Study Assignment

An agency review of the Department of Revenue, pursuant to SDCL 1-26E-2. The divisions reviewed under this study include Business Tax, Property and Special Taxes, Motor Vehicles, Audit, Legal Services, and Administrative Services.

Summary of Interim

The first meeting of the interim Department of Revenue Agency Review Committee was held on Monday, June 28, 2007, at the State Capitol Building in Pierre, South Dakota.

The meeting began with opening remarks by the chair about the interim review committee. Mr. Aaron Olson, Senior Fiscal Analyst, provided a historical perspective of the review process and reviewed an outline of a typical study plan for interim review committees.

Secretary Paul Kinsman began the Department of Revenue presentation and discussed with the committee the agency's mission, responsibilities, and budget for the Department of Revenue. Secretary Kinsman explained that the agency is responsible for administering, collecting, and distributing the ninety separate types of taxes and fees across the state.

Ms. Jan Talley, Director of the Business Tax Division, discussed the duties of the division which include administering sales, use, and contractors excise tax; municipal taxes; special jurisdictions taxes; tourism tax; telecommunications gross receipts tax; and motor vehicle leasing tax. The Division is also responsible for issuing tax licenses, conducting licensee reviews, working on compliance issues, collecting taxes from special events, operating toll-free taxpayer phone bank, and implementing the Streamlined Sales and Use Tax Project objectives. Ms. Jane Page, Assistant Director of the Business Tax Division, provided the committee with a presentation and update on the Streamlined Sales and Use Tax Project.

Mr. Michael Kenyon, Director of the Property and Special Taxes Division, explained that the Division administers twelve different taxes including the bank franchise tax, tobacco taxes, and several miscellaneous taxes and fees. The Division also regulates the alcohol and tobacco industries in South Dakota. Mr. Kenyon also discussed property taxes with the committee. The state has three roles in the property tax system; administration of property tax relief, central assessment of certain companies, and education and oversight of the system.

Ms. Debra Hillmer, Director of the Division of Motor Vehicles, discussed the
various responsibilities of the Division and talked about the new title and registration system that will accommodate plate with owner regulations. The Division's responsibilities include the motor vehicle excise tax, title and registration, motor fuel tax, special fuel tax, interstate fuel tax, fuel tax refunds, prorate and commercial licensing, and dealer licensing.

Mr. Randy Kutz, Audit Manager within the Audit Division, explained that the Division conducts in and out-of-state audits for taxes administered by the Business Tax Division, Division of Motor Vehicles, and Property and Special Taxes Division.

Mr. Andrew Fergel, Chief Legal Counsel, explained that the Legal Services Division is comprised of three parts; Legal Staff, Investigative Services Bureau, and the Insurance Fraud Prevention Unit. The Division provides legal representation in civil litigation involving tax assessments and licensing issues; represents the department before the Office of Hearing Examiners, Circuit Court, the South Dakota Supreme Court, and in Federal Court; supervises the administrative rules promulgation process for the department; and provides legal opinions and advice to department staff.

Ms. Joan Serfling, Director of the Division of Administrative Services discussed the duties of the Division which include budget and finance, the State's remittance center, collections, taxpayer information, media relations, taxpayer education, technical assistance, procurements, and support functions.

The first meeting concluded with committee discussion and requests for additional information to be provided at the next meeting.

The second meeting of the interim Department of Revenue Agency Review Committee was held on Monday and Tuesday, September 10th and 11th, at the State Capitol Building in Pierre, South Dakota.

Secretary Kinsman responded to questions and requests for additional information from the first meeting. The topics included: ore and inheritance tax revenue, cigarette tax revenue projections, penalties for unstamped cigarettes, streamlined sales tax, 2003 Department of Revenue and Regulation reorganization, multi-year licensing of trailers, security measures to protect confidential information, assessor class information, administration of the sales and use tax system, performance based management, and notice of property valuation increase. The department agreed to address the issue of multi-year licensing of trailers after the new "license plate with owner" system is implemented.

Mr. David Wiest, Deputy Secretary, provided the committee with a presentation of alcohol beverage licensing and taxation as a result of a committee request from the first meeting. The committee focused on the following areas: types of
licenses, issuance, and application; alcohol beverage license caps; license cap history; comparison of alcohol beverage licensing from surrounding states; the impact of population growth on alcohol beverage licenses; the department's perspective of the alcohol beverage license cap; and the impact of increased licenses on state revenue.

The committee heard public testimony from the South Dakota Municipal League and a member of the Brookings City Council regarding alcohol beverage licensing and the license cap.

Tom Magedanz, Principal Research Analyst, informed the committee that a form and style clean-up draft of taxation and revenue statutes was being prepared for the committee to review and act on at the next meeting.

The second meeting concluded with committee discussion about possible recommendations that the committee may adopt at the final meeting.

The third meeting of the interim Department of Revenue Agency Review Committee was held on Tuesday, October 23, 2007, at the State Capitol Building in Pierre, South Dakota.

Secretary Kinsman and Mr. Wiest responded to questions regarding cigarette tax revenue and alcohol beverage licensing and gallonage figures from the first meeting. Secretary Kinsman also discussed the agency’s perspective of the review process.

Mr. Magedanz discussed the form and style revisions to the draft clean-up legislation. After a request by Representative Pitts for public testimony, the legislation was adopted by the committee.

The third meeting concluded with a committee discussion regarding the Department of Revenue.

Listing of Legislation Adopted

- An act to make form and style revisions to certain taxation and revenue statutes.

Summary of Meeting Date & Places and Listing of Committee Members

The committee met on June 28, September 10 & 11, and October 23 in the State Capitol in Pierre.

Committee members were: Representative Carol Pitts, Chair; Senator Ed Olson, Vice-Chair; Representatives Michael Buckingham, Joni Cutler, Marc Feinstein, Mark Kirkeby, Paul Nelson, Bill Thompson, Mike Vehle, Keri Weems; and
Senator Alan Hoerth.

Staff members were: Aaron Olson, Senior Fiscal Analyst; Tom Magedanz, Principal Research Analyst; and Lisa Shafer, Legislative Secretary.