

MINUTES

Legislative Task Force on Incarceration Construction Fund



Senator Michael Diedrich, Chair
Representative Greg Jamison, Vice Chair

Second Meeting, 2022 Interim
Wednesday, August 31, 2022

Room 414 – State Capitol
Pierre, South Dakota

The second meeting of the Legislative Task Force on Incarceration Construction Fund was called to order by Senator Michael Diedrich at 10:00 a.m. (CT) via teleconference and in Room 414 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering roll call: Senators Michael Diedrich (Chair), Brock Greenfield (remote), Jean Hunhoff, David Johnson, Ryan Maher, and John Wiik (remote); Representatives Hugh Bartels, Linda Duba, Tim Goodwin, Greg Jamison (Vice Chair), Chris Karr (remote), Will Mortenson, and Lynn Schneider; and Public Members Jason Lillich (remote), Bobbi Rank, Isaac Swan, Kevin Thom, Kellie Wasko, Nick Wendell, and Mike Wiese. Senator Troy Heinert and Representative Peri Pourier were excused.

Staff members present included Joey Knofczynski, Fiscal Analyst, and Rachael Person, Administrative Specialist.

NOTE: *For the purpose of continuity, the following minutes are not necessarily in chronological order. All referenced documents distributed at the meeting are hyperlinked to the document on the Legislative Research Council website. This meeting was live streamed. The archived live stream is available at sdlegislature.gov.*

Approval of Minutes

Senator Maher moved, seconded by Representative Mortenson, to approve the minutes of the July 26, 2022, meeting of the Legislative Task Force on Incarceration Construction Fund. The motion prevailed on a voice vote.

Presentation on the Study Committee on Regional Jails and State Correctional Plans

Senator Jim Stalzer, District 11, Chair, gave an update on the work the Study Committee on Regional Jails and State Correctional Plans has been doing over the interim. Senator Stalzer said county commissioners and sheriff's offices have provided most of the testimony. The Committee has toured county jails in Brown, Minnehaha, Clay, and Vermillion Counties.

Senator Stalzer said the strategy currently being utilized by most state jails involves a county building the jail and then contracting with other counties to house their prisoners. Senator Stalzer highlighted this program works well for most county commissioners and sheriffs but creates issues with costs, especially raising the funds to build new jails because local voters tend not to vote for bonding. And, as jails are paid for by property taxes, most counties want just the county with the jail to pay for it. Representative Jamison spoke about these issues with respect to the facility in Minnehaha County.

Representative Schneider asked about the daily rate variance and how it works in the current contracting model between counties. Senator Stalzer said rates run between \$68 - \$98 per day and are set by factors such as operating costs and how much bonding authority still needs to be paid off. Senator Stalzer added some counties are not looking for inmates, while others are openly looking for inmates to fill their jails to help pay off their bonds.

Representative Bartels added this can be a competitive process, with some jails losing contracts for prisoners for a while after raising their daily rate. However, Representative Bartels said the real expense comes from transporting prisoners. The contracts generally come back after some time.

Representative Bartels said the Study Committee on Regional Jails and State Correctional Plans was asked by many county commissioners if another path for funding existed. Representative Bartels said over the last few years, multiple bills have been introduced to help counties with their revenue, but the bills did not make it through the Legislature.

Presentation on the Study Committee on Juvenile Justice

Senator Erin Tobin, District 21, Vice Chair, provided an update on the Study Committee on Juvenile Justice. Senator Tobin said the Committee has met together twice and has also split into three working groups focusing on behavioral health, the state's education system, and diversion. At the time of Senator Tobin's presentation, the behavioral health and the education system workgroups had already met once.

Senator Tobin said the behavioral health group has been focusing on Adverse Childhood Experiences Screenings (ACEs), ways to standardize such assessment tools, and education about them so communities can successfully proceed into risk management stratification. Senator Tobin said the group has also looked at community-based support and how to standardize it so rural communities can have the same benefits as bigger counties.

The education group is still in a discovery phase, with Senator Tobin saying it has looked at methods and approaches that could provide a more uniformed, state-wide approach.

Senator Hunhoff asked about the causes of the behavioral issues Senator Tobin discussed and if the groups had looked at anything other than the ACEs. Senator Tobin replied the behavioral issues are caused by several factors working together such as the family unit, literacy rates, mental health, and hunger. Senator Tobin emphasized the importance of having learning environments that work best for the individual. She said the groups did not explore beyond the ACEs, but there is a need, and adding another tool to the process could improve.

Update on Pay Increase for Correctional Officers

Secretary Wasko gave a brief update on the most recent pay increase for correctional officers. Secretary Wasko said the Department of Corrections (DOC) was able to increase the starting salary of officers to \$23.50 per hour and improve pay for tenured officers as well.

Senator Johnson asked if sign-on bonuses were still being issued. Secretary Wasko said the \$5,000 and \$10,000 sign-on bonuses were removed with the pay increase. Such increase may negate the need to reinstate them, as the DOC has already experienced an increase in applications.

Public Testimony

Ms. Julie Johnson, registered lobbyist for Brown County, Aberdeen, brought forth a proposal by Brown County for the use of an acquired building that could provide space for incarcerated individuals and help ease the overcrowding at the women's facility in Pierre ([Document 1](#)). Ms. Johnson described the building and available space and advocated that Brown County was worthy of consideration, as there are two major hospitals in the area to provide the full range of healthcare needed, mental health and human services in the area, two colleges, and several opportunities for employment.

Secretary Wasko said she respected the model but added the building would not work for DOC's purposes, as adjudicated and non-adjudicated offenders have different incarceration needs, and the building would not allow them to be separated by sight and sound as is necessary. Secretary Wasko also noted the plan does not meet the minimum essential requirements for housing adjudicated offenders.

Mr. Cole Uecker, Incoming Executive Director, Disability Rights South Dakota, provided information and perspective from the view of the disabled community regarding the presentation on the Study Committee on Juvenile Justice.

Committee Discussion

Secretary Wasko drew attention to an updated DLR Group report ([Document 2](#)). DOC reviewed the methodology from the previous report with the DLR Group, and upon that review, it found community corrections inmates were missing from the original report, giving an inaccurate sense of the number of beds that may be needed. Secretary Wasko covered the new numbers and said the priorities should emulate what the projections look like. So, her first recommendation is to move forward with planning a new facility for the female population, and her second recommendation is moving a bill to identify land and begin planning and development for a male facility.

Senator Johnson said many citizens have voiced concern over spending money on prisons rather than other necessary areas such as education. He asked if the state and DOC would begin to release the lowest risk inmates from the female prison on early release to help with the overcrowding. Secretary Wasko responded she has concerns with sending inmates out on extended confinement, as there is a risk of creating more victims. Secretary Wasko said the state has an obligation to house and treat offenders and then release them back into the community lawfully.

Senator Johnson said the Task Force must accept the offender count is going to continue to increase at a rate the state will not be able to house them, and the public should be aware that early release for inmates is not a viable option. Senator Johnson added that he would like to see the Task Force continue to investigate the Brown County proposal.

Representative Duba said she understood why Brown County brought the proposal forward, but housing adjudicated and non-adjudicated offenders in the same building could raise costs dramatically. Representative Duba stressed the Brown County proposal was not an ongoing solution between state prisons and regional jails, and the Task Force should keep their focus on the state prisons.

Representative Karr emphasized the importance of having as much data as possible before ideas are taken to the Legislature and asked the DOC to provide a timetable with objectives and actions items outlining the agency's priorities and timelines. Senator Diedrich said it would be difficult to have the final costs and details at this point, but the Task Force was provided the necessary information to make a request in the upcoming 2023 Legislative session to start the process.

Representative Mortenson said the expansion and construction of the prison facilities will be very expensive but is something the state must do. Representative Mortenson supported Secretary Wasko's recommendations for building the new women's facility in Rapid City and following the two-phase approach of identifying the land and then developing a plan for the replacement of the men's facility in Sioux Falls.

Sheriff Thom moved, seconded by Representative Duba, that the Task Force make a recommendation to move forward with funding the women's prison and work with the Legislature to create a bill to purchase land and do the two-step phasing for the men's facility in Sioux Falls following the model done with the future women's prison in Rapid City. The motion prevailed on a roll call vote with 17 voting AYE, 1 voting NAY, and 4 EXCUSED. Voting AYE: Hunhoff, Johson, Maher, Bartels, Duba, Goodwin, Mortenson, Schneider, Lillich, Rank, Swan, Thom, Wasko, Wendell, Wiese, Jamison, and Diedrich. Voting NAY: Karr. EXCUSED: Greenfield, Heinert, Wiik, and Pourier.

Senator Johnson moved, seconded by Commissioner Wiese, that the Task Force report recommend that the Legislature continue to pursue and investigate the potential utility of the Brown County proposal for the state's incarceration needs.

Senator Johnson said the public and the entire Legislature should hear the proposal, and it should continue to be investigated. Senator Johnson emphasized he was not recommending the Brown County proposal as a substitute for building the women's facility in Rapid City, but rather, the proposal should be considered as a possible solution for the state's overall incarceration needs.

Sheriff Thom agreed the proposal needed more vetting, as it could build partnerships between the state and county governments to solve mutual problems.

Senator Hunhoff said she supported the idea of exploring possibilities and potential partnerships, but she could not support the recommendation listing only Brown County's proposal, as other counties did not have the opportunity to bring forth proposals of their own. Senator Hunhoff suggested changing the recommendation to include all counties.

Commissioner Wiese made a substitute motion, seconded by Senator Johnson, that the Task Force report recommend that the Legislature pursue and investigate the potential utility of any local government proposals brought forward for the state's incarceration needs. The motion prevailed on a voice vote with 16 voting AYE, 2 voting NAY, and 4 EXCUSED. Voting AYE: Hunhoff, Johnson, Maher, Bartels, Goodwin, Mortenson, Schneider, Lillich, Rank, Swan, Thom, Wasko, Wendell, Wiese, Jamison, and Diedrich. Voting NAY: Duba and Karr. EXCUSED: Greenfield, Heinert, Wiik, and Pourier.

The Task Force's next meeting date is yet to be determined. Senator Diedrich said the Task Force will approve final recommendations during that meeting, which will most likely occur over Microsoft Teams.

Representative Goodwin moved, seconded by Representative Bartels, that the Task Force on Incarceration Construction Fund be adjourned. The motion prevailed on a voice vote.

The Task Force adjourned at 3:30 p.m.