



SouthDakota

Legislative Research Council

MINUTES GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

Senator Larry Tidemann, Chair
Representative Dan Dryden, Vice Chair

Second Meeting
2014 Interim
June 18, 2014

Room 413
State Capitol Building
Pierre, South Dakota

The second meeting of the 2014 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Tidemann at 9:00 a.m., June 18, 2014, in LRC Room 413, State Capitol Building, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Heineman, Hunhoff, and Tidemann. Representatives Cronin, Dryden, Magstadt, and Wismer. Representative Mickelson was present through a conference call. Senator Curd arrived at 9:50 a.m. Senator Lucas was excused.

Staff members present were Mr. Martin Guindon, Auditor General, Mr. Bob Christianson and Mr. Tim Flannery, State Government Audit Managers for the Department of Legislative Audit (DLA).

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order.

Approval of Minutes

Representative Wismer moved to have the minutes of the May 7, 2014 meeting be amended to include the request by Representative Wismer and Senator Lucas that records required by the SDRC Inc. contract be provided to the State of South Dakota and terms of the U.S. Citizenship and Immigration Services (USCIS) contract be reviewed. Representative Cronin moved, seconded by Magstadt, the amended minutes of May 7, 2014 meeting be approved. Motion prevailed unanimously on a voice vote.

Item 1 – Department of Game, Fish and Parks (GFP) – To provide an update on the proceeds received and the expenditure of funds from the recent big horn sheep tag auction

Tony Leif, Wildlife Director for the GFP, addressed the Committee providing an update on the Big Horn Sheep herds in South Dakota. Mr. Leif described the process of creating a Big Horn Sheep hunting license auction. The funds from the license auction are tracked to insure they are dedicated to Big Horn Sheep management. A memorandum of understanding was created with the Midwest Association of Wild Sheep Foundation to develop a license allocation system through their organization. The first license was offered in 2013. Mr. Leif presented a video on Big Horn Sheep. Information was presented on the herd sizes and maintenance. Senator Hunhoff asked if any personnel costs are paid for from the proceeds received from the big horn sheep tag auction. Mr. Leif stated that no personnel costs are paid with these funds.

Senator Hunhoff asked about the involvement of the Oglala Sioux Tribe on this project. Mr. Leif stated that the Oglala Sioux tribe contributed an equal amount to the sheep transplant project. He also stated that the tribe controls the issuance of licenses for animals placed on tribal land. He stated that no state funds went to support the herd on tribal land and that 100% of Oglala Sioux Tribe costs went to their herd and 100% of the State costs went to our herd.

Senator Tidemann asked about the success rate of the herd. Tom Kirschenmann, Chief of Wildlife for the GFP, stated that of the fifteen ewes brought from Montana, all have produced lambs this year.

Item 2 – Department of Social Services (DSS) – To provide an update on the status of the new Medicaid Management Information System (MMIS)

Lynne Valenti, Department Secretary for the DSS, addressed the Committee. Ms. Valenti gave an update on the status of the MMIS upgrade process. She stated that the Centers for Medicare and Medicaid Services (CMS) is taking a new approach to state systems and cannot support the current go-forward plan.

Senator Hunhoff asked what impact this may have on providers and the public. Ms. Valenti stated that the current MMIS system is still operating and providers and the public are not impacted.

Senator Tidemann asked about the dollars that were still available from the original contract amount. Ms. Valenti stated that \$14.5 million remains from the original contract. She added that the new go-forward costs are not yet known and that DSS will explore options based on systems already in use in other states. She added that the Bureau of Information and Telecommunications will be assisting in finding technology that will work the best for South Dakota.

Senator Heineman asked why CMS wants to take a different approach with the MMIS upgrade. Ms. Valenti stated that CMS has indicated their desire to use functionality that has already been developed by other states and that this will help in reducing costs. She stated that DSS is waiting for direction from CMS on the new go-forward plan and that she will report back to the Committee as more is learned.

Representative Mickelson asked Ms. Valenti, the next time she reports to the Committee, to address the timing on the project, the money needed to complete the project and the status of the vendor relationship. Ms. Valenti agreed to provide the Committee this information.

Representative Wismer asked Ms. Valenti if this was good news from CMS; recognizing how big of a mess this project has been. Ms. Valenti stated that CMS understands the frustration with this project and supports our commitment to success on the new system.

Senator Tidemann asked Ms. Valenti to report back to the Committee before the Committee reports to the Executive Board in November 2014. Ms. Valenti agreed to do this.

Item 3 – Office of the State Treasurer – To provide the Committee an update on performance measures in their second year of implementation

Rich Sattgast, State Treasurer, provided a handout that discussed the performance measures implemented in December 2013. A budget book handout was presented with historical data included for reference purpose. A customer satisfaction survey was conducted to identify areas of deficiency, and an example handout was distributed.

Representative Magstadt asked if percentages would be a better indicator, as opposed to numbers, for comparing performance with other states. An accurate assessment of fluctuations in properties received versus properties paid is hard to document. Mr. Sattgast stated that it is difficult to put a percentage on something when we have property that dates back to the early 1900's. He added that South Dakota works to try and return funds, whereas some states look at these funds as strictly revenue.

Senator Curd asked for further explanation of operating expenses and how those expenses compare to cash receipts. Mr. Sattgast stated that there are large fluctuations in the amounts that come in and operating expenses do not track with cash receipts. Lee DeJabet, Unclaimed Property Administrator

added that expenses for the unclaimed property fund come out of that fund; they are not paid by the general fund. She also stated that advertising costs go up when they receive more unclaimed property and the State Treasurer's Office is required to advertise properties bi-annually.

Senator Heineman appreciated the work done by the State Treasurer's Office on performance measures. She asked if follow-up was done with survey participants regarding areas noted for improvement. Mr. Sattgast stated the surveys were anonymous so follow-up could not be done.

Item 4 – Department of Education (DOE) – To provide the Committee an update on the implementation of performance measures

Melody Schopp, Department Secretary for the DOE, presented information to the Committee about the performance indicators used by the DOE. Education Delivery Institute was contracted with for large scale reforms. The Delivery method is about asking: 1) What are we trying to do? 2) How are we going to do it? We want students college, career, and life ready. It has grown to a much bigger picture than graduating students and being done. Four overall goals of the DOE are:

- 1) Students need to enter 4th grade proficient or advanced in Reading.
- 2) Enter 9th grade proficient or advanced in Math.
- 3) Increase the academic success of Native American students.
- 4) Students graduate high school ready for postsecondary and the workforce.

DOE will be completing a capacity review with Education Delivery Institute.

Representative Magstadt applauded the DOE's efforts with performance measures and asked what the hardest part of the process was. Ms. Schopp stated that the hardest part was getting your goals correct. She asked staff 'what are we really trying to do' to determine what the most important activities were in their work. All staff was encouraged to connect their work to the main goals. Representative Magstadt asked how the Department shifted from counting dollars spent to performance indicators. Ms. Schopp stated that we looked at daily activities to ensure they aligned with the goals. We looked at things we could do to make sure students are ready when they graduate. We used tools that we knew worked, based on the research, and tried them out in South Dakota. RTI (response to intervention) works if it is implemented with fidelity and done at the right stages. We also sat down and thought through what is in the toolbox of things that high school students need when they leave school. Geography is also an issue that we have to be aware of when designing these programs.

Senator Hunhoff asked how staff was engaged in this culture shift to performance indicators. Ms. Schopp said there was six months of simply reviewing plans. The message to the staff is that we have to keep the focus on the goals. Senator Hunhoff asked if it was helpful to hire a consultant. Ms. Schopp stated that it was helpful and that the Education Delivery Institute has a goal to put into place routines and processes so that you no longer need their services. It was very important to have someone help walk us through the initial process.

Senator Tidemann asked how buy-in was obtained from the school districts. Ms. Schopp stated that many of the things that we are doing are optional for the school districts. Many of the options are great things that just make sense, especially for the high school students. We are customizing and giving as much support in-house as possible in the districts. We need to put some real thought behind where we go with our Native American issue. The most important part is staying focused on the goals.

Senator Heineman asked how professional development for the teachers will work under this new program. Ms. Schopp stated that we had over 5,000 teachers take advantage of training for common core standards. The union is partnering with us to help this move forward with the work to implement

the teacher evaluation standards. We have gone from requiring statewide compliance to finding what can be done to ensure meaningful implementation.

Agenda Amendment

Item 5 – Subpoena

Representative Wismer requested that the current meeting agenda be amended to consider preparing a subpoena to the South Dakota Regional Center Inc. (SDRC Inc.) and Yoop Bollen. Chair Tidemann allowed the amendment to the agenda and called for Committee discussion. Chair Tidemann asked Representative Wismer to explain what information would be requested in the subpoena and the possible results that could come forward from issuing a subpoena. Representative Wismer stated that the subpoena would request records that the Committee has not yet had access to from SDRC Inc. and any preceding or succeeding entities that were involved with the EB-5 program administration. She stated that the subpoena would also require Joop Bollen to appear before the Committee. Representative Wismer wanted affirmation that South Dakota was in good standing with the USCIS contract, information on how much money foreign investors have lost, whether proper balances were in the indemnification funds called for in the SDRC Inc. contract and information on required reporting responsibilities.

Mr. Guindon, Auditor General stated that the two indemnification funds and the expense funds were included in the audit. As of June 30, 2013, it was determined that the amounts in the accounts were in line with the terms of the contract.

Representative Magstadt inquired about the authority of the committee to issue a subpoena. Chair Tidemann stated that the Attorney General said the Committee has the legal authority to issue a subpoena.

Representative Cronin requested that Commissioner Costello appear at the next meeting and attempt to answer the remaining Committee questions. Representative Cronin was concerned about calling in a private entity or citizen and whether this was outside the authority of the Committee. He stated that he would like to wait for the results of the investigation by the U.S. Attorney. Chair Tidemann asked that Representative Wismer prepare questions for Commissioner Costello and send them to him prior to the next meeting so he has time to prepare answers for the Committee.

Before the next meeting, Senator Tidemann will communicate with the Attorney General on the issuance of a subpoena and what specific information may be requested in a subpoena. Senator Tidemann will ask Commissioner Costello to attend the next Committee meeting.

Item 6 – Bureau of Human Resources (BHR) – To discuss recent changes to the State Health Plan and the impact those changes will have on retirees

Laurie Gill, Commissioner for the BHR, addressed the Committee and introduced Tom Steckel, Director of Benefits. Ms. Gill presented information to the Committee concerning the financial situation of the health plan, changes that have affected retirees, and the Tier 1 program. She stated that as of the 2013 session there was a \$21.3 million shortfall in the State Health Plan (FY12 shortfall and projected shortfall in FY13). Due to the increase in high cost claims (\$50,000+ in a claim year), as discussed during the 2014 session, we anticipate a \$23.3 million shortfall by the end of FY14. FY15 is projected to have a \$21.6 million shortfall. \$5.8 million in plan design changes were proposed to bring the shortfall down to \$17.9 million. FY15 changes include deductible changes from \$500 to \$750 and \$1,000 to \$1,250, increased out of pocket maximum, prescription co-pay, eliminated the pre-age 65 subsidy, and the elimination of the subsidy for the COBRA program. Impact of Affordable Care Act - removed out of pocket lifetime maximum (previously \$2 million). Several claimants have hit more than \$5 million since the removal of the cap. One premature birth can quickly reach \$1 million. In network charges now count toward the out-of-pocket maximums, reducing state savings on the program. The

State Health Plan is slightly below budget and we hope to finish the year at, or below budget. The last month of the plan year is typically the month when claims are the highest. Claims increased by 19% from 2010-2013. South Dakota has been trending at a higher rate than the national average.

Senator Tidemann inquired about how retirees were informed of the rate changes and the timing for the retirees to make enrollment decisions. Mr. Steckel stated that open enrollment for the Affordable Care Act ended March 31, 2014 and that the initial communication about rate increases was sent April 11, 2014. He added that the timing was not well aligned with the open enrollment of the Affordable Care Act. Ms. Gill mentioned there are two phases to the subsidy removal. Half of the subsidy was removed July 1, 2014 and the other half will be removed after the next open enrollment period for the Affordable Care Act.

Senator Tidemann asked if the HSA was a good alternative for pre-age 65 retirees. Ms. Gill stated that the HSA is available to any eligible participant of a high deductible plan and that they are planning to provide more education on the HSA plan.

Mr. Steckel provided an overview of the pre-age 65 health care benefits for FY15, and the newly available Health Savings Accounts (HSA).

Representative Wismer asked if high costs claimants were monitored. Ms. Gill stated that high cost claimants are tracked very closely to manage the claims and minimize costs.

Senator Tidemann asked how many plan members were impacted by these changes. Ms. Gill stated that there are 570 pre-age 65 retirees, 155 spouses, and 76 other dependents affected by the subsidy changes.

Senator Hunhoff asked if consultants were engaged to help manage the plan. Ms. Gill stated that there are consultants used for plan design and actuarial services. She added that a new consultant was hired last July, and she is hopeful that outcomes will be better.

Senator Heineman asked what the subsidy amount was. Ms. Gill stated that the difference between the contributions and the claims is the amount of pre-age 65 subsidy. In FY14, the difference was \$2.7 million.

Jason Dilges, Commissioner, Bureau of Finance and Management, presented information to the Committee concerning the state's other post-employment benefits (OPEB) for pre-age 65 retirees in the health plan. He explained that the OPEB liability in the state's FY13 Comprehensive Annual Financial Report was \$68 million. Representative Dryden asked if there were any other requirements associated with the \$68 million liability. Mr. Dilges stated there were no other requirements other than continuing to report the liability on the balance sheet until it is paid off. He stated the FY13 implicit rate subsidy, per person in the pre-age 65 participant group, was \$2,652.65. Senator Heineman asked why this continues to be a liability. Mr. Dilges explained when revenues from retirees does not equal the cost associated with retirees health care, we are left with a liability. He added that the changes to the pre-age 65 premium rates is an attempt to charge retirees an amount that is closer to the actual costs associated with the pre-age 65 participant group, thus reducing the liability over time.

Senator Tidemann asked how long this subsidy has gone on. Mr. Dilges explained the state has been providing benefits to retirees for a long time, while the amount of subsidization has changed over time. The recognition of this subsidy on the financial statements has been reviewed more in the last 5 years.

Ms. Gill provided the Committee an overview of the Tier 1 (specific medical services) changes. The following are the locations for Tier 1 services:

- Avera – Renal care
- Sanford – Cardiac care, orthopedic care, bariatric care

- Sioux Falls Specialty Hospital – Gastroenterology care
*Modifications have occurred with colonoscopies which have been removed from Tier 1. Only diagnostic colonoscopies have remained a Tier 1 service.

*Medically complex situations have been given individual leeway for continuity of care.

Senator Hunhoff asked how long the Tier 1 contracts were for and why the Tier 1 rates were not opened up to other facilities throughout the state. Ms. Gill stated that the contracts were three year contracts. Jill Kruger, Assistant Benefits Director, stated that there are specific cases where it does not make sense for a patient to travel. She added that aftercare can be provided at other facilities when it is not feasible to use a Tier 1 facility. Ms. Gill explained that members have a choice of what benefit level they receive by going to different facilities. They can choose to remain in their local community and receive a different benefit level for their care. She added, there is a gap in Western South Dakota and we are working with providers on that side of the state to become Tier 1 providers. We are working on what we can do in West River to get the services in place.

Senators Hunhoff and Curd and Representatives Magstadt and Wismer were concerned about the Tier 1 services being offered in specific locations in the state and the appearance that the Tier 1 changes were based solely on financial reasons.

Ms. Gill concluded the goal is to continue to offer a stable health plan in the future. She added that they will continue to look at the data regarding Tier 1 services.

Item 7 – Follow-up items from prior meetings:

Law Enforcement Officers Training Fund

Representative Dryden will bring the ideas to fix the deficit in the fund to the Committee meeting in July. There are both short and long term proposals.

Item 8 – Committee discussion of future topics and the next meeting date

- GOED corrective actions relating to the audit report, internal control review report and the agreed-upon procedures engagement
- Attorney General concerning subpoena to Joop Bollen regarding EB5 program
- The Building South Dakota Fund – annual reports
- Criminal Justice report – parole system

Future Meeting Date

The next meeting will be held July 29, 2014 at 9:00 a.m.

Senator Curd moved to adjourn the meeting at 3:30p.m., seconded by Representative Magstadt, and carried by a voice vote.

This meeting is being held in a physically accessible location. Any individual needing assistance, pursuant to the Americans with Disabilities Act, should contact the Legislative Research Council (605-773-3251) in advance of the meeting to make further arrangements.

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