



Legislative Research Council

SouthDakota

MINUTES

GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

Representative Dan Dryden, Chair
Senator Larry Tidemann, Vice Chair

Second Meeting
2015 Interim
June 29, 2015

Room 413
State Capitol Building
Pierre, South Dakota

The second meeting of the 2015 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Dryden at 9:00 a.m., June 29, 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, and Hunhoff. Representative Hunt joined by conference call. Senators Novstrup, Peters, and Tidemann. Representative Cronin and Senator Sutton were excused.

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

Representative Bartling moved, seconded by Senator Novstrup, the minutes of the May 19, 2015 meeting be approved ([Minutes 5-19-2015 Meeting Doc.1](#)). Motion prevailed unanimously on a voice vote.

Item 1 – Department of Revenue to discuss their correction action plans for audit findings included in the Single Audit Report for the fiscal year ended June 20, 2014, and to discuss critical policies and procedures during times of transition

- [Letter to Revenue Doc. 2](#)
- [Revenue Findings 2014 Doc. 3](#)

Michael Houdyshell, Director of Property and Special Tax division, and David Wiest, Deputy Secretary, were present to address the Committee regarding the findings for the Department of Revenue (DOR) that are in the 2014 Single Audit. A handout detailing the audit findings (see [DMV information](#)) was provided to the Committee and Director Houdyshell discussed the findings and what has been done to correct the different problems addressed in the findings.

Deputy Secretary Wiest stated there is a DOR employee who works with the tribes and the tobacco distributors to make sure they understand the requirements for reporting tobacco sales in Indian Country. Director Houdyshell said this was an internal control issue and that has been corrected by making sure the numbers are checked by two different employees within the DOR.

Senator Peters asked how the process has changed, since the audit findings were issued, to ensure there wouldn't be similar findings. Director Houdyshell said that the DOR is using additional resources when processing the reports and that the new electronic system has been a positive change for the DOR. He is

hopeful that the changes made between the new system and the way reports are checked by multiple employees has corrected the issues identified in the findings.

Senator Tidemann asked if there was a penalty for not submitting the remittances on time and how frequent it is that distributors do not submit on time. Director Houdyshell stated there are no consequences for late filing and that there are no laws or administrative rules regarding the late filing of Indian Country reports. He added that there have been late reports, but for the most part the distributors understand that they need to submit the reports. Director Houdyshell stated that they have made changes in the licensing process to better communicate the reporting requirements.

Director Houdyshell discussed corrective actions relating to the audit finding regarding inadequate internal controls over the physical inventory of cigarette stamps. Director Houdyshell stated that the DOR has been discussing the option of having the stamp manufacturer house the stamps for the DOR, in order to minimize the internal control issue of having them stored at the DOR. The manufacturer guarantees two day shipping and also has expedited shipping options for the distributors. He stated that currently one DOR employee spends an hour each day handling the shipping and receiving of the cigarette stamps.

Peggy Laurenz, Director of the Division of Motor Vehicles (DMV), was present to address the Committee and provided the Committee a handout (see [DMV information](#)). She discussed the process of a title being granted for any type of vehicle that would use roadways. She said the DMV receives over one thousand applications per day to be processed. She explained to the Committee that the applications for a title are still in physical form. She explained that there are ongoing discussions about how to change over to an electronic system, but there are certain forms and procedures they have not figured out how to manage electronically at this point. She explained there is currently a two week turnaround on properly completed title applications, which is a faster turnaround time than neighboring states.

Senator Peters stated that she has received numerous complaints from dealers regarding the amount of paperwork they are required to keep on file and the same paperwork is provided electronically to the DMV. She added that dealers have been written up by the DMV for not having certain paperwork in the files. Senator Peters asked for an explanation of the process and if there were steps that could be taken to reduce the recordkeeping burden on the dealers. Director Laurenz stated the employees from the DMV are going to the dealers to make sure the dealers are in compliance with the handling of titles and other paperwork. The DMV employees are not looking at the title processing paperwork but at the proof of ownership for the vehicles the dealers are selling. She stated that the dealer needed to have a hard copy of the electronically submitted paperwork to be able to track the ownership of the vehicles.

The Committee asked what steps have been taken by the DMV to become more efficient. Director Laurenz stated that she and the Deputy Director are taking a hard look at every step that occurs in the process and attempting to make changes that will help the department run more efficiently.

Item 2 – Department of Social Services to discuss measuring the impact of additional funding to the Division of Behavioral Health and to discuss how many cases involving forensic evaluations flow through the Judicial System

- [Letter to Social Services Doc. 4](#)

Secretary Lynne Valenti and Amy Iversen-Pollreisz, Deputy Secretary, were present to discuss the Division of Behavioral Health. Handouts providing an overview of Behavioral Health services (see [Behavioral Health](#)) and detailing the budget increases for new or expanded programs (see [Behavioral Health budget](#)) were provided to the Committee.

Deputy Secretary Iversen-Pollreisz provided information about the behavioral health workgroup, established in 2011 by Governor Daugaard, to guide the long-term vision of the behavioral health system.

Deputy Secretary Iversen-Pollreisz described that one of the four workgroup areas of focus was commitment laws. One goal, under this area, was to increase access to services and remove barriers to treatment. Senator Heineman asked if this goal had been met. Deputy Secretary Iversen-Pollreisz stated that the Department was satisfied with the array of services offered in all five regions of the state. Senator Peters asked for additional information about outcome measures by region. Deputy Secretary Iversen-Pollreisz stated that she would provide this information in a follow-up communication to the Committee. Deputy Secretary Iversen-Pollreisz described the other goals, under the area of commitment laws; eliminate outdated statutes, streamline processes to ensure people receive treatment as soon as possible, create the capacity for involuntary treatment within jails, and expand the group of professionals eligible to conduct involuntary commitment assessments (qualified mental health professionals). Senator Tidemann asked what the process was for committing someone for treatment. Deputy Secretary Iversen-Pollreisz stated that any person, who has knowledge of an individual who may need help, can make a recommendation or law enforcement officials may make a recommendation for an individual to be evaluated. There are involuntary commitment procedures in place for a person with mental illness or a substance abuse disorder. The local county Board of Mental Illness Chairperson will require an evaluation be done and that evaluation will then go back to the Board Chairperson for review and a decision will be made whether to commit that individual or not.

Deputy Secretary Iversen-Pollreisz described the second area of focus of the behavioral health workgroup was essential services. She described the creation of a regional approach to behavioral health care to ensure access to essential services. She added that the emphasis was on services provided in the least restrictive environment and appropriate for a person's care. She described the five regions in the state and that they were structured based upon the natural places where people go to seek care. Senator Heineman asked if there were any gaps in care in the five regions. Deputy Secretary Iversen-Pollreisz stated that they are continuing to look for gaps in an attempt to provide better access to care throughout the state.

Deputy Secretary Iversen-Pollreisz described the third area of focus of the behavioral health workgroup was geriatric services. She described efforts made to develop the capacity to better serve individuals with behavioral challenges in community nursing facilities by providing training to community nursing facilities. She added that a Human Service Center consultation team has been created to provide review and consultation services to community nursing facilities that serve individuals with challenging behaviors. Representative Hunhoff asked for a list of nursing facilities that are accessing these services. Deputy Secretary Iversen-Pollreisz said that the list would be provided to the Committee.

Deputy Secretary Iversen-Pollreisz described the fourth and final area of focus of the behavioral health workgroup was prevention services. She stated the goal of the workgroup is to create and sustain a statewide prevention system promoting behavioral health and preventing mental and substance abuse disorders through evidence based practices. Senator Heineman asked what the outcomes measures were for the area. Deputy Secretary Iversen-Pollreisz stated that a couple outcome measures were to increase the number of providers trained in the communities and the number of youth participating in prevention educational activities. Senator Peters asked for the outcome measures in this area and Deputy Secretary Iversen-Pollreisz said that these would be provided to the Committee.

Secretary Valenti described the evidence based services that are being provided to justice involved clients as part of the Criminal Justice Initiative. She stated that there have been 942 referrals for substance abuse services and 652 referrals for criminal thinking services throughout the seven judicial circuits in FY2015. Senator Tidemann asked for a definition of criminal thinking services. Secretary Valenti explained that these services get to the moral thinking of the individual before a type of service is offered to that individual. The criminal thinking program is approximately a six month program and is used to get to the root behaviors of those individuals and help improve their decision making abilities. This leads to more effective treatment and outcomes for that individual. Secretary Valenti described the rural pilot programs that were conducted in the fifth and sixth judicial circuits. She added that substance abuse services were provided by using technology and the first graduation occurred in June

2015. Secretary Valenti will provide the number of individuals graduating from the rural pilot program as follow-up information.

Secretary Valenti provided information about services that will be offered as the result of the passage of the Juvenile Justice Initiative during the 2015 Legislative Session. She stated services will be available by January 2016 and the intent is to serve youth in the community and prevent costly out-of-home placements.

Secretary Valenti concluded her testimony with information about forensic evaluations. She stated that counties are responsible for any necessary forensic evaluations on defendants charged with a crime. She added that forensic evaluations are performed to assist the court in determining competency to stand trial or criminal responsibility of a defendant charged with a crime and may be in jail awaiting trial. Greg Sattizahn, Unified Judicial System State Court Administrator, talked to the Committee regarding this topic. He said that, legally speaking, once the defendant, state, or judge raises a competency issue the whole process comes to a halt. There is no trial or sentencing until an evaluation is completed. There appears to be a back log across the state because it is preferred to use the Human Services Center (HSC) and this is for any public offense. If it is determined after one year that the individual is not going to get better, they can be held at that facility for the length of time that they could be sentenced. Secretary Valenti said the cost to the County for having a HSC evaluation done is a \$600 administration fee and they are not charged the daily rate of \$508. A defendant stays six days in the hospital on average and the psychiatrist spends an average of fifteen hours with the individual. There are only three HSC evaluations per month. Secretary Valenti concluded that the State had a meeting on June 25, 2015 with various stakeholders from Minnehaha County to discuss this issue and ways to facilitate more evaluations in the community.

Item 3 – Bureau of Human Resources to discuss procedures for identifying and processing conflicts in the area of State contracts

- [Letter to BHR Doc. 5](#)

Laurie Gill, Commissioner of the Bureau of Human Resources (BHR), was present to address the Committee regarding House Bill 1064, passed during the 2015 Legislative Session, which deals with state employees not being allowed to benefit from a state contract. Commissioner Gill said that the laws apply to everyone but do not necessarily affect everyone. She said that no state officer or employee can benefit from a contract awarded by the state if they are the employee who approves, awards, or administers the contract, or if they recommend the contract, or if they supervise the approval, award, or administration of the contract. They also cannot benefit from any contract or enter into any contract with the state for one year after leaving employment with the state. The administration does not include the employees who do the clerical work or communications of the decisions made by those administering the contract. This only applies to those who are involved in the decision making or who have substantial influence on the contract.

Commissioner Gill explained that state officers, employees, the spouses of state officers and employees, and anyone who may be living in the household of state officers or employees cannot derive a benefit from a state contract. They cannot have more than 5% ownership or interest in the entity of the contract, receive income or compensation from the contract, acquire profit under the contract, or serve on a board that derives benefits from the contract. There is a waiver that is allowed under certain circumstances. This would allow the state officer or employee to contract with the state government or benefit from a contract. The request has to be in writing (instructions and form can be found on the BHR website) and the relevant terms have to be provided in writing by the officer or employee who wishes to have the waiver considered. The form must be submitted to the head of the agency in which the officer or employee works for. If the head of an agency wishes to request a waiver they would submit that directly to the Governor's Office.

Commissioner Gill said they encourage any employee who receives benefits from a state contract, in which they played a role in, to go through this waiver process even if that contract was awarded prior to

July 1, 2015. This law applies to contracts that go into effect after July 1, 2015, even if the contract was awarded prior to July 1, 2015. The officer reviewing the waiver request will ensure that the terms are fair and reasonable before approving or denying the waiver. If the waiver is denied the employee may appeal to the Governor's Office.

She explained that there is a blanket waiver in place, granted by the Governor, for any contracts awarded for an amount of \$200 or less. This was to avoid the burden of having to process more waiver requests than necessary. There are also some agencies that may have agency specific statutes in place. If the agency's statutes are stricter than the BHR requirements, the employee must follow those statutes.

Commissioner Gill stated that BHR has done many things to prepare state employees for this law to take effect July 1, 2015. State employees received an email in May with information pertaining to the new law and there was also a follow-up email sent out. These emails detailed who the law applies to, what the law does, and how to apply for a waiver. There is a conflict of interest matrix on the BHR website that employees can use to determine if they need a waiver or not. It is intended to help the employees make this determination without needing to contact BHR. Human resource managers for each agency have been going through additional training and new employees with the state will learn about this law at orientation. Employees leaving state employment will be reminded of the one year time frame that they cannot enter into a contract with the state to which they benefit.

Commissioner Gill said there are agencies with specific positions that have to sign conflict of interest documents. The Board of Regents notified the BHR that they already have something in place internally that would account for this new law. There have been a few instances that have come up that have shown there will be exceptions and legal questions to work through. The most prominent issue right now is happening in smaller communities. One person works for the state and their spouse works for a company who does business with the state. This is very common in smaller communities and those scenarios are being looked into.

Item 4 – South Dakota Associated School Board Health Insurance Program

- [Letter to SDASB Doc. 6](#)

Wade Pogany, Executive Director for the Associated School Board of South Dakota (ASBSD), was present to address the Committee. Director Pogany provided a handout to the Committee that summarized the changes that have been made to the South Dakota School District Benefits Fund (Pool) (see [SD School District Benefits Fund](#)). He has worked with a group of individuals who spent time determining what the members of the Pool wanted and how to go about getting them what they requested. They looked at how to reduce the number of plan options to save money. They discussed with providers around the state the best options to provide the best discounts to the schools.

Director Pogany said they decided to go with Wellmark as the provider and they have a three year contract with them. This saved the Pool approximately \$7 million. The provider is going to administer the plans and reduce the plan options from two hundred sixty eight to eight. Wellmark has assisted with this transition by visiting every school and talking to Pool members, there are currently about six thousand members. The new Wellmark plans will take effect July 1, 2015.

Director Pogany said there are some schools now interested in joining the insurance program. If new schools choose to join the Pool they will not be responsible for any of the old debt. There was one school that chose to leave the Pool while the changes were taking place. Most of the new plans are traditional plans and none of the plans will have a deductible less than \$500.

Most of the members of the Pool have been accepting of the changes. There are some members who are unhappy with the new deductible rates. The plans start at \$500 and go up in \$500 increments. The reduction in plans will also help to speed up claims processing. Director Pogany concluded that there will be quarterly updates to all the schools who are members of the Pool.

Item 5 – Legislative Research Council will review total costs associated with Legislative memberships and dues

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

Denice Houlette, Legislative Research Council, was present to address the Committee. She provided a handout that had a breakdown of the dues paid to various legislative organizations (see [Legislative Memberships](#)) and she had a letter from the Council of State Governments (see [Letter from CSG](#)) that discussed their benefits of membership. There was discussion amongst Committee members as to how in depth the Committee should go when looking at the different organizations as well as what the next step is now that they have a list of organizations and related costs. The Committee asked Ms. Houlette to provide them with the costs of traveling to the various organizational meetings.

Item 6 – Committee discussion of future topics and the next meeting date

The Committee discussed future topics and selected August 25, 2015 as the next meeting date. Senator Peters moved to adjourn the meeting at 2:52 p.m., seconded by Senator Tidemann, 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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