

# MINUTES

## Government Operations & Audit Committee

Senator Larry Tidemann, Chair  
Representative Dan Dryden, Vice Chair



**First Meeting, 2016 Interim  
Tuesday, May 17, 2016**

**Room 413 – State Capitol Building  
Pierre, South Dakota**

The first meeting of the 2016 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Tidemann at 9:00 a.m., May 17, 2016, in room 413, State Capitol Building, Pierre, South Dakota.

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

Representative Hunt moved, seconded by Representative Dryden, the minutes of the October 30, 2015 meeting be approved ([Minutes 10-30-15 Doc.1](#)). Motion prevailed unanimously on a voice vote.

### **Item 1 – Juvenile Corrections Monitor Semi-Annual Report for the period July 1, 2015 through December 31, 2015**

- [Letter to DHS Doc.2](#)

Carole Boos, Attorney with the Department of Human Services (DHS), presented the activity of the Juvenile Corrections Monitor (JCM) from July 1, 2015 through the closure of the Star Academy on April 8, 2016. She reported that there were 24 lock box notes from the juveniles and 40 direct contacts to the JCM during this timeframe. She stated that there were four investigations completed and in each case there were no substantiated acts of abuse or neglect.

Ms. Boos stated that April 8, 2016 was the final date of employment for the JCM. She stated that because of the closure of the Star Academy, this is the final report from the JCM. Senator Tidemann stated that there is a law that requires the JCM position to be in place and asked what the Department's plans for the future are with regard to this law. Secretary Kaemingk, Department of Corrections (DOC), stated that because there are no longer juvenile corrections facilities in the State, there is no longer a reason for the JCM. He added that he will work with the staff attorney to develop a clean-up bill to propose to the Legislature this fall.

Representative Hunhoff asked how the youth, which are in the communities or private facilities, will be tracked. Kristi Bunkers, DOC Director of Juvenile Services, stated the process for monitoring private facilities is in place through the Department of Social Services (DSS). DSS reviews all complaints relating to abuse and neglect in private facilities. She stated that Senate Bill 73 narrows the scope of eligible offenses that can be committed to the DOC which tends to keep kids in their communities. She added that outcomes are better when youth are served early on in their communities, rather than waiting and removing them from their homes and placing them in confinement. This has led to fewer kids in State custody.

Representative Hunt asked what DHS was doing in response to the recently reported death occurring at LifeScope, a private contracted facility. Secretary Pearson stated the DHS Division of Developmental Disabilities has investigated and a plan for improvement is underway. Representative Hunt asked that the Committee be provided the results of the investigation.

**Item 2 – Department of Corrections - Report on Abuse and Neglect in Private Placement Facilities for the period July 1, 2015 through December 31, 2015**

- [Letter to Corrections Doc.3](#)

Kristi Bunkers presented the DOC confidential report of alleged abuse and neglect as well as injuries sustained during restraint of youth. She stated there was one instance of alleged abuse and neglect in a contracted facility. The allegation of abuse was investigated by the DSS and abuse was unsubstantiated. She stated there were seven incident reports involving injuries from restraints in contracted facilities. She added that these incident reports did not meet the definition of child abuse or neglect, therefore were not investigated. Ms. Bunkers informed the Committee that all eight incidents reported occurred in one in-state facility. She explained that this facility provides the highest level of care to the most complex youth. The youth in this facility have been denied or terminated from all other providers. She concluded that the DSS reviews each incident reported in private care and this report only includes those youth in DOC custody.

Representative Cronin asked if there had been a change in the number of private facilities being used by the DOC. Ms. Bunkers stated that the DOC continues to contract with the same facilities that have been used over the last several years.

Senator Peters expressed concern about all of the incidents being reported from one private facility and asked that a future topic include the review of the DSS licensing process and in particular the licensing of this particular facility. Senator Peters asked if there is anyone available for the youth to contact if they had a complaint, which has been the role of the independent JCM. Ms. Bunkers stated a juvenile correction agent (JCA) is assigned to each youth during the intake process. She added that each youth has a monthly meeting with their assigned JCA and can contact the JCA upon request from the youth. Secretary Kaemingk added that the sole duties of the JCM were with the State run juvenile corrections facilities. The JCM never looked at private run facilities, private facilities have been handled by DSS. Secretary Kaemingk stated that if the desire of the Legislature was to have the JCM involved with private facilities, this could be looked into further.

Representative Hunt also expressed concern that the annual licensing process may not be as responsive as the JCM process has been. Ms. Bunkers stated that there is already a process in place for private facilities. Any allegation of abuse or neglect must be reported immediately to DSS. DSS reviews all allegations and makes a determination of the appropriate response based upon the case facts. She added that the State run juvenile facilities weren't licensed by the DSS and that was part of the reason for the JCM process.

Senator Tidemann asked for a report on the closure of the Star Academy and if the State employees that lost their jobs were able to find other employment. Secretary Kaemingk stated that four maintenance employees will remain on the campus. He added that one-half of the 61 employees moved to the State Veteran's Home and others were transitioned to adult correctional facilities. He stated that this was a difficult process because this was a dedicated staff and some had been with the Star Academy for 15 to 25 years. Representative Bartling asked what the plans were for the actual facilities. Secretary Kaemingk stated that the DOC has no interest in keeping the campus and all options are on the table. Representative Cronin asked about the budget for Star Academy. Secretary Kaemingk stated that most of the expenses will be incurred out of the current year budget. There will be limited maintenance costs coming out of next year's budget.

**Item 3 – Obligation Recover Center – To provide an update on the program created by House Bill 1228, 2015 Session**

- [Letter to BOA Doc.4](#)

Jeff Holden, Commissioner of the Bureau of Administration (BOA), updated the Committee on the implementation of the Obligation Recovery Center (ORC). He stated that two companies responded to the request for proposal (RFP) to be the ORC manager. The RFP's were evaluated by representatives from the BOA, Unified Judicial System (UJS), Board of Regents (BOR), Department of Labor, Department of Corrections (DOC), Department of Social Services, Department of Revenue, Bureau of Finance and Management, and the Bureau of Information and Telecommunications. Commissioner Holden stated CGI Technologies and Solutions Inc. (CGI) was awarded the contract on November 15, 2015. He stated that CGI has begun working with agencies to gather information specific to each agencies debt collection processes. The ORC manager will soon be finalizing a process that State agencies will follow prior to reverting debt to the ORC and the BOA will develop this process into proposed administrative rules. Commissioner Holden stated that CGI has contracted with Wells Fargo for collections and transferring funds and this process is expected to begin on July 15, 2016.

Commissioner Holden stated RFP's were issued in December 2015 to award three separate third party debt collection contracts. Senator Tidemann asked if any South Dakota companies participated in this RFP. Commissioner Holden stated that they had. Commissioner Holden explained that the same agencies that evaluated the RFP for the ORC manager also evaluated the third party debt collection proposals. He stated that the BOA is ready to begin negotiating contracts with the companies receiving the highest rankings on their proposals. Each contract will be a one year contract with four, one year options to renew based upon performance.

Representative Hunhoff asked what the length of the CGI contract was and how much the State has paid CGI to date. Commissioner Holden stated that it was a five year contract and the State has not paid CGI

any amount to date. He added that CGI will only get paid if they collect debt. Representative Hunt asked what the chain-of-command was with regard to BOA and the ORC manager. Commissioner Holden stated the ORC is under the BOA for reporting and budgetary purposes. He stated CGI, the contracted manager of the ORC, is under the BOA. He added that the BOA has contracted with the third party debt collection agencies and CGI will manage the third party debt collectors. Representative Hunt asked how much CGI will get paid. Commissioner Holden stated that CGI receives a 20% collection fee for debt collected and that this percentage is allowed by statute.

Senator Novstrup asked who decides about license renewals for those individuals that owe the State money. Commissioner Holden stated the details relating to the process of notifying those individuals owing the State money, are still being worked out. Commissioner Holden stated that an individual will lose their hunting and fishing licenses if they owe the State a minimum of \$50 and have been notified three times of the amount due. He explained that this is similar to motor vehicle registrations and licenses; however the minimum amount of outstanding debt to the State is \$1,000. He added that these steps are not taken if individuals are attempting to cooperate in the debt repayment process. Commissioner Holden agreed to provide the Committee a copy of the draft debt collection policy being considered (see [Draft Debt Collection policy](#)).

Senator Tidemann asked which agencies have agreed to begin implementing the new debt collection process. Commissioner Holden stated the three agencies that are part of phase one are the UJS, DOC, and Game, Fish, and Parks. He added the BOR is working out some details with CGI and will implement the process later on.

#### **Item 4 – Department of Legislative Audit to review the Single Audit Report for the fiscal year ended June 30, 2015**

Mr. Bob Christianson and Mr. Tim Flannery addressed the Committee regarding a review of the Single Audit Report for FY 2015. Mr. Christianson gave an [overview of the Single Audit](#) before discussing the audit findings. Mr. Christianson provided additional information about the selection of major federal grant programs and the risk assessments that are completed. Senator Tidemann asked what the grant risk assessments were based upon and in particular if subawards to subrecipients are part of the risk assessment process. Mr. Christianson stated that the use of subrecipients in the administration of a grant increases the risks associated with a grant.

Mr. Christianson and Mr. Flannery briefly discussed each audit finding included in the Single Audit Report (see [Single Audit 2015](#)). Mr. Flannery discussed, in more detail, the audit finding associated with the Department of Education's (DOE) GEAR UP grant. Representative Bartling asked who performed the audit of Mid Central Educational Cooperative (Mid Central) and if there was fault in the performance of that audit. Mr. Flannery stated that an independent public accounting firm performed the audit. He added that there is the use of judgement in the performance of any audit and sometimes things may not be observed by the auditor. Senator Sutton asked if the DOE was responsible for auditing the American Indian Institute for Innovation (AIII). Mr. Flannery explained that the nature of the partnership agreement between Mid Central and AIII was that of a subaward, as opposed to a contract. Had the DOE defined the agreement as a subaward, that would have triggered the need for AIII to receive a Single Audit and in that case the DOE could have caused an audit of AIII to occur. Senator Tidemann

asked what can be done to ensure agreements are properly identified and audits of subrecipients are completed in the future. Mr. Flannery stated that steps have been taken by the creation of the State Board of Internal Control. This Board will be meeting monthly with State agency finance officers to provide information about subawards versus contracts and to improve internal controls. Mr. Flannery added that this law, passed during the 2016 Session, requires the Board to provide the Committee a report annually. Senator Sutton stated this was Senate Bill 162 passed during the 2016 Session. Auditor General Martin Guindon stated that he attended the first meeting of the State Board of Internal Control and believed that this group will be effective in institutionalizing some internal controls across State government.

Senator Tidemann asked what obligation the State may have for audit finding 2015-004 (page 274 of the Single Audit Report). Mr. Flannery stated that as part of the agreement between the DOE and Mid Central, Mid Central was responsible for the matching amount for the GEAR Up grant. He added that it will be up to the U.S. Department of Education to decide if the match amount is acceptable or not and who is responsible.

Mr. Flannery informed the Committee that Legislative Audit will be issuing a Special Review Report of Mid Central in the near future. This engagement focused on multiple years of transactions at Mid Central. Senator Tidemann asked that this report be included on a future meeting agenda. Mr. Flannery added that the Board of Mid Central has asked Legislative Audit to complete their fiscal year 2015 Single Audit and that separate engagement will be performed in the next several months.

Representative Hunhoff asked how school districts and cooperatives procure their audits. Auditor General Guindon explained that Legislative Audit is responsible for the audits of the counties and cities. He stated that around 1995 the law was changed and allowed the school districts and cooperatives to decide whether to hire an IPA firm or have Legislative Audit perform their audits. He stated that Mid Central decided to have an IPA firm do their audit. Auditor General Guindon explained that Legislative Audit has to approve the IPA firms that complete these audits and all draft audit reports come into Legislative Audit for review. This does not normally include a review of the audit working papers; however, Legislative Audit has authority to do this.

Auditor General Guindon informed the Committee that Legislative Audit's website has been updated to include a place where individuals can go and report allegations of fraud, noncompliance, or abuse in government.

**Item 5 – Bureau of Human Resources and the Board of Regents to discuss procedures for identifying and processing conflicts in the area of State contracts**

- [Letter to BHR Doc.6](#)
- [Letter to BOR Doc.7](#)

Chris Houlette, Bureau of Human Resources (BHR), discussed the procedures that have been implemented to identify and process conflicts of interest. He stated a conflict of interest waiver form and matrix have been developed and posted on BHR's website. Any employee or manager that believes they may have a conflict can use the matrix as guidance in the determination of whether or not they have a conflict of interest. Mr. Houlette stated BHR has developed a video and provides training to

agencies on this issue. He stated that new employees are informed of conflict of interest requirements as part of the on-boarding process. In addition, when employees leave their State jobs, they are also reminded of the conflict of interest requirements. Mr. Houlette stated that in the past year the BHR has received 15 approved waiver forms and two blanket waivers to one Board. He added that the BHR observed no self-dealing associated with these waivers. Senator Sutton asked who conflicts of interest get reported to. Mr. Houlette stated that an employee would report suspected conflicts to their particular agency head. Senator Peters stated that House Bill (HB) 1064, 2015 Session called for an annual report to GOAC and she wondered when this would occur. Senator Tidemann stated that the first complete fiscal year after the passage of this legislation will be June 30, 2016 and the Committee will request this report for the August 2016 meeting. Representative Hunhoff asked what type of information would be provided in the annual report of conflict waivers received by BHR. Mr. Houlette stated there would be a description of the agency/board involved, a general description of the issue or conflict, and the reason for granting the waiver. Representative Bartling asked which Board filed the blanket waivers. Mr. Houlette stated it was the South Dakota Investment Council. Representative Hunt commented that he could not find a perjury statement on the waiver form and suggested that this be added.

Nathan Lukkes, Assistant Vice President of Research and Economic Development for the Board of Regents (BOR), provided information on the process for dealing with conflicts of interest. Mr. Lukkes stated the BOR had a process in place prior to the passage of HB 1064, because of the federal dollars they receive. He stated the BOR revised their process to incorporate additional requirements contained in HB 1064. Mr. Lukkes explained much effort has gone into outreach, education, and awareness of conflicts of interest. He believes the BOR's participation with the State Board of Internal Control will complement their conflict of interest policy. Mr. Lukkes also stated that each year employees are required to complete an annual disclosure of any financial interest they may have. He added that employees have a continuing obligation to disclose potential conflicts if something changes during the course of the year. Mr. Lukkes stated that they will be comparing, on a sample basis, employee financial interest disclosures to their database of contracts and look for potential conflicts of interest. Senator Tidemann asked how many waivers have the BOR approved and submitted to BHR. Mr. Lukkes stated that there have been no approved waivers to date.

#### **Item 6 – Brand Board to review the 2015 annual report**

- [Letter to Brand Board Doc.8](#)

Debbie Trapp, Executive Director of the South Dakota Brand Board presented the 2015 annual report (see [Brand Board 2015 Annual Report](#)). Ms. Trapp stated the Brand Board operates on funds generated from the brand registration program and brand inspection program and does not receive a general fund appropriation. She stated the livestock inspection area in South Dakota is west of the Missouri River. Ms. Trapp stated 1,581,415 head of livestock were inspected in calendar year (CY) 2015. This was an increase from CY2014 of 77,808 head. Ms. Trapp discussed the various parts of the annual report.

Ms. Trapp explained the Brand Board hold process. She stated that if livestock is sold without adequate documentation of ownership, 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 reported that \$16,779 went into this fund in 2015. Representative Hunhoff asked why these dollars don't go to the Unclaimed Property Fund. Ms. Trapp stated that State law requires these dollars to go to the Theft and Prevention Fund. These funds are used to purchase items that help the brand inspectors; such as clippers to cut the hair around the brand to better see the brands and computers to search brands in other states.

Senator Sutton asked if there were inspections conducted east of the river; for instance if cattle were moved from Burke to Platte and sold at the sale barn in Platte. Ms. Trapp stated there are livestock inspectors at the sale barn in Platte to perform inspections at that location. Ms. Trapp added they do need a shipper's permit to cross the river.

**Item 7 – Department of Social Services to discuss the closure of the Adolescent Inpatient Program at the Human Services Center in Yankton**

- [Letter to DSS Doc.9](#)

Secretary Lynne Valenti and Amy Iversen-Pollreis, Deputy Secretary, were present to discuss the Adolescent Inpatient Program. Secretary Valenti stated on April 26, 2016 the Department of Social Services (DSS) announced the closure of the 20 bed adolescent inpatient program at the Human Services Center (HSC) in Yankton. She informed the Committee they are always looking at the needs out there and responding accordingly. Secretary Valenti and DSS staff have met with local legislators on several occasions to keep them informed of the closure. Secretary Valenti announced the hiring of Troy Jones as the new HSC administrator. Mr. Jones will begin his employment on May 19, 2016. She added that Mr. Jones will be introduced to local legislators at a meeting on May 25, 2016.

Secretary Valenti explained over the past several years there has been a decline in referrals for in-patient chemical dependency services for adolescent care. The statewide decline and the need for this level of care have resulted in more capacity than is required to meet the need. When the DSS announced the closure of the program in April 2016, one-half of the 75 beds in the community were available. She added the HSC 20 bed facility has seen a decline in the average daily census from 14.3 beds in FY 2014 to 4.3 beds in FY 2016. Secretary Valenti said on April 26, 2016 there were no youth being served in that program.

Secretary Valenti said there were 15 employees working in the adolescent program at the time the closure was announced. Management has met with each employee to talk about opportunities that exist at the hospital as well as with the Department. Secretary Valenti was happy to report that all 15 employees accepted positions at the hospital and there were no layoffs.

Secretary Valenti stated more kids will be served in their communities, where they are with their families and have access to other natural supports. She added that DSS has no plans to use the unit for other services at this time. She concluded that there are 21 authorized full-time-equivalent (FTE) positions and they plan to revert 10 and retain 11 FTE.

Representative Hunhoff thanked Secretary Valenti and Deputy Secretary Iversen-Pollreis for meeting with District 18 Legislators and keeping them informed. She asked if there were other similar facilities in the State. Secretary Valenti said there are four other in-patient adolescent programs in South Dakota. Those programs are located in Sioux Falls, Huron, Canton, and Rapid City.

Senator Tidemann asked who paid for the services provided to the youth at the HSC. Secretary Valenti said the youth generally were eligible for Medicaid and the services were paid by Medicaid.

### **Item 8 – Future topics and next meeting date**

Senator Tidemann asked for and received the following future topics from Committee members:

- Legislative Audit's Special Review Report of Mid Central
- The maintenance of the State owned rail line leased to Dakota Southern Railway Company
- An update from the Department of Revenue on the legislation regarding the direct shipment of wine
- Review of the operations of the South Dakota Developmental Center in Redfield
- Attorney General's opinion on recently passed conflict of interest legislation
- An update from the new Human Services Center administrator on operations of the facility
- An update on the University Center in Sioux Falls
- Invite the Technical School Presidents in to provide an update on student numbers, programs, economic impacts facing the schools, and salary enhancements
- An update from the Obligation Recovery Center
- An update from the Department of Education and the Associated School Boards on salary enhancements
- Report of approved conflict waivers from the Bureau of Human Resources
- Department of Social Services licensing process for private juvenile placement facilities

The Committee scheduled June 20, 2016 as the next meeting date.

Chair Tidemann asked the Committee to accept as Committee documents the handouts provided to the Committee at today's meeting. A motion was made by Representative Dryden, seconded by Representative Bartling to accept today's handouts as Committee documents. The motion passed on a voice vote.

A motion was made by Representative Hunt to adjourn, seconded by Representative Bartling. The motion passed on a voice vote.