

MINUTES

Interim Joint Committee on Appropriations



Representative David Anderson, Lead Co-Chair
Senator Larry Tidemann, Co-Chair

Second Meeting, 2018 Interim
Tuesday, June 12, 2018

Appropriations 362 – State Capitol
Pierre, South Dakota

The second meeting of the Interim Joint Committee on Appropriations for 2018 was called to order by **Lead Co-Chair Representative David Anderson**, at 8:30 a.m. in Appropriations 362 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Representative David Anderson, Lead Co-Chair; Senator Larry Tidemann, Co-Chair; Representatives Dan Ahlers, Hugh Bartels, Taffy Howard (via phone), Jean Hunhoff, Chris Karr (via phone), John Lake, and Sue Peterson (via phone); Senators Justin Cronin (via phone), Terri Haverly (via phone), Reynold Nesiba, Jeffrey Partridge (via phone), Deb Peters (via phone), Billie Sutton (via phone), Jim White, and John Wiik. Excused: Representative Carson.

Staff members present included Jason Simmons, Principal Fiscal Analyst; Ariel Hammerquist, Fiscal Analyst; Lucas Martin, Fiscal Analyst; Jeff Mehlhaff, Fiscal Analyst; and Cindy Tryon, Senior Legislative Secretary.

NOTE: For 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 office. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://sdlegislature.gov>.

Approval of Minutes

A motion was made by Representative Bartels, seconded by Representative Ahlers, to approve the minutes of the March 26, 2018, Joint Committee on Appropriations meeting. The motion prevailed on a roll call vote with 15 voting AYE, 3 EXCUSED. Voting AYE: Ahlers, Bartels, Howard, Hunhoff, Karr, Lake, Sue Peterson, Haverly, Nesiba, Partridge, Sutton, White, Wiik, Tidemann, and Anderson. EXCUSED: Carson, Cronin, and Peters.

Letters of Intent (LOI)

A Letter of Intent (LOI) sets forth a particular view held by the Joint Committee on Appropriations (JCA) in approving agency appropriations set during the 2018 legislative session. As such, the LOI seeks to supplement legislation with specific policy guidance. While the guideline does not have the direct force of statutory law, it rests solidly on a long-standing tradition in South Dakota and will be used by the JCA as one basis for the fiscal oversight of the agencies and their continued funding. The majority of the 2018 Letters of Intent were voted on at the March meeting. At that time, the committee requested further discussion and possible action on three of the draft LOIs.

- a) Representative Bartels said the LOI regarding the processing of credit card payments was to make state agencies aware of the state contract for the processing of credit card payments and the cost savings of processing payments through that contract ([Document #1](#)). Representative Bartels said the LOI did what it was intended to do and no further action should be needed at this time. Representative Bartels added that this issue should be reviewed in the next few years to make sure agencies are using the state contract for processing credit cards.

- b) Representative Karr presented a draft LOI regarding the Board of Regents (BOR) financial indicators report at the March meeting ([Document #2](#)). At that time, Representative Anderson requested the appropriate committee members work on a more concise request, and action on the LOI be deferred until the June JCA meeting. Representative Karr and Representative Bartels met with BOR staff members and discussed JCA's concerns with the BOR financial indicators and cash balances. Representative Karr said BOR's cash balances report is now more concise and better defined. Representative Bartels said BOR brought the unobligated cash report to the small group meeting and hopes BOR will bring those reports to the full committee in the future. At the small group meeting, BOR explained how some of the contingency funds get moved around to areas where money is needed. Representative Bartels agreed that future reports from BOR will be more explanatory.

Dr. Monte Kramer, Vice President of Finance and Administration, BOR, said the BOR is willing to provide the JCA with any information they want with or without a LOI. Dr. Kramer said the meeting with Representative Karr and Representative Bartels was successful and the reports from now on should eliminate the confusion. The BOR insures there are funds to maintain the buildings on all campuses and BOR will provide information to JCA on the dollars in the M&R campus funds.

Representative Anderson suggested deferring the LOI regarding financial indicators and said after the committee receives the report there may be no need to move forward with the LOI.

- c) At the March meeting, Representative Anderson presented a draft LOI addressed to the USD Law School requesting performance metrics and a business plan ([Document #3](#)). Representative Anderson deferred action on this LOI until the July JCA meeting. To further address this issue, Representative Anderson introduced Dr. Jim Moran.

Dr. Jim Moran, Vice President for Academic Affairs, USD, updated the committee members on the policies now used by the USD Law School regarding requirements for acceptance, tuition rates for out-of-state students, curriculum, and the measurements used to determine success.

The committee questioned Dr. Moran on the current policies stating the goals set for the students attending USD Law School should be set higher. Representative Anderson said there is no urgency to set new goals, since changes underway at USD affect the timeline for implementation. Senator Tidemann said the JCA should not be setting the goals but monitoring the goals set by the university to be sure they are successful in achieving the desired results.

Representative Anderson said the draft LOI to the USD Law School was shared with USD for their consideration. The JCA may want to take action on the LOI after receiving a formal report from the USD Law School.

State Employee Health Insurance Update

Ms. Laurie Gill, Commissioner, Bureau of Human Resources (BHR), and Mr. Tom Steckel, Director of Employee Benefits, BHR, gave a PowerPoint presentation, "FY19 Health Plan Changes" ([Document #4](#)). Commissioner Gill said it is BHR's challenge to balance the needs of the employees with being fiscally responsible. HB 1044 made a one-time appropriation of \$11.8 million for funding of the FY18 health plan. This funding allowed BHR to minimize cost-shifting to the employees. Design changes have been made to the plan for FY19 funding, which include increasing the annual deductibles and increasing the out-of-pocket maximum. The plan design changes are estimated to save the state \$2.3 million. By making these changes, BHR estimates a reserve of \$6.05 million for FY19; this should prevent the health fund from needing any emergency funding for the next fiscal year.

In response to a question from Representative Ahlers, Commissioner Gill said any overages for FY18 would reduce that \$6.05 million reserve.

Representative Anderson requested an update based on enrollment after the actuarial assessment is completed.

The committee members discussed the need to take a much closer look at this issue during the next session, as the rising cost of healthcare is going to continue to create funding problems for state employee health insurance. Commissioner Gill commented that health costs are going up and if we don't look at infusing funds on an annual basis, we are going to be in the position of looking at bigger plan design changes to minimize dollars. The prescription drug piece of this is growing at an even faster pace than the medical piece.

Medicaid "Received Through" Policy State General Fund Savings and Uses

Ms. Kim Malsam-Rysdon, Secretary, Department of Health (DOH), and Bill Snyder, State Medicaid Director, Department of Social Services (DSS), presented the FMAP Policy brief ([Document #5](#)). Secretary Malsam-Rysdon said the state decided in November of 2016 to not move forward with Medicaid expansion. When a patient begins their care with the Indian Health Services (IHS) and are then referred to another provider, the "referred care" is funded through Medicaid. The state should expect to be able to save up to \$6.7 million once the care coordination agreements are fully implemented.

The SD Healthcare Solutions Coalition began focusing on federal policy changes without the incentive of Medicaid expansion in January of 2017. With savings in the existing budget, the coalition recommended increasing access to key services such as funding substance abuse for an estimated 1,900 adults on Medicaid; adding mental health providers to Medicaid to increase access for 465 people; developing community health worker services with capacity to serve 1,500; and funding innovative prenatal and primary care. The coalition also suggested sharing savings with participating providers, and increasing provider rates. We were able to get the community based providers up to at least 90% of their costs. These suggestions were approved by the 2018 Legislature. It will take some time to implement all of the recommendations.

Mr. Snyder gave an update on what has happened with Medicaid since the end of session. November through April, savings to the state general fund of \$3.3 million were accrued, and savings of \$4.5 million are expected by the end of June. Three factors for these savings are a cluster of high-dollar in-patient claims early in the year that were anomalies; higher than expected referrals especially from the Pine Ridge IHS facility; better adherence to and compliance with using that referral and capturing these on the claims forms.

Secretary Malsam-Rysdon said the shared savings agreements will start June 1 and the payout is at the end of the fiscal year. These savings are calculated by looking back at actual claims and calculating what savings were accrued from the actual claims. The shared savings come only from the FMAP adjustment. The end of FY19 is when the shared savings payment will be made.

Senator Nesiba asked how much in federal dollars is the state losing every year by not expanding Medicaid. Secretary Malsam-Rysdon responded that the way expanded eligibility works the state's share for the expanded eligible is 10% and the federal government's share is 90%. The cost of expansion was estimated to be about \$50 million in state general funds. Representative Anderson said almost every state that did expand Medicaid realized higher costs than their expectations.

Representative Ahlers said the criteria to become eligible for Medicaid has not changed, which determines that South Dakota is not expanding Medicaid. Secretary Malsam-Rysdon said that is correct, there are no changes to the eligibility requirements. Representative Howard said the state is adding services available to Medicaid clients and asked that the minutes reflect that in her opinion an expansion in services offered through Medicaid is

Medicaid expansion. Secretary Malsam-Rysdon said they have very consciously chosen a conservative vent on what the assumptions are when estimating costs to minimize the impact of any cost overrun.

Budget Transfers and Year End General Fund Revenues/Expenditures Update

Ms. Liza Clark, Commissioner, Bureau of Finance and Management (BFM), said at this time the state general fund is about \$5 million ahead of what was budgeted for this fiscal year. FY18 general funds should end in the black and the state should be able to put some money in the reserve fund. Commissioner Clark said the metrics discussed today are available on the BFM [website](#). A more thorough end of year report will be presented at the July JCA meeting.

Commissioner Clark explained the transfers that have been made since the end of session. The \$2 million transferred from the computer development pool to SDRS, BFM Statewide Internal Control, and BFM Financial Systems and Operations was mostly for ongoing contracts. The School and Public Lands Transfer for \$1,000 was for cleanup purposes. Public Safety received federal dollars for which they needed spending authority.

Representative Anderson said the universities are committing dollars to the REED network. It is highly critical for South Dakota to be a part of the REED high speed connection. Representative Anderson and Senator Tidemann both said they have encouraged the universities to move forward with the funding for this network.

Legislative Program Evaluation Implementation

Mr. Jason Simmons, Principal Fiscal Analyst, explained the new program/performance evaluation. This new program "evaluates if a program or an activity of a state agency complies with the agency's mission, as established by laws and rules, and makes recommendations to improve the efficiency and effectiveness of the program" ([Document #6](#)). SDCL 2-9-4(7) authorizes the Legislative Executive Board to perform these types of evaluations.

Mr. Max Arinder conducted a three-day intensive training for the four fiscal staff members. Mr. Arinder is retired as the Executive Director of the Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review. Two additional employees will be hired so there is a bigger staff to better serve.

At their April meeting, the Executive Board selected the two programs for evaluation during the 2018 interim from a list provided by the JCA ([Document #7](#)). The two selected topics are Drug/DUI Courts, and South Dakota Aging and Disability Resource Connections aka "Dakota at Home". The agencies have been contacted and the scope is being narrowed down. The fiscal staff will do the work and then report to the Executive Board in November.

Mr. Jason Hancock, Director, LRC, explained further the Program Evaluation in that the staff will work closely with the agency to develop the scope of the evaluation/review. The Executive Board will then approve the scope, and once the scope and workplan are approved, the work will be driven by the fiscal staff. The Governor and the agency head will be able to review the report and make comments. Changes may or may not be made to the final report based on those comments. It is a staff driven program. Once the report is completed, including comments, the staff will present it to the Executive Board for their review and acceptance.

Other Business

Senator Tidemann asked Director Hancock about the status of the open staff positions. Director Hancock said Ms. Amanda Dougherty-Karber has been hired to fill one vacant fiscal position, and the second position will be filled soon. The new Chief Fiscal Analyst should be hired within the next week.

Senator Cronin asked who is involved in the hiring of the Chief Fiscal Analyst. Director Hancock said the process is based on statute which says it is the LRC Director's job to hire the LRC staff. It is intended that personnel decisions are insulated as much as possible from the political side of the Legislature.

Future Meeting Dates

The Joint Committee on Appropriations will meet July 25, 2018, in Pierre. Revenue projections will be presented at the July meeting.

Adjourn

A motion was made by Senator White, seconded by Representative Bartels, to adjourn. The motion prevailed on a roll call vote with 13 voting AYE, 5 EXCUSED. Voting AYE: Ahlers, Bartels, Howard, Hunhoff, Karr, Lake, Haverly, Nesiba, Partridge, White, Wiik, Tidemann, and Anderson. EXCUSED: Carson, Sue Peterson, Cronin, Peters, and Sutton.

The Committee adjourned at 12:20 p.m.