



2004 Interim  
September 13 & 14

STAR Academy  
Custer, South Dakota

**Monday, September 13, 2004**

The sixth meeting of the Government Operations and Audit Committee for the 2004 interim was called to order by Chair Senator Marguerite Kleven at 9:00 a.m. (MST), September 13, 2004, at the STAR Academy, Custer, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Arnold Brown, J.P. Duniphan, Marguerite Kleven, John Koskan, and Garry Moore; and Representatives Rebekah Craddock, Ted Klaudt, and Gerald Lange. Representatives Margaret Gillespie and Claire Konold were excused.

Staff members present included Annie Mehlhaff, Principal Fiscal Analyst, and Reed Holwegner, Chief Fiscal Analyst.

(**NOTE:** For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Minutes.)

**Remarks from the Chair**

**Chair Marguerite Kleven** distributed a letter from Dakota State University which included requested information on the Technical Outreach Services Division at the university. Chair Kleven asked that this item be added to tomorrow's agenda (**Document #5**).

The chair also asked that the Juvenile Monitor's report of June 30, 2004, be added to tomorrow's agenda.

The committee would like to publicly thank Representative Jim Lintz, his wife Brenda, and Representative Klaudt for the beautiful setting and delicious food at the gathering held at the Lintz ranch the previous evening. The committee also would like to thank Tom Dravland, Department Secretary of Public Safety, and Fire Chief Gary Shepherd from the Rapid City Fire Department and his staff for the demonstration of the homeland security and other emergency equipment.

**Approval of Minutes**

**REPRESENTATIVE KLAUDT MOVED, SECONDED BY SENATOR GARRY MOORE, THAT THE MINUTES OF THE JUNE 22, 2004, MEETING BE APPROVED. The motion prevailed unanimously on a voice vote.**

## Review of Legislative Proposals

**Mr. Reed Holwegner**, Chief Fiscal Analyst, LRC, presented two legislative proposals for the upcoming session. The draft entitled "Blue Gill" requires the Bureau of Finance and Management to report the balances of indirect cost pools in all federal fund accounts in state government. The draft should be changed to include a report not only to the Appropriations Committee but also to the Government Operations and Audit Committee (**Document #1**).

There was much discussion about whether the bill needs an emergency clause or if the "90 day" rule applies. More discussion on this will be held at the next meeting.

The second draft, entitled "Yellow Perch," deals with the management of the indirect cost pools. The draft legislation would require the Bureau of Finance and Management to reimburse the funds that incurred the indirect cost expenditures. The committee did not recommend changes to this draft (**Document #2**).

Mr. Holwegner explained that these drafts could complement the July 2003 letter of intent sent to the Bureau of Finance and Management regarding condition statements (**Letter of Intent—Document #3**). The committee talked about the necessity of condition statements for each fund that is utilized to finance state government. The committee directed staff to prepare draft legislation that requires the development and provision of condition statements. This draft will be considered at the October meeting.

The committee wishes to have an in-depth discussion on fund condition statements. **Mr. Jason Dilges**, Commissioner of the Bureau of Finance and Management, will be invited to the October meeting to discuss the condition statements and the distribution thereof.

Mr. Holwegner distributed documents detailing requests for condition statements in the past (**Document #4**).

## Juvenile Corrections Update

**Mr. Doug Herrmann**, Director of Juvenile Services, Department of Corrections (DOC), spoke on the works of the Council of Juvenile Services, which has been meeting for about eighteen months. In order to comply with the Juvenile Delinquency Prevention Act (JDPA), a state must deinstitutionalize status offenders (CHINS) and detain juveniles separately from adults.

Mr. Herrmann gave an update on the Performance Based Standards Project. The department voluntarily joined the project which compares our juvenile facility with other facilities by looking at outcome measures on many aspects of juvenile corrections, including physical confinement conditions and reentry programs.

The Reentry project was the third item Mr. Herrmann addressed. South Dakota got a \$2 million grant from the Department of Justice. The Reentry project focuses on establishing processes and procedures to better prepare youth for reentry after completion of a corrections

program. The areas the money will go to are the Sisseton area, Rapid City, and Sioux Falls because 60 percent of the juveniles in corrections are from these areas.

Mr. Herrmann also briefed the committee on the Department of Corrections' efforts in complying with the Indian Child Welfare Act (ICWA). They have established focus groups to review case files to ensure complete compliance.

**Mr. Brad Bergeson** took over as superintendent at the State Treatment and Rehabilitation (STAR) Academy in July. He moved here from Texas and has 23 years experience in various human services and correctional facilities, including seven years with the Texas Youth Commission, that state's juvenile corrections agency for delinquent youth. Mr. Bergeson is also a Licensed Chemical Dependency Counselor, a Certified Master Trainer, and a Licensed Professional Counselor candidate and has a BA in Social Work and a Masters in Educational Psychology from Texas Tech University.

Mr. Bergeson gave an overview of the programs at the STAR Academy and answered a variety of questions from committee members (**Document #6**).

Mr. Bergeson stated that the revocation rate for juvenile corrections is 27%-33%.

### **Juvenile Intensive Court Service Officer's Role**

**Mr. Jerry Hofer**, Juvenile Intensive Court Services Officer, Unified Judicial System, said that intensive probation is different than regular probation in that intensive is for juveniles who have already gone through regular probation and were not successful. The intensive probation is for juveniles who are destined for placement in the Department of Corrections and are given one last chance. The first period of the intensive probation program is house arrest. The officer will check on the juvenile 4 or 5 times per day. Some jurisdictions also use electronic monitoring. It costs approximately \$2.42/day and the court services officer usually uses it for 30 days. The costs are reimbursed to the county. The second phase begins after the first month. This phase lasts four months and the officer continues to see the juvenile 4 or 5 times a day. After the fifth month the officer knows the kids very well as well as their families. Throughout the last month, the officer visits the juvenile approximately 2-3 times per week to start the transition back to the community. The entire program is 6 months.

The Court Services Officers serve many functions: bill collectors; counselor; enforcer, etc. Each officer has a caseload of approximately ten kids.

Mr. Hofer ended his presentation by stating: "Intensive probation WORKS – because you are seeing the kids; you are going into the home; you are seeing the family; accountability; communications; relationships with the kids."

### **Juvenile Corrections Agent's Role**

**Mr. Dennis Wheeler**, Juvenile Corrections Agent, DOC, from Mobridge is responsible for one-fourth of the state of South Dakota. A Juvenile Corrections Agent works for the Department of Corrections, while an Intensive Probation Officer works for the court for that jurisdiction.

When a case is assigned to the Corrections Agent, the agent has seven days to gather information and do an assessment. The agent uses high school records, medical records, mental health counselor notes, birth certificates, social security numbers, etc., to do the assessment. Ninety percent of Mr. Wheeler's caseload has only a mother in the home. In the five years he has been in this job, he has seen only one two-parent family.

The committee recessed for lunch and reconvened in the afternoon.

Public testimony began with **LRC Staff Annie Mehlhaff** entering a letter from **Ms. Cynthia Ludwig-Raybeck** into the record. Ms. Ludwig-Raybeck wrote:

"I received the correspondence concerning the upcoming committee meeting being held at the Custer Juvenile Correctional Facility on September 13 and 14, 2004. Since I will not be able to attend in person, I wish to take this opportunity to write you in regard to my son, (son's name).

(Son's name) has been in trouble off and on for about 18+ months. (Son's name) also has a family that loves and cares for him deeply. However, nothing we could say or do mattered to him at all. We were greatly concerned for the day-to-day choices he was making, but also for what his future might hold if he continued making such destructive choices. I seriously feared he might not have a future at all.

(Son's name) has been in the Youth Challenge Center since June 22, 2004. Thus far, the Youth Challenge Program has offered my son a chance he would not have had otherwise. (Son's name) is learning to be more responsible and has developed some positive thinking and behavior skills. The letters he writes to me show care, concern and interest for his family. In the aspect of education, he is making good progress. (Son's name) is attentive to his school requirements and should meet the needed credits through 9<sup>th</sup> grade (he was failing school before entering the program). There is also an excitement in this voice when he calls and tells me about his time out on "timber" crew. It is clear (son's name) feels good about himself and what he is accomplishing.

The Youth Challenge Program is making a difference in the life of (son's name). I was skeptical when I first learned he would be entering a state run program. I thought it would lack expertise and any real commitment needed to help my son.

I can say that as of this date, anyone associated with the program that I have had contact with has been professional, knowledgeable and has communicated a desire to keep my son physically safe, to provide emotional (and spiritual) support and teach all necessary life skills for his success while in the program. Providing then an Aftercare Program to ensure his continued success once released.

This program can be considered an answer to prayer.

Sincerely,  
Cynthia M. Ludwig-Raybeck

**Ms. Deb Phillips**, representing herself and the Parents Who Care Coalition, testified that she has received complaints regarding the juvenile corrections agents. Specifically, when a child has completed the requirements of the DOC program, the JCA sometimes recommends the child not be returned to the home. The parents want to know why.

**Ms. Jeanette Mangelsen**, Piedmont, said that she was thankful that the DOC is here for her relative. The boy is doing great and she gave praise to the department.

**REPRESENTATIVE KLAUDT MOVED, SECONDED BY SENATOR DUNIPHAN, THAT THE COMMITTEE GO INTO EXECUTIVE SESSION TO HEAR TESTIMONY REGARDING SPECIFIC PERSONNEL ISSUES. The motion prevailed on a voice vote.**

The committee went into Executive Session.

**SENATOR BROWN MOVED, SECONDED BY SENATOR DUNIPHAN, THAT THE COMMITTEE COME OUT OF EXECUTIVE SESSION. The motion prevailed on a voice vote.**

The committee came out of Executive Session.

### **Foster Care Program**

**Mr. Wally Steele**, Foster Care Program Director, Department of Corrections, told the committee that the foster care program currently has 28 parents who provide care for 40 to 50 kids. The program started in 1998. This year eleven kids will be graduating from high school and four kids will enter college. All of the foster parents are licensed through the Department of Social Services. The department provides in-home counseling for any foster family that requests it. College funding is available through the federal PELL grant program and Social Services. Mr. Steele also helps locate private scholarships for the foster kids. The statistics for the DOC Foster Program are very encouraging--after the child has either graduated or received their GED, they have never reoffended. There are 31 homes under contract in the foster program and they receive \$33/day for each child up to a maximum of 6 children per home.

### **Evergreen High School—STAR Academy**

**Ms. Cynthia Tjaden**, Education Director of Evergreen High School, STAR Academy, Department of Corrections, explained that 571 students went through the high school this year. Thirteen of the students graduated since January. The No Child Left Behind requirements do not apply to Evergreen High School because they are not considered a Title I program. They did, however, check with Washington, D.C., to determine whether those requirements applied to them. The Performance Based Standards project plays a key role in assessing the education component of the STAR Academy. The committee asked whether this high school had access to the statewide student tracking system and wondered if that would help in the task of transferring transcripts of the many children they track. Ms. Tjaden said she would check into whether they could get on the student tracking system.

**SENATOR DUNIPHAN MOVED, SECONDED BY REPRESENTATIVE KLAUDT, THAT THE COMMITTEE RECESS UNTIL TOMORROW MORNING. The motion prevailed unanimously on a voice vote.**

**Tuesday, September 14, 2004**

The committee reconvened on Tuesday morning at the East Campus (ExCEL and QuEST programs).

### **Remarks from the Department of Corrections**

Mr. Herrmann wanted to clarify that the courts always have the authority to pull a child out of a DOC facility if they feel there is better treatment or if the child should be returned to the parents.

Mr. Herrmann welcomed the committee to review the department because he feels that different forms of review are positive for the Academy. Reviews from the Department of Corrections, the Unified Judicial System, the Department of Social Services, the Corrections Commission, and from the Government Operations and Audit Committee all make for a better corrections system.

The East campus for girls is licensed by the Department of Social Services. The QuEST program is long-term, usually 6-9 months, and serves those girls who have significant chemical dependency and sexual abuse issues. The ExCEL program is short term, usually 4 months, and serves those female juveniles who have been in trouble but who may not have chemical dependency issues. Seventy to eighty percent of the juveniles involved with the Department of Corrections have chemical/drug dependency issues. A Child in Need of Supervision (CHINS) can come to either program. There are between eighteen and twenty-four girls in programs at all times.

When a child is committed to the Department of Corrections, they are committed until the age of 21. Most stay only until they are 19, but some of the sex offenders require treatment until they are 21.

Workforce turnover remains an issue. Five years ago turnover was approximately 50%. After the Legislature approved a raise for the DOC workers, the turnover dropped significantly, but it is still 25% and Mr. Herrmann thinks that is too high and is hoping to decrease it.

Mr. Herrmann continued to brief the committee on the medical services provided by the Department of Health (DOH). The DOH contracts with local physicians and physicians assistants. DOH employs their own nurses on both campuses and coordinates dentistry services. The Department of Human Services (DHS) provides services for mental health. Mr. Herrmann has observed other states that do not have a good working relationship with their mental health departments. He feels very fortunate to have the relationship with South Dakota's DHS Division of Mental Health. Approximately four months ago, there were problems with kids arriving without their medications or their prescriptions, which resulted in a

lapse of medication. The DOC has corrected that problem through improving communication channels.

The Department of Corrections has a new visitation policy for juveniles that now allows a juvenile to mail three letters to family members, and the department will pay for the stamp. They can send additional letters, but they must pay for the postage. A ten minute weekly phone call is also available for each child. DOC is flexible with the calling times and days of the week because not all parents are available at all times. On-campus visits are available once every week for the girls and once every two weeks for the boys, with the exception of the Brady Academy program where the boys cannot receive visitors during the first thirty days. The department has also increased the number and length of home furloughs for the girls.

The cost of the ExCEL and QuEST programs for Girls is approximately \$139/day with education (in-state private programs are \$90-\$120 a day plus an additional \$46/school day for education) private programs are \$190-\$220 including \$45/day for education. The programs for the boys are approximately \$95-\$110/day, which includes education.

**Senator Koskan** asked Mr. Herrmann if the department could fit more kids into the foster program since it has enjoyed relatively good success. Mr. Herrmann responded that the foster program just isn't right for some kids. Some are too problematic or may have chronic health issues. These kids do better at the Living Center, at the West Farm, or in the IMPACT program (independent living). Currently there are 80 kids in secondary placement.

**Mr. Doug Weber**, Acting Secretary, Department of Corrections, was asked to determine how many South Dakota juveniles eventually are sentenced to the SD Penitentiary.

Mr. Herrmann also gave an update of the Plankinton situation. Governor Rounds, the Department of Corrections, and the Plankinton group met in August after the Cornell group announced they would not open the juvenile facility in Plankinton. The Governor wanted to make it clear that the lease of the facility is still valid and he will continue to work with the Plankinton group. Cornell has been very public with the media and with the Department of Corrections when they apologized for their actions. Mr. Herrmann feels the Plankinton group will make another attempt to open a juvenile facility there.

**Representative Ted Klaudt** asked if the Department saw a need for a state-run juvenile prison. Mr. Herrmann replied that there are not a large number of kids requiring that level of incarceration. The state currently uses ten detention beds every day of the year. He does not like to use them because the services are limited and these kids need programming. Currently, the Department of Corrections has options to get an unruly child into a prison setting, but he will explore the benefits of doing that versus trying an existing DOC program.

**REPRESENTATIVE KLAUDT MOVED, SECONDED BY SENATOR DUNIPHAN, THAT THE COMMITTEE GO INTO EXECUTIVE SESSION FOR THE PURPOSES OF DISCUSSING PERSONNEL MATTERS. The motion prevailed unanimously on a voice vote.**

The committee went into Executive Session.

**SENATOR BROWN MOVED, SECONDED BY SENATOR DUNIPHAN THAT THE COMMITTEE COME OUT OF EXECUTIVE SESSION. The motion prevailed unanimously on a voice vote.**

The committee came out of Executive Session.

### **Dakota State University Research Activities**

**Senator Garry Moore** stated that he has concerns regarding the duplication of research activities in the Governor's Office of Economic Development and Dakota State University. Senator Moore requests that this committee review each university's research mission and compare them to that of the Governor's office.

Representative Klaudt requested additional information from Mr. Herrmann on what other states do for foster care, what expenses are incurred by the parent and how that compares to the \$33 reimbursement.

Senator Kleven requested an outline of the difference between a CHIN and a delinquent. The document should include definitions as well as Corrections programming options for each.

**REPRESENTATIVE CRADDUCK MOVED, SECONDED BY SENATOR BROWN, THAT THE COMMITTEE GO INTO EXECUTIVE SESSION FOR THE PURPOSES OF DISCUSSING THE JUVENILE MONITOR'S REPORT. The motion prevailed unanimously on a voice vote.**

The committee went into Executive Session.

**REPRESENTATIVE KLAUDT MOVED, SECONDED BY REPRESENTATIVE CRADDUCK, THAT THE COMMITTEE COME OUT OF EXECUTIVE SESSION. The motion prevailed unanimously on a voice vote.**

The committee came out of Executive Session at 1:50 p.m.

**SENATOR BROWN MOVED, SECONDED BY SENATOR DUNIPHAN, THAT THE COMMITTEE ACCEPT THE REPORT FROM THE JUVENILE MONITOR, JOHN ELLIS, FOR THE FIRST SIX MONTHS, JANUARY THROUGH JUNE 2004. The motion prevailed unanimously on a voice vote.**

It was noted that the committee was very satisfied with the report. The clarity and thoroughness in describing the activities of the Juvenile Monitor in his assigned tasks was highlighted. The general consensus was that it was an excellent report.

Chair Kleven asked that the minutes include the committee's appreciation to The Department of Corrections' staff and employees in hosting the September meeting of the Government Operations and Audit Committee.

### **Next Meeting Date and Adjournment**

The next meeting date was set for Monday, October 25, 2004, beginning at 8:00 a.m.

**SENATOR DUNIPHAN MOVED, SECONDED BY SENATOR BROWN, THAT THE COMMITTEE BE ADJOURNED. The motion prevailed on unanimously on a voice vote.**

The committee adjourned at 2:10 p.m.



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