

MINUTES

Government Operations & Audit Committee

Senator Deb Peters, Chair
Representative Jean Hunhoff, Vice Chair



**Second Meeting, 2017 Interim
Tuesday, April 25, 2017**

**Room 362 – State Capitol
Pierre, South Dakota**

The second meeting of the 2017 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Peters at 9:00 a.m., April 25, 2017, in room 362, State Capitol Building, Pierre, South Dakota.

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

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

Representative Anderson moved, seconded by Representative Tieszen, the minutes of the March 28, 2017 meeting be approved ([Minutes 3-28-17 Doc.1](#)). Motion prevailed unanimously on a voice vote.

Item 1 – Department of Legislative Audit to review the Single Audit Report for the State of South Dakota for the fiscal year ended June 30, 2016

Mr. Bob Christianson, State Government Audit Manager for the Department of Legislative Audit (DLA) was present to address the Committee. The South Dakota Single Audit Report for FY2016 was issued on March 31, 2017 and can be found on DLA's website ([SD Single Audit FY2016](#)). Mr. Christianson explained the purpose of the Single Audit and the guidance used to perform the audit ([FY 2016 Single Audit Overview](#)). Senator Peters asked if the rules have changed on how programs are picked to be audited and asked if activities are still listed as allowed and unallowed. Mr. Christianson explained that the rules are the same and the guidance still does outline allowable costs.

Mr. Christianson discussed the planning process for the audits using the Uniform Guidance. He explained that Type A grants are large grants and must be tested one time every three years. The Medicaid program is tested every year. Type B programs are the smaller programs. Risk assessments are performed on programs not scheduled to be tested and any found to be high risk, up to 25% of low risk Type A grants, will be tested.

Representative Wismer asked what happens to the grants that fall below \$1.8 million and what percentages of those grants are audited. Mr. Christianson answered that they can be tested, but very few are, with the focus being on larger grants. Attachment 4, page 16, of his presentation identifies the programs and explains the procedure used to determine testing.

Senator Peters asked about reports issued by Independent Public Accountants (IPA's). Mr. Christianson explained that IPA's have education requirements that need to be met in order to perform the audit. DLA can reference the opinions of the IPA's and note it as such or review the work of the IPA's and reference it as their own opinion. Mr. Christianson explained that any findings from the reports issued by IPA's are reviewed by DLA and included in the Single Audit report. They are included in the review performed by the Committee.

Mr. Christianson reviewed the three sections of Comprehensive Annual Financial Report (CAFR) section. This includes the entire reporting entity of the State of South Dakota. Attachment 2, page 10 of his presentation provides a copy of the financial statements with notes on how to read them.

Mr. Christianson then reviewed the Single Audit and reviewed the various sections of the report. The Schedule of Expenditures of Federal Awards (SEFA) shows the total expenditures and the amounts passed through to component units. The total expenditures of federal awards was \$2.3 billion and can be found on page 216 of the Single Audit Report. He reviewed the Auditor's Reports on Internal Controls and Compliance. The State received a clean report for FY2016, meaning no significant deficiencies were found in the financial statements. Mr. Christianson then described the Compliance Report and pointed out that the State complied with the requirements for 2016. The Report on Internal Control Over Compliance identified one material weakness in internal controls.

Mr. Christianson and Mr. Flannery then went on to explain the audit findings. An index of the findings are on page 243 of the Single Audit Report.

Finding No. 2016-001: Department of Revenue (DOR) – the timing of the transfers of funds was incorrect. They needed to have procedures in place to ensure that transfers were performed correctly.

Finding No. 2016-002: Department of Transportation (DOT) – Quarterly reports for the National Infrastructure Investments TIGER Discretionary Grants were not reviewed by a supervisor.

Finding No. 2016-003: DOT – They did not have written procedures in place for the payment process and allowable costs. This was a new federal requirement. A subgroup within the State Board of Internal Controls is working on helping agencies become compliant with the requirements.

Finding No. 2016-004: Department of Education (DOE) – Inadequate subrecipient monitoring for the Twenty-First Century Community Learning Centers program. The project amounts range from \$25,000-\$100,000. The DOE does not agree with the finding. Senator Peters would like to learn more from DOE on this program.

Finding No. 2016-005: Department of Social Services (DSS) – Medicaid specialty surgical hospital claim methodology and rates are not clearly stated in the State Plan. Senator Peters would like a copy of the new State Plan showing this has been corrected.

Finding No. 2016-006: DSS – Medicaid target amounts were input incorrectly in the Medicaid Management Information System (MMIS) resulting in an underpayment of \$37,519.92 to hospitals in FY2016. Senator Peters would like to follow up with DSS ensuring the underpayment was paid out correctly. Mr. Flannery referenced the Corrective Action Plan on page 273 outlining their corrections. Senator Wismer asked if this was a random entry error, or was it due to inexperience of employees. Mr. Flannery believes that this is not an ongoing issue.

Finding No. 2016-007: DSS – The Human Services Center (HSC) was overpaid \$147,522.19 because of improper per diem rates. This was due to errors in the formulas used by DSS. Senator Wismer questioned whether this same error affected prior years.

Finding No. 2016-008: Department of Human Services (DHS) – Written procedures were not in place for payments and cost determinations.

Finding No. 2016-009: Department of Game, Fish and Parks (GF&P) – Written procedures were not in place for determining allowability of costs and cash management. GF&P did not concur, feeling their processes satisfied this requirement.

Finding No. 2016-010: GF&P – Controls not adequate to prevent duplication of cash drawdowns, resulting in questioned costs of \$230,748.90. Senator Nelson asked for more information about the three vouchers that were paid twice. Mr. Flannery stated that GF&P explained that the vouchers were paid from FY2015 by one employee, who then retired. The newly hired employee then drew down the same vouchers on FY2016. Senator Peters would like an explanation from Mr. Chris Peterson, GF&P's Finance Officer, on how it was corrected.

Finding No. 2016-011: GF&P – Fish & Wildlife Cluster lacked secondary review of their financial reports.

Finding No. 2016-012: GF&P – Funds from hunting and fishing licenses were diverted to State Radio lease payments. Representative Wismer asked when the finding was reported to the federal government and when they will issue a response. Mr. Flannery stated that this report was electronically submitted on March 31, 2017. A US Fish and Wildlife Services post-audit group will start working with GF&P directly to correct this. DLA will follow up on these findings again next year.

Finding No. 2016-013: Ellsworth Development Authority – Weakness in the preparation of the financial statements, specifically the deferred revenue. This was a year-end revenue calculation error.

Finding No. 2016-014: SD Housing Development Authority – Incorrect income was used for tenant resulting in an overpayment of \$737.

Finding No. 2016-015: Soybean Research & Promotion Council – The entity is not large enough to have competent accountants and adjustments were proposed. This is an ongoing finding.

Finding No. 2016-016: Soybean Research & Promotion Council – An error was found in a quarterly remittance. Mr. Christianson feels this is a one-time error.

Finding No. 2016-017: Corn Utilization Council – Lack of proper controls over financial reporting. The Council's view is it is not cost effective due to the size of the organization.

Finding No. 2016-018: Corn Utilization Council – Lack of proper segregation of duties for revenues and expenditures, due to the number of personnel.

Mr. Christianson noted that the last part of the Single Audit report lists the Corrective Action Plans for the above findings.

Item 2 – Brand Board to review the 2016 annual report

- [Brand Board Report 2016 Doc.3](#)
- [Letter to Brand Board Doc.4](#)

Ms. Debbie Trapp, the Director of the South Dakota Brand Board, was present to address the Committee and presented the Brand Board Report 2016. Director Trapp explained that the Brand board operates on funds generated from the brand registration program and the brand inspection program; it does not receive any general funds. They have a five member board that is appointed by the Governor. Director Trapp reviewed the Tables outlined in the Brand Board Report 2016. Brands are renewed every five years and the last renewal year was 2015.

Representative Hunhoff asked for a history of the sale and inspections of livestock. Director Trapp stated that CY2016 was above average, but remains consistent, allowing them to stay funded with the \$1.00 fee. Senator Sutton asked if there was a report showing the locations of where the livestock was reported strayed or stolen. Director Trapp stated that their monthly reports do indicate those locations and she can compile a report for the Committee.

Representative Wismer asked if having two DCI agents in their office has changed over the years. Director Trapp stated that has been consistent. Representative Wismer noticed an increase in activity and asked if that shows an increase in illegal activity, or increase in effectiveness of the investigators. Director Trapp explained that the cases can go on over multiple years. She doesn't see it as increase in theft.

Senator Nelson asked about livestock theft on reservations. Director Trapp advised that they are working closely with the tribes and encourage them to report thefts to the brand board. The Brand Board does not have jurisdiction on the reservations, but all brands are to be registered with the State.

Senator Cronin asked if fees are charged outside of the inspection area. Director Trapp explained that they are not charged a fee, but discussed open market areas including Mobridge, Chamberlain and Platte.

Item 3 – Department of Human Services, Division of Rehabilitation Services to discuss Federal Communication Commission Direct Video Calling

- [Letter to Human Services Doc.5](#)
- [DHS Presentation](#)

Mr. Eric Weiss, Director of the Division of Rehabilitation Services, was present to address the Committee and presented the DHS Presentation. Director Weiss described Telecommunication Relay Services (TRS) as a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls. TRS is available in all 50 states for both local and long distance calls. All telephone companies are reimbursed by either the State or Federal government. Director Weiss explained that State Law established in 1989, requires the State to provide a telephone service for people who are deaf or hard of hearing or have speech impediments at no cost to the user. At that same time, the state established rules regarding equipment needed to use TRS.

Director Weiss explained how TRS works and the available forms. Senator Peters asked what the cost was for each form of TRS. Director Weiss answered that the State pays a per-minute fee for the Traditional TRS and the Captioned Telephone Service. Representative Hunhoff asked if they knew how many citizens were using TRS. Director Weiss explained that they track the minutes used, rather than the number of users. Director Weiss further explained who pays for in-state, out-of-state and IP calls.

Director Weiss discussed the trends in South Dakota. Traditional TRS minutes are decreasing in South Dakota and captioned telephone minutes are decreasing as well. These may be viewed as old technology within the deaf community. Other technology such as texting or FaceTime have become more popular. Representative Hunhoff asked if the trends discussed were based on speculation or from conversations with the users. Director Weiss answered that these are based on conversations with users, as well as the fact that the minutes have decreased over the years. He explained that they compile data with the minutes used for a Legislative Report annually.

Director Weiss discussed the Telecommunication Equipment Distribution Program (TED), which provides devices to people who are deaf, hard of hearing or have speech impediments. They are currently contracted with Communication Service for the Deaf (CSD) out of Sioux Falls for the equipment. He explained that an increase in users over the years could be explained by new technology that became available in 2015. The TED program continues to serve a large number of people, with amplified phones being the most widely used device. Director Weiss also discussed the Telecommunication Adaptive Devices Program (TAD), which provides telecommunication devices to people with other disabilities.

Director Weiss explained that HB 1166 from the 2014 legislative session was a bill to permit the State to provide updated technologies through the TED and TAD programs. The Department of Human Services (DHS) began offering iPads and iPhones in CY2015. Financial needs tests are required for the equipment. To-date, 300 devices have been distributed, with a large demand right away in 2015.

Director Weiss also discussed other programs offered through the Division of Rehabilitation services. These programs are not as widely used, but they are increasing outreach efforts to get the word out. Senator Sutton asked what they are doing to get the word out. Director Weiss explained that they are constantly trying, such as by distributing materials to audiologists. They haven't identified other methods at this time.

Representative Wismer stated that the deaf community had expressed several unmet needs. She asked Director Weiss what problems he has identified. He answered that they would like equal access to communication, such as remote video interpreting. He feels that some have difficulty communicating with others within their communities.

Director Weiss discussed the expenditures and revenues of the TRS funds and related programs. TRS receives its revenue from a \$0.15 fee charged to every phone line each month. Revenues have been decreasing. One reason for this is the decrease in cell phone lines and the popularity of cell phones without monthly bills, which do not pay the fee. Senator Peters asked if South Dakota has tried to get fees from companies such as TracFone. Director Weiss answered that we have not at this time. Expenditures have increased over the years, mostly due to the increase in technologies used in the TED & TAD programs.

Director Weiss discussed the future. Traditional TRS is decreasing, but he doesn't feel it will go away. Federal costs have been increasing and there have been talks of shifting more costs to the State. Direct Video Calling is an initiative of the Federal Communications Commission (FCC). This program offers software to businesses that use American Sign Language (ASL). This would allow businesses to communicate with customers without using a TRS call. Director Weiss doesn't know how widely it would be used in South Dakota businesses, as the cost would shift to the businesses. Senator Peters was told as part of the FCC Board that the State of South Dakota utilizes Direct Video Calling. She asked why the State is not utilizing this service. Director Weiss stated that his understanding is that the cost would be to the State, and there is not a lot of information available on the service.

Item 4 – Department of Game, Fish and Parks to discuss the discontinued access to non-meandering waters in South Dakota

- [Letter to Game, Fish and Parks Doc.6](#)

Mr. Kelly Hepler, Secretary of the Department of Game, Fish and Parks (GF&P) and Mr. Tony Leif, were present to update the Committee. Secretary Hepler discussed the Duerre v. Hepler decision delivered on March 15, 2017. The Supreme Court decision reaffirmed that it is up to the South Dakota Legislature to determine the use of non-meandering water. He also discussed that nobody has superior rights to the water and that GF&P cannot facilitate access to waters that overlie private land. In response to this decision, GF&P has blocked access to boat launches on 25 bodies of water, and are no longer surveying or restocking these waters.

Representative Tieszen asked how critical of an issue this is. Director Hepler stated that this is very critical and the Special Session makes sense once they have the information and resolution needed. Senator Cronin asked about bodies of water where landowners agree to allow people to fish. Director Hepler discussed that GF&P wants to reduce the tension and come up with a solution that benefits most. Senator Cronin asked who was responsible for the safety of people who still use these lakes. Director Hepler stated that counties throughout the State have different views and it is everyone's responsibility for safety.

Representative Wismer stated she is aware of businesses losing reservations due to the bad publicity. She asked again whether there is a procedure in place for dealing with cooperative landowners.

Director Hepler says the decision handed down is not clear and they are not allowed to give an answer. Senator Nelson is concerned that they are shutting down public areas that shouldn't be. He advised GF&P to reevaluate what has been done.

Senator Peters suggests all with an opinion to be involved with the Summer Study for this issue. Director Hepler stated that GF&P is committed to finding a solution.

Item 5 – Auditor General to provide an update on the Mid Central Educational Cooperative Special Review Report and the fiscal year 2015 Single Audit – final report to be reviewed at a future GOAC meeting

Mr. Martin Guindon, Auditor General for the Department of Legislative Audit (DLA), was present to update the Committee. Mr. Guindon described the phases of conducting and reporting on the special review of Mid Central Educational Cooperative (MCEC) ([DLA Phases](#)). The first three steps are performed by DLA auditors and phase four is a cross-review by another Audit Manager. Step five includes additional work or changes that need to be made. Step six provides the first draft to the audited entity. Step seven resolves any concerns presented by the entity. Step eight is the delivery of the final draft report to the entity. Step nine is where the entity responds to the report. Step ten includes our report as well as the response of the entity.

DLA is issuing two reports concerning MCEC. They are currently at step nine, having delivered the final drafts on April 24, 2017. Mid Central's representatives have until May 19, 2017 to respond and then the final reports will be issued.

Mr. Guindon then reviewed background information leading up to the Special Review and the processes and actions taken ([DLA Process & Actions](#)). The GEAR UP grant was audited as part of the South Dakota Single Audit for FY2014 which resulted in three audit findings ([FY14 GEAR UP Findings](#)). Those findings were reviewed at the August 25, 2015 Government Operations and Audit Committee (GOAC) meeting ([8-25-15 Minutes](#)). The fire at the Westerhuis property occurred in September 2015. DLA has cooperated with the Attorney General's Division of Criminal Investigation surrounding the fire. DLA discussed its progress on the FY2015's State level audit findings with GOAC on October 30, 2015 and informed the Committee that they would be performing a special review to follow GEAR UP funds to MCEC and its related party organizations. GEAR UP findings were included in the Single Audit issued March 21, 2016 ([FY15 GEAR UP Findings](#)). The findings were reviewed by the GOAC on May 17, 2016 ([5-17-16 Minutes](#)).

Senator Peters asked for clarification on the South Dakota Codified Laws (SDCL's) granting the Auditor General authority to perform the special review. SDCL 4-11-4 grants the Auditor General the authority to look at records of any political subdivision if the Auditor General believes special reasons exist. SDCL 4-11-2.1 states that any non-profit organization that has received federal money through the State or a political subdivision needs to submit a single audit to DLA. It also gives the Auditor General the authority to look at the records of a non-profit organization related to the money appropriated by the State or political subdivision if the Auditor General believes special reasons exist. Senator Nelson asked if the organizations that receive money from the State are considered State entities. Mr. Guindon explained that they are not State entities.

Mr. Guindon continued explaining the process of conducting the Special Review and the Single Audit of MCEC for FY2015. DLA completed the field work, delivered the draft and then met with MCEC representatives on March 20, 2017. DLA gathered additional information and issued a revised final draft report on April 20, 2017. MCEC has committed to delivering their responses by May 19, 2017, allowing DLA to release the report. DLA's work does not address the performance or the effectiveness of any of the grants or programs that were audited.

Senator Peters recognizes that the final reports being issued after May 19, 2017 will be quite lengthy and technical. She suggests taking the time to review the reports before taking further action on the items. Mr. Guindon intends to email the report to the GOAC, as well as media and those who have requested a copy once the reports are issued.

Item 6 – Bureau of Human Resources to discuss:

- **The length of time needed between the employment application and the job offer**
- **Performance management indicators**
- [Letter to BHR Doc.7](#)
- [Hiring Process](#)
- [BHR Performance Indicators](#)

Ms. Laurie Gill, Commissioner for the Bureau of Human Resources (BHR) was present to address the Committee ([Hiring Process](#)). She discussed the various stages throughout the hiring process. The hiring timeline can take anywhere from 10 days to 40 days. Variables that impact the timeline include Civil Service job requirements, Veteran's or Disability Preference or drug or background tests. Commissioner Gill reviewed a chart showing the average number of days broken out between agencies, as well as the statewide and nationwide averages from April 1, 2016 to April 1, 2017. Senator Cronin asked for additional information for the turnover rate for the same time period.

Representative Hunhoff asked who BHR was using for drug testing. Commissioner Gill answered that each agency uses different entities. She explained the process that Department of Human Services goes through when performing drug testing reiterating the length of time required. Senator Peters commented that the State is losing potential employees to private businesses because the hiring process is taking so long. Commissioner Gill stated that BHR has groups looking at options for speeding up the process and has implemented Rapid Hire events as well as added surveys to the application process. They have been using the feedback received to modify their processes.

Representative Tieszen cautioned on trying to speed up the process too much, resulting in counterproductive hires. Senator Cronin requested a report showing the number of State employees that are within 5 years of retirement age. Senator Peters asked if all agencies followed the same hiring processes. Commissioner Gill explained that there is Centralized Human Resources employees that assists with the hiring process and they try to ensure consistency. Representative Steinhauer asked about the current talent retention practices, such as exit interviews. Commissioner Gill explained that there is an entire area within BHR that is working on this issue.

Commissioner Gill then discussed the performance management indicators for BHR ([BHR Performance Indicators](#)). She discussed the role of BHR within State government as well as services that BHR provides. Commissioner Gill reviewed several service areas as well as performance indicators for each area.

Commissioner Gill also outlined the State Health Plan. This is a self-funded plan that contracts with DAKOTACARE as a third-party administrator to pay the claims. Representative Anderson asked about increasing the deductible to reduce the costs. Commissioner Gill stated that due to the increased costs, they have increased the deductible for the lowest deductible plan by \$100.00. She also discussed Flexible Benefits and the ACES program.

Representative Hunhoff thanked Commissioner Gill for the information provided. She then advised Commissioner Gill to focus on performance indicators with measurable outcomes and provide 1-2 specific examples. The Committee discussed using a uniform format and suggested reviewing the reports submitted for last year.

Item 7 – Future meeting topics:

- **Juvenile Corrections Reports**

The next meeting is scheduled for June 6, 2017 in Sioux Falls.

A July 24, 2017 date was tentatively scheduled for the following meeting. The Juvenile Corrections Reports should be ready for discussion at this meeting.

Topics discussed for future meetings included: Review of the Mid Central Educational Cooperative (MCEC) reports, discussion on grants administered by the Department of Education and an update from the Attorney General on further information regarding GEAR UP and MCEC. Senator Nelson discussed an article in the Argus Leader regarding undocumented students at South Dakota universities and stated the Board of Regents has been unresponsive to inquiries. Senator Cronin would like an outline of the admissions process for universities. Representative Wismer advised that each university has their own international admissions policy.

A motion was made by Senator Cronin to adjourn, seconded by Senator Peters. The motion passed on a voice vote.

DISSENT TO THE APPROVAL OF THE GOVERNMENT OPERATIONS AND AUDIT COMMITTEE APRIL 25, 2017 MEETING MINUTES

Pursuant to Joint Legislative Rule 7-4, we, the undersigned Legislators, do hereby respectfully dissent from the approval of the minutes of the April 25, 2017 Government Operations and Audit Committee (GOAC) meeting.

Senator Nelson moves the GOAC April 25, 2017 official proposed minutes be corrected as follows:

Item 5: Change "Senator Nelson asked if the organizations that receive money from the State are considered State entities" to "Senator Nelson asserted that organizations that contract with State entities are by that act State entities, and questioned opinions that they are not."

Item 5, last paragraph:

Senator Nelson attempted to move two written motions. Senator Peters deferred Senator Nelson's motions to later in the committee meeting to agenda item 7 for future meeting topics.

Item 7: Senator Nelson disseminated the following written motions to the committee:

Senator Nelson moves that the Government Operations and Audit Committee hold comprehensive public hearings by September 2017 to inquire into the oversight by the South Dakota Department of Education of the GEAR-UP grant funds and review the fiscal affairs of all entities that received any of the GEAR-UP grant funds.

Senator Nelson moves that the Government Operations and Audit Committee request the Department of Legislative Audit to audit each grant received or administered by the Department of Education since 2010, excluding any grants for which the Department of Legislative Audit previously performed an audit.

Senator Peters stated no motions were allowed, that the committee does not do official motions and only allowed discussions of the moved topics. The contents of the motions were discussed by the committee for consideration as future agenda items.

Absent adoption of these omitted significant proposals and discussions, we believe the minutes are incomplete and therefore submit a Dissenting Report to be included with the minutes as per our right in Joint Legislative Rule 7-4.

Respectfully,
Senators Nelson, Tapio, Sutton and Representative Wismer