



MINUTES

GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

Fifth Meeting
2013 Interim
October 22, 2013

Room 413
State Capitol
Pierre, South Dakota

The fifth meeting of the 2013 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Dryden at 9:00 a.m., October 22, 2013, in LRC Room 413, State Capitol Building, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Corey Brown, Phyllis Heineman, Larry Lucas, and Larry Tidemann; Representatives Justin Cronin, Dan Dryden, Melissa Magstadt, and Susan Wismer. Representative Mark Mickelson was present through conference call. Senator Jean Hunhoff 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).

Approval of Minutes

Senator Brown moved, seconded by Senator Tidemann, the minutes of the August 21, 2013 meeting be approved. Motion prevailed unanimously on a voice vote.

Senator Brown recommended that the update on the non-meandering water issue be removed from the agenda and the Committee agreed.

Senator Heineman opened the meeting by providing a handout to the Committee members from a conference she attended last month.

Item 1 – State Veterinarian to discuss the sources and uses of the funds in the Livestock Disease Emergency Fund – Company 3151

Dr. Dustin Oedekoven, State Veterinarian joined the meeting through a conference call to discuss the fund. He provided a breakdown of Company 3151 and he discussed the different portions of the fund in detail for the Committee. Dr. Oedekoven provided the following answers to Committee questions:

- The fund was looked at to provide help with the clean-up from the winter storm but this fund is for controlling diseases and therefore will not be used for the purpose of disposing of carcasses from the storm as they were not infected at the time of death.
- Even with the large number of carcasses needing to be buried, there is not a likelihood of any disease outbreaks from this situation because the animals were not sick before death.
- He will provide an answer to a question regarding the Licenses, Permits and Fees portion of Company 3151 at a later time as he did not have the paperwork with him.

- There is not a fund set up for the removal of carcasses of storm losses and historically the Department of Agriculture has not paid for this. He believes that in the 1996-97 storm there was FEMA money used and possibly state emergency funds. There will be some expenses to the Department of Agriculture for the removal of carcasses from roadways immediately following the storm but those expenses should be able to be included in the budget they already have set.

Item 2 – Department of Environment and Natural Resources (DENR) to discuss the sources and uses of the funds in the Reclamation Fund – Company 3075

Mr. Steve Pirner, Secretary for DENR, was present to address the Committee. A handout was provided to the Committee. The handout discussed Company 3075 in more detail which included breakdowns of the Mine Land Reclamation Fund and the Brohm Gold Mine portion of the Mine Land Reclamation Fund. He also discussed the Warf Mine at the request of Senator Lucas. Secretary Pirner provided the following answers to Committee questions:

- To his knowledge, Brohm went bankrupt in 1999 and has not reappeared as another company. In 2000, the Environmental Protection Agency (EPA) listed the Brohm Gold Mine as a federal Superfund site. The state is responsible for a 10% matching requirement for costs associated with a Superfund site.
- The EPA makes the decision as to where they clean up and how much they clean up. The EPA is going through some budget cuts but he is confident that they will continue to clean up the Brohm Gold Mine Superfund site for many years. They have processes they have to go through to determine a clean-up site is done.
- He does not have a dollar estimate for this fund to take care of the 10% state match and for the fund to continue to sustain itself. At this point in time, the current costs to maintain the plant are around \$2 million per year. Hopefully those costs can be drastically cut by first cutting the amount of water being treated and second by finding a new way to do the treatment which would cut labor hours.
- 99% of this fund relates to costs associated with the Brohm Gold Mine clean-up effort. There are other small gravel pits that will require reclamation dollars, however, nothing the size of the dollars associated with the Brohm Mine clean-up.
- At this time, there are no General Funds in this fund. Estimation for EPA clean-up is approximately another 10 years and then there will be some years of maintenance. As of now, no other revenues are expected to be needed outside of this fund.

Item 3 – Governor’s Office to discuss the sources and uses of funds in the South Dakota Energy Infrastructure Authority – Company 6527

Mr. Hunter Roberts of the Governor’s Office of Economic Development (GOED) was present to address the Committee. He gave a brief history of the South Dakota Energy Infrastructure Authority and explained when the fund was created and why. The fund has had no activity for the past four years. Mr. Roberts provided the following answers to Committee questions:

- Yes, they would like to keep this fund on the books for the time being.
- The current work for this fund is mainly in the office with the reports being kept online and the memberships kept current. If a project were to arise, the GOED would most likely use internal funds for the first couple of meetings to learn more about the project. If the project was given the go ahead, they would come to the Legislature for monies to hire contractors, etc.
- The board members, however, have not met in the last four years due to the inactivity of the fund.

- The Energy Infrastructure Authority is more of a sub-fund of the GOED. Marty Davis, Director of Administration for the GOED, would be the one to ask as far as keeping the fund versus using the GOED's budget if in the future monies were requested for a project.
- The Governor's Office and the Legislature would need to be the parties to decide if keeping the fund, with a minimal balance and no future projects, is the way to go or if it would be better to close the fund and reopen a fund in the future if needed.

Item 4 – Department of Corrections to continue the discussion of the definitions of an “abused or neglected child” contained in State law

Mr. Jim Seward of the Governor's Office was present to address the Committee regarding the update on the abused or neglected child laws. Mr. Seward commented that the Department of Corrections (DOC) is undergoing research to see what is going on across the country in regards to the statute. They are trying to determine if there is a 'normal standard' and if that standard can be applied to South Dakota's unique situation. Mr. Seward provided the following answers to Committee questions:

- It is premature to make a decision, but, there most likely will not be a proposal before the end of the year.
- There may have been some confusion on the presenter's part as far as what the Committee was asking when this issue was first presented. DOC is trying to figure out if the statutes in place need to be revised. The standard used to determine whether to remove a child from their parents reads one way and the standard for when a child is in the care of the government reads another way.
- The juvenile corrections monitor does not monitor children who are living in private placement facilities that are contracted by the state, only those children that are directly under the care of the government.

Item 5 – Committee to discuss the possible repeal of South Dakota Codified Laws (SDCL)

As a follow-up item, the Committees reviewed inactive statutes associated with various Other Funds contained in the GOAC Blue Book.

Lorin Pankratz, registered lobbyist for South Dakota Pork Producers, was present to address the Committee regarding SDCL 38-33-7. Mr. Pankratz discussed when the law was created, why it was created, and why he feels it should be kept in place.

Tim Flannery, Audit Manager with DLA, presented information he had received from the agencies regarding whether or not to keep these inactive statutes in place.

Senator Brown made a motion to repeal three laws and amend one law. Representative Magstadt seconded the motion.

The Committee unanimously voted to present legislation regarding the repeal of the following laws:

- 1-6-23 Creation of commemorative medallion fund
- 41-22-4 Tree nursery reserve fund
- 13-13-12 Foundation program established

The Committee voted to present legislation regarding the amendment of SDCL 13-13-38.

Item 6 – Department of Labor and Regulation (DLR), Division of Insurance to provide an update on the health insurance activity since the opening of the federal exchange on October 1, 2013

Mr. Merle Scheiber and Mr. Melissa Klemann, with the DLR Division of Insurance were present to address the Committee. Ms. Klemann gave an update on how things had progressed since the Affordable Care Act went live on October 1, 2013. Mr. Scheiber and Ms. Klemann provided the following answers to Committee questions:

- The outside carriers will have the same types of plans and benefits but the rates cannot be determined as they are done on a person to person basis using age and other criteria specific to that person.
- Outside carriers will also have to follow federal requirements. There is an exception law for contraception for those who do not wish for it to be allowed in their plan. There is a waiver they can sign to exclude all contraceptives.
- The income verification portion is done through the federal government system.
- The DLR is not involved with the enrollment process. The federal government has access to see if there are duplicate enrollments.
- According to the press and the carriers in South Dakota, there are approximately 22 people enrolled currently.
- The information of the breakdown for those individuals enrolled in South Dakota is minimal. The information as to what plans people have chosen can be obtained from the carriers. The information regarding what plans people previously had is not available unless those individuals provide it.
- For any outside carriers, such as Wellmark, individuals can walk in and choose their plans. For the carriers in the federal exchange, that is not currently an option as the agent may not have access to all plans available and because a subsidy can only be obtained through the federal exchange website.
- Even if we had our own state exchange program, we would still not have access to information regarding previous coverages.
- If we had a state exchange program, we would know the exact number of South Dakota individuals enrolled through the state run exchange.
- Our role as a state agency is to deal with plan management. The Division of Insurance is currently not able to provide a list of the agents who are certified with the federal exchange. There is not much information available to the Division of Insurance at this time.

Item 7 – Follow up from the Department of Game, Fish and Parks, Oversight Council, Department of Social Services, Board of Regents, State Treasurer, and the Committee's annual report

Department of Game, Fish and Parks

Mr. Chris Peterson, Finance Officer and Director of Administration for the Department of Game, Fish and Parks, was present to address the Committee. Mr. Peterson provided handouts to the Committee. He discussed the handouts which detailed which state parks were affected by the 2011 Missouri River flood and what projects have since been completed.

Mr. Peterson also provided handouts regarding the Private Lands Habitat and Access Program and the Wildlife Damage Management Program for the Committee. Mr. Tony Leif, Director of the Wildlife Division of the Department of Game, Fish and Parks, was present to answer any questions regarding these two reports. Mr. Leif gave a brief update on the impact on the wildlife from the

storm earlier this fall.

Mr. Doug Hofer, Director of Parks and Recreation for the Department of Game, Fish and Parks, provided the following answers to Committee questions:

- The dredging that was done was 100% due to the flooding. Before the flood there had been no dredging for nearly a decade. The riprapping that was done was a decided on a park by park basis as to what needed to be done.
- Mr. Hofer answered questions regarding how the Fischer Grove Campground plans changed as well.

Public Safety Improvement Act Oversight Council

A member of the Oversight Council provided the Committee a list of performance indicators created in response to the Public Safety Improvement Act.

Mr. Jim Seward of the Governor's Office provided the following answers to Committee questions:

- In order to know if the performance indicators are successful or not, it will require the Council to first make sure they are correctly tracking the information requested. After that it is no longer up to the Council to make sure everything is going correctly because the agencies themselves will have to make sure their specific goals are being met and maintained.
- The three goals that are to be met are to improve public safety, hold offenders more accountable and reduce corrections spending. Expert help was requested in order to ensure these goals are being met and to make sure the performance measures will not fail.
- There should not be a need to request more money unless a new court is added. There will be some funding from the U.S. Bureau of Justice Assistance to help with costs.
- The Unified Judicial System has had a workgroup since the legislation passed. Regarding the Financial Accountability System going live on January 1, 2014, that is when they begin building the program.

Department of Social Services

Secretary Kimberly Malsam-Rysdon of the Department of Social Services was present to address the Committee. Ms. Malsam-Rysdon gave a brief update on what progress had been made in the past few weeks with the SDMedX (the new Medicaid Management Information System) contractor (CNIS). There is a 43 month schedule now in agreement for completion of the SDMedX project, but costs have not all been determined at this time. Within those 43 months there are many different components to be completed. Ms. Malsam-Rysdon provided the following answers to Committee questions:

- The provider enrollment portion of SDMedX is complete and functioning. There are many other components to be completed that will work in sync with this portion of the program.
- 50-60% still remains to be completed in the next 43 months. The intent is to be fully completed by the end of the 43 months.
- Within the next 43 months they will finish developing the MMIS program and begin a long, complex testing stage in order to make sure everything is properly working before going live.

Board of Regents

Dr. Jack Warner, Executive Director of the Board of Regents, Ms. Heather Forney and Mr. Monte Kramer, Directors of the Board of Regents, were present to address the Committee regarding the breakdown of monies included in the Board of Regents Other Funds. Dr. Warner gave a brief overview of the numbers included on the report and talked about how they took the original report provided at a past meeting and discussed how they broke it down further for the Committee to better

analyze. Dr. Warner, Ms. Forney, and Mr. Kramer addressed questions regarding the breakdown of this fund, how amounts changed from year to year and why some accounts were negative at certain times.

State Treasurer

Mr. Richard Sattgast, State Treasurer, provided the Committee an update on progress made regarding performance indicators and budget drivers.

GOAC 2013 Annual Report

Mr. Tim Flannery with the Department of Legislative Audit, provided a copy of the report to the Committee and answered a few questions regarding the draft. Mr. Martin Guindon, Auditor General with Department of Legislative Audit, was present to address a few concerns regarding the responsibilities of the Committee. The Committee gave the Chair permission to approve the final report. The final report will be presented to the Executive Board at their November 2013 meeting.

Future Meeting Dates

There is no future meeting scheduled as of now.

The Committee adjourned the meeting at 3:30 p.m.



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