

MINUTES

Government Operations & Audit Committee



Senator Ryan Maher, Chair
Representative Sue Peterson, Vice Chair

**Seventh Meeting, 2019 Interim
Wednesday, October 30, 2019**

**Room 412 – State Capitol
Pierre, South Dakota**

The seventh meeting of the 2019 Interim Government Operations and Audit Committee (Committee) was called to order by Chair Maher at 8:10 a.m., October 30, 2019, in room 412, State Capitol Building, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Representatives Latterell, Haugaard, Peterson and Senators Wiik, Kolbeck and Maher. Representative Karr joined by conference call. Representative Bordeaux and Senator Wismer joined after roll was called. Senator Rusch was excused.

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 Wiik moved, seconded by Senator Kolbeck, the minutes of the September 18, 2019 meeting be approved ([9/18/19 Minutes](#)). Motion prevailed unanimously on a voice vote.

Item 1 – Board of Regents to report on the implementation of House Bill 1087, free speech and intellectual diversity on university campuses

- [Letter to Board of Regents Doc.2](#)
- [Regents Presentation Doc.2a](#)

Dr. Paul Beran, Executive Director of the South Dakota Board of Regents, was present to address the Committee. He provided written responses to questions posed by the Committee regarding House Bill 1087 (HB1087) involving free speech and intellectual diversity on university campuses. Dr. Beran stated the Board of Regents along with officials from the six universities have gone to work to establish guidelines and policies to implement HB1087. He emphasized that this is a process and they are in the midst of the process.

Officials from the six universities explained specific activities that have occurred on their respective campuses, as well as future events planned for intellectual diversity and free speech training. The university officials that presented were Sheila Gestring, President of the University of South Dakota; Barry Dunn, President of South Dakota State University; Jim Moran, Vice President for Academic Affairs with Dakota State University; Jim Rankin, President of the South Dakota School of Mines and Technology; Laurie Nichols, Interim President of Black Hills State University; and Tim Downs, President of Northern State University.

Armand Alacbay, Vice President for Trustee and Government Affairs with the American Council of Trustees and Alumni (ACTA), was present to address the Committee. He discussed ACTA and intellectual diversity. The Committee asked to what extent the universities have worked with various free speech and intellectual diversity organizations. In addition, the Committee identified information they expected to see in the annual report, required by HB1087. The Committee plans to continue to monitor the implementation of HB1087.

Item 2 – Department of Education to present revised performance management indicators

- [Letter to Education Doc.3](#)
- [SDDOE Performance Measures Doc.3a](#)

Dr. Ben Jones, Secretary of the Department of Education (DOE), was present to address the Committee. He presented DOE's revised [performance measures](#) and advised that they are currently going through the strategic planning process. Dr. Jones discussed the four strategic directions they are focusing on and addressed the Committee's various questions. Committee members expressed concern with the low results and proposed goals.

The following motion was moved by Senator Kolbeck, seconded by Representative Karr: "I move that an informal Subcommittee of this Committee be appointed consisting of the Chair, Vice Chair, and one additional member of this Committee, to "review and analyze" the Department of Education. The Subcommittee, in conjunction with the Department of Legislative Audit (DLA) and a third-party research body selected by the work group, will oversee an independent review of the Department of Education, including: 1) financial sources and uses of all general, federal and other funds (as requested by the work group and conducted by DLA), 2) a thorough analysis of the Department of Education's adherence to the State Constitutional mandate, including content, purpose, goals and results. The conclusions and recommendations of the report will inform the House and Senate Education Committees, the Joint Appropriations Committees, and the Government Operations and Audit Committee on future recommended Education Department appropriations and relevant program authorizations by which funding should be spent more effectively to significantly improve student outcomes in South Dakota." The motion prevailed 8-1 on a roll call vote.

Representative Peterson moved, seconded by Senator Wiik, to not approve the new performance measures as presented. Motion prevailed unanimously on a roll call vote.

Senator Maher appointed Representatives Peterson (Chair), Bordeaux, Karr and Senator Kolbeck to the Subcommittee.

Item 3 – Department of Agriculture to discuss a customer satisfaction performance measure that was recommended by the Committee

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

Kim Vanneman, Secretary of the Department of Agriculture (Department), was present to address the Committee. She discussed the additional resources that would be required to develop a customer satisfaction performance measure as recommended previously by the Committee. She stated the

Department currently did not have financial and human resources to complete this request. Senator Wiik moved, seconded by Representative Haugaard, to accept the Departments performance measures as delivered and forgo the survey requested previously. Motion prevailed 6-2 on a roll call vote.

Item 4 – Game, Fish and Parks to:

- **Provide an update of the implementation of the second century habitat fund for the protection and enhancement of wildlife habitat across the State**
- **Explain the recent proposed changes to licenses, park and camping fees that will yield an additional \$3 million in revenue to the Department**
- [Letter to Game, Fish and Parks Doc.5](#)
- [Habitat Programs Doc.5b](#)
- [Second Century Fund Doc.5a](#)
- [GFP Fee Information Doc.5c](#)

Kevin Robling, Deputy Secretary with the South Dakota Game, Fish and Parks (GFP), was present to address the Committee. He provided information on the make-up of the Second Century Habitat Fund and habitat programs offered through the fund. Mr. Robling explained the fund is a nonprofit corporation qualifying as an exempt organization under Section 501(c)(3) of the Internal Revenue Code. The former name of the organization was the South Dakota Habitat Conservation Foundation, Inc. He explained the purposes of the Second Century Habitat Fund are: 1) to solicit and receive contributions to conserve and improve the quality and quantity of habitat suitable for wildlife, 2) to improve water quality and other natural resources in South Dakota, 3) to solicit and receive contributions which will enhance habitat conservation efforts through research, educational programs and public awareness programs, and 4) to serve as a resource to both private landowners and conservation organizations focused on improving habitat through habitat programs.

Mr. Robling stated Senate Bill 176, 2019 Session, appropriated \$1,000,000 to the fund and the fund has a balance of \$2,400,000. The Committee was concerned about oversight of this nonprofit corporation. Mr. Robling suggested a member of the Legislature be added to the Board for more transparency. The Committee plans to continue following the activity of this fund.

Scott Simpson, Director of the Division of Parks and Recreation with GF&P was present to address the Committee. He explained the primary reason for the fee increases was because of the repair projects attributable to the 2019 spring flooding events. He explained the consecutive wet springs have impacted early season park use and damaged infrastructure. As of July 1, 2019, flooding conditions made 10% of system wide campsites unavailable for reservations. 2019 revenues are down \$1,900,000 from 2018. Parking lots, camp sites, roads, boat ramps, electrical pedestals and comfort stations were inundated with water, and in some cases covered with as much as five feet of water. In addition, several dams and one major bridge were impacted. Rehabilitation and replacement efforts for these items are estimated at over \$10,000,000. The Committee requested a list of the necessary repair projects and plans to continue to monitor this situation.

Gary Jensen, Chair of the Game Fish and Parks Commission, was present to address the Committee. He advised that GF&P Commission works diligently to involve the public in essentially everything they do. He also described the process used to determine the fee increases.

Item 5 – Department of Human Services to:

- **Provide information on the impact to South Dakota nursing homes of the additional funding provided by the 2019 Legislature**
- **Provide an update on the rate setting methodology for Community Support Providers**
- [Letter to Human Services Doc.6](#)

Tom Martinec, Deputy Secretary of the Department of Human Services (DHS), was present to address the Committee. He deferred the discussion over to nursing home provider representatives. Tim Rave, President of the South Dakota Association of Healthcare Organizations, testified on the impact of the additional funding to nursing homes. He stated the increase resulted in an additional \$8 per day for a Medicaid recipient. In a 50-bed facility, with 60% of its residence Medicaid eligible, this resulted in an additional \$88,000 annually. This did not cover a \$1 per hour pay raise for its employees. Although there are still funding challenges ahead, he thanked the Legislature for the additional funding. Mark Deak, Executive Director of the South Dakota Health Care Association, also testified about the impacts of the additional funding and thanked the Legislature for the increase in funding. No further action was taken by the Committee.

Yvette Thomas, Director of the Division of Long-Term Services and Supports with DHS, was present to address the Committee. She provided information on the Innovation Grants and answered various Committee member questions.

Darryl Millner, Director of Developmental Disabilities with DHS, was present to address the Committee. He provided an update on the workgroup established to develop a rate methodology for Community Support Providers (CSPs). He indicated that the CSPs were presented with, and were in agreement with, his proposal to present a new plan in the next 12-24 months. Committee members communicated to Mr. Millner that his information was contrary to reports that have been received from CSPs across the State and that the Committee did not believe the rate-setting methodology process intended by Senate Bill 147, 2017 Session, was being properly implemented. Committee members asked to be notified of the next work group meetings and will attend those meetings to ensure the outcomes of the workgroup comply with SB 147.

Item 6 – Attorney General’s Office to discuss the sources and uses of funds in the Law Enforcement Officers Training Fund and the 911 Telecommunicator Training Fund

- [Letter to Attorney General Doc.7](#)
- [AG LEOTF Information Doc.7a](#)

Jason Ravensborg, Attorney General; Charles McGuigan, Chief Deputy; and Kay McLain, Finance Director with the Attorney General’s Office, were present to address the Committee. They reported on the sources and uses of funds in the Law Enforcement Officers Training Fund and the 911 Telecommunicator Training Fund. The Finance Director provided historical information on the fees collected by these two funds. The Committee questioned the negative cash balance in the 911 Telecommunicator Training Fund and asked about the plan to bring the fund back into a positive cash position. Mr. McGuigan stated the fees charged in South Dakota are less than the fees charged in surrounding states and there may be room for a fee increase. The Committee plans to monitor this fund in the future.

Item 7 – Approve draft 2019 GOAC annual report and authorize the Chair to finalize the report after the last meeting

- [GOAC Draft Annual Report 2019 Doc.8](#)

Tim Flannery, State Government Audit Manager with the Department of Legislative Audit, provided the [GOAC Draft Annual Report](#) for 2019. He will add information from today's Committee meeting and submit to the Chair for final approval. Any Committee member edits were requested to go to Senator Maher and Mr. Flannery. Representative Peterson moved, seconded by Senator Wiik, to authorize the Chair to review and approve the report after today's meeting information has been added. The motion prevailed unanimously on a roll call vote.

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