

# MINUTES

## Executive Board



Senator Lee Schoenbeck, Chair  
Representative Spencer Gosch, Vice Chair  
Senator Troy Heinert, Ranking Minority Member

Third Meeting, 2022 Interim  
Monday, April 25, 2022

Room 414 – State Capitol  
Pierre, South Dakota

Senator Schoenbeck called the meeting to order at 10:00 a.m. in Room 414 of the State Capitol, Pierre.

A quorum was determined with the following members answering the roll call: Senators Gary Cammack, Mary Duvall, Ryan Maher (remote), and Jim Stalzer; Representatives Hugh Bartels (remote), Roger Chase, Mike Derby, Trish Ladner, Ernie Otten, Kent Peterson, and Jamie Smith (remote); Senator Troy Heinert, Ranking Minority Member (remote); Representative Spencer Gosch, Vice Chair; and Senator Lee Schoenbeck, Chair. Excused: Senator Erin Tobin.

Staff members present included Reed Holwegner, Director; Jeff Mehlhaff, Chief Fiscal Analyst; John McCullough, Code Counsel and Acting Chief Research & Legal Analyst; Elijah Rodriguez, Information Technology Manager; and Cindy Tryon, Administrative Specialist.

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

### Approval of Minutes

***Senator Cammack moved, seconded by Representative Ernie Otten, to approve the minutes of the March 28, 2022, Executive Board meeting. Motion prevailed on a voice vote.***

### Inauguration Committee

**Mr. Matt Judson, Chair, and Stephanie Judson, 2023 Inauguration Committee**, said the Inauguration Committee is a volunteer, ad hoc committee under the auspices of the Pierre mayor. There is a brunch for legislators on the Saturday morning of inauguration weekend. Mr. Judson said the committee would like the LRC to serve as hosts for the event as in the past. Hosting duties for the brunch include planning and distributing invitations, managing tickets, confirming attendance, setting seating arrangements, addressing special requests from legislators, finding and working with the caterer, setting up tables and chairs, decorating, tearing down and cleaning up after the event. The committee meets once a month starting in May and more often after the November election.

Senator Schoenbeck pointed out that most of the work for the brunch would be conducted between the November election and the start of the Legislative Session. Senator Schoenbeck said Senator Duvall has agreed to serve as the point person for the Legislature in working with the 2023 Inauguration Committee leading up to the election.

***Senator Stalzer moved, seconded by Representative Ernie Otten, to appoint Senator Duvall as the point person for the Legislature in working with the 2023 Inauguration Committee. Motion prevailed on a voice vote.***

### **HB 1033 – Housing Infrastructure Loans and Grants**

Senator Schoenbeck presented the information regarding HB 1033, an act to make an appropriation for the provision of housing infrastructure loans and grants, including a copy of the bill ([Document #1](#)) and a resolution proposed by Mr. Tim Dougherty and Ms. Dixie Hieb ([Document #2](#)).

**Ms. Dixie Hieb, Attorney, Sioux Falls**, said the Housing Authority is trying to address concerns raised by the administration as to the implementation of HB 1033 and avoid any kind of a court challenge. The Housing Authority hoped codifying HB 1033 as a separate purpose for the money appropriated would avoid any conflict. Ms. Hieb received a memorandum from Mr. John McCullough, Code Counsel, explaining why codification was not needed. Ms. Hieb said that according to his memorandum, Mr. McCullough feels the resolution is inappropriate and Ms. Hieb believes his arguments are very good, therefore, the resolution should be withdrawn.

Senator Schoenbeck asked if it would help the Housing Authority if, at the May Executive Board meeting, instead of a resolution asking for codification, there was a resolution of the Legislature's intent. Ms. Hieb said a resolution would be helpful and she will work with Mr. McCullough drafting the new resolution.

Representative Chase said when HB 1033 was discussed, it was never intended for the infrastructure fund to go into the Housing Opportunity Fund (HOF). This was to be a program administered by South Dakota Housing and sent out to all types of housing projects throughout South Dakota.

Representative Gosch said it is important the Executive Board be mindful that there is a Code Commission appointed by the Board to address these issues and the Board need not be stepping outside its authority by trying to interpret what the Legislature intended.

### **LRC Staff Report**

**Mr. Reed Holwegner, Director**, said, since the last Executive Board meeting, the LRC staff have been closing the records of the 2022 session and preparing for the 2022 interim. In the Operations Division of the office, the Secretary of the Senate and Chief Clerk of the House are proofing the 2022 journals and will have copies certified and filed with the Secretary of State within the 40 days allotted. The Legislator Update newsletter has returned to a monthly format and is sent to all Legislators the start of each month. The Speaker and the President Pro Tempore are continuing the 2021 travel policy for the 2022 interim. Legislators may submit travel requests using MyLRC accounts for approval by the Speaker of the House and the President Pro Tempore of the Senate for the members of the respective bodies. The Legislative Index is being processed and will soon be sent to print. The index is an online document with hard copies available only by request.

The Fiscal Staff have been working on Letters of Intent for the review of the Special Committee on Appropriations which meets May 19. At the May 19 meeting, in addition to the Letters of Intent, the committee will discuss interim meeting dates, improving the budget system, reviewing processes to increase efficiency, and preparing primer agency documents for the next session.

The IT Staff is working with the other divisions to plan and prioritize IT projects for the interim. This on-going incremental process of improvement to the system has served both the LRC and the Legislature for many decades. Since the LRC started working with Homeland Security the security risk has improved from medium risk to low risk for the web applications and office network. Services from Homeland Security are provided at no expense to the Legislature because the systems and processes are vital parts of the South Dakota infrastructure.

Code Counsel and the text editing staff have been reviewing all laws passed by the Legislature during the 2022 Session. The purpose of the review is to prepare for session law publications and the codification process. The Session Laws publication should be ready in May.

The Research Division staff are currently reviewing and categorizing certain laws related to specific state agencies. The division is organizing and making plans for the interim. The processing and reviewing of administrative rules becomes a greater part of the workload during the interim.

### Executive Session

***Representative Chase moved, seconded by Senator Cammack, that the Executive Board go into executive session to discuss items relating to personnel. Motion prevailed on a voice vote.***

The Executive Board went into executive session at 10:23 a.m.

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

The Executive Board came out of executive session at 11:39 a.m.

Senator Schoenbeck said the Director has impressed upon the board the challenges of managing a legislative staff working in a highly charged environment. The commitment of the Executive Board is to have an executive session at each board meeting as needed to address personnel and Human Resource issues regarding LRC staff.

### Interim Study Scopes and Board Direction

The proposed language for the three interim studies selected from suggestions made by Legislators can be found in [Document #3](#).

Senator Duvall suggested removing the last sentence of the Study R scope. Representative Ladner agreed to removing the sentence, "This study may also include the evaluation of administrative options and the mitigation of transitional procedures."

***Representative Kent Peterson moved, seconded by Representative Ladner, to approve the proposed study scopes with the removal of the last sentence in the proposed Study R scope. Motion prevailed on a voice vote.***

The scope for the task force created by SB 144 is found in the language of the bill [\(Document #4\)](#). Senator Schoenbeck suggested narrowing the scope found in the language of the bill.

Senator Heinert said the Corrections Commission discussed the task force at the most recent commission meeting. The discussion whether the State is ready to make this kind of an investment. The State needs to find ways to keep people out of prison. The length of time someone is sentenced to prison also needs to be addressed, as well as whether the state is providing services needed to reduce the recidivism rate. Another consideration needs to be how the system works when the county does not have the proper facilities and the offender gets sent to the state penitentiary.

Senator Schoenbeck suggested language for the prison task force's scope. Representative Kent Peterson said this suggested language keeps the scope broad but focused enough to help the task force get started.

***Representative Kent Peterson moved, seconded by Senator Duvall, to approve the scope for the SB 144 task force as follows: To study the physical plant of correctional facilities, the funding thereof, and the services provided at those facilities, and report to the Legislature. Motion prevailed on a voice vote.***

### **Appointments to Interim Committees and Task Forces**

Senator Schoenbeck led a discussion on the number of House and Senate members that should serve on each of the interim studies.

***Representative Gosch moved, seconded by Representative Kent Peterson, that eight House members serve on each of the interim studies. Motion prevailed on a voice vote.***

***Senator Cammack moved, seconded by Senator Duvall, that seven Senate members serve on each of the interim study committees.***

***Senator Stalzer moved a substitute motion, seconded by Senator Cammack, that up to seven Senate members serve on each of the interim studies with the exact number of Senators left to the discretion of the Senate leadership. Motion prevailed on a voice vote.***

***Representative Gosch moved, seconded by Senator Cammack, to appoint seven lay-members to the SB 144 task force regarding incarceration and corrections. Motion prevailed on a voice vote.***

***Representative Gosch moved, seconded by Senator Cammack, to have LRC post a notice seeking applications from the public for the seven lay-members of the SB 144 task force with an emphasis in organized labor, a tribal member, a former prisoner, and a county official, as well as representatives from the Department of Corrections and the Unified Judicial system. Motion prevailed on a voice vote.***

Senator Schoenbeck said the Board will consider the applications and appoint the members at the May Board meeting.

The Board discussed possible members to serve as interim study chairs and vice chairs.

***Representative Kent Peterson moved, seconded by Senator Stalzer, to appoint Senator Diedrich as Chair and Representative Jamison as Vice Chair of the Legislative Task Force on Incarceration Construction Funding. Motion prevailed on a voice vote.***

***Senator Duvall moved, seconded by Representative Kent Peterson, to appoint Representative Finck as Chair and Senator Tobin as Vice Chair of the Study Committee on Juvenile Justice. Motion prevailed on a voice vote.***

***Representative Kent Peterson moved, seconded by Representative Ernie Otten, to appoint Representative Ladner as Chair and Senator Duvall as Vice Chair of the Study Committee on Property Tax Structure and Tax Burden. Motion prevailed on a voice vote.***

***Representative Ladner moved, seconded by Representative Kent Peterson, to appoint Senator Stalzer as Chair and Representative Bartels as Vice Chair of the Study Committee on Local Jails and State Correctional Plans. Motion prevailed on a voice vote.***

***Representative Derby moved, seconded by Senator Stalzer, to change the word "local" to the word "regional" for the Study Committee on Local Jails and State Correctional Plans. Motion prevailed on a voice vote.***

### **Mileage Reimbursement (SDCL 2-9-1)**

Mr. Holwegner said Senator Zikmund requested an analysis of the state reimbursement rate for privately owned automobiles ([Document #5](#)). The State Board of Finance promulgates rules setting the rate per mile paid out. There is broad authority and discretion for the Board of Finance and the rate can be changed at any time with approval by the Special Committee on Appropriations. The state reimbursement rate is currently \$0.42 per mile and that has been the rate since 2015. The current federal rate for reimbursement for privately owned vehicles is \$0.585 per mile and the federal rate is reviewed annually. Senator Zikmund wanted this analysis brought to the Board's attention.

In response to questions from the Board, Mr. Holwegner said the Board could ask that the State Board of Finance consider adopting the federal guidelines. Another option is to request the Special Committee on Appropriations further discuss this at their meetings and perhaps present legislation next year.

Representative Derby said this rate was set in 2015 for all state employees and it is time the Board of Finance look at increasing the rate.

***Representative Derby moved, seconded by Senator Stalzer, to recommend the State Board of Finance review the rate of reimbursement for use of private vehicles. Motion prevailed on a voice vote.***

### **Reimbursement for Certain Interim Expenses**

Senator Schoenbeck said the memorandum regarding additional reimbursement for certain meetings came about because the appropriators started preparing for session the week prior to the first day of session, but were not paid the interim salary ([Document #6](#)).

Mr. Holwegner explained this happens when the interim bumps into session. The pre-session meetings fell into the first session salary period in January. This is the first year this has happened, but it could happen again in the future. Due to the fact the legislators were paid their first session salary that week, it was not possible to also pay the interim salary.

Senator Schoenbeck asked about the need for the appropriators to meet prior to session.

**Mr. Jeff Mehlhaff, Chief Fiscal Analyst**, said there were a lot of additional federal moneys coming into the state this year and the appropriators thought it would be helpful to begin budget discussions before session started. The committee cannot do this after an election year as the members have to be sworn into office before they can meet. This was not an election year; so all members were able to attend the early meeting.

Representative Kent Peterson commented that this is referring to salaries only, the committee members did receive their per diem.

Senator Schoenbeck explained that legislators' salaries run on the State's schedule, not on legislative time. All legislators received the legislator salary for the week prior to session, but the appropriators were the only members who attended legislative meetings. Senator Schoenbeck said it seems there is nothing to be done about this now, but the chairs of the Special Committee on Appropriations may want to address this next session, so it is not an issue in the future.

### **Adjourn**

***Representative Ernie Otten moved, seconded by Representative Chase, the Executive Board adjourn. Motion prevailed on a voice vote.***

The Executive Board adjourned at 12:30 p.m.