



# Legislative Research Council

SouthDakota

## MINUTES

### GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

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Representative Dan Dryden, Chair  
Senator Larry Tidemann, Vice Chair

First Meeting  
2015 Interim  
May 19, 2015

Room 413  
State Capitol Building  
Pierre, South Dakota

The first meeting of the 2015 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Dryden at 9:00 a.m., May 19, 2015, in LRC Room 413, State Capitol Building, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Representatives Bartling, Dryden, Hunhoff, and Hunt. Representative Cronin joined by conference call. Senators Heineman, Novstrup, Peters, Sutton, and Tidemann.

Staff members present were Mr. Martin Guindon, Auditor General; Mr. Bob Christianson and Mr. Tim Flannery, State Government Audit Managers for the Department of Legislative Audit (DLA).

*NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. The bulleted items below each agenda item are documents sent out by the Committee.*

#### Approval of Minutes and Agenda

Senator Heineman moved, seconded by Senator Tidemann, the minutes of the November 13, 2014 meeting be approved ([Minutes 11-13-14 Meeting Doc.1](#)). Motion prevailed unanimously on a voice vote.

#### Item 1 – Department of Social Services (DSS)

- [Letter to Social Services Doc.2](#)

##### Medicaid Management Information System (MMIS) Project

Secretary, Lynne Valenti, and Deputy Secretary Brenda Tidball-Zeltinger, DSS, were both present to talk to the Committee. Secretary Valenti gave a brief background on the MMIS project before giving the Committee an update. Secretary Valenti stated that CNSI was contracted in 2009 to complete the MMIS project but work stopped in 2010 and the contract with CNSI was terminated. Litigation and a settlement followed this termination. There was a new go-forward plan discussed with CNSI but the parties involved could not agree to the terms of the plan. Legal counsel is working to finalize the closeout agreement with CNSI and they anticipate being done in June 2015.

Secretary Valenti stated that the DSS hired a vendor, Public Knowledge Group, to conduct an assessment of the project and to analyze what still needed to be finished. She added that the assessment analyzed the three main parts of the MMIS project – claims adjudication, pharmacy benefits, and provider enrollment. The provider enrollment portion is completed and is live and the pharmacy portion is nearly completed. The cost of the assessment was \$138,000 with 90% paid with federal funds and 10% paid with state funds. She stated the assessment made recommendations for completing the project and the DSS hopes to complete the refined go-forward plan by July 2015.

There were multiple Committee questions regarding what was paid to CNSI for the work they completed, what is still owed to them through the settlement, and what money is left for the MMIS project. Deputy Secretary Tidball-Zeltinger stated that the original amount for the project was \$76 million and there is approximately \$12 million left. Approximately \$62 million was paid to CNSI for independent validation, vendor costs, staff, and hardware purchases. There was \$3.9 million payable to CNSI when the closeout agreement started. However, \$2 million of that was for a new contract, which won't be executed. The remaining \$1.9 million is for items that were not included in the original contract and hardware and software purchases.

Representative Hunhoff asked if there would be a need for additional human resources. Secretary Valenti stated that will be determined as they go forward with finishing the different sections of the project. She added that the DSS would be implementing a modular approach for the remaining portions of the project. Secretary Valenti explained that a modular approach would mean more than one vendor would work on completing the project. She added that other states have successfully implemented a modular approach.

Senator Heineman wanted to know a time frame for the completion of the MMIS project. Secretary Valenti stated that as of now there is no hard time frame. The DSS is working on prioritizing what components to complete before others and then will assign time frames.

#### Company 3079

Secretary Valenti and Deputy Secretary Tidball-Zeltinger addressed the Committee regarding Company 3079 ([Company 3079](#)). Deputy Secretary Tidball-Zeltinger explained that Company 3079 has three subgroups – Other/Donated, Prescription Drug Plan, and Crime Victims' Compensation. She added that the primary revenue source comes from the federal government through incentive dollars provided to the DSS for the good work done through the Supplemental Nutrition Assistance Program (SNAP) and the Child Support Enforcement Program. Other revenue sources include the Department of Correction's behavioral health program, the Adult Services and Aging Program, the Homemaker Program, and the Crime Victims Program. Also, the Human Services Center in Yankton receives revenue for billing certain recipient prescription drugs and that revenue is remitted to this fund as well.

Secretary Valenti stated that the DSS received one-time funding of \$2.1 million from the Janssen lawsuit settlement. She added that there are very specific rules on how the settlement dollars are to be used and are required to assist in funding programs directed towards mental illness treatment. The DSS has three years to use the funds and there is a plan in place for this. The DSS is using the funds to do the following: family support services as recommended by a behavioral health workgroup, functional family therapy pilot program done through Lewis and Clark Behavioral Health in Yankton, several educational programs through National Alliance of the Mentally Ill, crisis intervention training for law enforcement, mental health/first aid training in communities, and training for suicide prevention.

The Committee wanted clarification as to where the funds from the Janssen settlement were deposited and where the rest of money came from that made up the approximate \$3.3 million Net Change in this fund. Deputy Secretary Tidball-Zeltinger explained that of the \$3.3 million change, \$2.1 million was the settlement money and the rest was an increase of federal incentive money for the SNAP Program and Child Support Enforcement Program.

The Committee asked why the DSS keeps a large balance in Company 3079 and if there is a certain amount or percent they need to keep as a fund balance. Deputy Secretary Tidball-Zeltinger said that normally the revenue and expenditures are closer to a one to one ratio. The one time funds make a difference, such as the Janssen funds, and as the money becomes available they reallocate it to the appropriate fund. She added that there is not a targeted fund balance amount.

Representative Hunhoff stated that South Dakota has been very good in their recovery efforts. She stated that the DSS, in a presentation to the Appropriations Committee, explained that \$8.7 million had been

recovered from third party sources. She asked where these funds were coming from and where the dollars were included in the budget. Deputy Secretary Tidball-Zeltinger provided a handout from the Office of Recoveries and Investigations ([DSS Medical Recoveries](#)) that illustrated third party liability (TPL) collections, estate recoveries and Medicaid recipient fraud recoveries.

Deputy Secretary Tidball-Zeltinger explained a TPL recovery is a situation where the individual also has private health insurance or they may have been involved in an accident that someone else may have been responsible for. She explained that estate recoveries represent recoveries from individuals that were in a long-term care or a nursing facility, pass away, and the state has the opportunity to recover the cost of care through that individual's estate or assets. She stated that fraud recoveries can be either intentional or unintentional fraud situations. The benefits specialists are the best source of information for fraud that may be happening. There are multiple ways for the public to contact the Department regarding fraud as well. Each referral that is received is vetted.

Representative Hunhoff asked where the money collected through the Office of Recoveries and Investigations (\$8.2 million in FY 2014) goes after it is collected. Deputy Secretary Tidball-Zeltinger stated that the federal share goes back to the federal government and the General Fund share goes back into the state's General Fund.

Representative Hunt asked if there is system for estate collections using the social security number (SSN) of the deceased to make sure the estate recoveries are being done to the fullest extent possible. Deputy Secretary Tidball-Zeltinger explained that the DSS has limited access to the Federal databases and the DSS works with the Department of Health Office of Vital Records (Vital Records), nursing facilities and benefits specialists to obtain the necessary information. Brandon Seibel (DSS) stated the DSS is working on a program that will do a SSN search automatically. Mr. Seibel stated every three months there will be a file sent to a vendor and they will then determine which of those recipients are deceased.

#### **Item 2 – Juvenile Corrections Monitor Semi-Annual Report for the period July 1, 2014 through December 31, 2014**

- [Letter to DHS Doc.4](#)
- [Letter from Attorney General Doc. 6](#)

Kathleen Colson, Juvenile Corrections Monitor (JCM), was present to address the Committee. She gave a brief background of the responsibilities of her position. She also discussed the JCM Semi-Annual Report for the period from July 1, 2014 through December 31, 2014 ([Semi-Annual Report](#)), which was provided to the Committee prior to the meeting. She discussed the number of youth involved in the different programs. She also discussed the number of juvenile contacts she received in the six month reporting period, what the contact was regarding, and how the contact was handled.

Ms. Colson then discussed the seven investigations that were done in the six month reporting period. None of the instances investigated were determined to be substantiated abuse or neglect.

#### **Item 3 – Department of Corrections – Report on Abuse and Neglect in Private Placement Facilities for the period July 1, 2014 through December 31, 2014**

- [Letter to Corrections Doc. 7](#)

Doug Herrmann, Department of Corrections (DOC), was present to speak to the Committee regarding the confidential report of abuse and neglect as well as injuries sustained during restraint. He stated there were three reports of abuse and neglect of which none were substantiated. There was one recommendation that a facility increase cameras in a common area for the youth and that facility is working on implementing the recommendation.

Mr. Herrmann stated there were fifteen incidents of injury during restraint, of which thirteen of the injuries occurred at one facility. He added that facility is being monitored very closely by the DOC and the DSS.

Senator Tidemann wanted to know what “de-escalation techniques” the staff uses to calm the youth down in situations like those identified in the report. Mr. Herrmann gave examples such as listening to the youth and talking to them. He added that staff is trained to minimize their body language, stand off to the side of the youth instead directly in their line of view, maintain voice control and inflection.

Senator Tidemann asked for information on staffing and the trends for juveniles in state run facilities. Mr. Herrmann stated there are currently five hundred fifty seven juveniles in state run facilities and that is an all-time low. He added that a decade ago there were over one thousand one hundred youth. Mr. Herrmann stated there have been about fifty positions and one hundred beds closed in the last ten years. He added that staff ratios still have to be maintained to keep the doors open and with a turnover rate between twenty and forty percent constant recruiting and training is required.

Representative Hunt asked how often the youth are seen by a nurse, doctor, or a physician’s assistant. Mr. Herrmann stated there is a clinic on campus at the Starr Academy that is open five days a week with three nurses available. The youth can make a request to see a nurse at any time. Mr. Herrmann stated that the nurses usually make a determination as to whether or not the juvenile needs to see a contracted doctor, physician’s assistant or psychiatrist.

Representative Hunt asked about administrative inspections, how often they are done at the facilities, and if the reports from these inspections are public. Mr. Herrmann stated that there is an inspection done annually by the DSS. This involves talking to staff and youth as well as looking at files and documentation. He added that if an outside placement facility is accredited at a higher level of care, such as the intensive level facility, they have a three year accreditation that is done to meet the medical standards required to receive Medicaid payments. Mr. Herrmann was unsure if the reports are public or not but he will find out and get back to the Committee.

#### **Item 4 – Bureau of Administration – To discuss the insurance programs called for in House Bills (HB) 1185, 1186, and 1187, 2015 Session**

- [Letter to BOA Doc. 8](#)

Jason Dilges, Commissioner of the Bureau of Finance and Management, and Tim Engel, legal counsel for the Science and Technology Authority (STA), were present to address the Committee regarding house bills from the 2015 legislative session.

Commissioner Dilges said that once the bills were signed by the Governor, with emergency clauses to capitalize existing dollars, there was a work group started and the Office of Risk Management will be staffing and administering the insurance programs. Terry Prendergast, legal counsel from Sioux Falls, has been working with Mr. Engel to put together presentations to the authorities as well as necessary legal documents.

Commissioner Dilges described the changes to the property and casualty insurance program. He stated that prior to May 1, 2015 the State of South Dakota had insurance coverage of state property valued at \$2.5 billion. After May 1, 2015, additional state property, valued at \$1.5 billion, became fully insured through a third party carrier. Commission Dilges explained that this coverage will continue until the captive insurance companies are up and running, at which time the policies will be cancelled and the state property, valued at \$4 billion, will be moved to the captive insurance program.

Commissioner Dilges explained the makeup of the two captive insurance companies. He stated the first liability captive insurance company would be made up of two cells. The first cell would provide liability coverage for the STA and the second cell would provide liability coverage for the remaining authorities (South Dakota Building Authority, South Dakota Health and Education Facilities Authority, South Dakota Housing Development Authority, South Dakota Ellsworth Development Authority and the Educational Enhancement Funding Corporation). The second property and casualty captive insurance

company would provide property and casualty loss coverage for all agencies, the Board of Regents and the South Dakota Building Authority

Mr. Engel stated the initial actuarial study has been completed and they are in the process of having it updated. The actuarial study will help to determine the premiums to be charged. Mr. Engel stated that the STA is required to have significantly more coverage due to the property donation agreement with Homestake. Mr. Engel stated that he has been working with counsel at Homestake on an amendment to the property donation agreement that would allow the state to use a captive insurance company to insure part of the risk that is required under the property donation agreement and to repurpose \$2.4 million of the \$10 million indemnification fund to capitalize the captive insurance company.

Mr. Engel stated that the various authorities will enter into a joint powers agreement, where they collectively agree to form a captive liability insurance company. Final approval will come from Commissioner Paul Kinsman, Bureau of Administration. He stated that the plan is to submit two captive insurance company applications to the Division of Insurance between August 1, 2015 and August 15, 2015 and begin to provide coverage by the end of September 2015.

Mr. Dilges stated that while the legislation seemed fairly simple in written form, there are many steps that have to be taken to provide this coverage. He stated there were additional employees hired and they will both be starting in the next couple of months.

Senator Tidemann asked what the length of the contract was with the third party carrier, which is insuring the State until the new plan is in place. Commissioner Dilges stated that the contract is a three year contract, insuring property valued at \$4 billion. He added that this contract can be cancelled at any time with a prorated refund.

The Committee asked that they be provided an update on progress later in the year.

#### **Item 5 – Obligation Recover Center – To discuss the new program created by HB 1228, 2015 Session**

Commissioner Dilges and Jeff Holden, Deputy Commissioner for the Bureau of Administration (BOA), were present to address the Committee regarding HB 1228. Commissioner Dilges explained the work that has been done so far in preparation for the law becoming effective on July 1, 2015.

Mr. Holden stated there was a meeting involving agencies that utilize debt collection services to discuss HB 1228 and how to best implement the new law. He added that research has been done of how other states handle debt collections. The BOA has drafted a request for information (RFI) to see what services are out there and who can help the State. The responses to the RFI will be used to draft a request for proposal (RFP). The current debt collection contract runs through August 5, 2015. Mr. Holden hopes to have the new contract in place by the end of August 2015.

The Committee asked what the process will be for the Departments to interface with the private collection agency. Mr. Holden stated that it will depend on the private collection agency and the type of software used. He added that until we know which company will be used there is no way to determine the exact steps. The first step will always be for the Departments to try to collect the debt using their normal processes and after that the debt would go to the center for collection, which is an automated process, and if that doesn't work it would go to the private collection agency.

Representative Hunhoff asked what the current Departmental processes were for collecting debt. Commissioner Dilges explained that there is currently no one process in place for the Departments. He stated that the vendor that is selected from the RFP will help establish a uniform process across all Departments as well as help set up the new Obligation Recovery Center.

Commissioner Dilges explained that Legislative leadership has appointed an advisory group to help in this process of establishing an Obligation Recovery Center. He stated that those Legislators appointed to the advisory group were Representatives Partridge and Gibson and Senators Haverly and Hood.

The Committee asked that they be provided an update on progress later in the year.

#### **Item 6 – Brand Board to review the 2014 annual report**

- [Letter to Brand Board Doc. 9](#)

Debbie Trapp, Director of the South Dakota Brand Board, was present to address the Committee. The [State Brand Board Annual Report](#) was provided to the Committee members prior to the meeting. Ms. Trapp discussed the various parts of this annual report. She stated that the Brand Board receives no General Fund appropriations. They operate completely on the revenue received from brand inspections, brand transfers and renewals. She stated that there are currently thirteen full-time brand inspectors in South Dakota.

Ms. Trapp explained to the Committee the three funds under the Brand Board. The Brand Fund receives and deposits the revenue from registering and transferring brands. The Brand Inspection Fund receives and deposits the fees for all brand inspections. The Theft and Prevention Fund receives and deposits the revenue from the sale of any stray livestock, when the owner cannot be determined.

Ms. Trapp explained the Brand Board hold process. She stated that any livestock that comes in and is not identified is sold and the proceeds are held by the Brand Board for sixty days. The brand inspector tries to determine who the owner is. If they are unable to find the owner in the sixty days, the funds are sent to the Brand Board and the Chief Brand Inspector researches who the owner might be. If after another ten month period no owner is identified, a brand hold hearing is scheduled. Notices are sent to all recorded brand owners of that animal. They are invited to the meeting to provide paperwork to prove that the livestock was theirs. If no proof is given, the Board makes a motion to move the money to unrestricted in the Theft and Prevention Fund.

Ms. Trapp stated there are two livestock investigators located at the Brand Board office. They are under the authority of the Attorney General but the Brand Board pays a majority of their expenses. There are currently around 26,500 brands registered and they are renewed every five years for a fee of fifty dollars. She stated that if the owner does not renew their brand on time, they have an additional two years to complete the renewal process and after two years the brand is cancelled.

Senator Sutton expressed concern for the animals reported as stolen in the report and asked to see a breakdown, in the future, of recovered livestock, strayed livestock and stolen livestock. Senator Sutton asked what the jurisdiction of the investigators was, to track down lost livestock. Ms. Trapp stated that the South Dakota inspectors have jurisdiction throughout the state. She added that the inspectors are also in contact with other states. She stated there are bulletins transferred between states to locate missing livestock from South Dakota and from other states. In addition, assistance can be provided by other agents and local sheriffs.

Representative Bartling asked what the hold process was for the unclaimed newborn livestock that are not branded. Ms. Trapp stated that the hold times are the same. She stated that if livestock is found abandoned, they are able to perform DNA tests to locate the owner.

Senator Tidemann asked if there would be an increase in inspections due to the movement of cattle. Ms. Trapp stated that there hasn't been a noticeable increase yet and she anticipates inspections will be lower in 2015.

Senator Sutton asked if there were concerns that the brand inspections only take place in half the state. Ms. Trapp stated that some producers wish the inspections were statewide and others are happy that it is only in a portion of the state. She added that she believes additional road checks would be beneficial.

**Item 7 – Department of Legislative Audit to review the Single Audit Report for the fiscal year ended June 30, 2014**

Mr. Bob Christianson and Mr. Tim Flannery addressed the Committee regarding a review of the Single Audit Report for FY 2014. Mr. Christianson gave an [overview of the Single Audit](#) before discussing the audit findings. Mr. Christianson and Mr. Flannery briefly discussed each audit finding included in the Single Audit Report.

Mr. Flannery discussed, in more detail, the audit finding associated with the Department of Education's (DOE) GEAR UP grant. Senator Dryden asked if the findings were from the entity that administered the program or from the DOE. Mr. Flannery stated the findings focused on the DOE and their responsibility to monitor the subrecipients of this grant. The Committee discussed having the DOE and the subrecipient at a future meeting to discuss the DOE's corrective action plans relating to these findings.

The Committee discussed which Departments to invite to future meetings to discuss their corrective actions plans for the audit findings.

**Item 8 – Department of Legislative Audit to review the audit report for the South Dakota High School Activities Association (SDHSAA) for the fiscal year ended June 30, 2014**

Mr. Flannery gave a brief overview of the SDHSAA audit report. He explained that an unmodified opinion was issued on the financial statements for fiscal year 2014. He discussed the audit findings that were included in the report and answered Committee questions about the audit findings.

Senator Heineman asked how the auditors determine which audit findings are material weaknesses and which audit findings are significant deficiencies. Mr. Flannery stated that a materiality level is established for each audit, as a basis for determining the significance of each audit finding.

Representative Hunt asked for more details regarding the corporate partner relationship and the money due to the SDHSAA from a corporate partner. Mr. Flannery stated that the corporate partners will pay certain amounts to the SDHSAA in exchange for corporate advertising at SDHSAA sponsored events.

Senator Sutton asked if the corporate partner had been contacted regarding the outstanding amount that was owed to SDHSAA. Mr. Flannery stated that he believed the SDHSAA has contacted the corporate partner regarding this matter.

Representative Hunt asked for additional explanation regarding audit finding 2014-003 and the noncompliance with the SDHSAA Constitution and policies that were identified in the finding. Mr. Flannery stated that in the auditor's judgment, the professional baseball tickets were unnecessary expenditures of SDHSAA funds and should have been reimbursed by those who received the tickets. Mr. Flannery added, with regard to the travel cost reimbursements, the auditor was unable to verify compliance with SDHSAA policy for the reimbursement of travel costs.

Mr. Martin Gundon, Auditor General, stated that in fiscal year 2014, the SDHSAA had a per diem meal policy in place and they paid actual costs. He added that the SDHSAA has the ability to establish either a per diem meal policy or an actual cost policy.

The Committee decided to invite the SDHSAA to a future meeting to discuss the corrective action plans relating to the audit findings.

**Item 9 – Committee discussion of future topics and the next meeting date**

The Committee discussed future topics and selected June 29, 2015 as the next meeting date.

Representative Hunt moved to adjourn the meeting at 2:56 p.m., seconded by Senator Heineman, and carried by a voice vote.

**This meeting is being held in a physically accessible location. Any individual needing assistance, pursuant to the Americans with Disabilities Act, should contact the Legislative Research Council (605-773-3251) in advance of the meeting to make further arrangements.**

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