

MINUTES

Government Operations & Audit Committee



Senator Ryan Maher, Chair
Representative Sue Peterson, Vice Chair

Third Meeting, 2019 Interim
Tuesday, June 11, 2019

Room 414 – State Capitol
Pierre, South Dakota

The third meeting of the 2019 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Maher at 8:01 a.m., June 11, 2019, in room 414, State Capitol Building, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Representatives Bordeaux, Latterell, Haugaard, Peterson and Senators Wiik, Rusch and Maher. Senators Wismer and Cronin joined by conference call.

Staff members present were Martin Guindon, Auditor General, Tim Flannery and Bob Christianson, 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. The bulleted items below each agenda item are documents sent out by the Committee.

Approval of Minutes

Senator Rusch moved, seconded by Representative Peterson, the minutes of the May 23, 2019 meeting be approved ([Minutes 5-23-19](#)). Motion prevailed unanimously on a voice vote.

Item 1 – Department of Environment and Natural Resources to:

- Discuss performance management indicators (SDCL 2-6-35)
- Gas well regulations, operations and maintenance
- [Letter to DENR Doc.2](#)
- [DENR 2018 Performance Measures Doc.2a](#)
- [DENR presentation Doc.2b](#)

Steve Pirner, Secretary of the Department of Environment and Natural Resources (DENR), was present to address the Committee. He advised that DENR's job is to take care of land, air and water. He provided background information on how the initial performance management indicator report was drafted using five directives: dashboard format, one-page report, report on outcomes, have six outcomes and measure the success of outcomes.

Mr. Pirner reviewed the [DENR 2018 Performance Measures](#) including the six outcomes, background statements for each outcome, an explanation of how they measure success and dashboards for fiscal years (FY) 2017 and 2018. The outcomes are: public health protected, air and water quality protected, pollution prevention, cleanup of mined lands and spills, adequate and affordable publicly owned environmental infrastructure and environmental and business friendly climates maintained. Mr. Pirner provided explanations and examples of how various metrics are monitored. He stated their success is

due to quality staff. They have 180.5 full time equivalent employees, with about two thirds of them working with the Environmental Services division and one third working for the Financial and Technical Assistance division. Senator Cronin asked for an update on the number of employees reaching retirement eligibility. Mr. Pirner advised the average age of their employees is 46 years old and the average longevity is 17 years. Thirteen percent of DENR is eligible for early retirement and 26% are eligible for normal retirement. They had 3 people retire in June and 2 people earlier in the year. They recognize the need to rebuild with new people, ideas and technology.

Mike Lees, Administrator of the Minerals and Mining program, was present to address the Committee. He reviewed the [DENR Presentation](#) regarding the 40 abandoned gas wells in Harding County. He provided an overview of Spyglass activity from 2006-2012 and the current condition of the orphaned wells and jump-off field. He discussed local reactions and advised that they did not receive any complaints until 2008. He explained that they are dry wells and they feel they were constructed well, having no potential for ground water issues. Spyglass was forced to close the jump-off field in 2012 and the unplugged wells were placed in administrative status for five years. During that time, DENR tried to work with Spyglass to become operational again or transfer to another operator. DENR issued a notice of violation to Spyglass in July 2018. In January 2019, the Board of Minerals and Environment approved revocation of Spyglass's 40 permits and forfeiture of Spyglass's surety and authorized DENR to pursue additional action against Spyglass. In May 2019, the South Dakota Attorney General's Office filed a civil suit against Spyglass for the maximum penalty of \$15,494,000.

Mr. Lees advised that since the jump-off field is shut-in, routine maintenance is not occurring. DENR has been inspecting the well at least annually since 2012 and will continue to periodically inspect them until they are plugged. He advised the main concern for the wells is the potential for gas leaks. He provided cost estimates for plugging all 40 wells. DENR will continue its efforts to get the field closed or to facilitate a different operator to bring it back to production.

Ray Gilbert, a landowner in Harding County, provided public testimony to the Committee. He advised that there are twenty-one wells on his property, provided [pictures](#) and described his experience with the wells and dealing with Spyglass employees. He also described the current state of the wells and his concerns with his livestock exposure to the wells.

Item 2 – Department of Health to discuss corrective action plans relating to audit findings in the FY18 Single Audit Report

- [Letter to Health Doc.3](#)
- [FY18 Health audit findings Doc.3a](#)
- [FY18 Health corrective action plan Doc.3b](#)

Kim Malsam-Rysdon, the Secretary of the Department of Health (DOH), was present to address the Committee. She stated they take the audit findings seriously and have taken steps to clarify payment terms and have provided additional training to staff. Tom Martinez, Deputy Secretary of the DOH, was present to address the Committee. He reviewed finding number 2018-005, explaining that this finding dealt with subrecipients receiving funding from the National Bioterrorism Hospital Preparedness Program grant. They have taken steps to help minimize the need for advance payments and will help provide greater accountability.

Mr. Martinez reviewed finding 2018-006, explaining this had to do with the contract between DOH and a consultant. DOH reprioritized his efforts and failed to amend the contract accordingly. DOH has amended the current contracts, and all future contracts will conform with the corrective action plan.

Item 3 – Department of Labor to discuss the “Bring Your A Game” program

- [Letter to DLR Doc.4](#)

Marcia Hultman, Secretary for the Department of Labor and Regulation (DLR), was present to address the Committee. She provided background information on the Family First Initiative, the broad umbrella that the new Bring Your A Game program will fall under. The mission of the program is to increase individual and family self-sufficiency. This includes meaningful employment, retention of employment and family and workplace success and balance. They will focus on three areas: basic computer literacy, financial literacy and workplace soft skills. Ms. Hultman provided their goals for the program and various performance measurements. They have received very positive feedback and are offering solutions to overcome the obstacles prohibiting them from being successful.

Item 4 – South Dakota School for the Deaf to discuss:

- **The education programs offered by the School for the Deaf**
- **The status of the property in Sioux Falls**
- [Letter to SDSD Doc.4](#)

Marjorie Kaiser, Superintendent of the South Dakota School for the Deaf (SDSD), was present to address the Committee. She provided background information on the SDSD and advised they work with children from birth up to their twenty second birthday to provide access to language development. Early intervention is critical for the children to be successful.

Ms. Kaiser explained that about 13 years ago, the SDSD campus in Sioux Falls had less than a dozen students on campus and they served about 400 students statewide. The decision was made at that time to go to a total outreach model, discontinuing on-campus classes in Sioux Falls. Audiological services remained on-campus. The SDSD now serves 589 children around the State. They have eleven outreach staff, three audiologists and two audiology techs. She provided background history on the SDSD campus in Sioux Falls.

Nathan Lukkes, General Counsel for the South Dakota Board of Regents (SDBOR), was present to address the Committee. He provided background information and the events that led up to the sale of the SDSD campus property. On June 7, 2019, a conditional land exchange took place, essentially swapping properties. The SDSD campus was conveyed to the Sioux Falls Ministry Center, and the State/SDBOR now has title to the TCF Building in Sioux Falls. The purchase price for the SDSD building was \$6.9 million and the purchase price for the TCF Building was \$5.1 million. The \$1.8 million difference will go to the SDSD and can be used for renovations and additional resources. Mr. Lukkes explained that the new building will be fully occupied and described various criteria used for choosing the building.

Patty Kuglitsch, a former SDSD teacher, provided public testimony to the Committee. She shared her concerns about the new location for the SDSD campus and the educational services for deaf and hard of

hearing children. She feels that the focus needs to be on educational services and programs to better meet educational needs for the deaf and hard of hearing children in South Dakota.

Ben Soukup provided public testimony to the Committee. He advised the SDSD has a long history of providing educational services to the deaf and hard of hearing. He feels the recent activity by the SDBOR and SDSD was not in the best interest of the children at the school. The location of the new campus building is not appropriate. Mr. Soukup believes we need to focus on the needs of the children.

Senator Wismer asked what the student traffic is like at the SDSD campus. Ms. Kaiser advised that they hold sign language classes one day a week, have various activities, as well as summer programs.

Anne Land, a parent whose daughter is single-sided deaf, provided public testimony to the Committee. Her daughter attends Baltic School and knows American Sign Language. She feels that deaf children are not receiving the services they are entitled to. Her family has personally spent a large amount of money for deaf education instruction.

Teresa Nold, a parent whose son is deaf, provided public testimony to the Committee. She stated there has been a decrease in the amount of services offered and there are not adequate programs in South Dakota. She feels there needs to be additional transitional services as well.

Item 5 – Governor’s Office of Economic Development to discuss performance management indicators (SDCL 2-6-35)

- [Letter to GOED Doc. 6](#)
- [GOED 2018 Performance Measures Doc.6a](#)
- [GOED Presentation Doc.6b](#)

Joe Fiala, Community Development Director with the Governor’s Office of Economic Development (GOED), was present to address the Committee. He provided GOED’s mission and advised that 1,708 jobs were created or retained in 2018. He provided three objectives in the [Performance Measures](#): business development and property tax base expansion, economic development infrastructure capacity and community support and education.

Mr. Fiala discussed some of the changes at GOED and how they are going to use this time to take a close look at the existing metrics. He provided several potential new metrics offered by GOED. Representative Bordeaux moved, seconded by Representative Haugaard, to develop a metric to capture economic development outcomes on reservations. Motion prevailed unanimously on a roll call vote.

Item 6 – Future meeting dates

The next Committee meeting is scheduled for July 18, 2019.

A motion was made by Senator Wiik to adjourn, seconded by Senator Rusch. The motion passed on a voice vote.