr. Slunicka suggested that a consortium agreement, with a formal partnership involving two or more separate institutions and characterized by joint and shared decision-making powers, could be a preferred approach. Operating deficits could be shared across all members of the consortium.

Mr. Jay Levine, a consultant hired by Avera McKennan, stated that the trend in medical schools over the last ten years is the need to gain control of the management structure to advance the entire academic enterprise and not certain components at the expense of other components. Many medical schools are adopting mission-based management.

Mr. Frank Drew, Vice President for Public Policy, Sioux Valley Hospital, Sioux Falls, noted that Sioux Valley Hospital has contributed both talent, time, and funding to the Medical School, and this will continue in the future. He stated that a consortium agreement might be feasible for the post-graduate residency programs, but that it would not be feasible for undergraduate programs because they are run by the state and should remain independent of the hospitals.

Ms. Becky Nelson, President of Sioux Valley Hospital, testified that Sioux Valley fully supports the four-year Medical School, noting that the sophistication and quality of medical care in South Dakota is due in large part to the Medical School in South Dakota. Because of USDSM, South Dakota has been able to recruit medical specialists to the area. The community-based Medical School in South Dakota utilizes the whole state as its medical community—it is not limited to merely one hospital facility. Sioux Valley Hospital supports the dean and the Board of Regents' plan for the Medical School. UP was the practice plan of the Medical School but it did not include all of the teachers and administrators. What has essentially changed is for which entity the community physicians will be working. Most of the practicing faculty are now employed by Sioux Valley instead of UP. It is important that the mission of the Medical School be reinforced because there is no way that communities could support small special practices. The general practitioners are needed to support the specialties. She noted that UP started out as the practice plan for USDSM and over time grew into a subspecialty clinic that was dedicated to some

teaching. With regards to a consortium, another level of bureaucracy does not need to be added to the Medical School because it is working very well.

During the second meeting public testimony was heard that was critical of the Medical School and its management.

Dr. K-Lynn Paul, Director, Psychiatric Residency Training Committee, testified that UP had no major problems but had minor problems that were fixable. He felt that it was deliberately disbanded to make a smaller entity. The department chairs did not want to align with just one hospital over another. He stated that there were several things that UP could have done to continue to operate, but the clinic was dismantled. Many of the physicians have had to go to work for the hospital clinics. Dr. Paul expressed his concern with the quality of teaching when he is not sure whom he can hire as instructors.

Dr. Murali Gopal, a psychiatry resident, testified that the psychiatry residents sent a petition to the Medical School of support for Dr. Fuller as the chair of the Psychiatry Department at USDSM, and they never received a response. There has been a lot of faculty disarray over the past year due to the reorganization of UP. He stated that during this time of uncertainty the teaching of residents has come into jeopardy. There has been a loss of cohesiveness in the psychiatric unit. Dr. Gopal expressed dismay that student resident concerns were not being acknowledged by the administration at USDSM.

Dr. Steve Haas, Rapid City, testified that he is now retired, but was formerly a doctor with UP and a UP board member. He did not recall there ever being a decrease in the number of patient referrals. He did recall a dramatic increase in overhead due to primary care. He noted that primary care outpatient is around 90 percent overhead and that specialty practitioners are needed to support the primary care program. He acknowledged that the clinic had problems with its specialty mix. He acknowledged that they had to recruit higher producing specialists in order to support UP. Dr. Haas stated that they were very actively involved in the process of trying to change the reimbursement and would have worked it out if they would not have had to pay doctors more than they were generating in overhead. Dr. Haas recommended that all hospitals within the state be involved in medical education. He did not want to see the Medical School disbanded because he felt that it produces a quality graduate.

Dr. Bill Fuller, former chair of the Psychiatry Department and a past member and board member of UP, testified that he has just ended 27 years of employment with USD. The sale of the USD logo to Sioux Valley Hospital was a critical occurrence that had much to do with this whole contentious situation. Dr. Fuller now works with Avera McKennan Hospital and is no longer allowed to use the USD logo on his business cards. Dr. Fuller testified that the Medical School is trying to maintain the school without the vehicle of UP or full-time faculty. He felt that clinical groups with an academic identity are essential for every department and that the Medical School should concentrate on bringing the alienated full-time faculty back on board. A moderate investment into the Medical School is needed from the state. Dr. Fuller advocated the idea of a consortium agreement.

Dr. Gregg Drabek, a surgeon in Rapid City, testified that he had joined UP three years ago with the idea that UP was a solid school program. He stated that he knew going in that he would lose some income but thought that being able to teach was worth it. However, he ended up losing 40-50 percent of his income rather than the 15 percent as promised. Since its reorganization, Dr.

Drabek looked into the accounting and billing practices of UP and it appears that non-collection of accounts is one of the biggest factors of the demise of UP. Dr. Drabek stated that the doctors were asked to assume a 63 percent overhead in order to keep UP in operation and this was not agreed to. He also noted that there was much discussion of UP aligning with Sioux Valley Hospital which would not have been beneficial for the doctors in Rapid City. Dr. The remaining physicians in Rapid City continue to be very excited about meeting the education efforts at the Rapid City campus. The physicians in West River do not want to be blamed for the demise of UP.

At the third meeting the committee heard testimony on the initial review of the re-accreditation committee and medical education consortia.

Dr. Talley testified that the Liaison Committee for Medical Education (LCME) recently completed their site visit in October. According to the re-accreditation committee, the strengths of the Medical School are:

- The dean;
- The newly created and funded Office of Medical Student Education;
- The successful three-campus model of decentralized clinical education;
- The Yankton model program;
- The consolidation of the basic science departments into the Basic Biomedical Sciences Division;
- The commitment of the clinical faculty;
- The affiliated health care institutions; and
- The modern clinical facilities present on all campuses.

Concerns expressed by the review team were:

- Policy and practices concerning diversity standards—little progress has been made to date in increasing the number of Native American students and faculty in the program;
- Lack of a strong commitment to scientific inquiry among the faculty; and
- Replacement of the Lee Building.

Areas of transition were noted as:

- The deconstruction of University Physicians (UP) has produced renewed emphasis on community-based education which requires careful monitoring of student progress and performance;
- Replacement of the Lee Building on the Vermillion campus;
- With the decrease in the intensity of lecture hours and excessive testing, a plan is needed to increase collaborative and self-directed learning; and
- The recently created Medical Education Committee has begun integration of the initial two-year curriculum, to be completed within the next three years.

Dr. Talley commented on the medical education consortium idea that has been brought to the committee's attention. He stated that in his review of the materials presented at the last meeting, a consortium is usually begun to enhance medical education in a specific community or campus. Dr. Talley noted that South Dakota's Medical School has four campuses. He suggested that a multiple affiliation approach (which is what the School currently has) would be more appropriate.

Dr. Talley stated that Michigan State University (an example cited in the information) eventually decided not to do a statewide consortium but instead adopted a campus-specific consortium.

Dr. Talley later commented that there is cooperation with medical education in South Dakota. He noted that many years ago a consortium was set up for the residency programs. There is a separate consortium for the Medical School Library, in which Avera McKennan chose not to participate. The Medical School has worked very hard to place medical school students in each of these hospitals so there is parity among the hospitals. He noted that Rapid City Regional Hospital has always been supportive of the Medical School, and he could not say why they have not yet decided on a contribution to the Lee Building project. He noted that the Rapid City Regional Hospital has never raised the issue of the Sioux Valley Hospital agreement with the School of Medicine in his conversations with them.

Dr. Talley responded to committee questions on the lawsuit brought by former physicians of UP. Dr. Talley commented that the report in the news media had no basis in fact. It is his understanding that the plaintiffs are claiming that UP did not aggressively collect the accounts receivable for certain physicians that left the organization. He indicated that those physicians who left did not fully understand the amount of their coverage for malpractice insurance. Dr. Talley noted that UP is vital to the independence of the Medical School because the School does not have the financial resources to pay the School's administrators. Those individuals must be able to earn their salary by practicing medicine.

Dr. Don Dahlin, Acting President, University of South Dakota, noted that the Lee Building on the Vermillion campus was identified as a concern by the LCME review committee. He presented the interim committee with current information on the funds gathered for this \$31.8 million project. To date, the alumni foundation has raised between \$26 million and \$27 million through pledges, grants, and the Higher Education Facilities Fund (HEFF). Over 87 percent of the funding has been promised, but \$5.7 million still needs to be raised. The University hopes to begin the project in 2003. The University would only seek legislative assistance in the event it becomes clear that private funding and grants will not cover the costs. Dr. Dahlin noted that this is the most critical aspect for the School of Medicine that needs to be addressed.

Mr. Fred Slunecka, Regional President and CEO, Avera McKennan Hospital, Sioux Falls, introduced Mr. Jay Levine, ECG Management Consultants, who presented information to the committee on development of a conceptual model for an education consortium in South Dakota. Mr. Levine agreed with much of what Dr. Talley had said about medical education consortiums. No two medical consortiums are alike and there is no single prototype model; the model should be designed to fit specific needs. If the consortium is to be successful, all participants should be in agreement of the objectives. Mr. Levine observed that it appears that the current structure or process by which teaching hospitals contribute to medical education in South Dakota is haphazard, contributing to a lack of parity among hospitals, which in turn escalates conflict among those hospitals and between those hospitals and the University. This also contributes to the uncertainty regarding the roles teaching hospitals will be willing to play in the future of the Medical School. Mr. Levine later said that he did not find it unusual that Rapid City Regional Hospital had not yet responded to the request for a donation to the Lee Building Project. He said that there is no lack of areas in which hospitals can reinvest their money, and they are probably constantly weighing where they should invest their money for the greater good of the hospital. South Dakota has less than an ideally coordinated strategy for funding medical education. The financing of medical education needs a coordinated structure.

Mr. Slunecka added that the issue all comes back to funding. In order for the hospitals to make large ongoing contributions to the Medical School, there must be trust, confidence, and common interests, and he did not feel that this has been established under the current system. He requested that the committee encourage the Board of Regents to exercise leadership in considering some type of medical education consortium model. Mr. Slunecka noted that even if Avera McKennan commits to financial support this year, he questioned if lack of trust and common interests will jeopardize future financial support. He noted that his opinion of parity has to do with a uniform way of doing business across all partners. He did not have a lot of faith in the continued ongoing funding of the Medical School being served.

Ms. Becky Nelson, Mr. Frank Drew, Dr. David Rossing, and Dr. Ken Aspaas, represented Sioux Valley Hospital. Dr. Rossing testified that Sioux Valley Hospital has been concerned and disappointed with the overt and implied criticism of the management of the Medical School. He expressed Sioux Valley Hospital's unconditional support for the Medical School and its leaders. This support has been confirmed by the overwhelmingly successful results of the recent accreditation visit.

Ms. Nelson testified that Sioux Valley Hospital does not own or control the Medical School and they are not the only hospital with which the Medical School has relationships or affiliations. Sioux Valley Hospital is not the only campus location for the Medical School. She acknowledged a close and mutually supportive relationship between Sioux Valley Hospital and the Medical School, noting that Sioux Valley Hospital is the primary teaching hospital for the Medical School. After state government, Ms. Nelson stated that Sioux Valley Hospital has been the primary financial supporter of the Medical School. The disparity in support among Sioux Valley Hospital and other hospitals for the Medical School is huge. She felt that Sioux Valley Hospital should be recognized at some point for its contributions to the Medical School. Ms. Nelson stated that very often Sioux Valley Hospital is criticized for being big, but she noted that she is proud of the resources they can dedicate to the Medical School and towards serving the population of this state in medical care. Ms. Nelson stated that the influence of the Medical School on Sioux Valley Hospital has been significant and positive and that the relationship with the Medical School makes them a better hospital. She concluded that Sioux Valley Hospital did not buy the name "USD Medical Center", they earned the name.

In response to committee questions with regard to Sioux Valley "earning" the name, Ms. Nelson clarified that they believe that the Medical School is a state asset and should remain independent. She noted that Sioux Valley Hospital is the primary teaching hospital for the Medical School. Because of the role that Sioux Valley Hospital has played over the last 20 years, they are in a unique position with regard to the other hospitals in South Dakota. She felt that other hospitals would have to replicate the same years of commitment and support to the Medical School as has been given by Sioux Valley Hospital and then approach the Governor to see what kind of deal could be worked out. Ms. Nelson added that significant collaboration and cooperation already exists among the parties involved with the Medical School and expressed Sioux Valley Hospital's opposition to a redundant structure. She clarified that Sioux Valley Hospital's opposition to a consortium does not translate into opposition to cooperation and collaboration.

Mr. Drew testified that the medical education consortium proposal presented has not been supported by the School of Medicine, USD, the Board of Regents, the Department of Veterans' Affairs Medical Center, the SD State Medical Association, the SD Association of Healthcare Organizations, or Sioux Valley Hospital. Mr. Drew commented that while Sioux Valley Hospital registers its opposition to this proposal, they are in no way opposed to collaboration, of which a great deal currently takes place. The medical education consortium model presented specifically speaks to a consortium that would involve undergraduate medical education. Mr. Drew questioned the applicability of the Michigan State University consortium model to South Dakota, noting that it looks nothing like the state of South Dakota medical education program. Also, he noted that the South Dakota medical education enterprise does not begin to approach the size of the Michigan State University consortium. Mr. Drew noted that the verbal presentation of the consortium model indicated that it was not intended to usurp any authority of the current parties involved in medical education in South Dakota; however, the written plan calls for turning management over to a separate board. He found it difficult to believe that the Legislature would be willing to turn over undergraduate medical education to a separate entity. He felt that this would compromise the independence of the Medical School.

Listing of Legislation Adopted

None.

Summary of Meeting Date & Places and Listing of Committee Members

The Committee met on June 25, July 22, and October 25. All meetings were held at the State Capitol.

Committee members were Representative Mitch Richter, Chair; Senator Barbara Everist, Vice Chair; Senators Rebekah Craddock and John Reedy; and Representatives Stan Adelstein, Julie Bartling, Judy Clark, Scott Eccarius, Mary Glenski, Don Hennies, Ted Klaudt, Jim Lintz, B.J. Nesselhuf, Willard Pummel, and Donald Van Etten.

Staff members included Reed Holwegner, Senior Fiscal Analyst, and Rhonda Purkapile, Senior Legislative Secretary.

RETIREMENT LAWS COMMITTEE

Study Assignment

A continuing study of the pension, annuity, and benefit laws relating to employees and officers in public service.

Summary of Interim

The committee received an update on the condition of the retirement funds and heard a short history of the South Dakota Retirement System. The investment fund is still in very good condition, despite the unfavorable market. Due to the surplus balance, the fund can sustain similar market losses for another year, but benefit levels will need to be evaluated if conditions worsen for a longer period.

The committee also heard testimony from numerous organizations on the issue of retire/rehire. The current provision allows a retiree to be reemployed immediately upon retirement with the same employer and draw both the retirement benefit and a salary. The organizations supporting the current policy testified that it is a very effective retention tool, especially in the school districts. They say the current policy has been long-standing and is permitted by law. Members have earned the benefit and are entitled to it, regardless of reemployment. Current demographics show a rapidly aging workforce and it is because of this, supporters say, that adjustments to the workforce will be crucial in the near future.

Opponents to the retire/rehire provision testified that members are not treated uniformly because of different employer practices. Some employers allow the practice while others do not. There is a cost to the system; however, it is not substantial.

As of March 2002, there were three hundred ninety-nine reemployed retirees, and the average length of reemployment was about twenty months.

Listing of Legislation Adopted

None.

Summary of Meeting Date & Places and Listing of Committee Members

The committee met one time, on June 20, 2002, at the Ramkota Inn, Pierre. The meeting was held jointly with the Board of Trustees of the South Dakota Retirement System.

Committee members were Senator Kenneth D. Albers, Chair; Representative Matthew Michels, Vice Chair; Senators Larry W. Diedrich, Royal "Mac" McCracken, John McIntyre, and Ron Volesky; and Representatives Kay Davis, Clarence Kooistra, Mel Olson, and Lou Sebert.

Staff members were Annie Mertz, Senior Fiscal Analyst, and Teri Retrum, Senior Legislative Secretary.

RULES REVIEW COMMITTEE

Study Assignment

A review of proposed state agency rules.

Summary of Interim

The Rules Review Committee reviewed 76 sets of rules this interim. The committee referred three sets of rules back to prior steps in the rule adoption process for further consideration regarding the concerns expressed by the public, and the committee also made a similar recommendation regarding one other agency rule. For two sets of rules the agencies responsible for the rules were able to resolve the problems regarding the rules. Ultimately the committee accepted 75 sets of rules as presented. For one set of rules regarding record keeping the responsible agency plans to hold additional hearings after the legislative session.

The committee has used teleconferencing to facilitate agency needs and conflicts with committee member schedules.

Listing of Legislation Adopted

The committee proposed legislation for the next legislative session to facilitate the use of the Internet for certain federally imposed agency requirements.

Summary of Meeting Dates & Places and Listing of Committee Members

The Rules Review Committee met at the State Capitol in Pierre on the following dates: May 14, 2002; June 11, 2002; August 6, 2002; August 15, 2002 (telephone conference call); September 17, 2002; November 20, 2002, and January 13, 2003.

Committee members were Representative Orville Smidt (Chair); Senator Eric Bogue (Vice-Chair); Senators H. Paul Dennert and Royal "Mac" McCracken; and Representatives Gerald Lange and Matthew Michels.

Staff members were Doug Decker, Code Counsel, Phyllis Petersen, Senior Legislative Secretary, and Kris Schneider, Legislative Secretary.

Study Assignment

A review of proposed state agency rules.

Summary of Interim

The Rules Review Committee reviewed 57 sets of rules this interim. The committee referred one set of rules back to a prior step in the rule adoption process for further consideration regarding the concerns expressed by the public, and the committee also made a similar recommendation regarding one other agency rule. In each case the agency responsible for the rule was able to

resolve the problems regarding the rules. Ultimately the committee accepted 57 sets of rules as presented

The committee has used teleconferencing to facilitate agency needs and conflicts with committee member schedules.

Listing of Legislation Adopted

The committee may propose legislation for the next legislative session to facilitate the use of the Internet for certain federally imposed agency requirements.

Summary of Meeting Dates & Places and Listing of Committee Members

The Rules Review Committee met at the State Capitol in Pierre on the following dates: May 14, 2002; June 11, 2002; August 6, 2002; August 15, 2002 (telephone conference call); September 17, 2002; and November 20, 2001. The Committee may meet on January 6, 2003, to review any rules that need to be considered before the legislative session begins.

Committee members were Representative Orville Smidt (Chair); Senator Eric Bogue (Vice-Chair); Senators H. Paul Dennert and Royal "Mac" McCracken; and Representatives Gerald Lange and Matthew Michels.

Staff members were Doug Decker, Code Counsel, Phyllis Petersen, Senior Legislative Secretary, and Kris Schneider, Legislative Secretary.

SCHOOL FINANCE COMMITTEE

Study Assignment

A study of school finances in South Dakota, including an evaluation of current financial resources, alternatives for providing additional resources and the impact of changes in the valuation of agricultural land on the state aid-to-education formula. The study shall include an examination of all revenue received by each school district, the current method for allocating each source of revenue, and possible options for redistributing revenue. School property tax levies and the purposes for which such levies may be used, allocated, and transferred should be reviewed, including the levies for the general, bond redemption, capital outlay, liabilities, and pension funds.

Summary of Interim

The committee met five times during the interim. A similar structure was used for each of the first four meetings wherein the committee heard and discussed the current state of affairs with regard to federal legislation known as No Child Left Behind (NCLB), and then proceeded to discuss school finance issues and State Aid to Education. NCLB will have very significant ramifications in South Dakota's public schools over the course of seven years or more. Notably, schools that are failing to perform academically, as measured on a number of scales, will risk the possibility of being put on strict improvement plans or perhaps ultimately having to be run in at least some capacity by the state's Department of Education and Cultural Affairs. They may also, during that time, have to pay the cost of transporting local students to neighboring, better-performing schools.

Afternoons at each of the four "road" meetings began with presentations by the local schools' superintendents and finance officers and then turned to public testimony. The committee strove to gather as much information as possible from each of the schools it visited. These schools were selected for committee visit by a steering committee before the first meeting. The steering committee chose schools they thought represented the best of South Dakota's schools and by the South Dakota High School Activities Association (SDHSAA) size classification.

The committee gathered a lot of data from the various schools where it met. It was learned, for example, that Aberdeen Catholic Schools have educational expenditures per average daily membership (ADM) of \$3,396 and a \$2.3 million dollar budget. They have an average teacher salary of \$24,706 and a student-to-staff ratio of 14 to 1. Brandon Valley Schools had total expenditures of \$12.5 million for 2001/02 of which \$7.5 million was for instruction. They have an average teacher salary of \$32,712 and a student-to-staff ratio of 17 to 1. Custer Schools, which operates on a four-day week, had expenditures of \$5,362,973 of which \$3.36 million was for instruction. They have an average teacher salary of \$32,718 and a student-to-staff ratio of 12 to 1. Estelline, one of the first opt-out schools, had expenditures of \$5,950 per ADM for 2001/02, a student-to-staff ratio of 12.4 to 1, and employs a CEO/high school principal rather than a superintendent.

At each of the five meetings of the summer representatives of the career and technical education programs in the secondary schools pitched their appeal for a return to categorical status in State Aid to Education. These people testified that secondary vocational education has suffered greatly because of the repeal in 1995 of direct, categorical State Aid funding. Many schools have cut programs so the funding could be utilized to shore up other programs in the face of the cap on revenues.

Another common theme expressed during the interim was that the current State Aid to Education formula, while basically fair, has been underfunded from its inception. The fact that well over a

third of school districts have “opted out” of the revenue caps was the major evidence stated as for a need to increase funding. Estimates for the funding shortage ranged from \$150 per student to \$600. The committee discussed running more of the funding that goes to schools, such as the Bank Franchise Tax, through the State Aid formula, but stopped short at any sort of significant increase in funding for education. The opinion was expressed that the voters may, through the initiative process, increase the sales tax rates themselves to provide more dollars for education.

As for the study assignment’s item “the impact of changes in the valuation of agricultural land on the state aid-to-education formula,” nothing could be done. The committee learned that the Department of Revenue has seen no final results from the expanded study to value agricultural land based on productivity. They have “seen a few preliminary numbers, but nothing [on which they] can judge the impact of changing the method of land valuation.”

Finally, even though the concept of Best Practices Reviews was not mentioned in the committee’s assigned study topic, the committee recommends that the Executive Board establish a task force to review Best Financial Management Practices, perhaps as is done in Florida by their Office of Program Policy Analysis and Government Accountability. The task force should work with the Division of Legislative Audit on examining the costs and benefits of instituting a system of formalized reviews such as those in Florida.

Listing of Legislation Adopted

The committee adopted four bills for introduction in the upcoming Session as follows:

1. A JOINT RESOLUTION, Proposing and submitting to the electors at the next general election amendments to Article VIII of the Constitution of the State of South Dakota pertaining to distribution of school and public lands income and proceeds of fines collected from violations of state laws;
2. An Act to deposit bank franchise tax proceeds in the general fund;
3. An Act to appropriate money for state aid to education; and
4. An Act to appropriate money for career and technical education.

Summary of Meeting Dates & Places and Listing of Committee Members

The first meeting was in Aberdeen at Roncalli High School on June 26. Next the committee met in Brandon at Brandon Valley Middle School on July 31. On August 28 the committee met in Custer at the Forest Supervisor’s Office. The committee held its fourth meeting in Estelline on September 25. The committee’s final meeting was in Pierre on October 7.

Committee members were Representatives Orville B. Smidt (Chair), Jim Bradford, B. Michael Broderick, Jr., Art Fryslie, Phyllis Heineman, Jeff Monroe, William M. Napoli, Bill Peterson, Jim Peterson, Larry Rhoden, Dale Slaughter, Duane Sutton, and John E. Teupel, and Senators Ed Olson (Vice Chair) and H. Paul Dennert.

Staff members were Mark Zickrick, Principal Fiscal Analyst, and Rhonda Purkapile, Senior Legislative Secretary.

STATE-TRIBAL RELATIONS COMMITTEE

Study Assignment

The State-Tribal Relations Study Committee selected its study topics for the 2002 Interim at its first meeting. The committee decided to address the question of the coordination of emergency and disaster response systems and activities between tribal, state, and local entities, including the potential for terrorist acts and appropriate responses. The committee also requested a review and update of developments related to nursing homes and long-term care on Indian reservations. In addition, the committee decided to address the topic of the condition and treatment of Native Americans in the penal system in South Dakota, focusing on adults in the state prison system.

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, which generally does not propose legislation, provides a forum within state government for discussion by Indians and non-Indians of issues affecting the Native American community. The committee also serves as a way of familiarizing legislators with such issues.

The first meeting was held in the Capitol on July 31, 2002, with the primary task of selecting study topics for the 2002 Interim. Unlike other interim committees, which are temporary and are established to study particular issues, the State-Tribal Relations Committee is ongoing and selects its own study topics at the beginning of the interim. Committee members, who are appointed for two-year terms, also select their own chair and vice chair, and their 2001 selections, Senator J.E. "Jim" Putnam as Chair and Representative Stan Adelstein as Vice Chair, continued in their positions during the 2002 Interim. As noted above, the committee chose to study emergency and disaster response, nursing homes and long-term care, and conditions for Native Americans in the prison system for the 2002 Interim. At the first meeting, the committee also heard substantial public testimony on the topic of Native Americans in the prison system.

At the second meeting, which was held in Pierre on September 13, the committee heard presentations and public testimony about emergency and disaster response systems administered by tribal governments and other governmental entities, focusing on coordination and cooperative efforts in this field between tribes and other governments. Mr. John Berheim, Director of the South Dakota Division of Emergency Management, briefed the committee on emergency response procedures by the state of South Dakota and efforts by the state and tribes at joint training and coordination of efforts. Mr. Berheim also explained the role of various federal emergency response agencies and funding arrangements for the various entities. Mr. Bryce In-the-Woods, Civil Defense Coordinator with the Cheyenne River Sioux Tribe, described his duties and his view of emergency response issues and concerns. He has participated in a number of trainings and meetings sponsored by federal agencies on this subject. Each tribe has an emergency and disaster or civil defense coordinator. A representative of the regional office of the Federal Emergency Management Agency in Denver was scheduled to appear before the committee, but was unable to attend.

At the second meeting, the committee also heard an update on issues related to long-term care and the need for nursing homes on Indian reservations. Ms. Danna Jackson of Senator Tim Johnson's office and Mr. Chris VandeVenter of Senator Tom Daschle's office joined the meeting

by telephone conference call and discussed the nursing home issue and pending legislation introduced by the two Senators that would provide federal funding for nursing homes on reservations. Mr. Mike Vogel of the South Dakota Department of Social Services discussed recent developments on the issue and reiterated the state's position that long-term care on Indian reservations is a federal responsibility. Mr. Vernon "Ike" Schmidt, Vice President of the Rosebud Sioux Tribe, described for the committee the experience of the Rosebud Sioux Tribe in purchasing and operating an existing nursing home in White River, near the reservation boundary. He also discussed the general need for nursing homes on reservations. The committee heard public testimony on both issues.

The committee's third meeting was held on November 14-15, 2002, in Pierre and addressed the issue of Native Americans in the penal system. The meeting focused on conditions for Native American adults in the South Dakota prison system. The committee heard a presentation by Ms. Laurie Feiler of the South Dakota Department of Corrections discussing Native American prison statistics in South Dakota and surrounding states and outlining state corrections system policies and programs that affect Native Americans. She also provided information on Native American religious activities in the prison system and related issues. The committee also heard a presentation by two University of South Dakota professors, Dr. Richard Braunstein of the Department of Political Science and Dr. Steven Feimer of the Government Research Bureau. They discussed the preliminary results of a study they are conducting on Native Americans in the criminal justice system, entitled "Justice in South Dakota: Does Race Make a Difference?" They found disparity in the percentages of Native Americans in the criminal justice system compared with the percentage of Native Americans in the general population in South Dakota and surrounding states, although more study is needed to isolate the causes of these disparities. Their study also addresses numerous other factors in the process from arrest through trial, incarceration, and parole. A large share of the third meeting was devoted public testimony dealing with conditions in the South Dakota prison system.

Listing of Legislation Adopted

None.

Summary of Meeting Dates & Places and Listing of Committee Members

The committee met in the State Capitol in Pierre on July 31, September 13, and November 14-15, 2002.

The members of the State-Tribal Relations Study Committee were saddened by the death of long-time committee member, Senator Richard "Dick" Hagen of Pine Ridge on September 22, 2002.

Members of the committee include Sen. J.E. "Jim" Putnam (Chair) and Rep. Stan Adelstein (Vice Chair); Senators Arnold Brown, Patricia de Hueck, the late Richard Hagen, and Ron Volesky; and Representatives Jean Hunhoff, Barry Jensen, Paul Valandra, and Thomas Van Norman.

Committee staff members were Tom Magedanz, Principal Research Analyst; and Rhonda Purkapile and Teri Retrum, Senior Legislative Secretaries.

TEACHER ENHANCEMENT REVIEW COMMITTEE

Study Assignment

The Teacher Enhancement Review Committee was a special committee created by the Executive Board. The Board asked the chairs of the Senate and House Education Committees to appoint up to three members from each of those committees to discuss and develop a plan to reward outstanding teachers. The Board also asked that the group of legislators formulate the plan in collaboration with representatives of the Department of Education and Cultural Affairs, the School Administrators of South Dakota, the South Dakota Education Association, and the Associated School Boards of South Dakota.

Summary of Interim

The committee began the process at its first meeting with an open discussion on teachers in South Dakota and on performance pay plans in general. Participants shared their views on what they hoped the committee would accomplish. They reviewed House Bill 1085. The bill, introduced by Representative Matt McCaulley in 2002, proposed a “master teacher” program funded through block grants from the state. It received considerable discussion during the session, but a consensus on what exactly the bill should contain was never reached. The committee decided to use House Bill 1085 as a starting point in crafting a performance pay program. The group also agreed to limit their discussions to only the policy issues involved and to leave the funding questions for later.

At the second meeting, in Sioux Falls, the committee heard two presentations. Dr. John McLaughlin, a well-known consultant to the education industry, shared his thoughts on teacher pay and other timely education issues. Dr. McLaughlin stressed how difficult it was to develop a successful performance pay plan and how most attempts at it have failed, but he also said that such plans have merit and are worth trying. He noted that in his view, excellent teachers should not be held down to stay level with their peers on a flat career track.

The second presentation was by Jim Shekleton, General Counsel to the South Dakota Board of Regents. Mr. Shekleton discussed the performance pay component of the Board of Regents Compensation Program and how it works. He explained that the performance pay money is distributed to faculty members based on institutional priorities, market comparisons, and individual performance. He noted that the Board was able to maintain the performance pay component by decreasing staff. In his view, performance pay works for the Board of Regents because the faculty knows exactly what is expected of them, and they are evaluated both formally and informally on a regular basis.

The committee concluded its work at the third meeting in Pierre. Committee members further refined the draft legislation and took public testimony on it. They voted to introduce the legislation during the upcoming legislative session. The co-chairs of the committee, Senator Ed Olson and Representative Matt McCaulley, will serve as prime sponsors of the bill, and the other members will sign on as co-sponsors.

Ultimately, the committee was able to develop legislation that met the approval of all the participants in the process. The bill allows a school district to develop its own plan for rewarding teachers within certain parameters. Teachers must meet certain criteria to be eligible for the

reward, but the selection of the teachers who will be rewarded also takes place at the school district level. A selected teacher will receive a reward that is at least one thousand dollars per year, but not more than six thousand dollars per year.

Members of the committee achieved their goal of finding a way to reward teachers based not on their length of service or their level of education, but on how well they do their jobs. The proposed legislation puts money from outside the state aid formula into the hands of teachers who are demonstrating excellence in the classroom.

Listing of Legislation Adopted

An act to reward certain eligible teachers for performance.

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

The Teacher Enhancement Review Committee held meetings on July 18 in Pierre; on August 6 in Sioux Falls; and on August 22 in Pierre.

Committee members were Senate Ed Olson, Co-Chair; Representative Matt McCaulley, Co-Chair; Senator Jim Hutmacher; Representative Burt Elliott; and Representative Cooper Garnos.

Staff members were Clare Cholik, Senior Research Analyst, and Rhonda Purkapile, Senior Legislative Secretary.