

# MINUTES

## Appropriations



Representative Mike Derby, Lead Co-Chair  
Senator Jean Hunhoff, Co-Chair

Hundred and Twentieth Meeting, 2024 Interim  
Thursday, November 14, 2024

Room 362 – State Capitol  
Pierre, South Dakota

The third meeting of the 2024 Special Committee on Appropriations (the "Committee") was called to order by Lead Co-Chair Representative Mike Derby at 9:00 AM in Room 362 of the State Capitol.

A quorum was determined with the following members answering the roll call: Senators Jim Bolin, Bryan Breitling, Red Dawn Foster, Jack Kolbeck, Ryan Maher, Larry Zikmund, and Jean Hunhoff; Representatives Linda Duba, Chris Karr, Chris Kassin, Lance Koth, Dennis Krull, John Mills, Ernie Otten, Tony Venhuizen, and Mike Derby. Excused: Senators Dean Wink and John Wiik.

Staff members present included Jeff Mehlhaff, Deputy Director and Chief Fiscal Analyst; Joslyn Jessop, Senior Fiscal Analyst; Mitch Honan, Fiscal Analyst; Joey Knofczynski, Senior Fiscal Analyst; Bill McDonald, Fiscal Analyst; and Drew Kaitfors, Fiscal Analyst.

**NOTE:** for the purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative research Council (LRC) office. This meeting was webcast live. The archived webcast is available at the LRC website at <https://sdlegislature.gov>.

**Senator Kolbeck moved, seconded by Representative Otten, to approve the minutes of the July 30, 2024, Committee meeting. The motion prevailed on a voice vote.**

### Update on Prison Construction and Progress

Secretary Kellie Wasko, Department of Corrections (DOC), and Brittnei Skipper, Director of Finance & Administration, DOC, presented an update on the construction of the new women's prison in Rapid City and the new men's prison in Lincoln County ([Document #1](#)).

For the new women's facility, there have been walls put up as of November 2024. Construction began earlier in the summer. DOC is five months into a 24-month construction timeframe. The budget for the facility will be requested in 2026. The estimated budget, based on fiscal year 2025 costs, is an additional \$14.2 million ongoing, including 152.4 FTE. The capacity of the facility will be 288 offenders. DOC expects to have a 5% vacancy rate across all its facilities if its construction plans hold.

Secretary Wasko thanked the committee for its support over the last few years for the new men's facility project. She said this was not a hasty decision and has been exhaustively discussed. DLR Group, upon its review of state facilities, made the recommendation to decommission the South Dakota State Penitentiary. The same recommendation was made by the Legislative Task Force on Incarceration Construction. Six funding bills have been passed since 2022 for the new men's facility. The capacity for the facility will be 1,512 offenders. DOC is halfway through the construction documents phase and has contracted for utilities. With the Legislature's approval and an additional appropriation, DOC would be able to begin construction. The facility would require an additional \$21.6 million ongoing and 240.1 FTE.

The contractors have provided the guaranteed maximum price for the project: \$825 million. **Vance McMillan, JE Dunn Construction**, and **Dave Derry, Henry Carlson Construction**, spoke to their experience in construction, including prisons, and what they plan to accomplish as construction managers at risk for this project. The goal is to construct a facility to last 100 years or more for the best value. They are also looking to have 65% of the moneys go to local contractors.

Representative Mills asked about what is different between this project and the construction of a new men's prison being built in Nebraska. Mr. McMillan said he knows the Nebraska project has not been bid out yet, and he does not believe those involved have spoken to partners to get accurate spending numbers. Also, the Nebraska facility is set to hold mostly minimum-security offenders, so the facility will be more like "college dorms" than a maximum-security facility with pre-cast cells. They are also planning to hold four offenders per cell rather than two. Representative Mills then asked what the state is getting for the cost here. Secretary Wasko said the need is for medium- and maximum-security beds, not minimum-security. There are medium-security offenders going in minimum-security beds right now due to space limitations. The difference between a medium- and maximum-security cell is the amount of time the cell door is open.

Representative Karr asked about how this facility should be compared to others in terms of cost. Mr. McMillan said the average cost per square foot for newer precast-cell facilities, specifically three in Alabama, Georgia, and Utah, is about \$1,014 when accounting for the difference in cost between states. The new men's facility here is set to cost \$1,003 per square foot. **Stacy Watters, State Engineer, Bureau of Human Resources and Administration**, added a lot of states have been looking to build new prisons. Raw data from these other states was compiled to analyze the cost of construction. The outlier in this group is Nebraska. Mr. McMillan added that having four people per cell could improve cost savings, but pausing the project for a redesign will see the savings eaten up by inflation. There is also a glut of prison construction projects in the pipeline that could extend the completion timeline of this project if the project is delayed.

The Committee took public testimony from **Dan Paulson, Sarah Ulmer, Sam Eisland, Adam Lund, Beth Quail, Michelle Jensen**, and **Michael Hoffman**. Secretary Wasko wrapped up by saying the Committee's job in managing taxpayer moneys is to ask "what-if" questions, but at the end of the day, she expects DOC's experience in managing this arm of public safety would be taken into consideration in appropriating the necessary moneys for this project. The plan is to decommission a 150-year-old building and replace it with a new one expected to last another 100 years. The state needs more beds than what would be made available by adding to an existing facility.

### Review FY2025 Year-to-Date Revenues

**Derek Johnson, State Economist, Bureau of Finance and Management**, presented a year-to-date update on fiscal year 2025 revenues ([Document #2](#)). Overall, the economy is a bit softer now than it has been. Consumers may be fatigued by high inflation and interest rates. The farm economy is also a challenge right now, with high input and borrowing costs but lower commodity prices. Labor markets are still tight as well.

Current revenue trends show the state is down \$24.2 million compared to the adopted estimates. While investment income is higher than expected, most other revenue sources are lower than expected. Personal income growth, which tends to mirror sales tax collections, is lower than the 5.4% per year average since 2000. Through October, sales tax collections are down 1.7% compared to the previous year. Senator Bolin said it looks like the state is headed toward a deficit unless trends change. Mr. Johnson said certain areas will likely be down, but unclaimed property could make up the difference.

**Jeff Mehlhaff, Deputy Director and Chief Fiscal Analyst, LRC**, presented a separate update on fiscal year 2025 revenues ([Document #3](#)). He reiterated revenues are down to date, noting the LRC revenue estimate was below the Legislature-adopted number. Current trends for sales and use tax suggest while inflation is higher, organic growth

is negative as consumers pull back their spending. In particular, farm machinery is seeing a large decline, along with building materials and garden supplies. Online sales are higher, potentially because consumers are searching for the best possible deals. Core inflation, which excludes food and energy, is still 3.3% year over year.

Mr. Mehlhaff also touched upon federal spending, which he described as "unsustainable." The federal deficit has grown significantly since the end of the Great Recession, with interest payments double what they were in 2019. Since the state receives a lot of federal funding, the state and its citizens will have less to spend if those moneys are pulled back.

### **Victim Services Grant Funding (SB 168 (2024))**

**Kelsey Roth, Finance Officer, Attorney General, and Brett Kempema, Chief Deputy, Attorney General**, presented an update on the office's victim services grant program created by [SB 168 \(2024\)](#). After closing the application period in August, the Attorney General had received funding requests totaling \$10.8 million. Awards were made to 41 organizations across the state ([Document #4](#)). The \$5 million in general fund moneys appropriated in the bill has been obligated in its entirety. Some reimbursement requests have been coming in from the awardees, so the office is moving through that process.

Senator Hunhoff explained Senator Kolbeck and herself were invited to help make decisions about how much each organization would be awarded, along with Jennifer Stalley and Dianna Miller. The intent of the bill was to have the Attorney General award moneys to direct providers because there was concern over the Department of Public Safety previously awarding general fund moneys using stricter criteria only in place for granting federal moneys. All Senator Hunhoff, Senator Kolbeck, Jennifer Stalley, and Dianna Miller were doing was making recommendations to the Attorney General. There were several questions about certain entities that applied, but the process changed so the Attorney General would make the final determination. Then, the list of awardees in Document #4 was shared.

Senator Hunhoff asked how the Attorney General will know the moneys are going to victims of child abuse, domestic violence, and sexual assault, as is required by the bill. Ms. Roth said she "anticipates" the awardees will provide time studies showing how the grant moneys are being used to support those victims. Senator Hunhoff noted that means there is no "expectation" to receive time studies but hopes that will be the case.

Senator Bolin asked whether it is accurate to say the federal government is reducing the moneys going to victim services. **Krista Heeren-Graber, Executive Director, South Dakota Network Against Family Violence and Sexual Assault**, answered yes, there has been a reduction in Victims of Crime Act (VOCA) moneys; some of those moneys were rerouted to other uses. There was an act to fix the funding structure, but the fund used to make VOCA grants is not filling up. Representative Karr asked what the plan is here to fill this funding gap. Ms. Heeren-Graber said the Network is encouraging members to talk to elected officials about the funding crisis, work on fundraising, avoid duplicating services, and use resources efficiently. The Network is also looking to other states for potential solutions.

**Michelle Trent, Executive Director, Compass Center**, thanked the Committee for its work on this issue. She noted the services provided are necessary and lifesaving and that if moneys are not put toward prevention, they end up having to be spent on corrections.

### **Emergency Medical Services (EMS) Initiatives**

**Emily Kiel, Director of Healthcare Access, Department of Health (DOH), and Marty Link, Deputy Director of Healthcare Access, DOH**, presented an update on EMS initiatives ([Document #5](#)). The previous presentation on this topic was done on [May 3, 2023](#). During the 2022 legislative session, the Legislature approved about \$20 million in EMS initiatives using money from the American Rescue Plan Act (ARPA), including Telemedicine in Motion, LIFEPAK 15 Replacement Devices, and Regional Service Designation.

Telemedicine in Motion involved equipping EMS teams across the state with telehealth equipment, allowing them to connect to healthcare professionals at any time. These EMS teams have said the service helps patients, improves the efficiency in taking care of patients, and adds a check and balance in providing care.

The LIFEPAK 15 Replacement Devices initiative involved updating the LIFEPAK devices available to EMS services in the state. These devices, in addition to acting as defibrillators, monitor vital signs and can communicate that information to remote team members.

With Regional Services Designation, the goal is to create a pre-hospital system of care, ensuring long-term sustainability. This initiative has a couple of components: a statewide comprehensive assessment plus a final report and a grant application window. The report found recruitment and retention are the greatest challenges facing ambulance availability at present. In the short-term, recommendations include promoting awareness of the EMS profession, improving on-site interaction, and improving statewide metrics and quality improvement.

The Regional Services Designation grants involved a competitive application process for up to \$500,000 per grant. There were two grant periods in 2024, with deadlines of March 15 and October 21. \$1.6 million was granted in the first round, supporting the development of a quality assurance program, consultant services for struggling agencies, and EMT training courses. Recipients are responsible for submitting monthly progress reports and invoices. Senator Hunhoff said it looked like the regionalization of EMS services was not as supported as general enhancement of those services. Ms. Kiel said round one was "tough" and that the proposals "did not meet our expectations either," but the round two proposals were more focused on regionalization. Round two applications are still being reviewed.

### **Update on the Nursing Home Staffing Mandate**

**Justin Hinker, Vice President of Post-Acute Care, SD Assoc. of Healthcare Organizations (SDAHO)**, presented an update on the Centers for Medicare & Medicaid Services (CMS) Staffing Mandate Final Rule ([Document #6](#)). The previous presentation on this topic was done on [May 21, 2024](#).

The Final Rule was published in May. Facility assessments were the first requirement, which had to be done by August. Beyond those assessments, there is a staggered timeframe for adopting the required staffing requirements which depends on whether a community is urban or rural, with urban communities having to meet the requirements earlier. CMS has estimated the Final Rule will cost \$4.3 billion a year nationwide, although other estimates suggest it may cost up to \$6 billion a year. This Final Rule comes at a time when the number of workers at nursing homes is in decline.

SDAHO estimates the impact to South Dakota will be \$19.68 million per year, roughly \$205,000 per nursing home. This cost would be higher if contract staff are used to meet the mandate. Two lawsuits have already been filed to stop the Final Rule. It is also possible the upcoming administration may suspend the implementation of the rule. If the Final Rule continues unabated, it will cause further nursing home closures and limit access to long-term care.

**Brett Hoffman, Director of Public Policy and Communications, SDAHO**, also spoke to the Final Rule, saying there will be some new policymakers looking at this rule, so he believes everyone can look forward to a different outcome, but SDAHO is not taking that for granted.

### **South Dakota Shooting Sports Complex**

**Kevin Robling, Secretary, Department of Game, Fish & Parks (GFP)**, presented on the South Dakota Shooting Sports Complex ([Document #7](#)). GFP has already completed Phase I of the project, which mainly included the dirt work for

the site. The agency is now in Phase II, including the utilities, structures, and any other work to finish the complex. The expected completion date is October 18, 2025.

The project has been in the works for a few years now, with the first design presented to the Committee in January 2022. The property for the complex was purchased for \$900,000. With Phase I costing \$5.95 million and Phase II set to cost \$11.95 million, along with paying \$1.27 million for design work, the total project cost is \$20.1 million. Of that amount, \$13.5 million came from the Future Fund, and the remaining portion (around \$6.5 million) came from private donations.

Representative Otten asked several questions about how the complex will be operated and what it will be used for. Secretary Robling said there will be over 150 shooting positions. The complex can host a 400-member competition. The goal is to make the complex a destination for recreational shooters, including competition organizers. The complex will have three full-time positions along with seasonal employees and volunteers, similar to how the parks are run. The complex is not expected to generate a profit. With annual memberships and registration fees for events, the goal is to bring in \$250,000 annually. Operation costs are expected to be \$350,000 per year, for which federal moneys can be used.

Representative Karr asked if similar facilities are owned by private parties or state governments. Secretary Robling said there are two other state facilities of this magnitude, one in Colorado and one in Arizona. Both have been around since at least 2015. He added GFP already uses 100,000 volunteer hours in the parks system, and he knows people want to help with this range, so GFP will add this complex to the parks system.

Secretary Robling said the appropriation authority for this project was included in general appropriation bills via informational budgets within GFP. There are project lists in budget briefing documents mentioning the "Rapid City Shooting Sports Complex" and "Western South Dakota Shooting Sports Complex." Other authority can be found in SDCL 41-2-21, 41-2-31, and 41-2-35.1. Representative Karr mentioned he does not remember seeing those projects included in the ongoing GFP budget and thinking those were part of the funding for a \$20 million facility. He also said he believes GFP is underestimating what it will take to operate the facility.

## Letter of Intent Reports

### *A. Construction Project Reports - BHRA*

**Stacy Watters, State Engineer, Bureau of Human Resources and Administration**, provided a report on the letter of intent regarding construction project reports ([Document #8](#)), including showing what has been spent to date for the Kinsman Building, the Mineral Industries Building at the SD School of Mines and Technologies, and Lincoln Hall at Northern State University, among others.

### *B. Expansion of Broadband - GOED*

**Mike Waldner, ConnectSD Broadband Development Program Manager, Governor's Office of Economic Development (GOED)**, provided a report on the letter of intent regarding the expansion of broadband ([Document #9](#)). Of the original \$50 million from ARPA (see SB 55 (2022)), only \$887,980 is left uncommitted, with 18 projects completed and 12 active projects to be completed by 2026 at the latest. Of the original \$75 million from SB 34 (2021), \$551,068 is left uncommitted, with 8 projects completed and 13 active projects to be completed by 2027. 32,000 locations have been connected to broadband since these projects began, connecting on average 21 devices per location.

*C. Marketing Strategy - GOED*

**Joe Fiala, Commissioner, GOED**, provided a report on the letter of intent regarding GOED's marketing strategy ([Document #10](#), [Document #11](#)). Using its budget, GOED traveled to tradeshow and similar events to generate leads and relationships with businesses looking to expand. GOED also continued the Freedom Works Here campaign, which led to over 200,000 "relevant interactions" and has been "the most successful workforce recruitment initiative in South Dakota history."

Representative Duba asked for the actual number of people who came to work in South Dakota because of this marketing. Commissioner Fiala said he does not have a "magic bullet" to compile that data; it is difficult to track how advertising relates to buyers in any sector.

*D. Cybersecurity Service Initiative for Counties and Municipalities - ATG*

Mr. Kempema provided a report on the letter of intent regarding the Cybersecurity Service Initiative for Counties and Municipalities ([Document #12](#)). The advisory committee created for this initiative and Dakota State University hired an administrator, Mr. Waldner. The next phase will be determining who will manage the agreements with the counties and municipalities.

*E. Opioid Funding - DSS/DOH*

**Lori Martinec, Administrator of the Office of Injury, Violence, and Overdose Prevention, DOH**, and **Melanie Boetel, Director of the Division of Behavioral Health, Department of Social Services**, presented a report on the letter of intent regarding opioid funding ([Document #13](#)). They quickly covered the outcomes of what had been spent the past year for opioid treatment and related services.

***Senator Breitling moved, seconded by Senator Bolin, to adjourn. The motion prevailed on a voice vote.***

The Committee adjourned at 5:30 PM.