

MINUTES

Government Operations & Audit Committee

Senator Larry Tidemann, Chair
Representative Jean Hunhoff, Vice Chair



**Fourth Meeting, 2016 Interim
Tuesday, October 18, 2016**

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

The fourth meeting of the 2016 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Tidemann at 9:00 a.m., October 18, 2016, in room 413, State Capitol Building, Pierre, South Dakota.

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

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.

Chair Tidemann welcomed Representative Anderson who is a new member and replacing Representative Dryden.

Approval of Minutes and Agenda

Senator Heineman moved, seconded by Representative Hunt, the minutes of the August 23, 2016 meeting be approved ([Minutes 8-23-16 Doc.1](#)). Motion prevailed unanimously on a voice vote.

Amend the Agenda to include an update from the Department of Social Services on the Medicaid Management Information System (MMIS)

Senator Heineman moved, seconded by Representative Anderson, to amend the agenda to include an update from Department of Social Services on the MMIS. Motion prevailed unanimously on a voice vote.

Item 1 – Department of Transportation to provide an update on the completion of the railroad maintenance agreement by Dakota Southern Railway Company

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

Darin Bergquist, Secretary of the Department of Transportation was present to give an update on the completion of the railroad maintenance agreement. Secretary Bergquist stated that the former program manager from the Office of Air, Rail and Transit, Bruce Lindholm, retired in July 2016. Jack Dokken, formerly with the Office of Emergency Management, has replaced Bruce and will lead the Office of Air, Rail and Transit. Senator Tidemann complimented the work of Mr. Lindholm and looked forward to working with Mr. Dokken in the future.

Secretary Bergquist clarified the agenda. He stated the agenda item refers to the completion of a railroad maintenance agreement and there isn't such an agreement. He stated last spring the rail board divided itself into subcommittees and assigned groups of rail board members to portions of the state owned rail line. Each subgroup went out and did onsite inspections of the state rail line. Those inspections occurred in April of 2016. The board members that inspected the Mitchell to Rapid City

(MRC) line from Mitchell to Chamberlain had some concerns with regard to the type and level of maintenance activity that had been performed by the Dakota Southern Railway Company (DSRC) on that stretch of state rail line.

The committee asked DSRC to come before the rail board at the May meeting to present a plan for doing additional maintenance work on the line. DSRC attended the May meeting and presented some proposals for additional maintenance work they planned to perform. The rail board instructed DSRC that they had 90 days to complete the proposed work along with some other adjustments and additions that the board put forward.

Secretary Bergquist stated that in August, at the end of the 90 day period, one of the original subcommittee members went back out and re-inspected the line to checkup on the progress and maintenance activities that the board requested DSRC to complete. At the August meeting the board reviewed the written report from that subcommittee member, as well as had Mike Williams from DSRC, at the meeting to discuss the activities that had taken place. The board was satisfied with the work that Mr. Williams had done. The board asked Mr. Williams to come back to the September meeting with a long-term 3 year plan for maintenance activities. Secretary Bergquist stated the rail board will continue monitoring the maintenance activities on the MRC line.

Senator Tidemann asked if the MRC line was now a class 2 line that could handle speeds of 25 miles per hour (mph). Secretary Bergquist stated the intent is to apply to the Surface Transportation Board to have the line classified as a class 2 rail so that it can handle traffic speeds up to 25 mph. Representative Hunhoff asked if the 25 speed was part of the lease agreement with DSRC. Secretary Bergquist stated the line was built to a class 2 standard and the lease with DSRC called for DSRC to keep the line at this same standard.

Senator Tidemann thanked Secretary Bergquist for the update on this issue.

Item 2 – Bureau of Human Resources to discuss health care impacts relating to Sanford Health’s announcement that they are leaving Dakotacare and Avera Health medical plans

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

Laurie Gill, Commissioner of the Bureau of Human Resources (BHR) was present to discuss the health care impact relating to Sanford Health’s announcement that they are leaving Dakotacare and Avera Health medical plans. Commissioner Gill stated the South Dakota Employee Health Plan is a self-insured plan. We contract with Dakotacare, as our third party administrator, and pay them for administrative services. Dakotacare processes claims, provides subrogation services, and have historically provided a physician’s network to the state employee health plan. This physician’s network has allowed our members to go to the majority of physicians across the state for their services.

Commissioner Gill stated that recently Sanford announced, that effective January 1, 2017, they will no longer participate in the Dakotacare Physician Network. If the state does not enter into a direct contract with Sanford, effective January 1, 2017, the claims for those members who use Sanford physicians would be processed as out-of-network and that would have financial implication to both the employee and to the state health plan. Commissioner Gill explained that in order for us to contract directly with Sanford we have had to negotiate with Dakotacare to get an agreement in place that would allow us to be able to engage in direct physician agreements with providers who are not otherwise a participant in the Dakotacare Physician Network. She stated the state health plan has come to terms with Dakotacare and an agreement should be signed this week. She added we have been talking to Sanford continuously and was optimistic the state health plan would come to some resolution with Sanford regarding that agreement. Representative Cronin asked the number of employees that would be affected. Commissioner Gill stated 20% of fiscal year 2016 provider services were paid to a Sanford provider.

Commissioner Gill added that the non-Sanford providers that are in the Dakotacare Physician Network are still in place and they still would be in place no matter what happened with the agreement with Sanford providers.

Representative Hunhoff expressed concern for those members with long-term health issues that are receiving care from a Sanford physician and what the impacts may be to them. Commissioner Gill stated BHR is working with individuals, on a case-by-case basis and assuring these individuals they can stay with their doctor. Senator Tidemann commented that these individuals don't need any additional stress and emphasized the need for the patients to come first.

Senator Tidemann offered the help of the Legislature if Commissioner Gill needed it.

Item 3 – Bureau of Administration to provide an update on the Obligation Recovery Center

- [Letter to BOA Doc.4](#)
- [ORC Annual Report 2016 Doc.5](#)

Mr. Jeff Holden, Commissioner of the Bureau of Administration was present to discuss the report for the Obligation Recovery Center. Commissioner Holden provided the following information to the Committee:

- The Obligation Recovery Center began actively collecting debts on July 15, 2016.
- The following agencies have referred the following debts to the Center:

Agency	# of Accounts	Value of Accounts	Collected
Unified Judicial System	22,206	\$9,864,018.21	\$137,217.19
Department of Corrections	4,089	\$9,073,596.72	\$61,878.68
Department of Game, Fish and Parks	243	\$202,705.89	\$1,719.19
Department of Revenue	25	\$70,975.96	
Total	26,563	\$19,211,296.78	\$200,815.06

- The following agencies have completed memorandums of understanding (MOU) with the Center:
 - Unified Judicial System
 - Department of Corrections
 - Secretary of State
 - Department of Game, Fish and Parks
 - Department of Agriculture
 - Department of Human Services
 - Department of Transportation
 - Department of Revenue
 - Department of Labor and Regulation – in draft form
 - Department of Social Services – in draft form
 - Board of Regents – under revision as of 10/13/16
- As of September 30, 2016, the Center has:
 - Established 719 active payment plans to recover \$705,996.59 in agency debt;
 - Sent 60,259 collection notices;
 - Made 32,845 outbound telephone calls;
 - Handled 6,165 inbound telephone calls from individuals with debts owed to the State;
- As of September 30, 2016, the Center has collected \$39,762.60 in cost recovery fees:
 - CGI has been paid \$1,696.96 of cost recovery fees for collections made in the month of July.
 - CGI has been paid \$19,297.77 of cost recovery fees for collections made in the month of August.
 - No payments have been made to CGI for September collections.

- As of September 30, 2016, the Center notified the Department of Game, Fish and Parks (GFP) of 7,712 debts that would be subject to enforcement action related to hunting license, fishing license, state park or camping permits pursuant to SDCL 1-55-12.
 - The initial file was sent to GFP on September 15 and included 4,500 accounts. GFP matched 850 of these accounts in their system for blocking.
 - A daily file is sent from the Center to GFP Monday through Friday and is matched with GFP's file to add and remove blocks as needed.
- The Department of Revenue was scheduled to begin taking action related to motor vehicle registrations on October 18.
 - As of September 30, 2016, an estimated 1,800 individuals would have debts referred to the Center for enforcement action related to motor vehicle registrations.
- The Center is working with the Department of Public Safety regarding the transfer of data for enforcement actions related to driver licenses.
 - The planned date to begin blocking driver's license renewal is November 15, 2016.
- There have been four due process hearings requested as of September 30, 2016:
 - One has been dismissed.
 - One has been heard but no final decision issued.
 - Two hearings have been scheduled.
- The Bureau of Administration (BOA) has prepared proposed rules related to the operation of the Center.
 - The proposed rules were discussed with the Center's advisory group.
 - A public hearing on the Center's proposed rules was held on September 21, 2016.
 - BOA did not receive any additional comments during the written comment period which ended on October 3, 2016.
 - BOA amended the draft rules for style and form as recommended by Legislative Research Council and made some minor language changes based on comments received at the public hearing. We will be reviewing these revised rules with the Center's advisory group before submitting as our final proposed rules.
 - We anticipate being on the agenda for the Interim Rules Review Committee on November 14, 2016.

Senator Heineman asked what some of the issues were when developing MOU's with the various agencies. Commissioner Holden replied that the purpose of the MOU is to make sure that everyone understands how the Center operates. He stated each agency is a little different in the type of debts they have and how they send their debt to the Center, so we try to work out the process with them. He added the MOUs don't replace anything in statute or administrative rule.

Senator Tidemann welcomed Mr. Monte Kramer, Board of Regents (BOR), and asked him to provide information regarding the BOR's MOU with the Center. Mr. Kramer explained that it wasn't the BOR's intent to use the Center for debt collections, because the campuses were doing a good job of collecting debt. It wasn't until the BOR submitted some debt to the Board of Finance to be written off that they were informed they would have to first go through the Obligation Recovery Center. Mr. Kramer explained the concern of the BOR was that young students may lose their driver's license and end up in the legal system which becomes an even bigger issue. Senator Peters expressed frustration and believed students should be treated the same as anyone else that owed money to the State. The Committee asked to see the final MOU between the BOR and the Center at a future meeting.

Item 4 – Attorney General Jackley to discuss civil and criminal implications associated with the recently passed legislation regarding conflicts of interest

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

Senator Tidemann welcomed Attorney General Marty Jackley to the meeting to discuss the civil and criminal implications associated with the recently passed legislation regarding conflicts of interest. Attorney General Jackley provided an overview of the current laws in place. He explained that Article 3, Section 12 sets forth the ethical or the administrative conflict laws for members of the Legislature and

says members of the Legislature shall not have a direct or indirect interest in a contract with the State or County. It doesn't include Schools or Cities. Based upon case authority, it is up to the Legislature to enforce its own membership rules.

Attorney General Jackley then moved on to explain current criminal law and legislation he plans to propose. He stated the first component of the proposed legislation would create a criminal violation for all known direct conflicts involving a person overseeing State contracts and monies. He explained the second component related to reporting. He would propose the reporting of discovered theft, fraud, and criminal direct violations to the Office of the Attorney General. Attorney General Jackley explained the last component of his proposed legislation relates to enforcement or consequences. He suggested that persons in a position of trust involving taxpayer's money should be subject to the current "tiered theft statutes".

He concluded by explaining that an Oversight Committee is reviewing House Bill 1214, from the 2016 session and will be proposing some revisions to that legislation.

Item 5 – Bureau of Finance and Management to provide an update on progress made by the State Internal Control Board

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

Jason Dilges, Commissioner of the Bureau of Finance and Management was welcomed along with Keith Senger, Director of Financial Reporting and Compliance to provide an update on the progress made by the State Internal Control Board. Commissioner Dilges explained that Senate Bill 162, from the 2016 session, created the State Board of Internal Control. He explained it is a seven member board made up of himself (Chair), Steve Barnett – State Auditor, Monte Kramer – Board of Regents, Greg Sattizahn – Unified Judicial System, Tamara Darnall – Department of Education, Kari Williams – Department of Health, and Laura Schaeffer – Department of Social Services. He added Matt Michels – Lieutenant Governor serves as an ex-officio member on the board.

Commissioner Dilges explained three goals before the board. The first goal has been accomplished and that was to adopt a Code of Conduct in the Bureau of Human Resources (BHR) Employee Handbook for State employees to follow. He explained that Boards and Commissions have also been encouraged to follow this same Code of Conduct. He added the Board of Regents will adopt their own employee handbook.

Commissioner Dilges stated the second goal is addressing conflicts of interest. The State Internal Control Board is working closely with legal counsel in the Governor's Office and individuals from BHR to implement provisions contained in recently passed legislation pertaining to conflicts of interest across all State agencies. Commissioner Dilges explained the pre-grant checklist agencies go through prior to signing grant agreements. This checklist is essentially a risk assessment tool to help agencies complete proper due diligence prior to engaging another party or grantee. Commissioner Dilges added that Internal Control Officers have been established for each agency and these officers have attended all of the State Internal Control Board meetings.

Commissioner Dilges explained the final goal is to establish a comprehensive internal control system across all of State government. He stated this will be a long-term process of documenting procedures and having in place checks and double checks. The plan is to develop a "Request for Proposal" to invite larger accounting firms, with this type of expertise, to help develop a comprehensive internal control system. Commissioner Dilges plans to start with his office (BFM) and, with the help of the consultant, establish an internal control framework. He stated BFM has crucial roles in State government from processing payroll, overseeing the State's accounting system, to preparing the State budget. His hope is that BFM can then go out and help other agencies develop their internal control frameworks.

Mr. Senger informed the Committee that internal controls are being considered for all operations of State government, not just financial matters. This may involve building a road, prison inmates, taking care of people or many other aspects of government, but the goal of an internal control framework is to ensure entities are achieving their objectives.

Mr. Senger explained in more detail the subgroups that have been formed to deal with specific issues. One issue is the implementation of new federal regulations referred to as the Uniform Grant Guidance. A subgroup is working on a standard risk assessment process relating to subgrants of federal dollars. Mr. Senger explained a key part of this process is helping agencies make a determination as to whether an agreement is a subaward of funds (to subrecipients) or a contract for services.

Representative Anderson asked if additional dollars were going to be requested from the Legislature. Commissioner Dilges said there would not be any requests at this time.

Senator Tidemann thanked Commissioner Dilges and Mr. Senger for the update and looked forward to hearing from them in the future.

Item 6 – Governor’s Office of Economic Development – Annual report of activity relating to the Building South Dakota Fund

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

Commissioner Scott Stern and Cassie Stoesser were welcomed to discuss the annual report and activity relating to the Building South Dakota Fund.

Commissioner Stern provided an overview of the four programs under the GOED (see [GOED BSD fund 2016.pdf](#)). He stated that three of the four programs receive funds from the BSD fund and one program, the Reinvestment Payment Program, receives sales and use tax from project owners. He first explained the two primary purposes of the Economic Development Partnership Program (EDPP): 1) to support training, and 2) to help local economic development programs recapitalize local revolving loan funds. He stated the training element requires a local match, the EDPP’s share of training costs is funded over a four year period (40% year one, 30% year two, 20% year three, and 10% in year four). Commissioner Stern stated 100% of available EDPP funding for fiscal year (FY) 2016 was used and 49% of available funding for FY17 has been used, total grants approved \$1,572, 085.

Next, Commissioner Stern provided an overview of the Local Infrastructure Improvement Program (LIIP). He stated LIIP projects are designed for public infrastructure improvements. Commissioner Stern reported that seven grants were approved totaling \$4,664,573 and these dollars served approximately 100,000 constituents in the State of South Dakota.

Commissioner Stern provided an overview of the South Dakota Jobs Grant Program (JGP). He explained that this program is available to assist companies in offsetting the upfront costs associated with relocating or expanding operations and/or upgrading equipment in South Dakota. Commissioner Stern mentioned that this program allows for project owners to receive a JCP grant for new or expanded facilities with project costs less than \$20 million, or for equipment upgrades with project costs less than \$2 million. He stated that this program has not had the activity that was expected and there were no grants awarded in FY16.

Commissioner Stern provided an overview of the Reinvestment Payment Program (RPP). He explained that this program is available to assist companies in offsetting the upfront costs associated with relocating or expanding operations and/or upgrading equipment in South Dakota. This program allows for project owners to receive a reinvestment payment, not to exceed the sales and use tax paid on project costs, for new or expanded facilities with project costs in excess of \$20 million, or for equipment upgrades with project costs in excess of \$2 million. He reported that two applications were approved in FY16 totaling \$3,599,948.

Representative Hunt asked if anything was being done to work with the education community to help with workforce development in South Dakota. Commissioner Stern stated that the GOED has had conversations with the Board of Regents and the technical institutions to identify what are the job requirements to make sure we are building the appropriate curriculum to support South Dakota employers.

Senator Tidemann asked which of the four programs are doing the best and which ones need to be changed. Ms. Stoesser stated the EDPP is the most subscribed program. She added the EDPP has seen a change in the usage of the program from meeting training needs to replenishing revolving loan programs. She stated the most underutilized program is the JGP.

Item 7 – Human Services Center to provide an update on the operations of the facility

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

Lynne Valenti, Secretary of the Department of Social Services introduced Dr. Troy Jones, the new Administrator of the Human Services Center (HSC) in Yankton. Dr. Jones provided the Committee a handout on the operations of the facility ([HSC Update 2016](#)). Before discussing the handout, Dr. Jones gave the committee information about his background. He came from New Mexico and worked 20 years in a State Psychiatric Hospital, starting as a Clinical Psychologist and became President of the Medical Staff and shortly thereafter an Administrator/Director of an Outpatient Community Mental Health Center and then was a Deputy Hospital Administrator for the facility and for the last eight years was the Administrator.

Dr. Jones provided an overview of the programs offered by the HSC:

- Adult Acute Psychiatric Program
- Adult Psychiatric Rehabilitation and Recovery Program
- Adult Inpatient Chemical Dependency Program
- Intensive Treatment Unit
- Geriatric Program
- Adolescent Program

Dr. Jones stated the challenges being faced by the HSC are similar to the challenges being faced by other state psychiatric hospitals across the country. Some of the challenges include the recruitment and retention of employees, patient and employee safety, violence and aggression from patients, and regulatory compliance.

Dr. Jones stated the HSC has 57 vacancies and the staff turnover rate ranges from 19% to 21% over the last four years. He described a national shortage of professional staff and the low unemployment rate in South Dakota presents additional challenges in recruiting from a small labor pool. In addition, it takes a special caring individual to work with the patients at our hospital and those individuals can be hard to find. Dr. Jones explained that on October 26, 2016 the HSC will have a Rapid Hire Recruitment event. He explained the objective of this event is to offer qualified applicants employment immediately as opposed to the applicant having to wait for days for an offer. At the event, applicants are interviewed and if they do well at the interview, references are obtained, the applicant is fingerprinted, and drug tested. They would then be given a job offer contingent upon passing the reference checks, background checks, and drug testing. Dr. Jones hopes this event will be successful.

Dr. Jones stated the HSC's most valuable resource is the staff. It is one thing to get them into the facility; however, we must be able to retain staff once they are here. He stated Secretary Valenti ordered an engagement survey from the Bureau of Human Resources. He explained that 355 out of 589 eligible employees and contract staff responded to the survey. The survey had two purposes: 1) to measure the level of employee engagement overall and by work unit, and 2) to identify factors that are impacting employee engagement and their relative importance. The survey results indicated 19% of employees

were passionately engaged, 59% were partially engaged, and 22% were disengaged. Dr. Jones stated this percentage breakdown is comparable to other state employee groups that have been surveyed using this type of survey. He concluded that the HSC is developing an improvement plan in hope of keeping staff more engaged.

Representative Cronin asked for more information about the improvement plan. Dr. Jones explained the communication part of the improvement plan. The HSC is attempting to disseminate information to all levels of the organization. The administrative leadership team is making sure that information is put on the floor to all three shifts. Dr. Jones explained his weekly wrap up email that goes out to all staff so they know what is going on at the hospital.

Dr. Jones also stated that another category they have been looking at is safety and environment. We're using the term "Culture of Safety" which looks at risk factors which could lead to serious negative outcomes. We are looking for ways to reduce risk factors and ways of doing that are utilizing care assessments, replacing patient furniture, installing cameras, and clearer signage for visitors. We are also working with the staff to teach them the best safety practices and treatment approaches that they can use with this sometimes challenging population.

Item 8 – Department of Legislative Audit to discuss the FY16 GOAC Blue Book and determine if the Committee has an interest in reviewing further any particular funds

- [GOAC Other Fund Analysis FY2016 Doc.10](#)

Mr. Robert Christianson, Department of Legislative Audit, provided an overview of what kinds of reports are included in the GOAC Blue Book. Mr. Christianson provided the Committee a handout of funds which had a change to equity of \$500,000. From this list the Committee selected the following funds for review at the next meeting:

- Department of Game, Fish and Parks Fund
- Parks and Recreation Fund
- Custer State Park Bond Redemption Fund
- Custer State Park Improvement Fund
- Unemployment Compensation Fund
- Employer's Investment in South Dakota's Future Fund
- Board of Massage Therapy Fund

Update from the Department of Social Services on the Medicaid Management Information System (MMIS)

Secretary Lynne Valenti and Deputy Secretary Brenda Tidball-Zeltinger, Department of Social Services (DSS) provided an update on the new Medicaid Management Information System (MMIS) project (see [DSS MMIS Handout](#)).

Ms. Tidball-Zeltinger stated the project has been broken into four key phases. Phases one and two are focused on our provider enrollment system and our pharmacy point of sale system, claims processing, and data analytics. Phases one and two are scheduled to run from October 2015 through September 2017. She stated the provider enrollment and credentialing piece is live and operational today. The DSS issued a request for information in requesting a demonstration of alternative implementation approaches including third party software, third party administration, and evaluating state partnership approaches. The pharmacy point of sale module is expected to go live on May 1, 2017. The State has contracted with Lewin to develop and implement a data mining and analytics tool.

Ms. Tidball-Zeltinger stated that after successfully implementing the point of sale, data analytics tool, and finalizing a solution for provider enrollment, the State will focus on a solution to complete the core claims processing and full data warehouse implementation. These are phases three and four and will occur from April 2017 through April 2018.

A motion was made by Senator Heineman, and seconded by Representative Hunt to accept today's handouts as Committee documents. The motion passed on a voice vote.

A motion was made by Senator Heineman, and seconded by Representative Hunt to allow the Chair and Vice Chair to approve the Committee's final version of the 2016 annual report. The motion passed on a voice vote.

Future topics and next meeting date

The Committee discussed future topics and selected November 22, 2016 as the next meeting date. A motion was made by Representative Hunt to adjourn, seconded by Senator Heineman. The motion passed on a voice vote.