

MINUTES

Government Operations & Audit Committee

Senator Deb Peters, Chair
Representative Jean Hunhoff, Vice Chair



**Third Meeting, 2017 Interim
Tuesday, June 06, 2017**

**Carnegie Town Hall
Sioux Falls, South Dakota**

The third meeting of the 2017 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Peters at 8:34 a.m., June 6, 2017, Carnegie Town Hall, Sioux Falls, South Dakota.

A quorum was determined with the following members answering the roll call: Representatives Wismer, Steinhauer, Anderson, Hunhoff, Senators Tapio, Nelson and Peters. Senator Sutton joined by conference call. Senator Cronin joined by conference call after roll was called. Representative Tieszen was excused.

Staff members present were Mr. Tim Flannery and Mr. Russ Olson, State and Local 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

Representative Hunhoff moved, seconded by Representative Anderson, the minutes of the April 25, 2017 meeting be approved ([Minutes 4-25-17 Doc.1](#)).

Senator Nelson made a substitute motion to amend the minutes to include his changes that were sent to the Committee by email. This motion was ruled out of order by the Chair due to prefatory remarks.

Senator Tapio made a substitute motion to amend the minutes to include Senator Nelson's changes that were sent to the Committee by email, seconded by Senator Nelson. Senator Nelson stated that significant motions, including a motion to hold public hearings into the GEAR UP scandal, were moved at the last meeting and were not included in the minutes. If the minutes are not amended to include his motions, Senator Nelson called for the inclusion of a minority report. Senator Peters stated that a dissenting report would be in order. The Committee discussed the motion to amend the minutes, whether a dissenting report or a minority report can be included, and Joint Rules 7-4, 7-5 and 7-6. The substitute motion failed 4-5 on a roll call vote.

Discussion moved back to the original motion to approve the minutes. Motion prevailed 5 - 4 on a roll call vote. Senator Nelson asked that the dissenting report be included with the minutes.

The Chair will seek clarification on a minority report or a dissenting report and the appropriate report will be added to the minutes.

Former Senator Mike Vehle, spoke to the Committee about Senate Bill 143, 2016 Session, and the Committee's task with the performance management review process. He suggested that agencies should use a consistent format with a two page report including six graphs focusing on outcomes, not output. He also spoke about the University Center and the Committee's responsibility for reviewing them. He reminded the Committee that it is their job to review the agencies.

Item 1 – Department of Revenue to discuss: Performance management indicators and the application of the tourism tax

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

Mr. Andy Gerlach, Secretary of the Department of Revenue (DOR), was present to address the Committee and presented the [DOR Performance Management](#) presentation. Secretary Gerlach listed the different divisions within DOR and discussed the department's three-year strategic plan. DOR's strategic direction includes four goals: engaging and developing our team, managing resources to maximize return on investment, leveraging information through data analytics to support decision making and strengthening the Department's relationships. Secretary Gerlach described several benchmarks they are working towards for each goal and provided examples of how they are accomplishing them.

Senator Tapio asked if there were any areas of concern that GOAC should focus on, or if there were any employee discipline cases that should be discussed. Secretary Gerlach discussed that their office handles a lot of personally identifiable information and they struggle with getting employees in Pierre.

Secretary Gerlach then discussed the tourism tax application. Tourism tax is collected on tourism related businesses from June to September and is used to fund tourism related activities. Hotels collect the tax year-round. Secretary Gerlach discussed Falls Park as being a tourist attraction, but that the Sioux Falls Farmer's Market located at Falls Park was a unique situation. Secretary Gerlach stated that the DOR reevaluated the situation and clarified that the Sioux Falls Farmer's Market, along with other Farmer's Markets, do not need to remit tourism tax.

Item 2 – Bureau of Information and Telecommunications to discuss performance management indicators

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

Mr. David Zolnowsky, the Commissioner of the Bureau of Information and Telecommunications (BIT), was present to address the Committee and discussed the [BIT Performance Management](#) presentation. He discussed an overview of BIT, its divisions and their roles within BIT.

Mr. Jim Edman, Deputy Commissioner with BIT, discussed the overall strategies and goals of BIT. He discussed three goals they have developed to meet their vision: provide a reliable, secure and modern infrastructure, deliver valued services at economical costs and build and retain a highly skilled workforce. BIT maintains about 10,000 workstations, 1,000 business applications and has about 540 location connections. Mr. Edman explained that BIT went through 36 different audits in 2016. They had two consistent audit findings throughout the audits and worked to fix one late last year and the second early this year.

Mr. Pat Snow, Director of the Telecommunications Division for BIT, spoke about the scope and challenges of providing telecommunications throughout the State. He also discussed client survey responses and the efforts they are making to increase participation.

Ms. Deanne Booth, the Director of Applications Development for BIT, spoke about applications development and how they have recently made a lot of changes. She explained that application maintenance is a big part of what they do. She discussed their goals for hours billed out and the number of items a developer is working on at one time.

Mr. Larry Rohrer, Assistant Director of South Dakota Public Broadcasting (SDPB), spoke about the mission and service categories of SDPB. He provided a listing of the channels provided by SDPB via TV, radio and digital platforms. They are focusing on making their social media programs as efficient as possible. Mr. Rohrer explained the role of SDPB and the Emergency Alert System (EAS).

Mr. Wayne Hayden-Moreland, Director of the Data Center, discussed the Data Center and the different platforms used by BIT. He advised that storage is vital and as technology develops, the amount of storage needed will increase. BIT has been proactive and has processing in place to increase storage as needed.

Senator Tapio asked if they were aware of any data breaches. Mr. Hayden-Moreland advised that he was not aware of any breaches at the Data Center level. BIT is the custodian of information stored at the Data Center and the agencies are the owners.

Item 3 – South Dakota High School Activities Association to discuss their fiscal year 2016 Annual Report

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

Mr. Isaac Jahn, Comptroller at the South Dakota High School Activities Association (SDHSAA), was present to address the Committee and review the [SDHSAA FY16 Report](#). Mr. Jahn explained that the audit went very well. There were no current audit findings and the prior year's finding was resolved.

Mr. Jahn reviewed the balance sheet and discussed the Beneficial Interest in Assets Held by SD Community Foundation account. He advised they will be proposing establishing a South Dakota High School Activities Community Foundation Board at their next meeting. Senator Peters stated that the Legislature does not feel they should form a foundation and wonders why SDHSAA is still pursuing this issue. Senator Peters asked that additional information on the foundation be presented to the Committee at a future meeting. Mr. Jahn then reviewed the income statement, statement of cash flows and the notes to the financial statements. He also discussed the schedule of budgeted and actual revenues report.

Item 4 – Department of Legislative Audit to discuss the Mid Central Educational Cooperative Special Review Report followed by Committee discussion of the path forward

- [Mid Central Educational Cooperative Special Review Report Doc.5](#)
- [Mid Central Educational Cooperative FY15 Single Audit Report Doc.6](#)

Mr. Russ Olson and Mr. Tim Flannery, Local and State Government Audit Managers, Department of Legislative Audit (DLA), were present to update the Committee. Mr. Olson advised that the Mid Central Educational Cooperative (MCEC) Special Review Report and FY15 Single Audit Report were publicly released by DLA on May 19, 2017. Mr. Olson explained the differences between a special review and an audit.

Mr. Olson discussed the background information and an overview of what was found and reported in the Special Review. He discussed the lack of proper internal controls, enforcing controls and monitoring those controls. The findings included in the Special Review Report are also included in the FY15 Single Audit Report, as well as two additional findings specifically reported in the FY15 Single Audit Report. Senator Nelson asked why DLA couldn't look further in to the American Indian Institute for Innovation (AIII) and if they followed the money from MCEC to where it ended up. Mr. Olson explained that we could only look at funds passed down through the State of South Dakota and that we did review the interactions between the organizations. Representative Hunhoff asked if DLA audited the federal funds received by MCEC and passed through to the subrecipients. Mr. Flannery stated that yes, they were, and more details are included in the findings.

Mr. Flannery then discussed the specific findings included in the Special Review. The first finding reported that the MCEC Governing Board and Director did not provide adequate oversight of the financial activity of the cooperative. Representative Steinhauer asked if any waivers were granted for the related party relationships. Mr. Flannery answered that they did not find any evidence to support that related party relationships were reported to MCEC's Board. Senator Nelson asked why the non-profits were not required to be audited and what the South Dakota Department of Education's (DOE) procedures were to oversee this. Senator Peters explained that audits were required, but they did not receive audits. It was MCEC's responsibility to ensure that their subrecipients were being audited. Senator Peters also described the quarterly reports required by the federal government to be submitted to DOE. Mr. Olson explained that new federal requirements require an agency to perform a risk analysis on any organization they are passing money down to. Representative Steinhauer suggested that subrecipient monitoring should go further than just the first level of recipient. Representative Hunhoff asked if the MCEC's audits were presented to the Board. Mr. Flannery advised there was no record that the audits were shown to MCEC's Board, but reviewed by the Director and Office Manager.

The second finding reported that there were unauthorized withdrawals from MCEC's checking account from January 2007 through September 2015. Senator Nelson asked how the unauthorized withdrawals were not caught. Mr. Olson explained there was a lack of oversight. Representative Hunhoff asked about information gathered during an audit and if it can be skewed. Mr. Olson and Mr. Flannery explained that it is a possibility, but auditors verify the information they receive and they evaluate the different levels of evidence. Representative Wismer discussed IRS Form 990 and suggested that auditors should periodically review them on non-profits. Mr. Olson explained that the non-profits were running payroll out of MCEC's bank account and there was no legal authority for those transactions.

The third finding reported MCEC did not have adequate internal controls in place to properly identify subaward agreements and monitor subrecipient compliance with federal regulations.

The fourth finding reported that MCEC did not comply with the matching requirements of the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) grant.

The fifth finding reported that unsupported salaries and wages were charged to the GEAR UP grant. Senator Cronin asked if a normal agreement spelled out wages. Mr. Flannery answered that yes, normally it would be included, but they did not find that to be the case. Representative Anderson asked if DOE required validation for the amount to be reimbursed. Mr. Flannery advised that effort logs were being compiled in certain instances.

The sixth finding reported Teacher Quality (TQ) grant subaward agreements were not approved by MCEC's Governing Board. TQ grant expenditures were not adequately supported. The seventh finding reported supporting documentation for contractual services and payroll charges to the Wakan Gli grant was inadequate. In addition, no evidence was found that MCEC entered into contracts or agreements with the partners or contractor identified in the Wakan Gli grant application. The eighth finding identified information reported to the U.S. Department of Education (USDOE) in MCEC's indirect cost rate agreement was inaccurate.

Mr. Olson then discussed the MCEC FY15 Single Audit Report and the findings specific to the Single Audit. Finding 2015-006 reported MCEC did not comply with matching requirements for the TQ Partnership Grants. Finding No. 2015-010 reported internal accounting controls over financial reporting for fiscal year 2015 were inadequate.

Mr. Olson explained that with the adjustments that were made to the financial statements, DLA is issuing an unmodified opinion on the financial statements contained in the report. The financial statements followed and Mr. Olson discussed the adjusted ending fund balance. Senator Tapio asked if MCEC had a budget and if they were projecting accurately. Mr. Olson answered that they did have a budget, but if fraud had been going on for some time, inconsistencies could have been overlooked. Senator Nelson asked if DLA used MCEC's board minutes when performing the special review and audit. Mr. Olson advised that they did use the minutes when looking for approvals from the Board.

Item 5 – Future Meeting Topics

The following agencies will be asked to report back on the performance management review report: Department of Revenue, Bureau of Information Telecommunications, Bureau of Human Resources and the Department of Labor and Regulation. Senator Peters emphasized performance reports should be two pages with six graphs.

The South Dakota High School Activities Association will be asked to provide an update on the process for selecting tournament locations and the foundation.

The Committee will continue to review Mid Central Educational Cooperative. Senator Peters suggested a conference call amongst Committee members and staff to discuss the grants with the Department of Education and where the Committee wants to go. Senator Nelson wants an open public hearing regarding the GEAR UP grant where people testify under oath.

Discussion took place on the Department of Transportation (DOT) and the Railroad Board. Mr. Olson advised that he worked on a special review requested by the State Railroad Board, but that DOT did not perform an internal audit. The Committee would also like to hear from DOT on dangerous flammable materials being stored on railcars and how various railroad rates are established. DOT will be asked to meet with the Committee in July.

The Board of Regents plans to be at the July meeting to update the Committee regarding the status of undocumented students and the sanctuary policy.

Senator Tapio would like more information from Game, Fish and Parks regarding meandering and nonmeandering waters.

The next meeting is scheduled for July 24, 2017 in Pierre.

August 21st or August 29th was suggested dates for the tentative meeting in August.

A motion was made by Senator Tapio to adjourn, seconded by Representative Anderson. The motion passed on a voice vote.

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